U.S. ABILITYONE COMMISSION

Policy 51.401
Effective Date: 03/22/2013

TITLE: DIRECT LABOR RATIO REQUIREMENTS

---

1. PURPOSE.

This document prescribes the U. S. AbilityOne Commission's (Commission) policies on direct labor requirements to maintain nonprofit agency compliance with applicable laws and regulations.

2. APPLICABILITY.

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

3. AUTHORITY.

(a) 41 U.S.C. §§ 8501 – 8506, Javits-Wagner-O'Day (JWOD) Act
(b) 41 CFR Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled

4. DEFINITIONS AND ACRONYMS.

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in Policy 51.102, Definitions. Terms unique to a specific subject matter will be defined in the associated policy and/or procedure.

5. RESPONSIBILITIES.

(a) The Commission reviews participating NPA compliance with all applicable statutes, regulations and policies, and takes necessary actions to address instances of noncompliance. As needed, the Commission provides guidance to NPAs on an individual or group basis to assist them in understanding the requirements as they relate to the direct labor ratio.

(b) Central Nonprofit Agencies (CNAs) monitor and assist their NPAs to comply with the statutory and regulatory requirements necessary for full participation in the Program. They conduct assistance visits with NPAs as necessary or as requested by the Commission.

(c) NPAs shall comply with all statutes, regulations, and policies applicable and related to the AbilityOne Program.

6. POLICY.

(a) NPAs may be considered qualified to participate in the AbilityOne Program if they meet all statutory and regulatory requirements specified in the JWOD Act and Committee regulations. (*See* **Authorities**, above). As required by those authorities, NPAs must employ people who

are blind or significantly disabled for at least 75 percent of their overall direct labor hours (ODLH) during the fiscal year.

(b) To meet the 75% ODLH requirement, the Commission expects that the vast majority of individual AbilityOne Procurement List projects (fulfilling products or services) are performed with a direct labor ratio of at least 75 percent. The Commission realizes that some projects that provide valuable job opportunities may need to be performed at direct labor ratios below 75 percent to meet all quality and delivery requirements of the Federal customer. Therefore, the Commission may consider, in certain circumstances, requests for addition to the Procurement List projects with direct labor ratios below 75 percent. Eligibility for additions with direct labor ratio below 75% are determined by the Commission on a case by case basis; however, the following examples describe circumstances where the Commission has granted approval previously:

i. An NPA may not be able to initially meet the direct labor ratio on a new project that would qualify as suitable for addition to the Procurement List, but the NPA will be able to meet the expected ratio after a reasonable **phase-in** period. Normally, phase-ins will be reserved for unusual or highly complex projects that are large (more than 10 people) or where unique circumstances exist. Under such circumstances, the Commission requires the NPA to track and report its progress in meeting the ratio during the entire phase-in period to ensure that the Commission's suitability determination is sustainable based on actual performance. NPAs not meeting phase-in requirements or ratio milestones may lose their authorization to continue performing those projects at the phase-in ratios.

ii. During wartime and other emergency situations, fulfilling the Government's increased (**surge**) requirements may require certain exceptional actions that affect a nonprofit's ODLH ratio. Meeting the needs of the Government in such emergency situations may temporarily take precedence over maintaining the required 75 percent direct labor hour ratio. The Commission may give an NPA consideration of exemption from the required 75 percent direct labor hour ratio when the Federal customer's surge is the only reason for not meeting the ratio requirement.

(b) For purposes of calculating direct labor ratio, AbilityOne participating NPAs associated with NIB may count the labor performed by people with significant disabilities (including severe visual impairment) who are not legally blind towards a particular AbilityOne project; however, these hours cannot be included in the ODLH ratio requirement. If counted toward the AbilityOne project ratio by an NIB-associated NPA, these employees must meet the significantly disabled and not competitively employable standard that is required of NISH-associated NPAs.

(c) In order for an employee's hours to count towards the 75 percent ODLH ratio requirement, the NPA must have documentation for that individual, showing that he or she meets the Commission's requirements for either a person who is blind or a person who is significantly disabled. These requirements include that the individual be evaluated for competitive employability. The Commission has determined that this evaluation be conducted using the Commission's AbilityOne Program Individual Eligibility Evaluation form.

(d) NPAs count all direct labor hours for each individual where the NPA provides the supervision and determines the hours worked and tasks performed by the individual.

i. Hours worked by people classified as trainees, consumers, or clients will count if they are performing direct labor.

ii. If the NPA uses temporary employees or personnel from a temp agency for direct labor, those hours shall be included in the direct labor ratio.

(e) Direct labor ratio information must be reported to two decimal places. The Commission will round up decimals to determine compliance with direct labor ratios. For example, a ratio at or above 74.51 percent will be counted as 75 percent.

(f) When Commission, NIB, or NISH staffs conduct an on-site visit to an individual NPA, the cumulative direct labor hours being performed and reported must be available for all projects.

7. EXCEPTION TO POLICY.

The Commission may authorize an exception to the 75 percent ODLH ratio requirement in accordance with this policy and procedures identified in Section 8 of this policy.

8. PROCEDURES.

The following procedures are incorporated herein by reference.

(a) 51.401-01, Phase – In Procedures
(b) 51.401-02, Surge Requirement Procedures

9. SUPERSESSION.

(a) AbilityOne Compliance Memorandum Number 4, Nonprofit Agency Organization-wide Direct Labor Ratio Requirements, dated October 1, 2004

(b) AbilityOne Compliance Memorandum Number 5, AbilityOne Program Direct Labor Requirements, dated February 28, 2008

(c) AbilityOne Compliance Memorandum Number 6, Reporting Direct Labor Hours of Trainees, dated January 12, 1995

APPROVED: _____ **Date:** 3/22/13
E. Ballard
Executive Director