U.S. ABILITYONE COMMISSION

Policy 51.400
Effective Date: 03/11/2013

TITLE: NONPROFIT AGENCY OVERALL COMPLIANCE POLICY

---

1. PURPOSE.

This document prescribes the compliance policies for nonprofit agencies (NPA) participating in the AbilityOne® Program.

2. APPLICABILITY.

The policies described herein apply to all nonprofit agencies participating in the AbilityOne Program, National Industries for the Blind (NIB), NISH, and the U.S. AbilityOne Commission (Commission).

3. AUTHORITY.

(a) 41 U.S.C. 8501-8506, Javits-Wagner-O'Day (JWOD) Act
(b) 41 CFR 51-4, Nonprofit Agencies
(c) FAR Subpart 3.10, Contractor Code of Business Ethics and Conduct
(d) FAR Subpart 9.102, Policy, Paragraph (b)(3) and Far Subpart 9.104, Standards
(e) Presidential Memorandum, Transparency and Open Government, dated January 21, 2009

4. DEFINITIONS AND ACRONYMS.

DOL – United States Department of Labor

Related Corporation – A corporation that is related to another corporation by one owning shares of the other, by common ownership, or by other means of control. The NPA may be one of several subsidiaries of a common parent corporation, or the parent or subsidiary of another corporation, or may otherwise be related to one or more corporations.

5. RESPONSIBLITIES.

(a) Central Nonprofit Agencies will monitor and assist their nonprofit agencies to comply with the statutory and regulatory requirements necessary for full participation in the Program. They will conduct assistant visits with nonprofit agencies as necessary.
(b) The Commission will periodically review participating nonprofit agencies' compliance with all applicable statutes.
(c) Nonprofit agencies will comply with all statutes, regulations, and policies applicable and related to the AbilityOne Program.

6. POLICY.

(a) It is the policy of the Commission that all participating nonprofit agencies in the AbilityOne Program adhere to the highest ethical standards. Each NPA must provide a level of

transparency sufficient to demonstrate to the public that they operate in accordance with the intent of the JWOD Act as well as all other applicable statutes and regulations.

(b) Any NPA seeking verification to participate in the AbilityOne Program must submit appropriate documentation as described in 41 CFR 51-4.2, Initial qualification, demonstrating it meets the definition of a "qualified nonprofit agency" as prescribed in 41 U.S.C. 8501, Definitions.

(c) All nonprofit agencies participating in the AbilityOne Program must be in full compliance with all eligibility requirements specified in 41 CFR 51- 4.3, Maintaining qualification, and meet the subcontracting requirements specified in 41 CFR 51-4.4, Subcontracting.

(d) Nonprofit agencies that are not in full compliance with the applicable regulations may face a range of sanctions based on the type, certification, and severity of the infraction. These may be corrective actions, probation, or revocation of authorization to perform a project on the AbilityOne Program Procurement List. Alleged violations by nonprofit agencies will be handled in accordance with 41 CFR 51-4.5, Violations by nonprofit agencies.

(e) The Commission may authorize a "related corporation" to participate in the AbilityOne Program so long as it meets initial qualification requirements of 41 CFR 51-4, Nonprofit Agencies, provided that the participation of the related corporation does not circumvent the direct labor ratio requirement of the Javits-Wagner-O'Day Act by the "other related corporation" and no revenue of the nonprofit participating in the AbilityOne Program inures via monetary or assets to a for-profit entity or its shareholders.

(f) The Commission strongly encourages that nonprofit agencies have personnel with rehabilitation background on staff or access to resources, such as consultants, with rehabilitation expertise.

(g) The Commission strongly encourages participating nonprofit agencies to:

   i. Ensure adequate financial resources exist to perform the contract or possess the ability to obtain such resources.

   ii. Comply with the cost principles prescribed at FAR Subpart 31.7, Contracts with Nonprofit Organizations, as set forth in Office of Management and Budget (OMB) CircularA-122, Cost Principles for Nonprofit Organizations.

(h) The Commission will coordinate with the U.S. Department of Labor (DOL) to ensure that participating nonprofit agencies are in compliance with applicable DOL regulations. The Commission may report information gathered during its compliance visits to nonprofit agencies to DOL for further investigation.

(i) If the Commission withdraws a NPA's designation as a qualified NPA, the following conditions must be met before the NPA may be reinstated as a qualified NPA:

   i. The NPA must demonstrate that it corrected the problems that resulted in its disqualification from the Program.

   ii. It has been at least one year since the agency was terminated.

   iii. All requirements of 41 CFR 51-4.2, Initial Qualification, and this policy have been met.

(j) When an NPA has been properly reinstated, one of the following circumstances must apply before they can receive orders for the item it was previously authorized to provide:

i. No other NPA has assumed responsibility for providing the item under the AbilityOne Program; or

ii. The NPA providing the item has no objection to permitting the affected NPA to reassume supply responsibility for the item.

(k) In accordance with 41 CFR 51-4.4, Subcontracting, paragraph(c), if an NPA subcontracts any portion of an AbilityOne project, the NPA must maximize, to the extent practicable, the work subcontracted to other AbilityOne nonprofit agencies and small business.

(l) Approval to subcontract a portion of any project in the AbilityOne program will be reviewed at the time of addition to the Procurement List. Any significant changes in the portion of a project subcontracted must be approved by the Commission before entering into the subcontract. Under no circumstance(s) will a NPA subcontract the entire production of an item that was added to the Procurement List for manufacture. Failure to comply with this requirement can result in the loss of agency authorization to provide the product or service.

7. EXCEPTION TO POLICY.

None

8. PROCEDURES.

N/A

9. SUPERSESSION.

N/A

APPROVED: _____ **Date:** 3/11/2013

E. Ballard
Executive Director