

U.S. AbilityOne Commission

Equity Action Plan



January 20, 2022

EQUITY ACTION PLAN (EO 13985)
U.S. ABILITYONE COMMISSION

(1) Executive summary

- Agency name: U.S. AbilityOne Commission (operating name for the Committee for Purchase From People Who Are Blind or Severely Disabled)
- Agency mission: Provide employment opportunities for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government.

Additional background on agency:

The Commission executes its mission by administering the AbilityOne Program, one of the largest sources of employment in the United States for people who are blind or have significant disabilities. More than 42,000 people who are blind or have significant disabilities, including more than 3,200 veterans and wounded warriors, are employed nationwide at nearly 500 nonprofit agencies from Guam to Maine. AbilityOne provided nearly \$4 billion in products and services to the Federal Government in fiscal year 2020. The Program operates at more than 1,000 locations, representing 40 government agencies, including more than 150 Base Supply Centers at military and government installations.

The Commission is an independent Federal agency composed of 15 Presidential appointees: 11 represent Federal agencies, and four serve as private citizens who are knowledgeable about employment barriers facing people who are blind or have significant disabilities. The Commission currently executes the AbilityOne Program based on Cooperative Agreements with two Central Nonprofit Agencies (CNAs) designated by the Commission to help administer the AbilityOne Program: National Industries for the Blind and SourceAmerica.

The Commission's statutory name is the Committee for Purchase From People Who Are Blind or Severely Disabled. Its statutory authority is the Javits-Wagner-O'Day (JWOD) Act.

- **Summary of Action Plan**

The Commission's mission includes advancing equity and removing barriers for the underserved community of people who are blind or have significant disabilities. The Commission plans to further its mission by:

- Continuing a rulemaking process to prohibit payment of subminimum wages on contracts within the AbilityOne Program.
- Continuing to facilitate Federal agency implementation of the Office of Federal Procurement Policy memo "[Increasing the Participation of Americans with Disabilities in Federal Contracting.](#)"
- Continuing to expand public engagement to ensure all stakeholders – including, and especially, people who are blind or have significant disabilities – have visibility and a voice regarding their interest in the Program.

(2) Summary of early accomplishments

- Equity-related achievements or successes since EO 13985 release on January 20, 2021

- Proposed rule to prohibit payment of subminimum wages on AbilityOne contracts: On October 12, 2021, the Commission began a formal rulemaking process to prohibit payment of subminimum wages on contracts within the AbilityOne Program – a significant step toward addressing a longstanding area of concern within the disability community, and one that would better align AbilityOne with modern disability policy. (Work continues – see Action 1, below.)

- Increasing the Participation of Americans with Disabilities in Federal Contracting: On June 23, 2021, the Commission held a kickoff meeting to begin a series of actions to facilitate Federal agency implementation of the Office of Federal Procurement Policy (OFPP) memorandum titled [“Increasing the Participation of Americans with Disabilities in Federal Contracting.”](#) (Work continues – see Action 2, below.)

- Expanding public engagement and transparency: The Commission began to expand public engagement to increase opportunity for the disability community and other key stakeholders to participate in Commission public meetings. Attendance at the Commission’s virtual October 7, 2021, regular quarterly public meeting represented a 500% increase in attendance compared to pre-March 2020 public meetings (approximately 300 attendees versus approximately 50 attendees). (Work continues – see Action 3, below.)

- Equity has been discussed in both internal Commission forums (including executive leadership team meetings and All Hands presentations) and external venues (including Commission quarterly public meetings and other public meetings and presentations).

- At its regular quarterly meeting on April 8, 2021, the Agency held a public “listening session” about EO 13985. The advance [Federal Register](#) notice requested feedback on the following questions:

- (1) How can the AbilityOne Program contribute to objectives of Executive Order 13985 on “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”?
- (2) What future Commission meeting topics or presentations would members of the public like to see to better understand the AbilityOne Program?
- (3) How can the Commission increase transparency in its administration of the AbilityOne Program and/or its own operations?

- Feedback resulting from these questions is being incorporated into the Agency’s work.

- The Agency established the U.S. AbilityOne Commission Equity Team, headed by the Chief of Staff. The team has discussed how to increase equity both within the Agency and throughout the AbilityOne Program.

(3) Equity action plan

Action 1: The Commission will continue the formal rulemaking process to prohibit payment of subminimum wages on contracts within the AbilityOne Program.

A. Barrier to Equitable Outcome(s)

- *Describe the barrier you are trying to address:*

A small percentage of AbilityOne employees are paid below the Federal minimum wage, as permitted by the Fair Labor Standards Act (FLSA) described below. In addition, some AbilityOne employees are paid below the prevailing wage required by the Service Contract Act.

- *Specify the program, policy, or regulation that contributes to this barrier:*

Section 14(c) of the FLSA is the statutory basis for this barrier. The FLSA states that workers whose disabilities impair their earning or productive capacity may be paid wage rates below the Federal minimum wage rate if the employer first obtains an authorizing certificate from the Secretary of Labor. Consistent with the FLSA, Commission regulations currently permit nonprofit agencies to qualify or maintain qualifications under the AbilityOne Program while paying subminimum wages using special wage certificates authorized under section 14(c).

The AbilityOne Program encompasses private sector entities not directly controlled by the Commission: two Central Nonprofit Agencies (CNAs) – National Industries for the Blind (NIB) and SourceAmerica – and approximately 470 nonprofit agencies (NPAs).

- *Indicate which populations are most impacted by this barrier:*

People who are blind or have significant disabilities who are paid subminimum wage under the authority of 14(c) certificates.

- *List the evidence indicating that this barrier meaningfully impacts full and equal participation:*

Evidence includes data that SourceAmerica provides to the Commission about estimates of the number of employees at SourceAmerica-affiliated AbilityOne-participating NPAs being paid less than Federal minimum wage on AbilityOne contracts. In Q1 FY 2021, that estimated number was 674. The numbers are estimates because data submission is voluntary. NIB reports that all its associated nonprofit agencies pay the full applicable minimum wage or higher on all AbilityOne contracts.

B. Action and Intended Impact on Barrier

- *Describe the actions the agency will take to eliminate/reduce the barrier.*

The Commission has concluded that subminimum wages are not consistent with the Commission's determination of a qualified nonprofit agency for contracts under the Javits-

Wagner-O'Day (JWOD) Act and the AbilityOne Program it authorizes. As a result, the Commission has begun a formal rulemaking process to prohibit payment of subminimum wages on contracts within the AbilityOne Program. The proposed rule "[Prohibition on the Payment of Subminimum Wages under 14\(c\) Certificates as a Qualification for Participation as a Nonprofit Agency under the AbilityOne Program](#)" was published in the Federal Register on October 12, 2021.

- *Why did you prioritize these actions?*

The issue of payment under 14(c) certificates has been a longstanding area of concern within the Commission and the disability community. The proposed rule published on Oct. 12, 2021, would better align AbilityOne with modern disability policy.

- *Indicate how the actions are expected to result in reducing or eliminating the barrier to equitable outcomes. If not identified above, please indicate what evidence supports this connection.*

Eliminating payment of subminimum wages to the small percentage of AbilityOne employees who receive them (less than 2% of the total) will ensure greater equity for these employees.

Wages paid for work send a message of how that work is valued, and the work performed by people with disabilities should be valued equally with others.

C. Tracking Progress

- *Describe what factors you will use to determine whether the agency action(s) has eliminated or substantially reduced the barrier to equitable access identified above in the near- to mid-term (2-4 years out).*

Near- to mid-term progress will mean a decline in the number of employees paid subminimum wages on AbilityOne contracts.

- *Indicate what success might ultimately look like in the long-term (5-8 years out).*

Full success will be achieved when no subminimum wages are paid on AbilityOne contracts.

Accountability

- *Describe how the agency will hold itself accountable to implementing this action.*

The Commission will hold itself accountable for implementing this action through regular public meetings as well as statutory reports including the Report to the President and the Performance and Accountability Report.

Action 2: The Commission will continue facilitating Federal agency implementation of the OFPP memorandum "[Increasing the Participation of Americans with Disabilities in Federal Contracting.](#)"

Barrier to Equitable Outcome(s)

- *Describe the barrier you are trying to address.*

People who are blind or have significant disabilities have historically experienced the lowest employment rate of any segment in U.S. society. The AbilityOne Program exists to address this barrier by providing job opportunities to that population, specifically through the manufacture and delivery of products and services to the Federal Government. However, the Commission does not have the authority to require Federal agencies to increase spending on AbilityOne.

- *Specify the program, policy, or regulation that contributes to this barrier.*

While not programs, policies or regulations, the following challenges contribute to this barrier as the Commission works to increase employment for people who are blind or have significant disabilities:

- The Commission does not have the authority to require Federal agencies to increase spending on AbilityOne.
- The Commission will need an increase in resources to effectively manage operations and compliance requirements if Federal agency spending increases.

- *Indicate which populations are most impacted by this barrier.*

People who are blind or have significant disabilities.

- *List the evidence indicating that this barrier meaningfully impacts full and equal participation.*

Department of Labor's Bureau of Labor Statistics ("[Persons with a Disability: Labor Force Characteristics Summary – 2020](#)") and Office of Disability Employment Policy ([Disability Employment Statistics](#)) show that people who are blind or have significant disabilities continue to experience lower employment – e.g., 70% are not employed – than the general population.

A. Action and Intended Impact on Barrier

- *Describe the actions the agency will take to eliminate/reduce the barrier.*

The Commission will continue to facilitate Federal agency implementation of the OFPP memo.

OFPP memo actions include agencies designating AbilityOne Representatives (ABORs) to serve as advocates for AbilityOne; pledging to devote at least 1% of contract spend to AbilityOne products and services, with a further goal of increasing spend to 1.5% in FY 2022; and identifying possible hiring opportunities for people with disabilities in the acquisition workforce.

The Commission has appointed a program manager to handle engagement with ABORs. The Agency will continue to provide ABORs with tools and resources, including educational briefings to individual agencies, and presentations at ABOR meetings.

- *Why did you prioritize these actions?*

The Commission prioritized these actions because AbilityOne is an [employment program](#). Its #1 key performance indicator is employment growth. The OFPP memo is an unprecedented opportunity to potentially create tens of thousands of AbilityOne jobs for years to come.

- *Indicate how the actions are expected to result in reducing or eliminating the barrier to equitable outcomes. If not identified above, please indicate what evidence supports this connection.*

Increased spending by Federal agencies on AbilityOne resulting from the OFPP memo could create tens of thousands of jobs for people who are blind or have significant disabilities.

B. Tracking Progress

- *Describe what factors you will use to determine whether the agency action(s) has eliminated or substantially reduced the barrier to equitable access identified above in the near- to mid-term (2-4 years out).*

Success in this area is ultimately measured in the number of AbilityOne jobs for people who are blind or have significant disabilities. Employment is measured on a quarterly basis by the AbilityOne CNAs. Employment growth is the #1 key performance indicator measured in the Commission's Cooperative Agreements with the CNAs.

However, near-term metrics indicating progress will include:

- Number of Federal agency pledges to increase spending on AbilityOne
- Number of Federal agencies that have designated ABORs

- *Indicate what success might ultimately look like in the long-term (5-8 years out).*

Long-term success will be reached when increased spending by Federal agencies on AbilityOne results in more AbilityOne jobs for people who are blind or have significant disabilities. Success will also depend on the Commission having the resources to effectively manage operations and compliance requirements as Federal agency spending increases.

C. Accountability

- *Describe how the agency will hold itself accountable to implementing this action.*

Accountability will be achieved through statutory reports – the Report to the President and Performance and Accountability Report – where the Commission summarizes Program data, including number of employees, as well as actions taken to help Federal agencies facilitate the OFPP memorandum. Commission meetings with ABORs are another mechanism.

Action 3: Increasing Public Engagement and Transparency

The Commission will continue expanding public engagement to ensure all stakeholders –

including and especially people who are blind or have significant disabilities – have visibility and a voice regarding their interest in the Program. To achieve this, the Commission will continue to increase transparency and public engagement through its quarterly public meetings, as well as in other contexts.

A. Barrier to Equitable Outcome(s)

- *Describe the barrier you are trying to address.*

As a small Federal agency that has historically experienced significant resource shortfalls, the Commission has been challenged in creating the kind of public engagement that enhances public trust and confidence in the Agency and Program.

- *Specify the program, policy, or regulation that contributes to this barrier.*

The Commission has only 38 full-time equivalent (FTE) employees to advance its mission of administering the AbilityOne Program, whose sales neared \$4 billion in FY 2020. Moreover, an increasing number of Congressional and Executive Branch mandates in recent years have contributed to Commission staff being spread thin.

- *Indicate which populations are most impacted by this barrier.*

Federal agencies and other Executive Branch stakeholders such as OMB; Congress; people who are blind or have significant disabilities; and other members of the disability community.

- *List the evidence indicating that this barrier meaningfully impacts full and equal participation.*

While the Commission has received increases in appropriations over the past several years, it remains understaffed with 38 FTEs – other \$4 billion programs have more than 100 FTEs. The resulting lack of capability and capacity has contributed to past criticism that the agency is not transparent – e.g., the Commission’s Office of Inspector General Top Management and Performance Challenges Report. Additional personnel and resources would help to provide the staff bandwidth required to provide increased transparency.

Pre-pandemic, attendance at in-person Commission meetings was approximately 50 people, largely due to a lack of resources to provide virtual or dial-in attendance. After additional funding, the Commission began to publish advance meeting notices in the Federal Register in April 2021 and provided a virtual platform for attendees. As a result, pre-pandemic attendance of approximately 50 individuals has now increased to more than 300 at the October 7, 2021, regular quarterly public meeting.

B. Action and Intended Impact on Barrier

- *Describe the actions the agency will take to eliminate/reduce the barrier.*

The Commission will continue to increase public engagement and transparency, through actions including:

- Continuing to publish Federal Register notices in advance of Commission quarterly public meetings, and including agenda topics, questions for discussion, solicitation of written statements to the Commission, and encouragement of verbal presentations and exchanges with Commission members.

- Continuing to hold listening sessions in these meetings for Commission members to hear directly from attendees.

- Continuing to reach out directly to members of the disability community to inform them of the Commission's commitment to increased public engagement, and to encourage them to attend the quarterly public meetings. The Commission has identified these individuals through its longstanding association with the disability community.

- *Why did you prioritize these actions?*

Recent Top Management and Performance Challenges Reports issued by the Commission's OIG have included as a challenge "higher level of transparency and communication needed to enhance program confidence."

Additionally, members of the disability community have historically been interested in providing feedback on the AbilityOne Program.

- *Indicate how the actions are expected to result in reducing or eliminating the barrier to equitable outcomes. If not identified above, please indicate what evidence supports this connection.*

When they provide comments and feedback in answer to Commission questions, or give presentations at Commission meetings, people with disabilities have added input into the Commission's strategy and work. They thus become fuller participants in the Commission's mission to provide job opportunities for people with disabilities – an underserved community.

C. Tracking Progress

- *Describe what factors you will use to determine whether the agency action(s) has eliminated or substantially reduced the barrier to equitable access identified above in the near- to mid-term (2-4 years out).*

Factors include:

- Attendance at Commission quarterly public meetings and other Commission meetings, especially by members of the disability community
- Number of individuals providing comments before and during Commission public meetings
- Removing "transparency" as an OIG "Top Management and Performance" challenge

- *Indicate what success might ultimately look like in the long-term (5-8 years out).*

Long term, success will mean that all stakeholders – including people who are blind or have significant disabilities – have visibility and a voice regarding their interest in the Program.

D. Accountability

- *Describe how the agency will hold itself accountable to implementing this action.*

Commission statutory reports that increase transparency and expand public engagement include the Report to the President and the Performance and Accountability Report.