



# **Cooperative Agreement**

**Between**

**Committee for Purchase From People  
Who Are Blind or Severely Disabled**

**and**

**SourceAmerica**

**Modification 06**

**Effective Date: January 18, 2018**

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**Cooperative Agreement**  
**between**  
**the Committee for Purchase From People**  
**Who Are Blind or Severely Disabled**  
**and**  
**SourceAmerica**

This Agreement is entered into by and between the Committee for Purchase From People Who Are Blind or Severely Disabled, operating as the U.S. AbilityOne Commission (“Commission”), and SourceAmerica, the Central Nonprofit Agency (“CNA”) for the purpose of establishing the governing relationship and roles and responsibilities of each party in its respective role within the AbilityOne Program.

The United States AbilityOne Commission, the operating name for the Committee for Purchase from People Who Are Blind or Severely Disabled (the "Commission"), is the independent Federal agency that administers the AbilityOne Program by authority of the Javits-Wagner-O'Day Act ("JWOD Act"), codified in 41 U.S.C. §§ 8501-8506.

SourceAmerica is a nonprofit agency whose mission is to create meaningful employment opportunities and expand choices for people with significant disabilities. SourceAmerica, hereinafter referred to CNA, has historically served as a Commission-designated central nonprofit agency within the AbilityOne Program as identified in 41 C.F.R. § 51-3 and FAR 8.701 to represent Nonprofit Agencies ("NPAs") employing persons with significant disabilities, and thereby facilitate the distribution of orders by the Federal Government for commodities and services on the Procurement List (PL) among qualified NPAs employing persons with significant disabilities under the Program.

## **SECTION A – BACKGROUND AND OBJECTIVES**

### **1. PUBLIC PURPOSE**

The public purpose of this Agreement is to establish key expectations and guidance for the Commission and CNA in relation to the implementation and management of the AbilityOne Program. The JWOD Act established the U.S. AbilityOne Commission to both provide and increase employment and training opportunities for persons who are blind or have other significant disabilities through the delivery of products and services to the Federal Government. The JWOD Act also requires the Commission to designate CNAs to facilitate the distribution of federal government orders by allocation or other means.

In 2013, the Government Accountability Office (GAO) reviewed the AbilityOne Commission and program and made recommendations to the Commission to address their findings. The Commission has been working to address the recommendations. Additionally, in December 2015, Congress passed the Consolidated Appropriations Act, 2016, Public Law 114-113, that included certain directives for the AbilityOne Commission to address within 180 days of the Act's passage, namely (1) to enter into written agreements with the CNAs to provide auditing, oversight, and reporting provisions; and (2) to stand up an Office of Inspector General for the agency.

The Commission has met with the CNAs as well as afforded them the opportunity to provide input through the form of a response to a Request for Information to address specific programmatic functions delegated to the CNAs through formal promulgated regulations. Additionally, the Commission met with NPAs participating in the AbilityOne Program as stakeholders to ascertain specific requirements the NPAs have for participating in the program that the CNA provides to them.

### **2. CENTRAL NONPROFIT AGENCY DESIGNATION**

Pursuant to 41 U.S.C. § 8503(c) and the Consolidated Appropriations Act, 2016, the Commission by execution of this Agreement hereby designates SourceAmerica as the CNA to facilitate the distribution, by direct allocation, subcontract, or any other means, of orders of the Federal Government for products and services on the PL among qualified NPAs for people with significant disabilities. As a designated CNA, SourceAmerica, herein agrees to comply with the terms and conditions of this Agreement as well as the Consolidated Appropriations Act, 2016, the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51.

### **3. DESCRIPTION OF SERVICES**

The CNA shall provide management, labor, supervision, materials, equipment and supplies to furnish CNA program services to the NPAs as outlined in the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51. The CNA shall plan, schedule, coordinate, and ensure effective and efficient performance of services provided. The CNA shall provide the services in a manner that promotes the Federal Government's policies and the Commission's specific objectives as set forth in this Agreement, the JWOD Act, 41 U.S.C. Chapter 85, and implementing regulations, 41 C.F.R. Chapter 51. This is a performance-based agreement that includes performance expectations and consequences consistent with the Congressional mandate of the Consolidated Appropriations Act, 2016. These performance-based specifications express the Government's requirements in the form of the minimum quality standard to be met and consequences for deficient performance.

The overall purpose of this Agreement is to implement Consolidated Appropriations Act, 2016, Public Law 114-113 2016, by establishing the governing relationship between the Commission and the CNA to ensure effective stewardship and to increase employment and training opportunities for persons who have other significant disabilities through the delivery of products and services by the NPAs to the Federal Government in accordance with and in furtherance of the JWOD Act.

High value is associated with sustaining and increasing current employment levels and developing and executing new lines of business that also increase new employment opportunities.

Key performance indicators of this agreement are:

- Employment Growth
- Program Administration, Oversight, and Integrity
- NPA Support, Assistance, and Development
- Training and Strategic Communications

### **4. ORDER OF PRECEDENCE**

The following order of precedence (listed in descending order) shall be adhered to when conducting business, responding to Commission requests and ensuring compliance with the AbilityOne Program:

1. Statutes: Javits-Wagner O'Day (JWOD) Act, Chapter 85 of Title 41 United States Code
2. Executive Orders (if applicable to the AbilityOne Program)
3. Regulation: Chapter 51 of Title 41 Code of Federal Regulations

4. Cooperative Agreement and Commission Policies & Procedures – It is important to note that the Cooperative Agreement and Commission Policies & Procedures are supplemental to the JWOD Act and Commission regulations and do not supersede nor replace statute or regulation.

The Commission reserves the right to request documentation and/or require action from non-profit agencies and other Government entities in support of the AbilityOne Program as detailed in the JWOD Act.

## **SECTION B – CONSIDERATION AND FEES**

### **1. CONSIDERATION FROM THE COMMISSION**

- a) Upon designation as a CNA by the Commission, the CNA may charge fees to qualified and approved NPAs participating in the AbilityOne Program for facilitating their participation in the AbilityOne Program in accordance with the terms and conditions of this Agreement, 41 CFR §51, and Commission policies governing the AbilityOne Program. The fees charged by the CNA, pursuant to this Agreement, are Program Fee.
- b) The CNA agrees to accept Program Fee payments from third party qualified NPAs as full consideration in accordance with the terms and conditions of this Agreement, the provisions of the JWOD Act and the regulations and policies issued by the Commission. Furthermore, notwithstanding Section D.2., the CNA waives the right to collect Program Fee from the Commission.
- c) The CNA shall enter into written agreements with the qualified NPAs participating in the AbilityOne Program not later than 270 days after the Commission approves the NPA template agreement (or as part of designation as a qualified NPA).
- d) Prior to establishing written agreements with qualified NPAs and within thirty (30) days after the date on which the Commission provides notice to the CNA of any mandatory flow-down clauses or other required terms of such written agreements, the CNA shall provide the Commission with a template of the proposed agreement with the qualified NPAs. The template shall at a minimum and as directed by the Commission include applicable terms and conditions set forth in this Agreement. The Commission shall review and approve the terms and conditions of the written agreement template to be executed with the qualified NPA no less than thirty (30) days after it is submitted by the CNA for approval. The Commission will support the implementation of this provision by requiring that NPAs execute the agreements to participate in the AbilityOne Program.

- e) The CNA shall submit a milestone schedule for completing agreements with qualified NPAs participating in the AbilityOne Program from which the CNA receives Program Fee.
- f) The agreement between the qualified NPAs and the CNA shall state the terms under which payment of fees shall be remitted to the CNA from the date of execution of the NPA agreements forward. Notwithstanding the foregoing, nothing herein shall prevent the CNA from charging customary fees including, but not limited to, conference and training fees, loan and interest charges, sponsorships, advertising fees, etc.

## **2. PROGRAM FEE STRUCTURE**

The intent of this fee structure is to implement the provisions of the JWOD Act and 41 C.F.R. § 51-3.5 by defining a more transparent process for the delivery of CNA services to the qualified NPAs. The flexibility in the fee structure is intended for the CNA to generate revenue within their approved business plan, to incentivize the expansion of employment opportunities and to assist in start-ups. All fees collected under this Cooperative Agreement are considered Program Fee.

- a) The parties agree to an Award Fee Simulation (Pilot test) (Attachment 3) for the first two (2) years of this Agreement. Based on results of the Simulation, at least 90 days before the start of the third year, an Award Fee structure will be negotiated for the final third year of this Agreement.
- b) Use of Fee Collected. The CNA shall use the Program Fee collected only for the intended purposes, under terms and conditions of this Agreement and in furtherance of the AbilityOne Program, unless otherwise expressly instructed in this Agreement or by the Commission.

## **3. CENTRAL NONPROFIT AGENCY AUTHORITY TO CHARGE PROGRAM FEES FROM NONPROFIT AGENCIES**

- a) The CNA and the qualified NPAs participating in the AbilityOne Program shall agree that after execution of the NPA agreements, NPAs shall make Program Fee payments upon the CNA's submittal of payment requests to the NPAs in accordance with the terms and conditions of the written agreement between the CNA and the qualified NPAs pursuant to Section B.1.(c) and (d) of this Agreement. Prior to execution of the NPA agreements, the CNA may collect Program Fees from the NPAs in accordance with existing practices.

- b) The CNA shall calculate Program Fee based on NPA sales to the Government under the AbilityOne Program and in accordance with regulations and policies set forth by the Commission governing the AbilityOne Program.
- c) The total Program Fee charged by the CNA shall not exceed the fee ceiling approved by the Commission.
- d) Documentation of fee payment requests shall be provided by the CNA to the Commission in accordance with reporting requirements set forth in this Agreement at Section B.4 in accordance with the Consolidated Appropriations Act or upon written request by the Commission.
- e) The CNA shall notify the Commission of any qualified NPA failure to make payment of the Program Fee to the CNA. Upon the second notice by the CNA to the Commission of NPA failure to pay Program Fee within 120 days, in a twelve (12) month period, the CNA shall propose corrective action or otherwise direct the qualified NPA to take corrective action.

#### **4. PAYMENT OF PROGRAM FEE**

- (a) General. As required by Section B.1(f) of this Agreement and 41 CFR §51-4.3(b)(9), the qualified NPAs shall pay the CNA, consistent with the terms and conditions of separate written agreements between the CNA and qualified NPAs. As noted above, prior to execution of the NPA agreements, the CNA may collect Program Fees from the NPAs in accordance with practices existing prior to the execution of this Agreement.
- (b) Amount of payments and limitations on payments. Subject to such other limitations and conditions as are specified in Commission regulations and policies, this Agreement, and this clause, the amount of payments and limitations on payments shall be specified in the Agreement's description of the basis for payment.
- (c) CNA request for Program Fee payment. The CNA may submit requests for payment of unpaid Program Fee payments via a monthly statement of balances to the NPAs. Unless otherwise authorized by the Agreement Officer, the CNA shall book all Program Fee balances based on required submissions of NPA AbilityOne sales which includes:
  - (1) The date of the invoice;
  - (2) The contract number and/or other identifier of the contract or order under which the request is made;

- (3) Such information and documentation as is required by the contract's description of and sales amount that forms the basis for payment; and
  - (4) A certification, at least annually, by the NPA official authorized to bind the NPA, that all AbilityOne sales information is accurate and complete.
- (d) Content of CNA's request for Program Fee payment. In accordance with the Consolidated Appropriations Act, the CNA's request for Program Fee payment to the NPA shall contain the following:
- (1) The name and address of the CNA;
  - (2) The date of the request for Program Fee payment;
  - (3) The contract number and/or other identifier of the contract or order under which the request is made;
  - (4) Such information and documentation as is required by the contract's description of and sales amount that forms the basis for payment; and
  - (5) A certification by a CNA official authorized to bind the CNA, as to the accuracy of the CNA's request.

## **5. COMMERCIAL LINES OF BUSINESS**

The Commission authorizes use of Program Fee for commercial efforts to the extent that the commercial efforts are intended to have a direct benefit to the Program mission and do not otherwise detract from the CNA's performance or are considered unallowable under this Agreement.

## **SECTION C - PERFORMANCE WORK STATEMENT (PWS)**

### **1.0: OBJECTIVE**

The CNA shall provide management, labor, supervision, materials, equipment and supplies to furnish CNA program services as outlined in this Agreement and the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51. The CNA shall plan, schedule, coordinate, and ensure effective and efficient performance of all services provided. All work must be performed in a manner that promotes the Federal Government's policies and the Commission's specific objectives as set forth in this Agreement, and the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations. This is a performance-based agreement that includes performance expectations and consequences consistent with the Congressional mandate of the Consolidated Appropriations Act. These performance-based specifications express the Government's requirements in the form of the minimum quality standard to be met and consequences for deficient performance.

The overall purpose of this Agreement is to implement, Consolidated Appropriations Act, 2016, Public Law 114-113 by establishing the governing relationship between the Commission and the CNA to ensure effective stewardship of the AbilityOne Program and to increase employment and training opportunities for persons who have other significant disabilities through the delivery of products and services to the Federal Government in accordance with the JWOD Act.

High value is associated with sustaining and increasing current employment levels and developing and executing new lines of business that also increase new employment opportunities.

Key performance indicators of this agreement are:

- Employment Growth
- Program Administration, Oversight, and Integrity
- NPA Support, Assistance, and Development
- Training and Strategic Communications

### **2.0: GENERAL REQUIREMENTS**

This section describes the statutory and regulatory requirements for the AbilityOne Program. The following sub-sections provide details of requirements for both the Commission and the CNA designated by the Commission to assist in the administration of the AbilityOne Program.

#### **A. Commission Responsibilities**

The Commission will perform responsibilities outlined in the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51. The following Commission responsibilities are highlighted for emphasis:

1. Establish and maintain the PL containing the products and services provided by the qualified NPAs participating in the AbilityOne Program which federal agencies are required to purchase;
2. Determine suitability of products and services furnished by qualified NPAs for Federal Government procurement to be added to the PPL;
3. Determine fair market price for products and services added to the PL;
4. Establish ceilings for the fees to be collected by the CNA for services rendered under this Agreement;
5. Work with the CNA in developing a communication protocol involving cooperative efforts to communicate projects and products and services determined suitable for performance under the AbilityOne Program;
6. Coordinate with the CNAs to address issues concerning government-wide policies affecting the implementation of the AbilityOne Program;
7. Assign appropriate Commission staff to monitor the ongoing work and to respond to questions about the Cooperative Agreement. When appropriate, the Commission staff will act as a liaison among the public and private parties, provide a Commission response date for questions and make day-to-day adjustments if the response date is not met;
8. Determine the adequacy of performance by the CNA in accordance with the terms and conditions of this Agreement;
9. Ensure compliance with all Agreement requirements and notify the CNA in writing of unsatisfactory performance of the terms and conditions of this Agreement; and
10. Provide, where necessary, non-financial assistance to achieve the objectives and purposes of the AbilityOne Program.

**B. CNA Responsibilities**

The CNA shall perform the responsibilities outlined in the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51, consistent with available resources. The following CNA responsibilities, are highlighted for emphasis:

1. Evaluate the qualifications and capabilities of the qualified NPAs and provide the Commission with pertinent data concerning the qualified NPAs, their status as qualified NPAs, their manufacturing or service capabilities, and other information concerning them required by the Commission for making suitability determinations to add products or services to the PL;
2. Oversee and assist qualified NPAs to achieve successful contract performance and contract compliance in furnishing a product or a service to the Government;
3. Provide technical assistance to the qualified NPAs not limited to the following areas:
  - a. Federal procurement issues include, but are not limited to, assisting NPAs with (1) preparing their price proposals to support recommended PL transactions; and (2) resolving disputes regarding performance and payment issues;
  - b. Quality assessment;
  - c. Business process engineering;
  - d. Rehabilitation engineering; and
  - e. Development of PIP.
4. Within the policy guidelines of the Commission (by direct allocation, subcontract, or any other means), facilitate distribution of orders from Federal Government agencies among the NPAs with an emphasis on employment growth;
5. Recommend to the Commission, with supporting documentation and analysis required by Commission procedures, products or services which may be suitable for provision to the Government by qualified NPAs;
6. Recommend to the Commission, with supporting documentation and information required by Commission procedures, initial fair market prices for products or services proposed for addition to the PL based upon historical data, market research and discussions the CNAs facilitate between the qualified NPAs and the federal agency customers;
7. Recommend and provide assistance with reallocation and/or transfers of projects, products and/or services on the PL to another qualified NPA.

**C. Joint Responsibilities.**

Both parties agree to define activities to be performed jointly by the Commission and the CNA.

**3.0: CNA PERFORMANCE REQUIREMENTS**

The CNA shall satisfy the following performance objectives and associated tasks in accordance with the terms and conditions of this Agreement, the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51.

**OBJECTIVE 3.1 EMPLOYMENT GROWTH**

Employment growth for persons who are blind or with significant disabilities is the most important objective of this Agreement. The employment growth plan shall identify inherent risks and risk mitigation/recovery activities to be taken in the event changes outside the CNA's control occur. At a minimum, the CNA must provide an employment growth plan that provides new lines of business and employment growth expectations in conjunction with the Business Plan no later than September 1, annually, beginning in 2017. The CNA, in consultation with NPAs, federal and state customers, disability community (including veterans), and appropriate education institutions (e.g. Gallaudet, American Public University, disability rehabilitation programs, etc.), shall conduct market research and analysis to inform the employment growth plan. At a minimum, the employment growth plan shall incorporate the market analysis results and findings and address the following:

1. Sustaining existing employment. Sustaining existing employment shall result in no net employment loss in lines of business existing at the time of this Agreement, annually thereafter and incorporated herein as agreed upon by the parties or by amendment to this Agreement, absent unforeseen changes by the federal customers to phase out or insource certain lines of business or unforeseen declines in a particular industry, measured in terms of direct labor hours (DLH), for both persons blind/significantly disabled and total DLH separately (as reported in annual representations and certifications). The plan shall have clear objectives with measurable progress towards sustaining net employment levels.
2. Hiring new employees for existing and new lines of business. Each year the CNA shall establish an employee growth target for existing and new lines of business. At a minimum, the strategic growth plan shall include the annual employee growth targets resulting in net employment growth (people) in existing and new lines of business (as

measured in terms of people and disabled full-time equivalents (DFTEs)). The plan shall have clear objectives with measurable progress towards increasing net employment levels.

3. Placing employees in upwardly mobile jobs in indirect labor, supervision, management or competitive employment positions (as reported in annual representations and certifications). Such integrated placements will not be factored into the 75% direct labor hour ratio that NPAs must maintain to participate in the AbilityOne Program, but may be considered when evaluating the CNA's performance.
4. Procuring (for internal use) the products and services offered by NPAs participating in the AbilityOne Program (measured by number of NPAs reporting such purchases).
5. Barriers to Employment Growth. The CNA shall provide a forecasting report that shows current market demand, future customer needs, and new customer acquisitions. In this report, the CNA shall identify and prioritize the top five (5) barriers to employment growth and the specific action plans that will be addressed within the next twelve (12) months or the duration of a shorter term.
6. A pipeline report that will show customer procurements for the succeeding twelve months.

The CNA shall also provide quarterly employment growth plan updates that capture progress being achieved relevant to the strategic growth plan. The CNA shall submit quarterly dashboard reports to the Commission identifying actual results (in terms of DFTEs, direct labor hours, and actual people) of annual net employment growth strategies.

### **OBJECTIVE 3.2 ABILITYONE PROGRAM ADMINISTRATION, OVERSIGHT, AND INTEGRITY**

**3.2.1: CNA Governance.** Administration, oversight, and integrity of the AbilityOne Program are critical performance elements. To ensure integrity, the CNAs shall avoid actions that are contrary to the terms and conditions of this Agreement, the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51, or actions that are otherwise inappropriate or provide the appearance of impropriety. As a representative of qualified NPAs, it is essential that the CNA shall not create an actual conflict of interest or appearance of conflict of interest relative to the NPA doing business with the government by unnecessarily competing with the NPA.

The CNAs shall implement a business ethics program (including conflict of interest policies) in accordance with Section F.3 of this Agreement to effectively reduce the risk of outside influences directing CNA decisions and implement rules to ensure independence and transparency of its board and executive officers in terms of composition and actions. The CNA shall comply with and shall require that all qualified NPAs comply with the AbilityOne regulations, policy, and guidance on conflicts of interest. The CNA shall establish policies and procedures to assure that 1) Boards and officers understand and uphold their fiduciary responsibilities while avoiding any instances that reflect a conflict of interest; 2) assets are managed properly; and 3) the designated responsibilities under the AbilityOne Program are implemented in accordance with the JWOD Act and all other applicable laws, regulations, policies, procedures and guidance. The CNA shall train all existing and new CNA employees who support the Program on business ethics and conflicts of interest policies, at least annually.

The CNA shall disclose, in writing to the Commission, all litigation and all allegations, findings or knowledge of violations of Federal law (such as fraud, bribery, or gratuity violations) by the CNA and/or its NPAs involving the AbilityOne Program within five (5) business days of initial notice to the CNA, to the extent permitted by law. The CNAs shall also provide the Commission with an explanation of how the violation occurred as that information becomes available and the steps the CNA is taking to prevent further similar violations. In addition, the CNAs shall report in writing any potential conflict of interests affecting the PL and AbilityOne Program to the Commission within five (5) business days of learning of the actual or perceived conflict of interest.

**3.2.2: CNA Board Governance.** The CNA shall require executive and board members to disclose and certify annually, and to the extent practicable prior to any Board decision, all personal interests may be affected by CNA and AbilityOne Program business and transactions. The CNA shall submit a Board of Directors Disclosure Report to the Commission, no later than August 15, 2017, and annually, no later than May 15, beginning in 2018, or within 30 days of any change to the CNA's board membership. To avoid the appearance of an impropriety, no board member can vote and/or approve any action impacting AbilityOne PL new opportunities, allocations, and/or re-allocations of contracts that creates a personal conflict of interest without the express written approval of the Commission upon full disclosure of the nature of the conflict of interest. Current CNA board members must be in compliance within thirty (30) days of the Agreement effective date. The CNA shall maintain records indicating recusal of board members and the reason for the recusal.

To avoid the appearance of an impropriety and improper influence, the CNAs must provide a transition plan to the Commission to restructure the Board of Directors to meet the following requirements no later than May 31, 2017. The CNA board shall:

1. Not be composed of current CNA employees other than the CEO in a non-voting *ex Officio* capacity;
2. Have no greater than 39% composition of Directors from current AbilityOne Program NPAs;
3. Not be composed of less than 20% people who are disabled, and shall actively seek participation by people with disabilities;
4. Ensure board officer positions (Chair, Vice-Chair)) are not filled by AbilityOne Program NPA executives;
5. Ensure that no CNA executive(s) (i.e. VPs and above) serve as board members of AbilityOne program NPAs;
6. Ensure that no CNA executive(s) (i.e. VPs and above) serve as board members of associations representing AbilityOne program NPAs;
7. Ensure that no executives and/or board members of associations representing AbilityOne Program qualified NPAs serve as board members of the CNA, other than a member of the National Council of SourceAmerica Employers (NCSE) Executive Team. This requirement does not preclude the founding National Nonprofit Agencies (NNAs) from sitting on the CNA Board;
8. Form an audit committee to oversee the CNA's financial affairs, and audits are conducted by an independent auditing firm that is overseen by the audit committee; and
9. Upon written request from the Commission, provide to the Commission, for Commission review only, the Meeting Minutes of any public session of a regularly scheduled Board of Directors Meeting.

**3.2.3: Establish and Maintain Internal Controls.** The CNA shall establish the necessary internal controls in accordance with other laws, regulations, and guidance governing nonprofit institutions as well as to satisfy the requirements under the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51. The CNA shall assess and evaluate its internal controls to ensure that the controls are effective and updated when necessary to successfully carry out its responsibilities and avoid potential for waste, fraud, or abuse. The CNA shall also inform the Commission of the results of this assessment not protected by attorney-client privilege or otherwise and demonstrate to the Commission that the controls it has in place are sufficient to meet all the laws, regulations, and guidance governing nonprofit institutions as well as to satisfy the requirements under the Consolidated Appropriations Act and the JWOD Act, and implementing regulations.

**3.2.3.1: Internal Control Reporting.** Annually, no later than September 1<sup>st</sup>, beginning in 2018 (previously required no later than June 1, beginning in 2017), the CNA shall

provide to the Commission, a report that lists the CNA's internal control audits related to the AbilityOne Program including, but not limited to, the description/ scope of the audit; number of material findings; and management action plans to address such findings. The CNA shall submit to the Commission the necessary reports in accordance with this Agreement as well as Commission policy.

**3.2.3.2: Single Audit.** Annually, no later than February 15, beginning in 2018, the CNA shall arrange for a single audit and act upon all recommendations. The CNA shall provide the Commission with a copy of each audit, associated corrective actions, and pertinent related correspondence.

**3.2.4: CNA General Management and Administration.** The CNA shall integrate and coordinate all activities required to provide CNA services. The CNA shall participate in ad-hoc In-Process Reviews (IPR) of program performance with special emphasis on employment growth and financial management updates. The CNA shall submit the necessary reports and documentation to the Commission not later than thirty (30) days after date of Commission request in preparation for the ad-hoc IPR.

**3.2.4.1: Memoranda of Agreement (MOAs), Memoranda of Understanding (MOUs).** Any MOAs, MOUs, or similar agreements with Federal agencies related to the AbilityOne Program require Commission approval prior to final completion and execution. The CNA shall obtain Commission approval at least ten (10) business days in advance of entering into any such MOAs, MOUs, or similar agreements. Annually, the CNA shall submit a report of all current MOAs/MOUs with Federal agencies directly related to the AbilityOne Program.

**3.2.4.2: Financial and Accounting System.** The CNA shall establish and maintain a financial and accounting infrastructure that meets appropriate Generally Accepted Accounting Principles (GAAP), appropriate internal controls, and government financial system requirements, including separate cost centers for pursuit of AbilityOne Program and commercial activities.

**3.2.4.2.1: Costs for Services.** For all services provided to the Commission, the CNA shall maintain appropriate documentation to provide transparency and isolate appropriate cost elements associated with providing the services. The CNA shall prepare and maintain documentation that explains and itemizes prices charged.

**3.2.4.2.2: Reserve.** To assure that the CNA has the ongoing financial ability to perform against this Agreement, the CNA shall provide a copy of its Reserve Policy and annual reports showing fiscal year end reserve levels of both net assets and liquid assets no later than December 31 of each year.

**3.2.4.2.3: Expenditures.** The CNA shall provide an annual report of AbilityOne expenditures no later than June 1. This report shall provide annual detail of: previous year's expenditure results; previous year's budget; current year's projected results; current year's budget; and next year's draft budget. The line item detail to be provided shall include: AbilityOne Program support for the efforts of the Commission; NPA financial support; compensation & benefits, travel & meetings; professional services; training; advertising and promotion; other operating expenses; and expenses reportable by the Consolidated Appropriations Act of 2016. Notwithstanding the stated due date, the Commission has the discretion to request such reports and additional details as needed.

The CNA shall also provide an annual summary report of the CNA expenditures for the prior year that are required by Congress no later than June 1. This report shall include all categories included in the quarterly CNA Expenditure Report, Section C.4.2.

**3.2.5: Equitable Allocations or Recommendations.** In accordance with Commission policies, the CNA shall conduct fair, transparent and equitable allocation or recommendations of products and services on the PL to qualified NPAs with impartiality (excluding evaluation factors, such as past performance) and without improper preferential treatment. In making both allocation and recommendation decisions, the CNA shall follow Commission policies. Annually, no later than January 31, the CNA shall submit a CNA Allocation and Recommendation Performance Report to the Commission. No later than December 31, 2016, the CNA shall submit the proposed CNA Allocation and Recommendation Performance Report structure and content, consistent with Commission policies, for Commission review. No later than, January 31, 2017, the CNA shall submit the Allocation and Recommendation policies and procedures, consistent with Commission policies, for Commission review. The Commission will review and approve the NPA Allocation and Recommendation policies and procedures, and the content and structure of the Allocation and Recommendation Performance Report. Upon approval, the CNA must publish and make available to the Commission and qualified NPAs the final approved CNA Allocation and Recommendation policy and procedures no later than December 31, 2017, and review/update every three (3) years thereafter.

**3.2.6: Prime Contractor.** Effective immediately, after completion of this Agreement, the CNA may perform as the Prime Contractor only when qualified NPAs do not have the capacity to perform the service, or when the government customer requests this arrangement, unless prior approval is received from the Commission. The intent of this provision is for CNAs to support NPAs' ability to do business with the government and not to unnecessarily compete with the NPAs. The CNA shall not charge a Program Fee to any NPAs serving as subcontractors, as related to the subcontract work, when the CNA is approved to serve as the Prime Contractor and bills a management or overhead fee as the Prime Contractor.

### **OBJECTIVE 3.3 SUPPORT AND ASSIST NPAS WITH ABILITYONE REGULATORY AND FEDERAL BUSINESS REQUIREMENTS**

**3.3.1: Represent NPAs to the U.S. AbilityOne Commission.** As set forth in the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51, the CNA shall represent the NPAs in matters before or brought to the Commission or as directed by the Commission.

**3.3.1.1: NPA Qualification.** The CNA shall evaluate and recommend NPA initial qualification to the Commission in accordance with 41 C.F.R. § 51-4.2. This includes, but is not limited to, evaluating whether an NPA meets the definition of a qualified NPA. The CNA shall provide assistance to NPAs to ensure that proposed NPAs have valid Commercial and Government Entity (CAGE) codes, Data Universal Numbering System (DUNS) numbers, and are registered in the federal System for Award Management upon being determined to meet the initial AbilityOne Program qualifications.

**3.3.1.2: NPA Recommendation.** The CNA shall recommend to the Commission, with the supporting information required by Commission procedures NPAs for designation as mandatory sources or supply for products or services on the PL. The CNA will follow its process for recommendation established in accordance with the requirements specified in Section 3.2.5 above.

**3.3.1.3: NPA Regulatory Review and Assistance Visits (RRAV).** The CNA shall monitor, report, and assist NPAs in maintaining qualification in accordance with 41 CFR § 51-4.3. The CNA shall provide training to NPAs regarding meeting regulatory requirements within the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51. The CNA shall develop a qualified NPA oversight protocol and deliver it to the Commission for review and approval within 120 days after execution of this Agreement.

The CNA shall conduct RRAV of NPAs at required intervals or as may otherwise be necessary and submit a post-visit trip report (using the Regulatory Assistance Review transaction in FOA) electronically in Procurement List Information Management System (PLIMS) containing the findings and recommendations, as required, to close-out such reviews within ten (10) business days of the review. If the CNA finds that an NPA is not maintaining Program qualification, the CNA shall require the NPA to initiate and complete corrective action(s). The CNA shall ensure that the corrective actions resulted in the correction of the deficiencies identified during the RRAV.

When the NPA's report of corrective action is received by the CNA, the CNA shall close-out the review by submitting a supplemental post-visit trip report (using the Regulatory Assistance Review transaction in FOA) electronically via PLIMS within ten (10) business days of receipt of documentation from the NPA attesting to completion of the corrective action. The supplemental post-visit trip report shall include a report of the corrective actions taken by the NPA. Supplemental post-visit trip reports shall indicate the PLIMS transaction number for the initial NPA RRAV post-visit trip report, the name of the NPA visited, name of reviewer from the CNA, and date of the initial review.

The CNA shall also provide its fiscal year (FY) regulatory review list to the Commission no later than September 1 of each year and an End-of-the-Year Regulatory Review analysis annually, no later than January 31.

**3.3.1.4: NPA Phase-In Report.** In accordance with (IAW) Commission Procedure 51.401-01, Phase-In Procedures, the CNA shall report the status of all projects that have an approved phase-in period to the Commission, Director, Oversight and Compliance, on a quarterly basis. The quarterly phase-in report shall be submitted as part of the quarterly report and shall include the following elements; 1) Status of Project-specific DLH ratio (Green, Yellow, Red) (use common understandings of these color codes), 2) NPA Name, 3) Date Phase-In Was Approved, 4) Length of Approved Phase-In (in months), 5) Approved Project-specific DLH Ratio Percentage (for start of project), 6) Current Project-specific DLH Ratio Percentage (last day of quarter reported), and 7) Explanation for Failure to Meet the DLH Ratio Requirements IAW Approved Phase-In.

**3.3.1.5. Overall Direct Labor Hour Ratio Compliance Report.** In accordance with Commission Policy 51.403, NPAs out of Compliance with Commission Regulations, the CNA shall report the overall DLH ratio status for any NPAs with a cumulative overall direct labor ratio below 75 percent. The report shall be provided to the Commission on a quarterly basis, as part of the quarterly report, and shall include the following elements, at minimum: 1) Name of the NPA and 2) Cumulative Overall Ratio. These minimum

reporting elements do not preclude the CNA from including additional reporting elements in the quarterly report.

**3.3.2: Representations and Certifications.** The CNA shall assist the AbilityOne participating NPAs in the information gathering and filing of the NPAs' annual and project specific representations and certifications (Reps & Certs) in accordance with 41 CFR § 51-3.2 and 3.6.

**3.3.2.1: Submission of Form 401 or 402.** The CNA shall, at the time designated by the Commission, submit a completed, original copy of the appropriate Initial Certification (Committee Form 401 or 402) for the NPA concerned within ten (10) business days of designation or receipt of the Initial Certification from the NPA, whichever is later. This requirement does not apply to a NPA that is already authorized to furnish a commodity or service under the JWOD Act.

**3.3.2.2: Submission of Annual Representations and Certifications.** The CNA shall review the Representations & Certifications submitted by NPAs to identify any errors, omissions, or anomalies as compared to prior submissions, regulatory review and assistance visit reports, and guidance from the Commission; and attempt to resolve them with the NPA within the first thirty (30) days of submission. The CNA shall, as part of the terms of the written agreement with the NPAs, include a provision in which the NPAs agree to provide accurate, timely and ongoing submissions for the Representations and Certifications form. The CNA shall forward to the Commission, by December 1 annually: (1) a completed original and legible copy of the annual Representations & Certifications signed by the NPAs, and (2) Data Extract of Annual Representations & Certifications containing all information within the annual Representations & Certifications and a summary report that contains the following information:

- i. Total number of Producing NPAs for the fiscal year (reconciled and agreed by the Commission) that are required to submit Representations & Certifications to “maintain qualifications” to participate in the AbilityOne Program.
- ii. List of NPAs that did not submit the required Annual Representations & Certifications by the November 1 deadline.
  1. List of NPAs that certified potential inaccurate/inconsistent/falsified data on the Annual Representations & Certifications Form.
- iii. Number of NPAs reporting below the Agency Overall Direct Labor Ratio required ratio (year-end cumulative), identifying any NPAs with Commission approved ratio exemptions and surges.
- iv. Narrative summary of Data Analysis
  1. Report Appendix: Representations & Certifications Data Analysis Extract – highlighting any identified data potential

inaccuracies/inconsistencies/falsifications that need to be resolved with the NPA.

**3.3.2.3: Risk and Financial Assessment.** Upon the Commission's direction and consistent with available resources, the CNA shall obtain a third party financial assessment of an NPA to ensure that the NPA has the financial, management and business capability to fulfill the contractual obligations as a qualified NPA designated to perform work on the PL. The CNA shall provide a report to the Commission regarding the financial assessment findings, within ten (10) business days after completion of third party financial assessment.

### **3.3.3: Procurement List-related Operations**

**3.3.3.1: Understanding NPA Capabilities and NPA Evaluation.** The CNA shall understand capabilities of qualified NPAs in order to develop and recommend products and services which may be suitable for provision to the Government by the NPAs. When an NPA has submitted a proposal, the CNA shall evaluate an NPA's technical capability to furnish products and services to the Government.

**3.3.3.2: NPA Recommendation and Supporting Documentation.** The CNA shall obtain, review, and analyze the qualifications and capabilities of the NPAs before making recommendations of an NPA to the Commission. NPA qualifications and capabilities information includes but is not limited to the technical capabilities presentation, NPA Recommendation Process information and project development plans. The CNA shall obtain, review and submit procurement information to the Commission in support of its recommendation. Procurement information includes, but is not limited to, current contractor, market research, performance work statement, product specifications and solicitations. The CNA shall make documents and information related to the NPA Recommendation Process available within ten (10) business days of a written request from the Commission. In carrying out the responsibilities of this agreement and meeting the delivery requirements, the CNA shall require the NPAs to certify that the NPA information and documentation are complete, accurate, and timely, in accordance with the Commission manuals

**3.3.3.3: Complex Projects Feasibility Analysis.** The CNA shall conduct an analysis of all complex projects in terms of their feasibility for addition to the PL. The results of the feasibility analysis will be reported to the Commission in accordance with the Commission's guidance for complex projects. This report is not submitted via PLIMS, as

it is understood that the report is submitted to generate discussion and a decision at a point in time well before information is ready for entry into PLIMS.

**3.3.3.4: Proposed Additions to the Procurement List.** As related to proposed additions to the PL, both the CNA and NPAs shall certify that the proposed additions to the PL and all supporting documentation, are accurate, complete and comply with all Program regulations, policy and procedural requirements, when submitted to the Commission. All proposed additions to the PL shall be submitted through the PLIMS. The CNA shall ensure that all proposed service project additions to the PL are submitted to the Commission through PLIMS no later than 120 days prior to the start of the service project period of performance.

**3.3.3.5: Changes to the Procurement List.** Assist the Commission with maintaining the PL by submission of changes and updates to PL information including supporting documentation and information required by Commission procedures.

**3.3.3.6: NPA Performance Quality Assistance.** The CNA shall monitor and assist NPAs in maintaining contract performance and provide technical assistance to NPAs as necessary and consistent with available resources. Technical assistance includes, but is not limited to, federal procurement subject matter expertise, quality assessment, development of Performance Improvement Plans (PIP), business process reengineering and rehabilitation engineering. If either the NPA or the CNA receives notice of unsatisfactory performance from the customer, the CNA shall assist in resolution. The CNA shall establish, maintain and execute a PIP system as appropriate that supports strict agreement compliance by the NPAs. The CNA shall notify the Commission within ten (10) business days of initiating or closing a PIP. The notification to the Commission of a PIP completion or closure shall include the NPA's response to the Corrective Action Plan (CAP) and reasons for closure (completions of the CAP, NPA left the program, etc.). The NPA's response to the CAP shall outline actions the NPAs have taken in order to satisfy the CAP and the reason for closure shall identify specific corrective actions completed. If the PIP or other corrective action is unsuccessful, the CNA shall recommend reallocation of the product or service to another qualified NPA.

**3.3.3.7. Federal Prison Industries Partial Waiver Report.** Quarterly, as part of the quarterly report, the CNA shall submit to the Commission a report detailing all items added to the PL for which Federal Prison Industries has issued a partial waiver. A partial waiver is a dollar value, quantity, or period of time that is less than a total waiver.

**3.3.3.8. Co-Brand Report.** Quarterly, the CNA shall respond to Commission supplied information detailing all items added to the PL for which a co-brand agreement has been

executed. The quarterly co-brand report will be provided by the Commission to the CNA on or about the first business day of each quarter but no later than the third business day. The report will be in the form of an email and will include four (4) elements:

- The full co-brand report as an attached spreadsheet.
- Notations on any initial co-brand agreement that is expiring in the next six (6) months. This notation will appear quarterly.
- Notation on any extended (exercised option) co-brand agreement that is expiring in the next twelve (12) months. This notation will appear quarterly.
- A list of co-brand solicitations with expiration dates (two years from the due date for responses to co-brand solicitations).

The response, due no later than fifteen (15) days after the end of of each quarter, must include the following.

- Notification of any material changes to any executed co-brand included in the full co-brand report (spreadsheet). A material change might include a decision to terminate a co-brand agreement or an early decision to not exercise an option.
- Notification of any discrepancies found in the report.
- Co-brand Agreement amendments to exercise options must be reviewed by Commission staff at least 30 calendar days prior to the expiration of the base period of the co-brand agreement.

Any changes to the original co-brand agreement must be highlighted in the amendment to exercise option period, including changes to PL items, or any other material changes to the original agreement. Exercised options must be executed and delivered to the Commission at least seven (7) calendar days prior to the expiration of the base period of the co-brand agreement.

Co-brand re-competitions must be posted to Federal Business Opportunities (FBO) no later than six (6) months prior to the expiration date of an exercised co-brand agreement option. Standard information required for co-brand agreement solicitations applies.

**3.3.3.9. Replacement Products.** The CNA shall respond to Commission supplied information regarding replacement products. The Commission will provide the report on the first business day after the end of each quarter. The CNA shall conduct an analysis of all products that are included in the report and have been replaced on the PL to determine if the item that was replaced should be deleted from the PL. The CNA shall provide a response to the Commission no later than fifteen (15) days after the end of each quarter. The CNA's response report shall include the following elements: PL Number, PLIMS Transaction Identification (TID) for the original addition (if applicable), PLIMS TID for the replacement product (if applicable), NSN, NSN Name, contracting activity (ies), and producing NPA(s).

**3.3.3.10 Manufacturing and Development (M&D) Projects.** The CNA shall provide a report no later than fifteen (15) days after the end of each quarter to detail information on M&D projects. The report shall include the following elements: An Executive Summary; M&D process description; a list of all projects offered by the government in the last two (2) years and who (government agency) offered the project; of the projects in the last two (2) years, detail which projects were accepted, who the NPA was that the project was assigned to, whether the project was for a new product, additional NSN(s), or for replacement products, the quantity produced and the DLH that were realized. Finally, if the product was added to the PL, provide the PLIMS TID number. If the product was not added to the PL, provide an explanation why.

**3.3.3.11. Contract Management Administrative Support Services Associated with Contract Close Out (CMS) Projects.** NIB is the designated prime contractor for the DoD CMS Projects and has responsibility to manage the CMS Program and sub-contract DoD-wide Indefinite Delivery-Indefinite Quantity Task Orders to NIB and the CNA qualified NPAs. Therefore, the CNA shall provide NIB, no later than ten (10) days after the end of each quarter, with the following information for each DoD CMS project: CNA Project#, CNA NPA ID#, NPA Name, NPA City, NPA State, Requiring Activity, Location Name, Location City, Location State, Task Order#, Task Order Start Date, Task Order End Date, BLSD Direct Labor Hours, Estimated Jobs, Contract#, Task Order Completed (Y/N), Comments and Explanations, if applicable.

### **3.3.4: Fair Market Price (FMP)**

**3.3.4.1: Recommended FMP Submission.** The CNA shall submit to the Commission all material documentation used in the compilation, negotiation, and preparation of recommended-FMP, including actions to review and update, in accordance with Commission policies and procedures, and within ten (10) business days after negotiations conclude and before contract is signed. In carrying out the responsibilities of this Agreement and meeting the delivery requirements, the CNA shall require that the NPAs certify that required information and documentation are complete, accurate, and timely, in accordance with the Commission manuals.

**3.3.4.2: Cost and Price Point of Contact.** The CNA shall designate and maintain a primary Point of Contact for all PL Price and Price-related matters.

**3.3.5: Project-level Information.** The CNA shall review the requested project-level information provided by the NPAs to identify any errors, omissions, or anomalies and make available to the Commission and the Contracting Activity for inspection within ten (10) business days of request by the Commission.

**3.3.6: CNA Due Diligence Review.** The CNA shall perform reasonable due diligence consistent with available resources to review and verify that the NPAs comply with their Program obligations. The CNA shall follow its procedure to use comparative data and trend analysis to identify and correct anomalies and errors, as appropriate. Although the CNA will use good faith efforts in this regard, the CNA cannot warrant or certify the completeness, accuracy, adequacy or timeliness of any information or documentation provided to the CNA or the Commission by existing or potential NPAs.

## **OBJECTIVE 3.4 TRAINING AND STRATEGIC COMMUNICATIONS**

### **3.4.1: Training**

**3.4.1.1: NPA Training.** The CNA shall develop and offer training programs, independently or in cooperation with the other CNA(s), that include the requirements of the JWOD Act, the Commission's regulations, and AbilityOne Program policies and procedures. The CNA shall provide training development and assistance for NPAs to understand the requirements under the AbilityOne Program, and to enhance NPAs' ability to successfully compete for future contracts. The CNA shall provide training to the NPAs on the Federal Procurement process and negotiation techniques, including refresher training, on an annual basis.

**3.4.1.2: AbilityOne Workforce Training.** The CNA shall develop and provide training programs, independently or in cooperation with the other CNA(s), that develop the knowledge, skills and upward mobility potential of individuals who have significant disabilities employed at AbilityOne qualified NPAs. Such training may include the use of business software programs, leadership skills, or specific technical certifications.

**3.4.1.3: CNA Staff Training.** The CNA shall ensure that a sufficient number of CNA staff members have the necessary knowledge, skills and abilities to effectively perform CNA technical duties, to include knowledge of the federal procurement process, cost and price analysis, and Agreement administration.

**3.4.1.4: Training Reports.** Annually, beginning January 31, 2018 the CNA shall provide training and employee development reports to the Commission with highlights provided in each Quarterly Report submission. The training reports shall include, but are not limited to, the number of employees trained, type of training provided, training description, source of training, duration of training, future training opportunities, and training results.

### **3.4.2: Strategic Communications Support and Collaboration**

**3.4.2.1: Scope of Strategic Communications.** For the purposes of this Agreement, the term “Strategic Communications” is used to describe both the Strategic Communications function, the Government Affairs and Public Policy function of the CNA, and Commission Government Affairs function. However, no hierarchical relationship is implied. The Government Affairs and Public Policy function may be referred to separately in this Agreement. The scope of Strategic Communications refers to CNA activities in this area paid for with fees charged under this Agreement (also referred to as “AbilityOne Program-related activities” in this Section).

Within this scope, the CNA shall consider Strategic Communications to include Program-related communication activities conducted by other functions within the organizations including but not limited to business development meetings with federal customers at senior levels as described in this section. Strategic communications includes internal and external communications, including communications with key AbilityOne Program stakeholders in senior level positions and roles (e.g., CNA Board of Directors, CNA senior staff, CEO/all VP levels above, any of whom are meeting with military or civilian commanders, Federal Senior Executive Service, Executive Leaders, Flag Officers, Political Appointees, including the Executive Branch/Administration) as well as the scope and nature of the meeting (e.g., discussions on policy, budget or advocacy; MOA/MOUs related to the AbilityOne Program; and program/project plans/initiatives or other AbilityOne Program matters, as identified by the Commission).

Within Section 3.4.2, the following six elements shall be considered minimum elements for the purposes of the Quality Assurance Surveillance Plan (QASP):

1. Provide Written Notice to the Commission Prior to Significant Meetings or Events;
2. Public Relations;
3. Website and Social Media Support;
4. Advertising and Market Research;
5. AbilityOne Program Publications; and
6. Plans

Within the QASP Strategic Communications section, performance refers to products and services consistent with recognized standards of research, planning, implementation, evaluation and outcomes established by professional associations.

The Commission acknowledges that Strategic Communications Public Relations, Marketing Support, Conference Support, and other Strategic Communications Support and Collaboration including as related to media, agency officials and other senior

government personnel are part of the CNA's work under this Agreement and may be performed by the CNA using Program Fee.

**3.4.2.2:** The scope of Strategic Communications also includes, but is not limited to, the following to the extent that they are directly related to the Program:

1. All communications activities including public relations, as well as tools that support general education of Federal customers;
2. Marketing and positioning of the AbilityOne Program, at the high level, including price, product/message, promotion, and placement;
3. Inventory of products and services, including a portfolio of solutions, how to position them, and geography/reach;
4. Reputation management and relationship management, including supporting tools;
5. Research that is informing and directional;
6. Industry analysis;
7. Tracking, reporting and, as needed, analyzing the status and progress of issues including key legislative, regulatory, association and other government affairs actions, activities, proposals, processes and programs on both the state and Federal level that have implications for the AbilityOne Program. Government Affairs and Public Policy reporting should encompass, as needed and as appropriate, all branches of government – executive, legislative and judicial.
8. Within this Section, where the Commission specifically requests support from the CNA, it shall be understood that the Commission will direct that support unless otherwise agreed by the parties.

**3.4.2.3: Collaboration and Alignment.** The CNA and the Commission will share information and work collaboratively to create and optimize transparency, alignment, two-way communication, awareness, understanding and preference for the AbilityOne Program among internal and external audiences. The CNA shall consult with the Commission on research, planning, execution and measurement of tactical and strategic activities within AbilityOne Program-related Strategic Communications, as well as

Government Affairs and Public Policy, on an as-needed basis or as scheduled by the Commission.

The CNA shall consult with the Commission on messaging, and recommend and implement strategies and tactics to provide clear, consistent, cohesive and aligned AbilityOne Program Strategic Communications, and Government Affairs and Public Policy, including Commission priorities and messaging provided on a monthly, quarterly or annual basis. The CNA shall support and participate in AbilityOne Program team meetings for Strategic Communications, and Government Affairs and Public Policy, as scheduled by the Commission. Unless otherwise indicated, the Commission points of contact for consultations and submitting reports are (1) Strategic Communications -- Commission Public Affairs Specialist, and (2) Government Affairs and Public Policy -- Commission Government Affairs Advisor.

**3.4.2.4: Providing Written Notice to the Commission Prior to Significant Meetings or Events.** To the extent practicable, the CNA shall ensure the Commission has notice in writing at least ten (10) days in advance, including agenda, of significant meetings. In the event of a Commission concern about the Commission or AbilityOne Program position being presented, the parties shall communicate and reach a resolution prior to the significant meeting. Significant meetings and events include meetings with key stakeholders, Congressional members and staff, White House and Executive Office of the President, and members of the disability community. The CNA acknowledges and agrees that it is not authorized to represent or advocate on behalf of the Commission or the AbilityOne Program to Congressional members and staff, White House and Executive Office of the President or other key stakeholders. The parties shall meet monthly and/or report at the Strategic Communications Committee to discuss monthly activities. The Strategic Communications Committee, on a quarterly basis, will discuss significant meetings on policy, budget or advocacy, MOA/MOUs related to the AbilityOne Program, program/project plans/initiatives or other AbilityOne matters, or other similar issues as identified by the Commission.

“Significant meetings” generally refer to the position and level of the participants and include but are not limited to CNA Board of Directors, CNA VPs and above who are meeting with military or civilian commanders, federal Senior Executive Service, Executive Leaders, Flag Officers, Political Appointees, including the Executive Branch/Administration. The “disability community” generally refers to a group or organization of disability consumers, advocacy and/or activist groups such as member organizations (e.g. National Federation of the Blind (NFB), National Disability

Leadership Alliance (NDLA)). The CNA shall not communicate a Commission position that has not been coordinated with the Commission.

**3.4.2.5: AbilityOne Program Meetings, Event and Conference Support.** Consistent with available resources, the CNA shall provide support and resources for effective AbilityOne Program outreach to NPAs, members of the disability community, and government customers.

**3.4.2.6: Public Relations.** As requested by the Commission, the CNA shall support planning of special Commission events and related media coverage; special media campaigns as requested by the Commission; and make a reasonable effort to develop a speaker's bureau of current and/or former AbilityOne Program employees who may serve as ambassadors for the AbilityOne Program at special events. The CNA shall provide the Commission with advance notification of any potential speaking engagements involving Commission members or staff at least ten (10) days before such individuals are contacted. The CNA shall coordinate messaging, media relations and crisis communications with Commission Public Affairs in a timely manner that provides the Commission with advance and appropriate situational awareness.

**3.4.2.7: Website and Social Media Support.** The CNA shall provide technical support and assistance to the Commission in refreshing and maintaining content and development on the [www.abilityone.gov](http://www.abilityone.gov) website. The CNA shall recommend appropriate social media channels and assist the Commission in promoting communication through those channels. The CNA shall monitor and track utilization of social media and submit reports to the Commission, within ten (10) business days of request, that include web analytics and metrics, consistent with best industry practices or such others as may be determined by the Commission. The CNA shall perform other website and social media activities, as determined by the Commission in accordance with the annual Strategic Communications Plan. The Commission will consult with the CNA on AbilityOne.gov deliverables. The Commission intends for the CNA to maintain the current level of support.

**3.4.2.8: AbilityOne Information Toll Free Number.** The CNA shall maintain a log of all inquiries and project leads coming through the "800" phone numbers (currently handled by SourceAmerica) and share that information with the Commission and other CNA(s) on a monthly basis.

### **3.4.3: Advertising and Market Research**

**3.4.3.1: Advertising and Supporting Materials.** The CNA shall coordinate with the Commission on advertising to include timing, content and placement on a schedule that provides the Commission advance notice to avoid unnecessary duplication and expenditure of resources. Where appropriate, the CNA shall reference the AbilityOne Program in all of its Program-related advertising to explicitly link the CNA and the AbilityOne Program-related activities. The CNA shall submit a proposed annual calendar of all AbilityOne Program ad placements no later than September 1 and subject to quarterly review. The CNA shall, to the extent practicable, submit all AbilityOne Program-related ads for review and/or approval at least 30 days before the ad creative is due. Approved formats shall be deemed “pre-approved” for additional use until specified otherwise by the Commission. The CNA shall consult with the Commission when obtaining paid display advertising for or about the AbilityOne Program, to include the CNA’s role as an Authorized AbilityOne Enterprise. The CNA shall maintain and distribute public service advertising about the AbilityOne Program in consultation with Commission. The CNA shall provide signs, posters or other large scale graphics as needed for promotional purposes.

**3.4.3.2: Market Research and Analysis.** The CNA shall conduct awareness, understanding and/or customer satisfaction surveys in consultation with the Commission to support Commission communication initiatives and measurements. The CNA shall provide both notice to the Commission and an opportunity to review survey questions and methodologies at least thirty (30) days before any AbilityOne program-related survey is conducted. The CNA shall provide the Commission with all results of all AbilityOne program-related surveys no later than thirty (30) days after the survey results are available.

**3.4.4: AbilityOne Program Publications such as Annual Report, Magazine, and Procurement Guide Book.** Each year the CNA shall provide the necessary support and resources to ensure the timely design and production of no more than six (6) major publications to communicate information about the AbilityOne Program to key audiences. The Commission will provide substantive requirements and timelines to the CNA at least 120 days prior to the publication deadline. Additional publications may be identified by the Commission for support, consistent with available resources.

#### **3.4.5: Trademark and Licensing Agreement**

**3.4.5.1: Licensing and Sublicensing of AbilityOne® name, trademark, and logo.** The Commission is the sole owner of the registered trademark “AbilityOne®”; which, along with the AbilityOne logo, are the official recognition marks of the AbilityOne Program.

The Commission hereby grants to the CNA a world-wide, non-exclusive, royalty-free use of the trademark and logo while the CNA is acting in its responsible role as a CNA in the AbilityOne Program. Additionally, the CNA is authorized to further grant a world-wide, non-exclusive, royalty-free use of the trademark and logo as a Sub-License to qualified NPAs in the AbilityOne Program. In particular, although not limited to, the Licensee or Sub-Licensee will use the trademark and logo as follows:

- (a) In a tagline following the CNA's name as follows: "(CNA Name), An AbilityOne<sup>®</sup> Authorized Enterprise";
- (b) In a tagline following the NPA's (Sub-Licensee's) name as follows: "(Nonprofit Agency name), An AbilityOne<sup>®</sup> Authorized Provider";
- (c) In any professional manner wherein the CNA is performing its delegated responsibilities as a designated CNA; and
- (d) In connection with Licensee's/Sub-Licensee's manufacturing, packaging, processing, advertising, promoting, distributing and selling of goods and services on the PL of the Committee and which are sold to the Federal Government.

The CNA shall adhere to all terms of the license granted under this Agreement and use the trademark and logo in such a way as to professionally promote the AbilityOne Program and the CNA's status as a CNA designated by the Commission pursuant to 41 U.S.C. § 8503(c). The CNA agrees that such use of the trademark and logo will be accomplished so that there is no appearance of the Commission or Government endorsement or authorization of, or affiliation with the CNA and the NPA Sub-Licensee, other than as such affiliation is specified herein between the Commission and the CNA or NPA Sub-Licensee. More specifically, the CNA or NPA Sub-Licensee shall not use the trademark and logo in communicating with Members of Congress or their staffs, Executive agency senior leaders or their staffs, or other individuals or entities not affiliated with the AbilityOne Program in any manner that could appear that the Commission authorized, approved or agrees with the contents of the communication without advance approval by the Commission.

As authorized by this subsection, the CNA shall further grant sub-license for use of the registered trademark "AbilityOne" with each of the qualified NPAs; when discovered by the CNA, report infractions of use by any Sub-Licensee to the Commission (to the extent the CNA is aware) and take corrective action as needed. The CNA shall monitor and supervise the use of the registered trademark and logo, reporting any inappropriate use discovered by the CNA to the Commission (to the extent the CNA is aware).

The Commission retains all rights, authorities and use of the AbilityOne or AbilityOne Program name, trademark and logo. The CNA hereby acknowledges and agrees that the Commission is the sole owner of the trademark and logo, the goodwill pertaining thereto, and that nothing contained herein shall constitute an assignment of the trademark or logo, or grant to the CNA of any right, title or interest therein, except the right to use it as set forth herein.

The execution of this Agreement supersedes any and all authorities granted in previous license agreements, effective upon the effective date of this Agreement and the separate written agreements between the CNA and qualified NPAs.

**3.4.5.2: AbilityOne Brand Book.** Subject to Commission direction and approval, the CNA shall implement all brand book revisions and provide updates to the Commission on a quarterly basis.

### **3.4.6: Reports**

**3.4.6.1: Quarterly Activities Report:** The CNAs shall provide quarterly activities reports on (1) Strategic Communications, and (2) Government Affairs and Public Policy. Reports shall be submitted to the Commission's Public Affairs Specialist, on a quarterly basis, as part of the quarterly report. As may be required by the Commission, reports shall include, but not be limited to, information about past, present and future internal and external activities such as events, programs, initiatives, key stakeholder engagement and outreach, executive communications, surveys, focus groups, web and social media assessments, and associated metrics. The report shall be submitted in a standardized format agreed to by the parties and, as needed, include additional content as may be directed by the Commission.

**3.4.6.2: Strategic Communications Annual Activities Report:** The CNA shall submit an annual report no later than January 31, beginning in 2018, summarizing selected Quarterly Activities Reports elements identified by the Commission for the preceding fiscal year.

**3.4.7: Audits:** The Commission may require the CNA to perform an audit of its overall Strategic Communications to systematically assess capacity for, or performance of, essential Strategic Communications practices. The audit shall be conducted using standard audit practices and any key areas suggested by the Commission. As may be reasonably required by the Commission, the

audit shall include historical information, as well as information related to Nonprofit Agency Strategic Communications. The audit report shall be submitted on a mutually agreeable date.

**3.4.8: Plans:** The CNA shall submit an annual Strategic Communications plan no later than September 1, beginning in 2017, to the Commission, which may require certain format and content elements. The Commission may request coordination and / or approval of Strategic Communications plans for selected activities and events for succeeding fiscal year.

**3.4.9: Support:** The CNA shall provide writing, editing and planning support to the Commission, as required, for activities and events on a frequency to be coordinated by the CNA and the Commission consistent with available resources.

#### **4.0: PROGRAM PERFORMANCE OBJECTIVES AND DELIVERABLES**

The CNA shall submit all reports to the Commission in accordance with this Agreement and as identified in Section E Attachment 1, Deliverables Schedule. Each report shall include the established Key Performance Indicators (KPIs) and associated metrics as identified in Section E Attachment 2, Performance Requirements Summary table.

NOTE: As mutually agreed to by both parties, the Quarterly Reporting Deliverables shall be submitted to the Commission (via electronic delivery at [SADeliverable@AbilityOne.gov](mailto:SADeliverable@AbilityOne.gov)) 45 days after the completion of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters, and 60 days after completion of 4<sup>th</sup> quarter (February 15, May 15, August 15, and November 30); does not apply to Quarterly CNA Fees and Expenditures Reports required by Congress which shall be submitted within thirty (30) days after the end of each FY Quarter, unless otherwise defined above.

The CNA shall maintain complete records of all fees collected in accordance with 41 C.F.R. § 51-3.5 as well as expenditures of such fees. The CNA shall provide the Commission copies of required CNA Fee and Expenditure reports, Sections 4.1 and 4.2, and documents necessary for the Commission to submit to Congress pursuant to Public Law 114-113 2016, Consolidated Appropriations Act, 2016, on a quarterly basis, at the end of each FY quarter. The CNA shall provide 87.5% (7 out of 8) of CNA fee and expenditure reports in a complete, accurate, and timely manner on first submission. Any deficiencies identified by the Commission must be corrected within fifteen (15) business days.

**4.1: CNA Fees Report.** The CNA Fees Report shall include the following:

1. Each fee charged pursuant to Section 51-3.5 of title 41, Code of Federal Regulations;
2. Each NPA charged a fee pursuant to Section 51-3.5 of title 41, Code of Federal Regulations; and

3. For each fee charged, for each government order, include name of NPA, description of product or service ordered, ordering government agency, order price (total), and contract award ID associated with any order, where applicable.

**4.2: CNA Expenditure Report.** The CNA Expenditures Report shall include the following:

1. Employee Salaries (total), including executive salaries;
2. Employee benefits, including executive benefits;
3. Executive salaries;
4. Executive benefits;
5. Total Travel Expenses;
6. Executive Travel;
7. Lobbying;
8. Advertising and Promotion;
9. CNA reserve level (restricted and unrestricted); and
10. Funds spent to support the efforts of the Commission, including a description of the activities, services, and products supplied to the Commission.

**4.3: Program Fee Expenditure Treatment and Reporting.** Except as otherwise authorized by this Agreement, the JWOD Act, 41 U.S.C. Chapter 85, or implementing regulations 41 C.F.R. Chapter 51, Program Fee expenditures must meet the following general criteria to be allowable under this Agreement:

1. Be necessary and reasonable for the performance of this Agreement and be allocable thereto under these principles;
2. Be unallowable if any of the following:
  - a. Alcoholic beverages
  - b. Bad debts if related to non-Program income
  - c. Collections of improper payments
  - d. Compensation and related fringe benefits for personal services
  - e. Compensation and related fringe benefits for personal services (executive)
  - f. Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements related to CNA fraud or similar misconduct where such conduct is established.
  - g. Exchange rates
  - h. Fines, penalties, damages and other settlements
  - i. Goods or services for personal use by CNA staff or Board members (does not include accommodations)
  - j. Taxes

3. Be consistent with policies and procedures that apply uniformly to both Program and other activities of the CNA;

4. Be accorded consistent treatment. A cost may not be assigned to this Agreement as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to this Agreement as an indirect cost;

5. Be determined in accordance with generally accepted accounting principles (GAAP), except, as otherwise provided;

6. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period; and

7. Be adequately documented.

Quarterly the CNA shall report total CNA Program Fee related expenses recorded for section C.4.3.2 above and each of the following:

1. Advertising and public relations;
2. Advisory councils;
3. Audit services;
4. Bonding costs;
5. Conferences;
6. Contributions and donations;
7. Depreciation;
8. Entertainment costs;
9. Equipment and other capital expenditures;
10. Fund raising and investment management costs;
11. Gains and losses on disposition of depreciable assets;
12. General costs of governance;
13. Insurance and indemnification;
14. Interest;
15. Maintenance and repair costs;
16. Proposal costs;
17. Publication and printing costs;
18. Rental costs of real property and equipment;
19. Selling and marketing costs;
20. Termination costs;
21. Training and education costs for CNA employees;
22. Travel costs; and
23. Travel costs (Executive).

**4.4: Performance Monitoring.** The Commission will monitor and measure the CNA's service performance under this Agreement to determine if services provided are satisfactorily performed and meet performance requirements of the PWS to ensure compliance with the terms and conditions of this Agreement. The Commission and the CNA shall work cooperatively to address any areas of improvement identified by the Commission.

#### **5.0: QUALITY CONTROL PLAN (QCP)**

The CNA shall develop and maintain effective quality control procedures to ensure services are performed in accordance with the PWS in this Agreement. All work performed under this Agreement shall be consistent with industry standards to assure timely provision of services and optimum customer satisfaction. The CNA shall develop and implement procedures to identify and ensure services are provided at the required level of performance for all elements of this Agreement. CNA performance requiring corrective actions include, but are not limited to, items such as late performance or submission of defective or late reports on a recurring basis or failure to perform a required task.

The CNA shall submit an initial QCP to the Commission no later than thirty (30) days after the effective date of this Agreement. The QCP will be reviewed and approved by the Commission and the CNA will be notified if there are any deficiencies. The CNA must correct any deficiencies, if required, within 30 days of notification of any deficiencies. The CNA must ensure the QCP is in operation throughout the entire term of the agreement. The CNA shall prepare and implement a written QCP as described below.

**5.1: MINIMUM REQUIREMENTS OF QCP.** The following are the minimum requirements for a QCP to be provided and maintained by the CNA:

1. The CNA shall ensure the required services specified in this Agreement meet the quality standards outlined in the Agreement;
2. The CNA is responsible for the day-to-day inspection and monitoring of all CNA work performed to ensure compliance with Agreement requirements;
3. The results of all quality control inspections conducted by the CNA, including inspections and assistance visits at the NPAs, shall be documented on inspection reports and provided to the Commission upon request. The inspection reports shall be submitted to the Commission no later than ten (10) days after requested; and
4. The CNA shall revise the QCP as requested by the Commission, in an effort to ensure Agreement objectives are met. All revisions must be submitted to, reviewed and approved by the Commission before becoming effective.

The QCP shall include, but not be limited to:

**A. SUSTAINING ACCEPTABLE QUALITY LEVELS (AQLs).** The CNA shall deploy methods to identify, correct, and prevent defects in quality service levels before the service level becomes unsatisfactory. (See Section E Attachment 4, QASP).

**B. RECORDS AND FILES.** The CNA shall maintain records, reports, and files to document the inspections conducted by the CNA and any necessary corrective action taken (as appropriate). Copies of all QCP related inspection reports and other documents shall be made available to the Commission when requested. All such documents shall be maintained by the CNA.

## **6.0: QUALITY ASSURANCE SURVEILLANCE PLAN**

**6.1: GENERAL.** The Commission will evaluate the CNA's performance under this Agreement in accordance with the QASP (See Section E Attachment 4). This QASP will serve as a guide for all parties involved to ensure the CNA is providing the Commission and NPAs the support and services required by this agreement. The QASP defines how the performance standards will be applied, the frequency of surveillance, and the minimum acceptable performance levels.

**6.2: BUSINESS RELATIONSHIP.** The Parties agree to cooperate under the terms of this Agreement to both provide and increase employment and training opportunities for persons who have significant disabilities through the delivery of products and services to the Federal Government. The Parties agree that they will use industry standards, consistent with available resources, to perform respective obligations under this Agreement. Moreover, the Parties agree that the Commission shall reasonably construe the obligations set forth in this Agreement based upon the level of Program Fee available. Nothing in this Agreement shall be construed to create a legal partnership or joint venture between the CNA(s) and the Commission.

In order to have an effective Agreement administration program that also ensures a successful business relationship between the Commission and the CNA, all parties involved in the service delivery process must work as a team and foster open and honest communication at all times. Close coordination and active cooperation on a continuous basis between the CNA and those representing the Commission is critical.

**6.3: COMMISSION/CNA WIN-WIN COMMUNICATIONS.** To avoid any unnecessary issues and controversy and to settle minor problems and misunderstandings, the CNA and the Commission shall meet monthly during the term of the Agreement unless otherwise agreed to by both parties. The intent is to ensure that the operating environment under this Agreement evolves

in an interactive positive and effective manner. A mutual effort shall be made to resolve problems identified during these meetings. The participants in these meetings will be determined by the Commission and the CNA. Specific topics to be addressed during these meetings may include such topics as listed below or any other areas that require discussion:

1. Effectiveness of CNA's Quality Control Plan;
2. Quality Assurance Surveillance Plan Performance evaluation;
3. Corrective action plans;
4. PL submittals for new lines of business;
5. Management of NPAs and their support and development;
6. Employee Growth; and
7. New Lines of Business.

**6.4: PERFORMANCE EVALUATION.** The CNA is expected to provide effective and efficient services at all times. The Commission will conduct performance evaluations in accordance with the QASP, see Section E, Attachment 4. During the life of this Agreement, the CNA will be expected to document and maintain records of its QCP.

The Commission will publicly publish the results of CNA performance evaluations. CNA performance of the requirements of this Agreement and the Commission's application of the QASP are factors the Commission will consider as part of the review of the Program Fee ceiling during the first two (2) years of this Agreement. Specifically, as a means of ensuring transparency into Program achievements and to establish performance incentives and defined consequences, during the Award Fee Simulation Phase as well as throughout Agreement performance in general, both parties agree to the following:

1. **Public Posting of CNA Performance Achievements:** The Commission reserves the right to publicly post the results of the CNA performance achievements on AbilityOne.gov. Prior to publicly posting the performance achievements, the Commission will give the CNA a period of time in which to provide feedback.
2. **Program Fee Ceiling Determination Adjustments:** The CNA's performance of requirements under this Agreement, and the Commission's application of the QASP thereto, shall be factors the Commission considers as part of its unilateral Program Fee ceiling determination and adjustments.
  - o **Award Fee Phase:** Adjustments to the fee ceiling as a result of performance achievements during the implemented Award Fee process will be accomplished through the use of the Award Fee Pool and withholdings thereunder in the event of performance failures.

- Award Fee Simulation Phase: As a means of establishing clear consequences during the Award Fee Simulation Phase, failure to meet a stated acceptable quality level (AQLs) within the QASP (e.g., Satisfactory or higher) will result in a reduced Program Fee ceiling. During the Award Fee Simulation Phase the Commission reserves the right to review and adjust, as necessary, the Program Fee ceiling in alignment with this Agreement's Review Periods (e.g. not more than every three months).
- NOTE: Any Program Fee ceiling determination issued by the Commission shall be effective on all contracts, including but not limited to, new or renewed contracts and/or modifications to terms of the NPA's contracts.

**6.5: EFFECTIVENESS OF QUALITY CONTROL.** The Commission will periodically assess the effectiveness of the CNA's QCP through review of reports required of the CNA, service delivery information, and customer interaction. The quality and timeliness of the CNA's performance of the scheduled program, service call responses and occupant feedback program will be used to assess the overall service delivery. If the CNA fails to adhere to the Agreement requirements and the CNA's performance remains unsatisfactory, it will have a negative impact on the performance evaluation process and have a negative impact on the fee ceiling determinations made by the Commission. Failure to provide required documentation will have a negative impact in the performance evaluation process. See Section E Attachment 4, QASP.

## **SECTION D – AGREEMENT ADMINISTRATION**

### **1. TERM OF AGREEMENT**

- A. This Agreement will become effective upon the Commission’s signature and extend for a period of three (3) calendar years for the initial term. The first ninety (90) days of this Agreement will be the transition period for the CNA and the commission, the evaluation period will begin on 1 October 2016.
  
- B. The Commission may extend the term of this Agreement by written notice to the CNA not later than the last day of the current performance term. The Commission shall provide the CNA a preliminary written notice of its intent to extend this Agreement at least sixty (60) days before the end of the term. The preliminary notice of intent to extend does not commit the Commission to an extension.

### **2. DISPUTE RESOLUTION**

If the key officials are unable to resolve a dispute concerning this Agreement within thirty (30) days, they shall refer the dispute to the following officials, who will confer within fifteen (15) days of the referral in order to resolve the dispute:

For the Commission:

Name: Kelvin Wood

Title: Commission Chief of Staff

Address: Commission Headquarters

Phone: 703-603-2120

E-Mail: kwood@abilityone.gov

For the CNA:

Name: Elizabeth Goodman

Title: Chief Financial Officer

Address: SourceAmerica Headquarters

Phone: 571-226-4506

E-Mail: egoodman@sourceamerica.org

If the Commission and the CNA Chief Executive Officer or his/her designee are not able to resolve the dispute within fifteen (15) days, the matter shall be escalated to the Executive Director of the Commission who, in consultation with the Chair of the Commission Stewardship and Business Excellence Subcommittee, will make a determination for final resolution. Such

determination shall be the final decision to resolve the dispute. Nothing herein shall limit or waive the CNA's right to pursue judicial review of terms of this Agreement or of any action or decision related to this Agreement except where otherwise prohibited in this Agreement or by law.

### **3. SEVERABILITY**

If any particular term, covenant, or provision of this Agreement is determined to be invalid or unenforceable, the invalidity or unenforceability thereof will not affect the remaining provisions of this Agreement, which will nevertheless remain in full force and effect. If a court of appropriate jurisdiction finds any provision of this Agreement illegal or unenforceable, the parties will attempt to modify the provision in a mutually agreeable manner that renders the provision lawful and enforceable. If the parties are unable to come to agreement, then the court shall construe such provision as modified to the minimum extent possible to make the Agreement enforceable, provided that the revision does not defeat a material element of the Agreement (e.g., payment).

### **4. MODIFICATION AND TERMINATION**

A. Modification. Except as otherwise stated herein, this Agreement may be modified only by a written instrument executed by mutual agreement of the parties. The Commission reserves the right to make unilateral changes to the Award Fee structure.

B. Termination. The Agreement may be terminated, in whole or in part, consistent with terms and conditions of this Agreement, the JWOD Act, 41 U.S.C. Chapter 85 and implementing regulations, 41 C.F.R. Chapter 51 as follows:

- (1) By the Commission, if the CNA fails to comply with the terms and conditions of this Agreement;
- (2) The Government will give not less than 180 days notice of termination to the other Party to effect a seamless transition of the CNA responsibilities; or
- (3) Prior to termination, the Parties agree to work cooperatively in good faith to address any concerns or proposed grounds for termination.

C. In the event of expiration or termination of this Agreement, the CNA may collect:

- (1) Any and all fees accrued or earned but not collected pursuant to Section B of this Agreement on or before the effective expiration or termination date.; and,

- (2) Any and all additional payments, including those pursuant to Section B.1.(f), for work performed by the CNA under this Agreement and/or in accordance with relevant statutory and regulatory requirements.

## **5. CONTINUITY OF SERVICES**

A. The CNA recognizes that the services under this Agreement are vital to the Government and must be continued without interruption and that, upon expiration of this Agreement, a successor, either the Government or another CNA, may continue them. The CNA agrees to—

- (1) Exercise industry standards and cooperation consistent with available resources, to furnish phase-in training; and
- (2) Exercise industry standards, consistent with available resources, to effect an orderly and efficient transition to a successor.

B. The CNA shall, upon the Agreement Officer's written notice, (1) furnish phase-in, phase-out services for up to 180 days after this Agreement expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Agreement Officer's approval. The CNA shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Agreement are maintained at the required level of proficiency. Nothing in this provision is intended to waive the CNA's right to collect Program Fee or the CNA's right to maintain the confidentiality and ownership of its proprietary information and processes.

C. The CNA shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Agreement.

D. The CNA shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after Agreement expiration that result from phase-in, phase-out operations) through Program Fee it collects during the phase-in, phase-out period.

## **6. THIRD PARTY BENEFICIARIES**

Nothing in this Agreement is intended to create third party beneficiaries. No person or entity, including but not limited to NPAs, qualified or otherwise, or any person(s) at one time employed by or seeking employment with an NPA, has any rights or remedies under this Agreement.

**SECTION E – LIST OF ATTACHMENTS**

- Attachment 1 Deliverables Schedule
- Attachment 2 Performance Requirements Summary (PRS)
- \*Attachment 3 Reserved for Award Fee Simulation
- Attachment 4 Quality Assurance Surveillance Plan (QASP)
- Attachment 5 List of Regulations and Policies
- Attachment 6 Definitions and Terms
- Attachment 7 Acronyms

**Attachment 1 – DELIVERABLES SCHEDULE**

*NOTE: All deliverables should be by electronic mail to: [SAdeliverable@AbilityOne.gov](mailto:SAdeliverable@AbilityOne.gov)*

Task Requirement/Deliverable	PWS Ref	Due Date	Submit to
Annual Employment Growth Plan**	Objective 3.1	No later than September 1 each succeeding year	Commission Staff- Director of Operations (DOO)
Employment Growth Plan Updates**	3.1	Quarterly, as part of the quarterly report.	Commission Staff- DOO
Employment Growth Quarterly Dashboard Reports**	3.1	Quarterly, as part of the quarterly report.	Commission Staff- DOO
Pipeline Report**	3.1	Annually, no later than September 1 and in Employment Growth Plan Updates.	Commission Staff – DOO
Mandatory Disclosures	3.2.1	Within five (5) business days of notice of violation	Commission Staff – General Counsel (GC)
Initial Board of Directors Report**	3.2.2	No later than July 31, 2016	Commission Staff- GC
Annual Board of Directors Disclosure Report **	3.2.2	No later than August 15, 2017, and annually, no later than May 15, beginning in 2018, or within thirty (30) days of any change.	Commission Staff- GC
Board of Directors Transition Plan**	3.2.2	No later than May 31, 2017	Commission Staff- GC
Annual Internal Control Reporting**	3.2.3.1	No later than September 1, beginning in 2018 (previously June 1, 2017)	Commission Staff- Director of Compliance (DOC)
Single Audit Report**	3.2.3.2	Annually, no later than February 15, beginning in 2018.	Commission Staff- DOC
Ad-Hoc In-Process Reviews (IPR)	3.2.4	No later than 30 days after date of Commission’s request	Commission Staff- DOC

Annual MOA/(MOU) Report**	3.2.4.1.	No later than January 31	Commission Staff- Director of Policy and Programs (DPP)
Reserve Policy**	3.2.4.2.2.	No later than December 31 of each year	Commission Staff- Deputy Director of Business Operations
Annual AbilityOne Expenditures Report**	3.2.4.2.3	No later than June 1 of each year	Commission Staff- Deputy Director of Business Operations
Proposed Allocation and Recommendation Performance Report Structure/Content**	3.2.5	No later than December 31, 2016	Commission Staff- DOO
Allocation and Recommendation Policy and Procedures	3.2.5	No later than January 31, beginning in 2017, and every three (3) years thereafter	Commission Staff- DOO
Published Allocation and Recommendation Policy and Procedure	3.2.5	No later than December 31, 2017	Commission Staff- DOO
Annual Allocation and Recommendation Report**	3.2.5	No later than January 31 of each year beginning in 2018	Commission Staff- DOO
NPA Oversight**	3.3.1.3	Within 120 days after execution of this Agreement	Commission Staff – DOC
NPA Regulatory Assistance Visits Post-Visit Reports	3.3.1.3	Within ten (10) business days of such visits	Commission Staff- DOC
End of year Regulatory Review List**	3.3.1.3	No later than September 1	Commission Staff- DOC
End of year Regulatory Review Analysis**	3.3.1.3	No later than January 31	Commission Staff- DOC
Supplemental Compliance Visit Report Corrective Actions Close Out	3.3.1.3.	Within ten (10) business days of receipt of documentation from the NPA attesting to completion of the corrective action.	Commission Staff DOC

Phase-In Report**	3.3.1.4	Quarterly, as part of the quarterly report*	Commission Staff-DOC
Overall Direct Labor Hour Ratio Report**	3.3.1.5	Quarterly, as part of the quarterly report*	Commission Staff-DOC
Form 401 or 402	3.3.2.1	Within ten (10) business days of designation	Commission Staff-DOC & GC
Annual Reps and Certs	3.3.2.2	No later than December 1	Commission Staff-DOC
Annual Reps&Certs EoY Analysis**	3.3.2.2	No later than December 1	Commission Staff – DOC
Data Extract of Annual Reps&Certs	3.3.2.2	No later than December 1 each year beginning December 1, 2016	Commission Staff – DOC
NPA Risk & Financial Assessment Report**	3.3.2.3	Within ten (10) business days after completion of third party financial assessment	Deputy Director Business Operations
NPA Recommendation Process documents	3.3.3.2	Within ten (10) business days of Commission Request	Commission Staff-DOO
Complex Projects	3.3.3.3	As Required	Commission Staff – DOO
Proposed Additions to the Procurement List	3.3.3.4	No later than 120 days prior to expiration of the final option year of current agreement	Commission Staff-DOO
Changes to the Procurement List	3.3.3.5	As Required	Commission Staff – DOO
NPA Performance Improvement Plan (PIP)	3.3.3.6	Within ten (10) business days of initiating or terminating PIP	Commission Staff-DOO
Quarterly FPI Partial Waiver Report**	3.3.3.7	Quarterly as part of the quarterly report*	Commission Staff - DOO
Co-Brand Report**	3.3.3.8	Quarterly, no later than fifteen (15) days after the end of each quarter	Commission Staff – DOO, Business Management Specialist

Replacement Products Report**	3.3.3.9	Quarterly, no later than fifteen (15) days after the end of each quarter	Commission Staff – DOO, Business Management Specialist
Manufacturing and Development (M&D) Report**	3.3.3.10	Quarterly, no later than fifteen (15) days after the end of each quarter	Commission Staff - DOO
CMS Project Report	3.3.3.11	No later than ten (10) days after the end of each quarter	NIB - PMO
Submission of Fair Market Price (FMP) Documentation and Recommendations	3.3.4.1	Within ten (10) business days after negotiations conclude and before contract is signed.	Commission Staff- Deputy Director Business Operations
Project-Level Information	3.3.5	Within ten (10) business days of Request	Commission Staff- DOO
Training Reports**	3.4.1.4	Annually, beginning January 31, 2018 with highlights in Quarterly reports	Commission Staff- Senior Advisor
Representation Notification	3.4.2.4	At least ten (10) business days prior to Representation	Commission Staff- Senior Advisor
Monthly Social Media Reports**	3.4.2.7	Within ten (10) business days of request	Commission Staff- Senior Advisor
Toll Free Number Log**	3.4.2.8	No later than the 10 <sup>th</sup> of each month	Commission Staff- DOO
Proposed annual calendar of all AbilityOne Program ad placement**	3.4.3.1	No later than September 1 and subject to quarterly review	Commission Staff – Senior Advisor
Market Research and Analysis Surveys	3.4.3.2	Quarterly as part of the quarterly report*	Commission Staff- Senior Advisor
AbilityOne Brand Books	3.4.5.2	Quarterly as part of the quarterly report*	Commission Staff- Senior Advisor
Strategic Communications Quarterly Report**	3.4.6.1	End of Each Quarter	Commission Staff- Senior Advisor
Strategic Communications Annual Activities Report**	3.4.6.2	January 31, beginning 2018	Commission Staff- Senior Advisor

Strategic Communications Audit Report	3.4.7	As Required	Commission Staff – Senior Advisor
Strategic Communications Annual Plan**	3.4.8	September 1, beginning 2017	Commission Staff- Senior Advisor
CNA Fees and Expenditure Reports**	4.0	Within thirty (30) days after the end of each FY Quarter	Commission Staff (Congress)
Initial Quality Control Plan**	5.0	No later than 30 days after effective date of agreement	Commission Staff- All Directors including DED
Inspection Report	6.0	No later than ten (10) days after requested	Commission Staff- DOC

\*Quarterly Reports are due 45 days after the completion of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters, and 60 days after completion of 4<sup>th</sup> quarter (February 15, May 15, August 15, and November 30); does not apply to Quarterly CNA Fees and Expenditures Reports required by Congress which shall be submitted within thirty (30) days after the end of each FY Quarter, unless otherwise defined above.

\*\* Reports that will be evaluated in accordance with PRS and QASP on semi-annual basis.

**Attachment 2 – PERFORMANCE REQUIREMENTS SUMMARY**

PERFORMANCE OBJECTIVE	PWS REF	PERFORMANCE STANDARD	METHOD OF SURVEILLANCE
Employment Growth	3.1	The CNA shall provide a timely employment growth plan and associated progress updates 100% of the time. PWS REF. 3.1	100% Surveillance
Employment Growth	3.1	The CNA addressed 100% of the minimum elements in the employment growth plan and progress updates.	100% Surveillance
Employment Growth	3.1	The CNA shall ensure up to 2% increase in annual net employment growth Severely Disabled Direct Labor Hours.	Random Sampling
Employment Growth	3.1	The CNA shall ensure no net loss in annual placements and promotions (P/P).	Random Sampling
Program Admin, Integrity, and Oversight	3.2.5	The CNA's allocation and recommendation processes shall result in no more than 1 allocation and recommendation overturned by the Commission.	100% Surveillance
Advance NPA Capabilities	3.3.1.3	The CNA shall ensure 95% and up to 96% of CNA's producing NPAs are in compliance with AbilityOne regulatory requirements.	100% Surveillance
Advance NPA Capabilities	3.3.2.2.	The CNA shall ensure that 96% and up to 97% of the Reps and Certs submitted by NPAs are accurate and complete, and on time.	100% Surveillance
Advance NPA Capabilities	3.3.3	The CNA shall ensure that 75% and up to 80% of PL transactions are complete and accurate in accordance with the Commission manuals.	100% Surveillance

Advance NPA Capabilities	3.3.3	The CNA shall ensure that PL Addition Requests are submitted at least 120 days, and up to 129 days, before the expiration of the last option of the current contract, and that there is no more than 1 late submission per quarter with cause.	100% Surveillance
Training and Strategic Communications	3.4.1	The CNA shall ensure 10% and up to 15% increase in NPA enrollment in Federal Procurement related training courses provided by the CNA.	100% Surveillance
Training and Strategic Communications	3.4.1	The CNA shall ensure 85% and up to 86% of NPAs report satisfaction with CNA training courses on Federal Procurement process and negotiation techniques.	Random Sampling
Training and Strategic Communications	3.4.1	The CNA shall make online training available for AbilityOne workers.	Random Sampling
Training and Strategic Communications	3.4.2.2	The 6 minimum elements in the Strategic Communications PWS section 3.4.2 are 85% accurate, complete and on time – and/or reflect an approach or results that are near publication-ready or nearly implementable.	100% Surveillance
Reports	Overall	The CNA shall ensure 98% of reports required by the PWS are submitted on time and accurate.	Commission acceptance of reports

*\*The Commission may adjust the Strategic Communications six essentials part of the QASP within 60 days of Agreement effective date to reflect levels of Unsatisfactory-Satisfactory-Good-Exceptional, where applicable. This adjustment will be informed by discussions with the CNA about strategic communications planning.*

**Attachment 3 – AWARD FEE PLAN**

ABILITYONE AWARD FEE SIMULATION

**Effective October 1, 2016**

**The parties agree to an Award Fee Simulation in Attachment 3. The specifics of this Simulation shall be established in an amendment to this Agreement NLT October 31, 2016.**

APPROVED:

Executive Director

DATE: \_\_\_\_\_

**Attachment 4 – QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)**

[QASP cover page]

Coordinate:

\_\_\_\_\_ Date \_\_\_\_\_

Barry Lineback

Director of Oversight and Compliance, U.S. AbilityOne Commission

Coordinate:

\_\_\_\_\_ Date \_\_\_\_\_

Timi Kenealy

General Counsel, U.S. AbilityOne Commission

Approve:

\_\_\_\_\_ Date \_\_\_\_\_

Tina Ballard

Executive Director, U.S. AbilityOne Commission

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## 1. OVERVIEW

**1.1: Purpose.** The purpose of this QASP is to identify the methods and procedures the Commission will use to ensure the CNA provides the services to the NPAs and accomplishes the AbilityOne Program objectives set forth under this Agreement as identified in Section E Attachment 2, Performance Requirements Summary (PRS) in the Performance Work Statement (PWS). This plan will focus on the level of performance required by the PWS; not the methodology or process.

**1.2: Intent.** The intent of this plan is to rely on the CNA's quality control, thus changing the Commission's role from "oversight" to "insight". Performance objectives will be periodically monitored and the quality program evaluated but the CNA has as much flexibility as possible to develop the most efficient methodology to meet and exceed the required standards of performance.

## 2. DESCRIPTION OF SERVICES

**2.1: Program Overview:** The CNA shall provide all management, labor, supervision, materials, equipment and supplies to furnish CNA program management services.

**2.2: Scope of Work.** This is a performance-based agreement. The CNA shall plan, schedule, coordinate, and ensure effective and efficient performance of all services provided. The CNA shall perform the services in a manner that promotes the Federal Government's policies and the Commission's specific objectives as set forth in this Agreement, the JWOD Act and 41 CFR Chapter 51. These performance-based objectives express the Government's requirements in the form of the minimum quality standard to be met.

The overall purpose of this effort is to increase employment and training opportunities for persons who are blind or have other significant disabilities through the delivery of products and services to the Federal Government in accordance with the Javits-Wagner-O'Day Act.

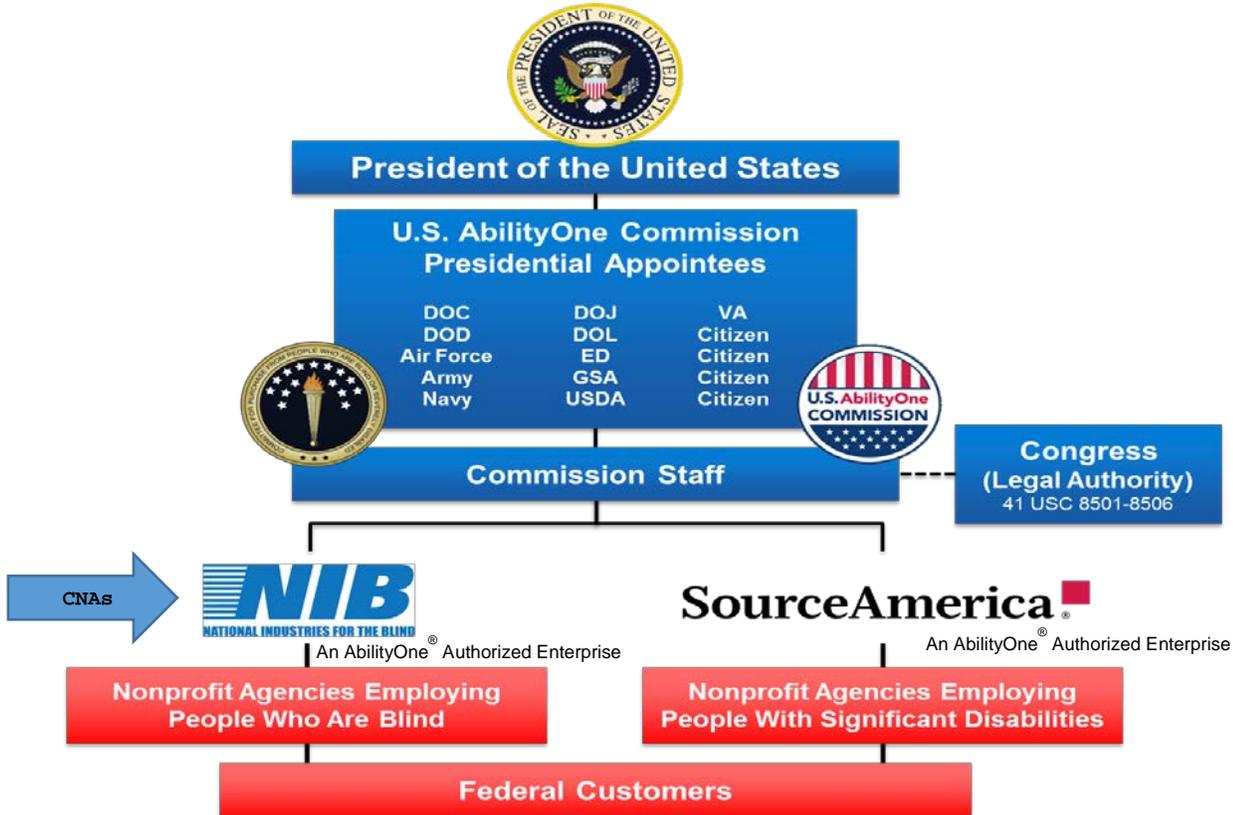
High value is associated with sustaining and increasing current employment levels and developing and executing new lines of business in the AbilityOne Program that also increase new employment opportunities.

Key Performance Indicators (KPIs) of this agreement are:

- Employment growth
- Program administration, oversight, and integrity
- NPA Support, Assistance, and Development

- Training and Strategic Communications

### 3. ORGANIZATIONAL STRUCTURE



\*The current AbilityOne Infrastructure

### 4. AGREEMENT QUALITY REQUIREMENTS

**4.1: Quality System.** The CNA's quality requirements are defined in Section C, paragraph 6.0 and Section E Attachment 2, Performance Requirements Summary, of the Performance Work Statement. The CNA shall establish, maintain, and implement a Quality Control Plan (QCP) that encompasses all aspects of the agreement.

### 5. QASP APPROACH

**5.1: Purpose.** This section details the method(s) used to verify CNA compliance with PWS requirements. The key elements of this process are the CNA's QCP and Commission identified Performance Objectives. The Performance Objectives dictate the minimum surveillance requirements the Commission must accomplish. This QASP provides the procedures on how to

conduct these evaluations. To fully understand the roles and responsibilities of the Commission and the CNA, it is important to define the distinction between the QCP and the QASP. The CNA is responsible for its QCP and is responsible for management and quality control action necessary to meet the quality standards set forth by this Agreement. The QASP is developed to define the Commission's surveillance of the CNA's quality control efforts to ensure the CNA delivers the services and achieves outcomes expected in this Agreement. The Commission is responsible for implementing this QASP and the CNA is responsible for implementing its QCP to meet the quality levels established in this Agreement. Effective CNA surveillance relies on two methods for identification of unacceptable performance – CNA Identified Discrepancies and Commission Identified Discrepancies.

**5.2: Surveillance Approach.** To facilitate the surveillance of the CNA quality plan, the Commission will verify CNA compliance with designated Performance Objectives. The specific procedures to be followed in verifying the Performance Objectives are delineated in this plan. The intent of this surveillance approach is to gain confidence in the CNA's ability to provide satisfactory services and then adjusting the level of oversight to a point that maintains that confidence. This surveillance approach is subject to change based on the CNA's performance.

**5.3: QASP Annual Review.** The Commission will review QASP Performance Objectives, assess their applicability and recommend the addition or subtraction of Performance Objectives as conditions warrant. This review will be accomplished annually.

**5.4: CNA Special Audits.** The Commission must be alert to conditions that would warrant a special quality audit. If the Commission determines a special audit is required because the level of performance for any of the four (4) performance objectives, or any other significant performance requirement, is below an acceptable performance requirement, the Commission may initiate a special quality audit. If a special quality audit is initiated, the CNA will receive a minimum of sixty (60) calendar day notice before the special audit is conducted.

**5.5: Surveillance Documentation.** Surveillance documentation must be maintained by the Commission to capture surveillance and assessment conducted relevant to the four (4) key performance indicators. The documentation may be maintained in hard copy or on a computer database provided there is adequate backup of the data to preclude accidental loss. The surveillance documentation must contain the results of all surveillance assessments and may contain any other sections or information that the Commission finds useful.

- **QUALITY ASSURANCE SURVEILLANCE PLAN**
- **CNA'S QUALITY CONTROL PLAN**

**5.5.1: ACTIVITY LOG.** The Commission will prepare a chronological log of CNA actions taken in the accomplishment of assigned performance requirements. The purpose of this log is to provide a brief synopsis of an inspection of CNA provided services or a meeting or conversation with the CNA regarding PWS performance in a given functional area. Documentation that supports activity log entries is maintained in the RECORDS section of the surveillance folder.

**5.5.2: RECORDS.** The Commission will maintain any documentation associated with discrepancy reports (both active and resolved), relevant correspondence, and/or letters of interpretation of this Agreement. The CNA shall maintain records that captures all activities relevant to its QCP and actions taken to resolve discrepancies.

**5.6: Deficiency Identification.** Effective CNA surveillance relies on two methods for identification of unacceptable performance – CNA Identified Discrepancies and Commission Identified Discrepancies. When discrepancies are identified, the Commission and the CNA shall develop a corrective action and ensure necessary actions are completed.

## **6. METHODS OF SURVEILLANCE**

Each Performance Objective below will have unique quality standards and surveillance methodology. Enclosure 1 will be used to ensure consistent, timely, and accurate collection of CNA performance data for each of the defined performance objectives.

## **7. QASP PERFORMANCE OBJECTIVES/STANDARDS (See Enclosure 1).**

The Commission will base performance assessments on both objective and subjective data and information used for evaluation, which will be shared with the CNA. One of the primary goals of the assessment process is to establish a performance and feedback process that supports successful execution of this Agreement. Each Performance Objective includes a Commission determined Performance Standard and the resource that is used to perform the verification.

## **8. QUALITY CONTROL COMPLIANCE**

**8.1: Quality Control Compliance.** The Commission will evaluate the CNA's QCP semiannually through review of quality records and interview of CNA personnel involved in the quality control process.

**8.1.1:** The Commission will consider the QCP satisfactory if no more than two (2) findings are identified by the Commission per quarter.

**8.1.2:** The Commission will utilize the following method of surveillance:

**8.1.2.1:** Review the CNA's audit and inspection records for the nature and number of inspections conducted, the number and type of deficiencies found and the nature of corrective action taken.

**8.1.2.2:** Review the CNA's quality status reports to ensure all requirements of the QCP have been complied with.

## **8.2: Definition of Findings**

**8.2.1: Finding.** A Finding is defined as any Commission identified material noncompliance with Agreement requirements that specifies that an activity or action did not take place. The Commission will document in writing any and all findings of noncompliance with this Agreement and will afford the CNA the opportunity to work with the Commission to address any such findings.

**Attachment 5 – LIST OF REGULATIONS AND POLICIES**

The following regulations and policies are documents the CNA shall follow when developing their processes and procedures for performing work under the AbilityOne Program and in accordance with this agreement:

1. 41 U.S.C. Chapter 85
2. 41 C.F.R. Chapter 51
3. Public Law 114-113 2016, Consolidated Appropriations Act, 2016
4. Commission Policies

**Attachment 6 – DEFINITIONS AND TERMS**

<b>Term</b>	<b>Definition</b>
<b><i>AbilityOne Program</i></b>	The program authorized by the Javits-Wagner-O’Day Act to increase employment and training opportunities for persons who are blind or have other severe disabilities through Government purchasing of commodities and services from NPAs employing these persons.
<b><i>Agreement Officer</i></b>	Commission Person with the authority to execute, administer, and/or terminate this Agreement, and make related determinations and findings.
<b><i>Blind</i></b>	An individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle no greater than 20 degrees.
<b><i>Central nonprofit agency (CNA)</i></b>	An agency organized under the laws of the United States or of any State, designated in accordance with the Javits-Wagner O’Day Act, operating in the interest of the blind or persons with other severe disabilities, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual, and designated by the Commission to facilitate the distribution (by direct allocation, subcontract, or any other means) of orders of the Government for commodities and services on the PL among NPAs employing persons who are blind or have other severe disabilities, to provide information required by the Commission to implement the AbilityOne Program, and to otherwise assist the Commission in administering these regulations as set forth herein by the Commission.
<b><i>Commission</i></b>	The Committee for Purchase From People Who Are Blind or Severely Disabled is the federal agency which administers the AbilityOne Program.  <b>NOTE:</b> The agency began operates as the <b>U.S. AbilityOne Commission</b> effective October 1, 2011.

<b>Term</b>	<b>Definition</b>
<b><i>Complex Project</i></b>	A proposed PL addition that requires an advance feasibility assessment with the Commission staff, due to potential risks or high visibility. Complex projects may include, but are not limited to, annual values above \$5 million, phase-in requests that begin with a direct labor ratio below 50%, multiple NPA prime/subcontractor relationships, or non-traditional lines of business for the AbilityOne Program.
<b><i>Contracting activity</i></b>	Any element of an entity of the Government that has responsibility for identifying and/or procuring Government requirements for commodities or services. Components of a contracting activity, such as a contracting office and an ordering office, are incorporated in this definition, which includes all offices within the definitions of “contracting activity,” “contracting office,” and “agreement administration office” contained in the Federal Acquisition Regulation, 48 CFR § 2.101, Definitions.
<b><i>Customer</i></b>	Federal government agency purchasing products or services listed on the Commission’s PL.
<b><i>Direct labor</i></b>	All work required for preparation, processing, and packing of a commodity or work directly related to the performance of a service, but not supervision, administration, inspection or shipping.
<b><i>Entity of the Government</i></b>	Any entity of the legislative branch or the judicial branch, any executive agency, military department, Government corporation, or independent establishment, the U.S. Postal Service, and any non-appropriated fund instrumentality under the jurisdiction of the Armed Forces.
<b><i>Federal agency</i></b>	See <i>Entity of the Government</i>
<b><i>Federal Fiscal year</i></b>	The 12-month period beginning on October 1 of each year.
<b><i>Government</i></b>	See <i>Entity of the Government</i>
<b><i>Interested person or Interested party</i></b>	An individual or legal entity affected by a proposed addition of a commodity or service to the PL or a deletion from it.

<b>Term</b>	<b>Definition</b>
<b><i>Military resale commodities</i></b>	Commodities on the PL sold for the private, individual use of authorized patrons of Armed Forces commissaries and exchanges, or like activities of other Government departments and agencies.
<b><i>Nonprofit agency (NPA)</i></b>	An organization organized and operated under the laws of the United States or any State, exclusively for an Internal Revenue Code-defined exempt purpose, and none of its earnings may inure to any private shareholder or individual. See Qualified NPA.
<p data-bbox="201 722 435 905"><b><i>Other severely disabled and Severely disabled individuals</i></b></p> <p data-bbox="201 999 380 1161"><b>(hereinafter persons with significant disabilities)</b></p>	<p data-bbox="490 659 1481 911">A person (other than a blind person) who has a significant physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.</p> <p data-bbox="490 942 1481 1152">(1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by or for the NPA and shall include, as a minimum, a preadmission evaluation and a reevaluation at least annually of each individual's capability for normal competitive employment.</p> <p data-bbox="490 1171 1481 1339">(2) A person with a significant mental or physical impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not “other significantly disabled” within the meaning of the definition.</p> <p data-bbox="490 1358 1481 1484">In correspondence and policy, the term “significant disability” is synonymous with the term “severe disability” as defined in 41 U.S.C. § 8501 and the applicable regulations.</p>
<b><i>Personal Conflict of Interest</i></b>	<p data-bbox="490 1520 1481 1730">A situation in which a covered employee has a material financial interest, personal activity, or relationship that could impair the employee’s ability to act impartially and perform required fiduciary duties. (A de minimis interest that would not “impair the employee’s ability to act impartially” is not covered under this definition.)</p> <p data-bbox="587 1772 1367 1814">(1) Among the sources of personal conflicts of interest are—</p>

<b>Term</b>	<b>Definition</b>
	<p>(i) Financial interests of the covered employee, of close family members, or of other members of the covered employee’s household;</p> <p>(ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business for the covered employee, close family members or other members of the covered employee’s household); and</p> <p>(iii) Gifts, including travel.</p>
<b><i>Procurement List</i></b>	<p>A list of commodities (including military resale commodities) and services the Commission has determined suitable to be furnished to the Government by NPAs for the blind or NPAs employing persons with significant disabilities pursuant to the JWOD Act and associated regulations.</p>
<b><i>Program Fee (also known as, AbilityOne Program Fee or CNA Fee)</i></b>	<p>Program Fee is the maximum fee authorized to be collected that is directly generated and/or earned by the CNA in the performance of this Agreement consistent with the JWOD Act, 41 U.S.C. Chapter 85, and implementing regulations, 41 C.F.R. Chapter 51. This does not preclude the CNA from collecting any and all additional payments for work performed by the CNA under this Agreement and/or in accordance with relevant statutory and regulatory requirements.</p>
<b><i>Qualified nonprofit agency</i></b>	<p>An agency organized under the laws of the United States or any State, operating in the interests of blind individuals or individuals with significant disabilities (who may or may not also be blind), and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; which applies for and is accepted for initial qualification and maintains such qualification in the AbilityOne Program pursuant to 41 CFR § 51-3 and -4; and which complies with applicable occupational health and safety standards prescribed by the Secretary of Labor; and which in furnishing commodities and services (whether or not the commodities or services are procured under these regulations) during the fiscal year employs blind individuals or individuals with significant disabilities (including blind) for not less than 75 percent of the work-hours of direct labor required to furnish such commodities or services.</p>

<b>Term</b>	<b>Definition</b>
<p><b><i>Significantly Disabled individual or persons with a significant disability</i></b></p>	<p>A person other than a blind person who has a significant physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.</p> <p>(1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by or for the NPA and shall include, as a minimum, a preadmission evaluation and a reevaluation at least annually of each individual's capability for normal competitive employment.</p> <p>(2) A person with a significant mental or physical impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not “other significantly disabled” within the meaning of the definition.</p> <p>In correspondence and policy, the term “significant disability” is synonymous with the term “severe disability” as defined in 41 U.S.C. § 8501 and the applicable regulations.</p>
<p><b><i>State</i></b></p>	<p>The 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any territory remaining under the jurisdiction of the Trust Territory of the Pacific Islands.</p>
<p><b><i>U.S. AbilityOne Commission</i></b></p>	<p>Operating name of the Committee for Purchase From People Who Are Blind or Severely Disabled</p>

**Attachment 7 – ACRONYMS**

<b>Acronym</b>	<b>Definition</b>
<b>AFDO</b>	Award Fee Determination Office
<b>AFRB</b>	Award Fee Review Board
<b>AQL</b>	Acceptable Quality Level
<b>CNA</b>	Central Nonprofit Agency
<b>EOY</b>	End of Year
<b>JWOD</b>	Javits-Wagner-O’Day Act
<b>NIB</b>	National Industries for the Blind
<b>NISH</b>	NISH—Creating Employment Opportunities For People With Significant Disabilities, now operating as SourceAmerica
<b>NPA</b>	Nonprofit Agency
<b>PL</b>	Procurement List
<b>QCP</b>	Quality Control Plan

## SECTION F – AGREEMENT CLAUSES

### **A. SYSTEM FOR AWARD MANAGEMENT MAINTENANCE**

(a) Definitions. As used in this clause—

“Data Universal Numbering System (DUNS) number,” as used in this clause, means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the NPA identification number.

“System for Award Management (SAM)” means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes.

(b) (1) By signing this Agreement, the CNA acknowledges the requirement to be registered and maintain an “Active” record in the SAM database prior to award, during performance, and through final performance under this Agreement.

(2) The CNA is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the CNA is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this Agreement.

(c) The CNA’s representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the Agreement.

### **B. RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT**

(a) Except as provided in (b) of this clause, the CNA shall not enter into any agreement with an actual or prospective qualified NPA or subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such entity directly to the Government of any item or process (including computer software) made or furnished by the entity under this Agreement or under any follow-on related agreement, contract, or subcontract, or otherwise infringe on the entity’s ability to compete for CNA designation.

(b) The prohibition in (a) of this clause does not preclude the CNA from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

**C. EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS**

(a) Employees working on this Agreement will be covered by the whistleblower rights and remedies in the pilot program on CNA employee whistleblower protections established at 41 U.S.C. § 4712.

(b) The CNA shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712.

**D. UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS**

The CNA shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of this agreement, by posting the required information in the System for Award Management database via <https://www.acquisition.gov>.

**E. AUDIT AND RECORDS—NEGOTIATION**

(a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. The CNA shall preserve all records containing appropriate documentation of its organization, function, policies and procedures. The CNA shall also preserve all documentation related to the AbilityOne Program and relative to critical decisions and essential CNA/NPA transactions associated with its responsibilities pursuant to 41 U.S.C. § 8503(c), and 41 C.F.R. § 51-3

(b) Examination of costs. The CNA shall maintain and the Agreement Officer, or an authorized representative of the Agreement Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this

Agreement. This right of examination shall include inspection at all reasonable times of the CNA's plants, or parts of them, engaged in performing the Agreement.

(c) Comptroller General. —

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the CNA's directly pertinent records involving transactions related to this Agreement or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the CNA or subcontractor to create or maintain any record that the CNA or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(d) Reports. If the CNA is required to furnish cost, funding, or performance reports, the Agreement Officer or an authorized representative of the Agreement Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating—

(1) The effectiveness of the CNA's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(e) Availability. The CNA shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until three (3) years after final payment under this Agreement or for any shorter or longer period required by statute or by other clauses of this Agreement.

**F. NOTICE TO THE GOVERNMENT OF LABOR DISPUTES.**

If the CNA has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Agreement, the CNA shall immediately give notice, including all relevant information, to the Agreement Officer.

**G. CONVICT LABOR**

(a) Except as provided in paragraph (b) of this clause, the CNA shall not employ in the performance of this Agreement any person undergoing a sentence of imprisonment imposed

by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The CNA is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

#### **H. PRIVACY ACT NOTIFICATION.**

The CNA will be subject to the Privacy Act of 1974 (5 U.S.C. § 552a) and applicable Commission regulations, when conducting AbilityOne Program qualified NPA site visits and/or in the event the CNA has reason to inspect personally identifiable information

maintained for AbilityOne Program purposes. Violation of the Act may involve the imposition of criminal penalties.

**I. RESTRICTIONS ON CERTAIN FOREIGN PURCHASES**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the CNA shall not acquire, for use in the performance of this Agreement, any supplies or services if any proclamation, Executive Order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.

**J. BANKRUPTCY.**

In the event the CNA enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the CNA agrees to furnish, by certified mail or electronic commerce method authorized by this Agreement, written notification of the bankruptcy to the Agreement officer responsible for administering this Agreement. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of government contract numbers and contracting offices for all government contracts against which final payment has not been made. This obligation remains in effect until final payment under this agreement.

**K. PRIVACY OR SECURITY SAFEGUARDS**

(a) The CNA shall not publish or disclose in any manner, without the Commission's written consent, the details of any safeguards either designed or developed by the CNA under this Agreement or otherwise provided by the Commission.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the CNA shall afford

the Government access to the CNA's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the CNA, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

#### **L. DATA RIGHTS**

(a) Pursuant to 41 U.S.C. § 8503(e) and this Agreement, the CNAs shall conduct studies, analyses, evaluations, test data, research, pilots, or similar work at the request of the Commission. To the extent directed by the Commission, and funded by the Program Fee, the Commission shall have unlimited rights to any reports, data, research results or other information yielded from such activities for use in direct connection with the Program.

To the extent directed by the Commission in writing, and as funded by the Program Fee, the Commission shall have unlimited rights, including but not limited to technical data rights, consistent with the language stated in FAR Clause 52.227-17 addressing use and data rights for the Government as described in FAR Part 27.405-1, related to Special Works, for use in direct connection with the Program.

(b) Any such studies, analyses, evaluations, test data, research, pilots, or similar work that require the CNA to contract with third parties shall include rights in data language that provides the Commission the same use and data rights in subsection (b).

(c) Nothing in this Agreement shall be construed as limiting or impacting any data rights of the CNA or the CNA's right to maintain the confidentiality and ownership of proprietary information and processes.

#### **SECTION G – MISCELLANEOUS**

1. **FORCE MAJEURE.** Performance by either party under this Agreement is excused during the period such performance is prevented or delayed by government restrictions (whether with or without valid jurisdiction), war or warlike activity, insurrection or civil disorder, or any other causes similar or dissimilar to the foregoing that are beyond the control of either party and are not foreseeable at the time the Agreement is executed.

2. **CAPTIONS.** Any captions or headings to the sections of this Agreement are solely for the convenience of the parties hereto, are not part of this Agreement, and are not to be used for

the interpretation or determination of the validity hereof.

3. **COUNTERPARTS.** This Agreement may be executed in counterparts. Facsimile or copied signatures are to be deemed originals.
4. **ASSIGNMENT.** Neither party hereto may assign this Agreement without the written consent of the other, such consent not to be unreasonably withheld.
5. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all pre-existing agreements and understandings between them with respect thereto.
6. **NATURE OF RELATIONSHIP.** Nothing in this Agreement is intended or is to be deemed to create a partnership or joint venture between the parties.
7. **NO WAIVER.** No waiver or modification of any of the terms of this Agreement will be valid unless in writing and agreed to by both parties. No waiver by either party of a breach hereof or default hereunder will be deemed a waiver by such party of any subsequent breach or default.
8. **INHERENTLY GOVERNMENTAL FUNCTIONS – ADDITION TO AGREEMENT.**  
The Award Fee Simulation shall include an analysis to identify any Inherently Governmental Functions being performed by the CNA. Specifics of this analysis will be determined by the Commission, and this Agreement amended accordingly.
9. **REPRESENTATION OF AUTHORITY OF PARTIES/SIGNATORIES.** Each person signing this Agreement represents and warrants that he or she is duly authorized as the representative for his or her respective party and has legal capacity to execute this Agreement. Further, each party represents and warrants to the other that upon the execution of this Agreement, the party enters into this Agreement of its own free will and volition and was not coerced nor under duress at the time of executing this Agreement. The parties, by signature herein affirm that this Agreement is a valid and legal agreement and binding on such parties and enforceable with its terms.
10. **GOVERNING LAW.** Federal laws of United States will apply to this Agreement.