



U.S. ABILITYONE COMMISSION

Policy 51.301-02
Effective Date: 05/01/2025

TITLE: PUBLICATION, EVALUATION, AND THE CNA RECOMMENDATIONS

1. PURPOSE.

To provide supplemental policy guidance for how the central nonprofit agencies (CNAs) publicize potential Procurement List (PL) requirements to nonprofit agencies (NPAs), evaluate prospective NPA responses, and recommend to the Commission one or more NPAs for authorization.

2. APPLICABILITY.

This policy is applicable to the U.S. AbilityOne Commission, the designated CNAs, and AbilityOne-participating NPAs.

3. AUTHORITY.

- (a) 41 U.S.C. Chapter 85, Javits-Wagner-O'Day (JWOD) Act
- (b) 41 C.F.R. 51, Committee for Purchase From People Who Are Blind or Severely Disabled
- (c) Federal Acquisition Regulation (FAR), 48 C.F.R. 1 (as applicable)

4. DEFINITIONS.

Definitions, abbreviations, and acronyms frequently used throughout the Commission's policy system are provided in Policy 51.102 and 51.301 or defined in this document.

5. RESPONSIBILITIES.

Responsibilities are described at Part 5 of Policy 51.301.

6. POLICY.

Once a requirement for a product or service is placed on the PL, orders from Federal entities are issued to authorized NPAs on a sole source basis (See FAR 6.302-5(b)(2)). For that reason, the process for a CNA recommending an NPA(s) to serve as a mandatory source(s) for the requirement must be transparent, fair, and equitable, and result in the best overall solution for the government while still meeting the objectives of the AbilityOne Program (Program). CNAs are not required to follow the competitive procedures prescribed by the FAR. However, CNAs shall: **publicize** all potential PL requirements so that every NPA in the CNA's network has an opportunity to respond to the opportunity, unless an exception applies; **evaluate** NPA responses in the manner prescribed at Part 7 of this policy; and offer a **recommendation to the Commission** of the NPA(s) most capable of serving as a mandatory source(s). Each



U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

recommendation must be supported with all the pertinent information the CNA relied upon to support its recommendation decision.

7. PROCEDURES.

- (a) **Publication:** CNAs must publicize potential PL opportunities throughout a CNA's NPA network to the maximum extent practicable. No limitations shall be placed on an NPA's ability to respond to an opportunity notice except where one of the following exceptions apply:

i. *Designated Source:*

- a. The designated source exception may only be used in the following instances:
1. There is only one NPA capable and qualified to provide the product or service needed by the federal agency.
 2. The proposed product or service is a continuation, or an extension, of similar work already being performed for the same federal agency by the NPA being proposed as a designated source.
 3. The NPA initially identified the opportunity and cultivated the relationship with the Federal agency to bring the product or service to the Program and is otherwise capable and qualified to produce the product or perform the service needed.
 4. Any other basis preapproved by the Executive Director.

- b. Documentation: Each designated source decision for opportunities must be documented by the CNA and approved, prior to issuance of an Opportunity Notice, by the following individuals:

1. The CNA must designate an approving official for all requirements less than the simplified acquisition threshold (SAT) defined at 48 CFR 2.1.
2. For all opportunities with an estimated value that exceeds the SAT, the approval authority must be the Executive Director (or designee).
3. The documentation must provide the following information:
 - i. Identification of the agency and the ordering activity, and specific identification of the document as a "Designated Source Determination;"
 - ii. Nature and/or description of the action being approved;
 - iii. A description of the supplies or services required to meet the agency's needs (including the estimated value);
 - iv. If the reason for use of the designated source exception was that there was only one NPA capable and qualified to provide the product or service needed by the Federal agency, a description of efforts made to

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

ensure that this opportunity was provided to as many potential NPAs as practicable; and

- v. Any other facts supporting the determination, such as an NPA's unique qualifications, capabilities, and/or pre-existing relationship with the requiring activity.

ii. *Limited Source:*

- a. This exception shall only be used in the following instances:

1. The CNA is attempting to limit the opportunity to less utilized NPAs to provide more opportunities to a greater number of NPAs in the Program.
2. The CNA is attempting to limit the opportunity to NPAs in a specific geographical region or local area.
3. Procurement List product additions resulting from work performed under the Manufacturing and Development service contract in support of the Program Executive Office (PEO) – Soldier.
4. The opportunity is part of a Commission-authorized pilot test.
5. Any other basis preapproved by the Executive Director.

- b. Documentation: Each limited source decision for opportunities greater than \$750,000 in total contract value must be documented by the CNA and approved by the Executive Director (or designee). The documentation must provide the following information:

1. Identification of the agency and the ordering activity, and specific identification of the document as a "Limited Source Determination,"
2. Nature and/or description of the action being approved;
3. A description of the supplies or services required to meet the agency's needs (including the estimated value);
4. The rationale as to why this effort has been limited to the selected population; and
5. Any other facts supporting the determination.

- (b) **Evaluation**: CNAs shall conduct an evaluation for all timely and complete responses received for a given opportunity notice. CNAs are not required to consider responses after an opportunity has been closed or in instances where the NPA has failed to provide adequate information. Within 90 days after the effective date of this policy, CNAs shall develop evaluation procedures with the following characteristics:

- i. CNAs shall ensure that no personnel participating in the selection or recommendation process (including evaluation of NPA submissions to an

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

- opportunity notice) have either a real or perceived conflict of interest that is not able to be sufficiently mitigated to allow for unbiased and objective participation. Mitigated conflicts of interest shall be documented, and the conflict mitigation documentation shall be included within the PL requirements package submission.
- ii. CNAs shall consider qualitative and quantitative factors in selecting NPAs for allocation, which may include project-level or requirement-specific criteria as directed by the Commission.
 - iii. The CNA shall include a procedural step that ensures that the requiring activity is able and encouraged to provide feedback about prospective NPAs during the evaluation process.
 - iv. CNAs shall not follow the acquisition procedures prescribed by the Federal Acquisition Regulation (FAR) when evaluating NPAs. Rather, CNAs shall utilize criteria that include at least the following minimum standards for NPAs to be eligible for an authorization:
 - a. NPA must be in good standing in accordance with a CNA's internal policies and as defined herein.
 - b. NPA must be capable of providing all contractual requirements by the Government-established date of performance, unless otherwise agreed to by the appropriate contracting officer.
 - c. NPA must agree to fulfill all legal requirements of the contract, include all flow-down clauses to the NPA as prime, and/or oversee flow-down clauses for any subcontractors assisting in performance of a Procurement List requirement.
 - d. NPA shall include the clause in **Appendix A** of this policy in all subcontracts either utilized or required for production of a product or provision of a service (including any Mentor-Protégé arrangements).
 - e. NPA must have appropriate financial and management qualifications related to capital intensive products and services, including Base Supply Center (BSC) operation.
 - f. NPA must be able to incorporate efficiencies into the production of a product or provision of a service and institute applicable industry best practices, unless otherwise not appropriate, in the delivery of products and services to the Government.
 - g. NPA must not have an administrative enforcement status as described at Commission Policy 51.407 that would preclude the NPA from receiving a new authorization.
 - v. When assessing an NPA's overall qualifications and capability, the CNA must also consider the following criteria when evaluating NPA capabilities:

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

- a. The accuracy and adequacy of the NPA's transportation plan for ensuring that participating employees can gain access to the worksite without incurring undue expenses. This assessment is not necessary for work performed on a permanent telework basis.
 - b. The strength and adequacy of the NPA's placement program or how the NPA facilitates career development opportunities for participating employees.
 - c. Responses must adequately explain the NPA's recruitment and retention infrastructure specific to supporting the proposed PL addition. For instance, an NPA with limited means, or an inconsistent track record of identifying and recruiting qualified employees to perform the type of work described in the Government's work statement, should be viewed less favorably than those with greater recruitment and retention capability.
 - d. For opportunities with an expected project value that exceeds \$1M in total contract value, the CNA is required to develop procedures for assessing and evaluating the quality of a prospective NPA's history of performing the same or similar work (past performance). This can be done by collecting information from the Contractor Performance Assessment Reporting System (CPARS), if available, or past performance questionnaires from prior efforts.
- vi. The CNA may also include "special consideration criteria," when warranted, to narrow the pool of potential responses to a more targeted group. If the CNA intends to use special consideration criteria, it must provide notice of that intent in the opportunity notice. If the intent to use special considerations is not included in the opportunity notice, such criteria may not be considered after the opportunity notice has been closed. Special considerations may also be required by the Commission and shall be communicated to the CNA prior to issuance of an opportunity notice. Special consideration criteria include:
- a. NPA(s) employing a significant number of wounded warriors or service-disabled veterans who are blind or who have significant disabilities.
 - b. NPA(s) demonstrating initiative in meeting or exceeding laws, regulations, Executive Orders, and industry standards on the manufacture and use of environmentally preferable products.
 - c. NPA(s) subcontracting with a commercial partner to create pathways for outward mobility.
 - d. Any other criteria approved by the Executive Director on an ad hoc or permanent basis that promotes workforce integration and/or career development opportunities for participating employees.
- vii. CNAs shall document the evaluation and recommendation decision, in writing, for inclusion within the PL addition package. The documentation should also contain,

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

in sufficient detail, the reasons for not recommending otherwise capable NPAs for authorization. The CNA shall not delete or destroy, but shall retain and preserve, all records related to any NPA selection decision for no less than three (3) years after a recommendation decision has been rendered.

- viii. Once the recommended NPA has been identified, the recommended NPA shall begin price negotiations (in accordance with Commission pricing policies) or other work statement negotiations with the requiring or contracting activity, and the CNA shall present the NPA accepted by the Federal entity to the Commission as the recommended NPA.
- ix. No later than 90 days after the effective date of this policy, both CNAs shall develop NPA evaluation procedures consistent with this policy and forward those procedures to the Executive Director (or designee) for review and concurrence.

(c) Request to Appeal a Recommendation Decision:

- i. All evaluation/recommendation policies, processes, or procedures utilized by CNAs must provide for appeal of a recommendation decision in a timely and expeditious manner. CNAs shall develop internal appeal procedures permitting NPAs not selected for recommendation a meaningful opportunity to request that the CNA's initial determination be reviewed by a separate authority within the CNA, and at an organizational level at, or higher than, the CNA official who made the initial determination. The CNAs shall submit appeal procedures for Commission review when requested by the Commission, or concurrently when the procedures are substantively revised. CNA appeal procedures shall be plainly articulated and conspicuously included with each notice of non-selection issued to NPAs that participated in the opportunity announcement.
- ii. NPAs shall strictly adhere to the CNA's appeal procedures, including all required submission timelines and documentation requirements. For all requests for appeal, the NPA shall timely submit, as a single package, all necessary and relevant information, documents or other evidence concurrently with the request.
- iii. NPAs are permitted to raise any of the following objections:
 - a. The recommending official failed to follow the CNA's established policies, procedures, or processes, or the recommending official failed to follow this policy or other Commission policy applicable to NPA selections. This includes, but is not limited to, materially failing to follow procedures, interfering with an objective evaluation process, and/or any effort or communication reasonably resulting in unequal treatment among competing NPAs.
 - b. An evidentiary showing that the NPA(s) selected for an authorization recommendation did not, or reasonably could not, meet the opportunity

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

- announcement's minimum criteria for selection, including any Commission or requirement-specific criteria.
- c. An evidentiary showing that the selection criteria in the opportunity notice were prejudicial to the non-selected NPA(s) or more favorably oriented to the NPA(s) selected for recommendation, or that the selection criteria unreasonably limited adequate NPA participation, or that the recommendation decision constituted an erroneous, inequitable, or inconsistent result.
 - iv. When an NPA(s) requests an appeal of a recommendation decision, irrespective of the outcome, the CNA shall summarize, for each requesting NPA, the substantive issue(s), the basis for appeal, and outcome(s), and include this summary with the PL addition package. If an appeal is filed with the Commission, the Commission shall include both the appeal request and the Commission's determination in the PL transaction record.

(d) Appeal to the Commission:

- i. To ensure transparency and oversight of a CNA's recommendation decision, an NPA that received an unfavorable determination of a request for a CNA-level appeal may appeal that unfavorable determination to the Commission. Appeals to the Commission shall comply with the procedures within this policy. The Commission will only consider an appeal if one or more of the following conditions apply:
 - a. The CNA failed to follow its established policies, procedures, or processes, or the CNA failed to follow this policy or other Commission policy applicable to NPA selections. This includes, but is not limited to, materially failing to follow procedures, interfering with an objective evaluation process, and/or any effort or communication reasonably resulting in unequal treatment among competing NPAs.
 - b. An evidentiary showing that the NPA(s) selected for an authorization recommendation did not, or reasonably could not, meet the opportunity announcement's minimum criteria for selection, including any Commission or requirement-specific criteria.
 - c. An evidentiary showing that the CNA's selection criteria in the opportunity notice were prejudicial to the non-selected NPA(s) or more favorably oriented to the NPA(s) selected for recommendation, or that the selection criteria unreasonably limited adequate NPA participation, or that the CNA's recommendation decision constituted an erroneous, inequitable, or inconsistent result.
- ii. Appeals to the Commission must be in writing and shall be submitted to the Commission Ombudsman no later than 15 calendar days beginning on the day after

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

the NPA is notified of a CNA's unfavorable reconsideration determination. Appeal packages must contain the following items:

- a. A narrative setting forth the basis of the appeal, which is limited to the appeal grounds noted above. The narrative shall not exceed ten (10) single-sided pages in 12-point Times New Roman font (not including attachments). The page limitation may be enlarged with advance permission and under limited circumstances.
- b. All narrative submissions must contain appropriate citations to the attachments or other evidence submitted with the appeal package.
- c. Sufficient documentary evidence supporting the basis of the appeal, including all the documentation provided to the CNA for purposes of reconsideration. The Commission cannot review evidence for an appeal that was not provided to the CNA when a request for consideration was being processed.
- d. A statement of the relief requested that is within the authority of the Commission to provide.
- e. Any additional information, documents, or other evidence from the respective CNA that the Commission seeks for prompt adjudication of NPA appeals.

Appeal packages materially failing to conform to the criteria in this section may be returned for corrections, but the initial timeline for submitting an appeal to the Commission will not be adjusted except for extraordinary circumstances.

- iii. If the Commission renders a decision reversing the CNA's reconsideration determination, the Commission may require the CNA to take one or more of the following actions: (a) withdraw the selection determination and reissue the opportunity announcement; (b) appropriately revise an opportunity announcement's selection criteria; (c) take appropriate steps to cure a defective selection or recommendation process; or (d) re-accomplish an opportunity announcement and disallow certain personnel from further participation in evaluating responses.
- (e) **CNA Recommendation to the Commission:** CNAs shall only recommend NPAs that are capable and desirous of fulfilling a Government contract's technical, delivery, or other performance requirements, and are ready, willing, and able to begin production of the product or performance of the service by date of contract award. For each recommendation decision, the CNA shall forward to the Commission, for its review, the following:
- i. A summary explanation of the NPAs not recommended for authorization, including the basis for the non-selection, e.g. capability, qualifications, or other Commission-approved criteria. If more than three (3) NPAs were evaluated, the summary explanation may be limited to the selectee(s) and the top three (3) non-selected NPAs. Non-selectees should be rank ordered from most to least qualified.

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

- ii. A description of requests for appeal and the CNA appellate decision, if applicable.
- iii. All other pertinent information necessary to support the product or service requirement to the PL as specified in Commission policy and the Cooperative Agreement.
- iv. Additional information, by request, to better inform the Commission members or staff as to the qualifications and capability of a proposed NPA(s) and the suitability of a potential PL addition.

8. EXCEPTIONS.

The Commission Chairperson is the proponent of this policy. However, exceptions to this policy or related procedures are permitted with written approval from the Executive Director. Any responsibilities assigned to the Executive Director may be delegated in accordance with Commission Policy 51.205.

9. SUPERSESSSION.

None.



APPROVED: _____ Date: _____

Robert D. Hogue
Chairperson

U.S. ABILITYONE COMMISSION

Policy 51.301-02 Publication, Evaluation, and the CNA Recommendations

APPENDIX A

The AbilityOne NPA shall include the following clause in the terms of all subcontracts (below the recitals) where the AbilityOne NPA is serving as prime contractor and utilizing subcontracting to produce a product or provide a service, and, in accordance with 41 C.F.R. § 51.5.2(e), in all subcontracts where the AbilityOne NPA is a mandatory subcontractor to a commercial prime contractor.

This Agreement involves a product or service either added to or contemplated for addition to the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission). Irrespective of whether the Parties have executed this Agreement, the U.S. AbilityOne Commission will not consider this Agreement to be in effect unless and until the U.S. AbilityOne Commission has approved the Procurement List addition, or amendment, and the effective date of the addition or amendment is provided by signed Notice to the requiring/contracting activity. *See* 41 U.S.C. § 8503. Under 41 C.F.R. § 51-4.4, the purpose of this Agreement is to assist and/or ensure the nonprofit agency meets the performance requirements of the applicable requiring/contracting activity or activities depicted within the Federal entity work statement, including directions provided by contracting officers or contracting officer representatives. The applicable terms of this Agreement relating to the Procurement List are subservient to and shall not supersede the authority of the U.S. AbilityOne Commission set forth in Title 41 U.S.C., Chapter 85, Title 41 C.F.R., Chapter 51, the U.S. Government's authority generally under Title 48 C.F.R., Chapters 1 and 2 (or other applicable agency regulations under 48 C.F.R.) and is further subject to policies or other directives or guidance issued by the U.S. AbilityOne Commission.