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**Performance Audit Report  
on the  
AbilityOne Program Fee**

**For  
U.S. AbilityOne Commission  
Office of Inspector General**

**Performance Audit  
by  
CliftonLarsonAllen LLP**

December 20, 2019

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## **EXECUTIVE SUMMARY**

### ***Why We Did This Audit***

CliftonLarsonAllen LLP (CLA) was engaged by the U.S. AbilityOne Commission Office of Inspector General (OIG) to conduct a performance audit and report on the AbilityOne Program Fee. The objective of our performance audit was to perform a comprehensive analysis of the history and function of the Program Fee, and to determine whether effective and transparent criteria exists with the Program Fee. The U.S. AbilityOne Commission (Commission) is responsible for and determines the Program Fee Ceiling that is paid by Nonprofit Agencies (NPAs) to their respective Central Nonprofit Agencies (CNAs).

### ***What We Audited***

We reviewed the history and function of the Program Fee and audited the procedures and processes. The Commission is responsible for and determines the Program Fee Ceiling that is paid by NPAs to their respective CNAs. The Commission has designated National Industries for the Blind (NIB) and SourceAmerica as CNAs to facilitate the distribution of orders and provide other assistance to NPAs in the AbilityOne Program (Program). The Program Fee is used to fund CNA activities that facilitate the NPAs' participation in the AbilityOne Program (Program). A third CNA, the American Foundation for the Blind (AFB) was designated by the Commission 18 months ago and does not have any NPAs and therefore does not collect a Program Fee. Also in our field work, we performed focus group and individual field work with the NPAs to receive their input. Accordingly, we conducted conference calls with 11 NPA CEOs operating under NIB and SourceAmerica. In addition, we obtained responses from questionnaires sent to select NPA CEOs that are part of NIB and SourceAmerica.

We conducted this performance audit in the United States of America, as applicable to performance audits contained in the Government Accountability Office's (GAO) *Government Auditing Standards (2018 Revision)*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, and recommendations based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on the audit objectives.

### ***What We Found***

We concluded that the Commission did not provide effective and transparent criteria related to the Program Fee. In addition, unlike the Commission's Program Management Office (PMO) that implements and executes the Cooperative Agreements with the CNAs, the administration of the fee

does not have a designated Commission office or equivalent to allow for proactive management of the fee determination and to facilitate informed, data-driven decision making. The management of the fee determination and timely implementation of the policies has produced poor outcomes. Specifically, we noted weaknesses in three areas. As a result, we made five recommendations to assist the Commission in strengthening its effectiveness and transparency of the Program Fee.

Additional information on our findings and recommendations are included in the accompanying report. In accordance with the audit standards and consistent with GAO prior audit coverage and protocols of the Commission, we provided a discussion draft of this report to the Commission, NIB and SourceAmerica on November 12, 2019 and the official draft report on December 4, 2019. The United States Government Accountability Office (GAO) issued a report *Employing People with Blindness or Severe Disabilities, Enhanced Oversight of the AbilityOne Program Needed*, GAO-13-457, dated May 2013. During the review GAO audited the AbilityOne Program and included the CNA formal comment letters in the report. The report concluded the Commission needed to improve oversight and transparency of the Program. The technical comments provided in response to the discussion draft were evaluated and incorporated into the draft report as appropriate. The Commission and CNAs provided their management comments on the official draft report on December 18, 2019. See Appendix II for our evaluation of management's responses. See Appendix III, IV and V for the Commission, NIB and SourceAmerica responses, respectively.

#### **Other Matters**

Our audit did not include an assessment of the sufficiency of internal control over the Program Fee and Program Fee Ceiling procedures or other matters not specifically outlined in the enclosed report. CLA cautions that projecting the results of our performance audit to future periods is subject to the risks that conditions may materially change from their current status. The information included in this report was obtained from the Commission, CNAs, and NPAs on or before October 25, 2019. We have no obligation to update our report or to revise the information contained herein to reflect events and transactions occurring subsequent to October 25, 2019.

The purpose of this performance audit is to report on the history and function of the Program Fee, and to determine whether effective and transparent criteria exists with the Program Fee, and is not suitable for any other purpose.

We thank the Commission, NIB, and SourceAmerica staff for the cooperation and assistance provided to us.

**CLIFTONLARSONALLEN LLP**



Arlington, VA  
December 20, 2019

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**PROGRAM BACKGROUND**

**Establishment of the Program**

The Program is a source of employment for approximately 45,000 people who are blind or have significant disabilities through contracts with federal agencies across all fifty states, the District of Columbia, and U.S. territories by more than 500 NPAs. The Program provides more than \$3.6 billion in products and services to the Federal Government.

Enacted in 1938, the Wagner-O'Day Act established the Committee on Purchases of Blind-Made Products to provide employment opportunities for the blind. Legislation sponsored by Senator Jacob K. Javits was signed in 1971, amending and expanding the Wagner-O'Day Act to include persons with other severe disabilities. The Act, as amended, became known as the Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. §§8501-8506), and the program's name became the JWOD Program. The 1971 amendments also established the federal agency as the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) to reflect the expanded capabilities of the JWOD Program. In 2006, the Committee changed the program's name from the JWOD Program to the AbilityOne Program. The Committee is known as the U.S. AbilityOne Commission (Commission). The AbilityOne Program (Program) is the largest source of employment in the U.S. for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government.

The Commission, among other duties, maintains and publishes a Procurement List of products and services that have been placed in the AbilityOne Program (41 U.S.C. § 8503). In addition, the Commission is required by 41 U.S.C. §§ 8501-8506 to designate one or more Central Nonprofit Agencies (CNAs) to facilitate distribution of Federal Government orders for products and services. The Commission has designated National Industries for the Blind (NIB), established in 1938, and SourceAmerica, established in 1974, to facilitate the distribution of orders and provide other assistance to nonprofit agencies (NPAs) in the Program. The CNAs facilitate distribution of orders and provide other assistance to NPAs in the Program. In July 2018 the Commission designated American Foundation for the Blind (AFB) as the third AbilityOne designated CNA. The Commission and AFB entered into a Cooperative Agreement, and AFB's first 18 months as a CNA are limited to research and studies.

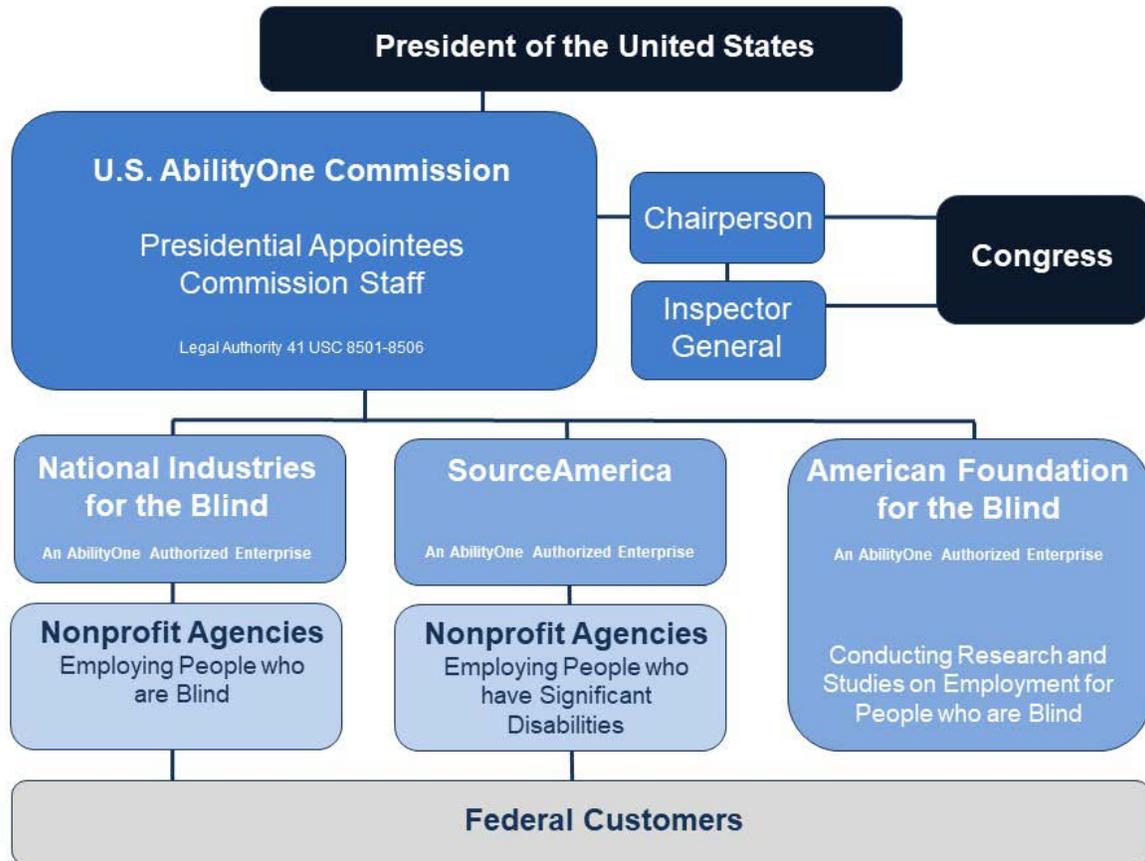
NIB and SourceAmerica are designated CNAs and responsible for working closely with federal contracting activities and NPAs to match government requirements with nonprofit agency capabilities. One of NIB's and SourceAmerica's key activities is developing products and services and visiting government contracting activities to jointly explore, with government personnel, products and services that may be suitable for provision by the NPAs. Once a potential Procurement List addition is identified, NIB or SourceAmerica works closely with the Commission to obtain the data needed to determine its suitability for the Program. The Commission has the authority to add and remove items from the Procurement List. The Commission publishes notices in the Federal Register of its intent and final actions taken to add (or delete) products or services to the Procurement List that will be furnished by nonprofit agencies employing people who are blind or have other significant disabilities.

The AbilityOne-participating NPAs must demonstrate that at least 75 percent or more of all direct labor hours must be performed by people who are blind or have significant disabilities. The work on federal contracts may be facility-based, such as the contract to manufacture the U.S. Army Battle Dress Uniform, or community-based, such as the AbilityOne call center service contract

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with the Environmental Protection Agency that was established to assist consumers with questions about the harmful effects of lead.

The AbilityOne Program organizational structure is detailed below.



The United States Government Accountability Office (GAO) issued a report *Employing People with Blindness or Severe Disabilities, Enhanced Oversight of the AbilityOne Program Needed*, GAO-13-457, dated May 2013. During the review GAO audited the AbilityOne Program and included the CNA formal comment letters in the report. The report concluded the Commission needed to improve oversight and transparency of the Program. The report recommended that the Commission develop written agreements with each CNA that would specify key expectations for the CNAs and oversight mechanisms to improve program accountability. The report also recommended establishing an Inspector General. The Commission and the CNAs agreed with GAO's recommendations but disagreed with several findings. To ensure implementation of GAO's recommendations, three years later Congress included mandates in the Consolidated Appropriations Act of 2016, Public Law 114-113 (Act). The Act required the Commission, within 180 days of the Act's passage to enter into written agreements with the CNAs to provide auditing, oversight, and reporting provisions. Congress also amended the Inspector Act of 1978, to establish an Office of Inspector General for the Commission and required the Commission to ensure such completion.

The first Cooperative Agreements were drafted by the Commission and after negotiation, signed by NIB and SourceAmerica on June 17, 2016 and June 15, 2016, respectively. Cooperative

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Agreements were renegotiated by the Commission and made effective on December 17, 2018 for NIB and on June 14, 2019 for SourceAmerica.

**Program Fee**

The Program Fee is a percentage of the sales revenue of each contract on the AbilityOne Program Procurement List. The Program Fee is not a markup on fair market price, but is instead a component of the NPA's cost of doing business in the Program. The purpose of the Program Fee is to provide funding for the operations of the CNAs. The Program Fee Ceiling is a specified percentage that the Program Fee may not exceed. The Commission has the goal of determining Program Fee Ceiling annually for each CNA but this has not been a consistent practice. The Program Fee Ceiling set by the Commission did not change for NIB between FY2010 to FY2018, and FY 2014 to FY2018 for SourceAmerica.

The Program Fee is paid by AbilityOne-participating NPAs to their CNA, either NIB or SourceAmerica, to fund the CNAs activities that facilitate the operations of the Program. The CNAs may charge Program Fees to NPAs for facilitating their participation in the Program in accordance with the terms and conditions of the Cooperative Agreements, Commission policies governing the Program, and the provision under 41 C.F.R. § 51 -3.5 Fees. The program fee is not however explicitly referenced in the JWOD Act.

The roles and responsibilities of each party is explained in 41 C.F.R. § 51 as excerpted below (See Appendix VI for the organizational structure):

**41 CFR § 51-2.2(f) Powers and Responsibilities (Commission)**

“Designate, set appropriate ceilings on fee paid to these central nonprofit agencies by nonprofit agencies selling items under the Program, and provide guidance to central nonprofit agencies engaged in facilitating the distribution of Government orders and helping State and private nonprofit agencies to participate in the AbilityOne Program.”

**41 CFR § 51-3.5 Fees (CNAs)**

“A central nonprofit agency may charge fees to nonprofit agencies for facilitating their participation in the JWOD Program. Fees shall be calculated based on nonprofit agency sales to the Government under the AbilityOne Program. Fees shall not exceed the fee limit approved by the Committee.”

**41 CFR § 51-4.3(b) (9) Maintaining Qualification (NPAs)**

Upon receipt of payment by the Government for commodities or services furnished under the JWOD Program, pay to the central nonprofit agency a fee which meets the requirements of § 51-3.5 of this chapter.

The CNAs accept Program Fee payments from NPAs as full consideration in accordance with the terms and conditions of the Cooperative Agreements, the provisions of the JWOD Act and the regulations and policies issued by the Commission.<sup>1</sup>

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<sup>1</sup> *Cooperative Agreement Between Committee For Purchase From People Who Are Blind Or Severely Disabled and National Industries for the Blind, December 17, 2018 and Cooperative Agreement Between Committee For Purchase From People Who Are Blind Or Severely Disabled and SourceAmerica, June 14, 2019.*

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The CNAs shall use the Program Fee collected only for the intended purposes, under the terms and conditions of the Cooperative Agreements, and in furtherance of the Program, unless otherwise expressly instructed by the Cooperative Agreement or Commission.<sup>2</sup>

The CNAs shall calculate the Program Fees based on NPA sales to the Government under the Program and in accordance with regulations and policies set forth by the Commission governing the Program.<sup>3</sup>

### **Calculation and Methodology of the Program Fee Remains Unclear**

Since the inception of the Program, a division method has been used to calculate the Fee to be collected by the CNAs. This calculation method used by the CNAs to calculate the Program Fee was recognized and approved by the Commission for use. However, confusion over the timing, of implementation, whether the policies were announced or when they were announced if at all and which ones have been rescinded remains disorganized at the Commission staff level. Since 2006, the Commission has issued the following three policies:

1. Administrative Memorandum No. 11, *CNA Fee Ceiling Determination Process* (Memo 11), effective October 1, 2006. Memo 11 describes the Commission's process for determining the CNAs Program Fee Ceiling. Memo 11 established the use of the Performance Based/Outcome Driven Model to calculate the Program Fee Ceiling; however, it did not specify in writing whether the division or multiplication method is used to determine the Program Fee charged by the CNAs.
2. Addendum to Administrative Memorandum No. 11, *AbilityOne Fee Calculation Methodology* (Addendum), effective May 12, 2017, established multiplication as the methodology for the calculation of the Program Fee. The addendum also changed all reference to the "Central Nonprofit Agency Fee" to "AbilityOne Program Fee or Program Fee." Addendum dated May 12, 2017 is not believed to be in effect by both SourceAmerica and NIB.
3. Policy Number 51.210, *AbilityOne Program Fee Calculation Methodology* (Policy), *DRAFT*, would establish methodology for the calculation of the Program Fee as multiplication. The Policy has not been finalized and issued.

The Commission has not finalized the draft Program Fee Calculation Methodology Policy for a variety of reasons including addressing comments from the CNAs, and because NIB has expressed concerns to the Commission concerning the language contained in the Policy. NIB also believes that the new multiplication method should not be mandated unless the Program Fee Ceiling is also changed, so that the Program Fee collected is revenue neutral. The multiplication method results in less Program Fees paid by the NPAs. The Administrative Memorandum No. 11 while originally the sole policy for the Program Fee Ceiling and process, does not address the Program Fee calculation methodology. The Addendum activity has continued to produce poor results, confusion and does not address the Program Fee process.

NIB has been using the division method in calculating the Program Fee. SourceAmerica is using the division method for multi-year contracts established prior to August 10, 2018 and per Commission guidance, the multiplication method for contracts established on or after August 10, 2018. (See Appendix VII for an example of how the Program Fees are calculated for both methods).

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<sup>2</sup> *ibid*

<sup>3</sup> *ibid*

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The Program Fee Ceiling set by the Commission did not change for NIB between FY2010 to FY2018, and FY 2014 to FY2018 for SourceAmerica. Both NIB and SourceAmerica had Program Fee Ceilings of 3.90% and 3.85%, respectively. The Cooperative Agreements added the CNAs' performance and financial factors for the Commission to review in determining the Program Fee Ceiling. There is limited information included in the Cooperative Agreements to describe how the Program Fee Ceiling is developed, calculated, and implemented. In an Administrative Decision Document dated October 19, 2018 the Commission staff made a recommendation to lower the Program Fee Ceiling, and the Commission members voted in favor of such recommended action. There is no indication the CNAs were informed of this decision until a much later date in March 2019 during the performance reviews with the CNAs. In a subsequent letter dated April 15, 2019 the Commission communicated to NIB and SourceAmerica that the Program Fee Ceiling was going to change to 3.73% for NIB and 3.75% for SourceAmerica. The change was effective April 15, 2019<sup>4</sup>.

The total Program Fee charged by the CNAs is calculated using rates not to exceed the annual Program Fee Ceiling rate approved by the Commission, however it is at the discretion of the CNAs whether they charge a Program Fee less than the Program Fee ceiling, including no Program Fee at all.

### **AUDIT RESULTS**

We concluded that the Commission did not provide effective and transparent criteria related to the Program Fee. Specifically, we noted weaknesses in three areas. As a result, we made five recommendations to assist the Commission in strengthening its effectiveness and transparency of the Program Fee.

#### **Audit Findings**

##### **1. Adequate Guidance on the Program Fee Ceiling Needs Improvements**

The Commission does not have adequate guidance on its processes and criteria for determining the Program Fee Ceiling adjustment nor process that will affect the CNAs and NPAs.

The Cooperative Agreements states that the Commission is responsible for establishing the Program Fee Ceiling that the CNAs can collect from the NPAs for the services rendered. The Cooperative Agreements also contain information concerning the Program Fee structure. For example, the renegotiated Agreement with NIB, states "The fee structure implements the provisions of the JWOD Act and 41 C.F.R. Chapter 51 by defining a more transparent process for the delivery of CNA services to the qualified NPAs." The Commission uses the Quality Assurance Surveillance Plan to evaluate performance (QASP). According to the agreements, "The Commission will evaluate the CNA's performance under this Agreement in accordance with the QASP (See Section G Attachment 2). 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." The expansion of employment is one of the factors the Commission considers as part of the review of the Program Fee Ceiling adjustments.

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<sup>4</sup> U.S. AbilityOne Commission website, [2019-2020 AbilityOne Program Fee Ceilings](#)

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While the Cooperative Agreements designate the responsibility to establish the Program Fee Ceiling to the Commission, they do not have formalized guidance on its processes such as scheduling changes, calculating Program Fee methodologies, and disseminating information regarding the Program Fee Ceiling adjustment that will impact the CNAs on how they will be evaluated.

Title 41 of the Code of Regulations, Committee for Purchase From People Who Are Blind or Severely Disabled, 41 C.F.R. § 51-2.2(a) provides the responsibility to the Commission to establish rules, regulations, and policies to assure implementation of the JWOD Act. Further, § 51-2.2(f) states that the Commission should designate, set appropriate ceilings on fee paid to central nonprofit agencies by nonprofit agencies selling items under the Program.

During our field work, we discussed the Program Fee Ceiling process with the stakeholders. Also, as noted below we summarized general comments from the Commission and both CNAs.

**NIB general comments:** Adjustments to the Fee Ceiling require significant changes and corresponding resource mobilization, which has a negative impact on and is disruptive to the organization when unscheduled. Ideally the Commission would:

- announce the adjustment on a consistent basis so all involved can schedule and plan resources accordingly.
- use a reasonable “effective date” that would allow NPAs to make any necessary changes to upcoming contracts, and
- be timely in developing and revising program fee guidance.

**SourceAmerica general comments:** There appears to be a lack of alignment with the Commission, CNAs, and NPAs as it relates to guidance for Program Fee Ceiling adjustments, scheduling, timeliness, planning, and calculation methodology. There are no consistencies on when the Program Fee will be adjusted. Would recommend establishing a scheduled time period. Also, ensure the guidance that is provided is clear.

**Commission general comments:** In response to CNAs concerns about scheduling Program Fee Ceiling adjustments, the Commission is considering a consistent annual time period during the month of April.

While we found no indication the Program Fee Ceilings changed for NIB between FY2010 to FY2018, and FY 2014 to FY2018 for SourceAmerica, however per Administrative Decision Document dated October 19, 2018, the Program Fee Ceiling did change in FY 2019, from 3.90% for NIB to 3.73% and from 3.85% for SourceAmerica to 3.75%. There is no indication the CNAs were informed of this decision. We found that the changes to the Program Fee Ceiling were due to what the Commission called an Administrative Support Portion fee and the new evaluation requirements from the implementation of the Cooperative Agreement between the Commission and CNAs as explained below:

- Documentation provided by the CNAs stated, that in part: “The reason for removing the administrative support portion is that the Commission determined that the CNAs did not consistently use the administrative support portion according to Commission guidance.” The administrative support portion of the Program Fee Ceiling amounted to 0.07 percent. “Thus, on April 5, 2017, the Commission staff directed NIB and SourceAmerica to stop spending the administrative support portion without explicit permission from the

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Commission Staff. Since the Commission will no longer assign administrative duties to the CNAs not already specified in regulations or Cooperative Agreements, the administrative support portion of the Program Fee Ceiling is no longer warranted.”

- The Consolidated Appropriations Act of 2016 (Public Law 114-113) directed the Commission to enter into written agreements with each CNA to provide auditing, oversight, and reporting requirements. The Act also stated that each Cooperative Agreement must address performance goals and consequences. The Commission must take those performance goals and consequences into consideration when establishing Fee ceilings.

New evaluation requirements in the Cooperative Agreements such as performance goals and consequences that are taken into consideration when establishing the Program Fee Ceilings have not been effectively applied in the criteria for determining the Program Fee. The lack of guidance and applying written criteria has negatively impacted the confidence in correctly measuring performance of the CNAs.

In the Cooperative Agreements we reviewed, we found language that instructed that the Program Fee Ceiling would not be reduced if the CNA maintained an evaluation rating at a certain level; however, despite maintaining the level needed the ceiling was reduced that year. The policies and the Cooperative Agreements have not been properly harmonized.

There is lack of clear and concise guidance on the Commission’s implementation of the annual performance evaluation requirements. This has led to ineffective application with the CNAs on how their evaluation influences the Commission’s decision for the Program Fee Ceiling adjustments and the implementation. In addition, the Commission is chronically late and delayed in following the timelines and results in undue confusion and stress on stakeholders. For example, NIB raised several questions on how their performance rating was interpreted and applied. In addition, results from the Program Fee Ceiling adjustment require a significant amount of changes and resources, which has a negative impact on the CNAs and NPAs when unscheduled. Furthermore, the lack of formal guidance has resulted in a lack of alignment with the Commission, CNAs and NPAs as it relates to Program Fee Ceiling adjustments, scheduling, timeliness, and planning.

**NPAs comments:**

General concerns have also been raised by the NPAs relating to the Program Fee Ceiling (see Appendix VI).

**Recommendation:**

We recommend the Commission require the Commission Staff to:

1. Develop and implement effective policy and procedures on the Program Fee Ceiling criteria and methodology for determining the fee ceiling on the CNAs including aligning legacy and draft policy with the criteria in the Cooperative Agreements.

**2. Current and Complete Program Fee Calculation Guidance Is Not Available**

The Commission does not have current and complete guidance that provides effective and transparent criteria to calculate the Program Fee. Nor is there adequate guidance for the CNAs to understand the methodology for a fair annual performance evaluation. The Program Fee calculation method to determine the manner the Program Fee is calculated by the CNAs to the NPAs has resulted in varying and unsupported application. The Commission in their technical

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comments did not provide a written work plan however communicated that the draft policies will be completed by March of 2020.

*Commission Administrative Memo 11*, October 1, 2006 describes the Commission's process for determining the CNAs Program Fee Ceiling and established the use of the Performance Based/Outcome Driven Model to calculate the Program Fee Ceiling. The memo was established prior to the Cooperative Agreements and is not updated or harmonized with the requirements in the Cooperative Agreements entered into three years ago with the CNAs.

The revision efforts of Memo 11 deal with a different issue, namely the calculation related to the method used to determine the Program Fee as a cost element in the determination of the Fair Market Price of an item. The original guidance does not specify if the division or multiplication method should be used to determine the Program Fee charged by the CNAs to the NPAs. The original methodology used by both CNAs to calculate the Program Fee was division. Subsequently, the Commission established an *Addendum to Administrative Memo 11 (Addendum)*, May 12, 2017, which specifies that the Program Fee should be calculated using the multiplication method. In addition, the Commission developed Policy Number 51.210 *AbilityOne Program Fee Calculation Methodology (draft) (Policy)* to specify that multiplication should be used to calculate the Program Fee. However, this Policy has not been finalized nor issued. The draft policy for the Program Fee process is focused on this calculation and not the criteria for determining the Program Fee Ceiling by the Commission and is uncompleted.

The Commission Staff stated that time and other resource constraints have contributed to the delay in completing the Policy. Through comments during the reporting phase, the CNAs expressed uncertainty with implementing the calculation method due to how the Commission introduced the Addendum and later drafted new procedures for which have not been finalized.

Title 41 of the Code of Federal Regulations, Committee for Purchase from People Who Are Blind or Severely Disabled, 41 C.F.R. § 51-2.2(a) provides the responsibility to the Commission to establish rules, regulations, and policies to assure implementation of the JWOD Act. While not explicit in the JWOD Act, 41 C.F.R. § 51-2.2(f) states the Commission should designate, set appropriate ceilings on fees paid to the central nonprofit agencies by nonprofit agencies selling items under the Program.

In the course of our field work we learned during discussions with the CNAs, that they are reluctant to change the current method that is being used to calculate the Program Fee calculation because they believe the Addendum issued by the Commission on May 12, 2017, was rescinded or did not provide formal or definitive guidance. NIB is currently using the division method and SourceAmerica is using the division and multiplication methods. The division method results in a higher Program Fee charged to the NPAs.<sup>5</sup> (See Appendix IV for an example of the difference between the division and multiplication methods).

For example;

1. **SourceAmerica** policy USF12-5000, dated June 5, 2019, Subject: Procedure for application of Program Fee states, in part, "Until such time as SourceAmerica receives official guidance regarding the calculation of the U.S. AbilityOne Program Fee, there

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<sup>5</sup> U.S. AbilityOne Commission, Administrative Commission Decision Document 17-02, Central Nonprofit Agency Fee Calculation Methodology, December 12, 2016

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are two methods of calculation, multiplication and division. The applicability of which method to use is based on the following:

- Division: Contracts established prior to August 10, 2018, continue to use this method. Basis for this method is regulations (FAR, CFR and Commission Policy) in existence as of August 10, 2018.
  - Multiplication: All new base year contracts on or after August 10, 2018 use this method.”
2. **NIB** issued a letter to the Commission on June 19, 2019, stating: “NIB also recommends and requests that any changes to the calculation methodology should be revenue neutral. Mathematically, changing from division to multiplication effectively reduces the current Program Fee ceiling.”

The letter also states: “Finally, as the Commission looks to provide clarity around the Fee, NIB recommends the following: - The Office of the AbilityOne Inspector General has indicated they will be scheduling a program audit on the Program Fee. NIB recommends waiting until after that audit before considering any changes to the fee process, methodology, and Admin Memo 11. NIB believes the proposed changes are significant enough as presented that this effort should go through the federal rulemaking process under the Administrative Procedure Act to ensure all parties have the opportunity to provide input.”

Without current and complete policy to calculate the Program Fee, the CNAs do not have a fair and consistent criterion to be evaluated nor have they been harmonized with the methodology in the Cooperative Agreements. Without better procedures, CNAs cannot accurately calculate the Program Fee nor effectively implement appropriate requirements of the JWOD Act.

**Recommendations:**

We recommend the Commission require the Commission Staff, to work jointly with the CNAs to:

2. Issue and implement a policy on the methodology for the CNAs to calculate the Program Fee.
3. When developing guidance policies and procedures, the Commission should follow GAO 14-704G, *Standards for Internal Control in the Federal Government*, Principles 10-15. The principles will assist the Commission to develop, design, and implement timely guidance that is supported by quality information.

**3. Lack of Indicators and Evidence that the Commission Performs Data Analysis on CNAs’ Reports**

In accordance with the Consolidated Appropriations Act of 2016 (P.L. 114-113) and the Program Performance Objectives and Deliverables under the established Cooperative Agreements, the CNAs are required to provide a report on fees and expenditures to the Commission. During our field work we learned from the CNAs that there is little or no evidence that they recognize of any analysis by the Commission staff of the voluminous information they provide. Our audit work during the period of this review provided that there are no indications that the Commission staff conducts data analysis to assess and validate the Fee and Expenditure Reports submitted by the CNAs. The information from these reports is taken into consideration to develop the Program

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Fee Ceiling. Congress would benefit from any synthesis of the information or reports that demonstrates analysis.

OMB Circular A-11 Part 6 focuses specifically on improving the management and organizational performance of Federal agencies. Part 6, Section 240.27 states: "Verification and validation of performance data support the general accuracy and reliability of performance information, reduce the risk of inaccurate performance data, and provide a sufficient level of confidence to the Congress and the public that the information presented is credible as appropriate to its intended use." The Circular also state: "The GAO defines verification as a process of checking or testing performance information to assess other types of errors, such as errors in keying data. The GAO defines validation as an effort to ensure that data are free of systematic error or bias and that what is intended to be measured is actually measured."

The Commission staff emphasized time and resource constraints as the reason why they do not review and validate the CNAs' Fee and Expenditure reports. They also insist generally that the data analytics are performed; however, did not provide adequate audit evidence during our field work. The Commission provided additional information during the technical comment period however the information was not subject to audit since it was provided after the completion of fieldwork. As a result, there is risk that the CNAs' information on fees and expenditures are exposed to incomplete and unreliable assessment. The Commission Staff also pointed out that the program currently generates more than 3 billion dollars. Despite increases in volume and activities, the Commission's full-time staff size has only increased by 8 contractors. The current allocated staff level for the Commission is 27 full time staff with 11 contractors to assist with various functions and activities. According to the GAO report *Employing People with Blindness or Severe Disabilities, Enhanced Oversight of the AbilityOne Program Needed*, 13-457, dated May 2013, the full-time staff level was 27 as of FY2012. The Commission also had 3 contractors at such time.

Also, our review of the OIG Top Management and Performance Challenges Report dated December 21, 2018, to the Commission, the OIG identified six top management and performance challenges for FY 2018. One of those serious challenges identified was: "Lack of Adequate Resources Impacts Program Effectiveness."

Furthermore, the Commission FY 2018 *Performance and Accountability Report* states: "The resource levels of the Commission are not adequate for the geographical size and complexity of the program it oversees. The Commission is seeking remedies to these problems by working with the Office of Management and Budget and the U.S. Congress." The Commission personnel added that more resources would allow them to perform cost analysis and data validation and verification, including other Cooperative Agreement requirements, when determining Program Fee Ceiling adjustments.

CNAs Fee and Expenditure Reports include information that is used to develop the Program Fee Ceiling, among other considerations. Failure to effectively analyze, validate, and verify data may not provide the Commission with accurate data for its Program Fee Ceiling decision-making process. In addition, there is a risk CNAs could be over or under charging the NPAs resulting in the CNAs exceeding the Program Fee Ceiling.

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**Recommendations:**

4. In order to effectively manage the Program fee, the Commission should complete a workforce analysis to determine Commission staffing requirements based on major mission activities and cross-cutting priority goals.
5. In order to support and inform decision-making processes and ensure effective and greater communication and reporting on the analysis being completed, the Commission should review and analyze the Fee and Expenditure Reports and other materials received from the CNAs for opportunities to use a variety of analytical, research, and evaluation methods.

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**Appendix I**

**Audit Objectives, Scope and Methodology**

**AUDIT OBJECTIVES AND SCOPE**

We conducted a comprehensive analysis of the history and function of the Program Fee, and determined whether effective and transparent criteria exist with the Program Fee process.

The scope of the performance audit was to review:

- Guidance and implementation of the methodology to calculate the Program Fee based on NPA sales to the government;
- Policies and procedures of the annual Program Fee Ceiling;
- Documentation and reporting requirements of Program Fee payment;
- The Commission's decision how they determine Program Fee Ceiling adjustments based on evaluation of information contained on the QASP.

**AUDIT METHODOLOGY**

We conducted this performance audit in accordance with generally accepted auditing standards established by the GAO *Government Auditing Standards (2018 Revision)*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. As defined by the standards, an audited entity is the entity subject to a GAGAS engagement, whether that engagement is a financial audit, attestation engagement, review of financial statements, or performance audit. As such, we conducted a performance audit on the AbilityOne Program Fee as it relates to the organizational structure of the AbilityOne Program. In addition, in accordance with the agreed upon procedures at the entrance conference, audit standards, and prior GAO review, the audited entities included the Commission and designated Central Nonprofit Agencies. We also noted, the United States Government Accountability Office (GAO) issued a report *Employing People with Blindness or Severe Disabilities, Enhanced Oversight of the AbilityOne Program Needed*, GAO-13-457, dated May 2013. During the review GAO audited the AbilityOne Program and included the CNA formal comment letters in the report.

We officially provided our draft audit report to the Commission, NIB and SourceAmerica on December 4, 2019, and received management comments from the Commission, NIB and SourceAmerica on December 18, 2019 respectively. We considered the management comments to the draft audit report in finalizing this report.

Our general audit methodology included:

- Assessing the audit risks and significance within the context of our audit objective.
- Understanding relevant information systems controls as applicable.
- Identifying sources of evidence and the amount and type of evidence required.
- Determining whether other auditors have conducted, or are conducting, audits of the program that could be relevant to the audit objective.

To implement our audit methodology, we performed the following audit procedures:

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- Conducted site visits in Arlington, Alexandria, and Tysons Corner, VA to interview staff from the Commission and CNAs.
- Conducted teleconferences with NIB and SourceAmerica Presidents and Chief Executive Officers (CEOs).
- Conducted teleconferences with 11 selected NPAs Presidents and CEOs.
- Requested that the CEOs of 5 NPAs complete questionnaires. All NPAs responded to the questionnaires.
- Reviewed documentation related to the policies and procedures for the Program Fee process.

We conducted our fieldwork in Arlington, VA; Alexandria, VA; and Tysons Corner, VA between July 24, 2019 and October 25, 2019.

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**Appendix II**

**EVALUATION OF MANAGEMENT'S COMMENTS**

The audit of the AbilityOne Program Fee included the entities included in the organizational structure of the AbilityOne Program (See Appendix VIII). The organization structure includes the Commission, NIB and SourceAmerica.

A discussion draft of this report was provided to these entities, on November 12, 2019 and the official draft report on December 4, 2019. The technical comments provided in response to the discussion draft were evaluated and incorporated into the draft report as appropriate.

In response to the official draft report, the Commission, NIB and SourceAmerica provided their responses to our recommendations on December 18, 2019. See Appendix III, IV and V for the Commission, NIB and SourceAmerica responses, respectively.

The Commission concurred with recommendations 2 and 3, partly concurred with recommendation 1 and did not concur with recommendations 4 and 5. We concurred with the Commission's response to recommendations 2 and 3.

NIB and SourceAmerica agreed with all five of the recommendations.

Our evaluation of Commission's response to recommendations 1, 4 and 5 is below. The Commission expressed their unsure about why the inclusion of the designated CNAs were in the draft report process. The protocols are explained in the audit methodology section.

**Recommendation 1** - Develop and implement effective policy and procedures on the Program Fee Ceiling criteria and methodology for determining the fee ceiling on the CNAs including aligning legacy and draft policy with the criteria in the Cooperative Agreements.

While we agree with the Commission that the Cooperative Agreements performance requirements and evaluation methodology are spelled out in the Cooperative Agreements, they do not provide formalized or effective guidance on the criteria used to determine Fee Ceiling adjustments and information regarding how the adjustment will be disseminated to the CNAs.

**Recommendation 4** - In order to effectively manage the Program fee, the Commission should complete a workforce analysis to determine Commission staffing requirements based on major mission activities and cross-cutting priority goals.

**Recommendation 5** - In order to support and inform decision-making processes and ensure effective and greater communication and reporting on the analysis being completed, the Commission should review and analyze the Fee and Expenditure Reports and other materials received from the CNAs for opportunities to use a variety of analytical, research, and evaluation methods.

We considered the Commission's view that 30 days may not be a sufficient time period for the CNAs to assemble and provide the reports, which precludes the Commission's detailed review before the Congressional deadline. However, we believe OMB Circular A-11 Part 6 Section 240.27, provides a best practice for management to reduce the risk of inaccurate performance data, and provide a sufficient level of confidence to the Congress and the public that the information presented is credible as appropriate to its intended use.

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**Appendix III**

**U.S. ABILITYONE COMMISSION MANAGEMENT COMMENTS**



703-603-7740  
FAX 703-603-0655

**U.S. ABILITYONE COMMISSION**

December 19, 2019

1401 S. Clark Street, Suite 715  
Arlington, Virginia 22202-4149

MEMORANDUM FOR Office of Inspector General (OIG), U.S. AbilityOne Commission

SUBJECT: Management Response to the FY 2019 OIG Audit of Program Fee

Thank you for the opportunity to review the findings of the Draft Audit Report of the Program Fee. On behalf of the U.S. AbilityOne Commission (Commission), we appreciate this opportunity to comment upon Commission processes and procedures as discussed in the draft report.

In accordance with 41 C.F.R. 51-2.2(f), the Commission sets appropriate ceilings on the fees paid to central nonprofit agencies (CNAs) by nonprofit agencies (NPAs) participating in the AbilityOne Program. The Consolidated Appropriations Act, 2016, directed the Commission to establish written agreements with its designated CNAs and to improve their accountability. In doing so, the Commission has achieved measurable results consistent with the expected outcomes defined in GAO Report GAO-13-457 and the Appropriations Act.

It is important to note the CNAs are neither Federal agencies nor the audited entities. They are in bilateral agreements with the government. Although they are the recipients of the Program Fees, the audit appears to rely on the CNAs' assessment of how the government determines the ceiling. It is unclear how the OIG's release of the draft report to the CNAs complies with requirements or intent of the Generally Accepted Government Auditing Standards (GAGAS) paragraphs 9.56-9.59.

The summary below addresses the OIG findings at a top level. This response will be followed by a more detailed Memorandum for the Record.

<b>Finding</b>	<b>Response</b>
Finding 1	Partially Concur
Finding 2	Concur
Finding 3	Non-Concur

**Finding 1: Adequate Guidance on the Program Fee Ceiling Needs Improvements**  
Management Response/Action Plan

The Commission partially concurs with the auditor's finding that its guidance on the Program Fee ceiling can be improved. For this reason, the Commission has been updating and clarifying the policies that govern the Program Fee ceiling determination. The policies will be completed by March 31, 2020.

**The Commission partially non-concurs.** The Commission's performance requirements are clearly spelled out in the bilateral Cooperative Agreements. The evaluation methodology is provided in the associated Quality Assurance Surveillance Plans (QASPs). Further, Section 6.4



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of the Cooperative Agreements states that the Commission reserves the right to review and adjust as necessary the Program Fee ceiling on at least a quarterly basis. To increase predictability, the Commission announced to the CNAs in April 2019 that, based on the submission dates for annual program data and the Cooperative Agreements' performance evaluation cycle, Program Fee ceiling determinations will be issued in April of successive years.

Finally, there is no requirement for the Commission's formula for Program Fee ceiling adjustments to be disseminated or made public. This follows standard government practices for performance-based fee decisions. The methodology for determining the Program Fee ceiling is a unilateral decision made solely at the discretion of the Agency.

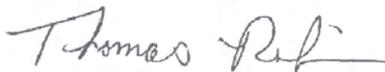
**Finding 2: Current and Complete Program Fee Calculation Guidance Is Not Available**  
**Management Response/Action Plan**

The Commission concurs with the auditor's finding that its guidance regarding the Program Fee calculation (multiplication instead of division) can be improved. For this reason, we have been updating and clarifying the policies that govern the Program Fee calculation methodology. The policies will be completed by March 31, 2020.

The Commission delayed implementation of its May 2017 guidance on this subject to receive and consider additional CNA comments. The Commission notes that SourceAmerica, the largest of the CNAs, adopted the multiplication methodology in good faith more than a year ago. The Commission also notes that the new policy will align the Program Fee calculation methodology with standard government practice for calculating fees or commissions using multiplication.

**Finding 3: Lack of Indicators and Evidence that the Commission Performs Data Analysis on CNAs' Reports**  
**Management Response/Action Plan**

The Commission non-concurs with this finding. The CNAs' Quarterly Fees and Expenditures reports are required by the Consolidated Appropriations Act, 2016. The law requires the Commission to transmit these reports to its Congressional oversight committees for review 30 days after the quarter closes. The CNAs require the full 30 days to assemble and provide the reports before the Congressional deadline. There is no statutory requirement for the Commission to conduct a detailed analysis of the data. However, the Commission staff reviews the CNAs' reports and has had numerous exchanges with the CNAs questioning line items in those reports.



Thomas D. Robinson  
Chairperson and Presidential Appointee



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**Appendix IV**

**NIB MANAGEMENT COMMENTS**



December 18, 2019

Thomas K. Lehrich  
Inspector General  
Office of Inspector General  
U.S. AbilityOne Commission  
2331 Mill Rd., Suite 505  
Alexandria, VA 22314

RE: "Performance Audit Report on the AbilityOne Program Fee"

Dear Mr. Lehrich:

On behalf of National Industries for the Blind (NIB), we thank you, the Office of Inspector General staff, and the auditors from CliftonLarsonAllen LLP for your efforts over the past several months to learn about the "AbilityOne Program Fee" (or "Fee").

We appreciate the opportunity to provide a response to your draft audit report titled, "Performance Audit Report on the AbilityOne Program Fee."

Background

NIB is a nonprofit organization whose mission is to enhance the personal and economic independence of people who are blind, primarily through creating, sustaining, and improving employment. NIB has been designated by the U.S. AbilityOne Commission to serve as Central Nonprofit Agency ("CNA") in the AbilityOne Program.

NIB was founded in 1938 by the nonprofit agencies for the blind (NPAs) participating in the Program following the passage of the Wagner-O'Day Act. Those NPAs decided to fund NIB's operations with a fee based on a percentage of their sales to the federal government. Through the efforts of these NPAs, the CNA Fee (now referred to by the AbilityOne Commission as Program Fee) was born. As confirmed in your report, that Fee is not a markup on fair market prices, but is instead a component of the NPA's cost of doing business in the Program. The Fees paid to the CNAs are not appropriated dollars, but rather private funds, as the Government Accountability Office (GAO) also noted (GAO-13-457).

As stated in this report, the purpose of the Fee is to provide funding for the operations of the CNAs. NIB uses the funds it collects from the Fee to create, maintain, and grow employment opportunities for people who are blind, including through:

- Developing new business opportunities for NPAs with federal customers
- Managing the current NPA product and service lines on the AbilityOne Procurement List

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- Marketing and promoting current NPA products and services
- Training NPA employees who are blind to promote career advancement
- Training NPAs on topics ranging from contracting to finance to AbilityOne compliance
- Advocating for NPAs and their employees who are blind
- Providing grants and incentives to increase the capabilities of NPAs and their employees who are blind
- Supporting the AbilityOne Commission's efforts in administering the Program
- Facilitating compliance with NIB's statutory, regulatory, and Cooperative Agreement requirements

The level of services NIB is able to provide may be impacted by the fee ceiling determination.

**Audit Findings**

Your report includes three findings that we address individually below.

**1. Adequate Guidance on the Program Fee Ceiling Needs Improvements**

*NIB Response:* This report presents a fair description of NIB's concerns regarding the fee ceiling determination process in general and the most recent fee ceiling reduction specifically. NIB believes a clear understanding of the fee ceiling determination process, including how NIB's performance under the Cooperative Agreement impacts the fee ceiling, will benefit the Commission, NIB, the NPAs, and federal customers.

**2. Current and Complete Program Fee Calculation Guidance Is Not Available**

*NIB Response:* NIB would welcome the opportunity to collaborate on the development of clear guidance related to the Fee calculation.

**3. Lack of Indicators and Evidence that the Commission Performs Data Analysis on CNAs' Reports**

*NIB Response:* As required under NIB's Cooperative Agreement, NIB submits a quarterly report detailing each fee charged to an NPA, which includes over 200,000 individual sales transactions over that three-month period. Those transactions cannot be submitted by the NPAs until after the end of the fiscal quarter. Those transactions must then be received by NIB, reviewed and analyzed by NIB staff, discussed with the NPA if anomalies are identified, formatted for delivery, further reviewed for quality throughout the process, then delivered to the Commission. As it stands, these activities take the full 30 days specified in the Consolidated Appropriations Act of 2016. Given the complexity and sheer volume of data involved and the time required to pull all this data together, NIB recommends and supports requesting Congress 1) provide additional time for delivery by the Commission to Congress, and 2) further refining the scope of data Congress requires.

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Conclusion

NIB appreciates the opportunity to provide feedback and looks forward to working with the AbilityOne Commission to create an environment with full transparency and clarity for all parties.

Sincerely,

/s/

Kevin A. Lynch  
President and CEO

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**Appendix V**

**SOURCEAMERICA MANAGEMENT COMMENTS**

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Marcos R. Contreras  
Assistant Inspector General for Auditing, AIGA  
AbilityOne Office Of Inspector General (OIG)  
Committee for Purchase From People  
Who Are Blind or Severely Disabled  
2331 Mill Road, Suite 505  
Alexandria, VA 22314

Dear Mr. Contreras,

Thank you for the opportunity to provide comments to the Draft Report of the AbilityOne Program Fee and Management Comments.

SourceAmerica has previously provided technical comments related to this audit. Our review of the current document suggests a correction is needed on page 6, paragraph 2 (SourceAmerica's new Cooperative Agreement was issued in June, 2019).

As is appropriate, and in accordance with Cooperative Agreement requirements, SourceAmerica will support the Commission with any actions required to implement the recommendations as noted in the report.

Sincerely,

A handwritten signature in blue ink that reads "Vincent M. Loose".

Vincent M. Loose  
President and CEO  
SourceAmerica

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## **Appendix VI**

### **General Feedback from Nonprofit Agencies (NPAs)**

The NPAs pay a Program Fee to the CNAs within the 3.6-billion-dollar Program. We performed focus group and individual field work with the NPAs to receive their input. Accordingly, we conducted telephone conference calls with 11 NPA CEOs operating under NIB and SourceAmerica. In addition, we obtained responses from questionnaires sent to 5 selected NPA CEOs that are under the authority of NIB and SourceAmerica. After reviewing the written and verbal responses we developed a summary list of repeat comments. We further divided the comments into two categories which are (1) suggestions for improvement to the Program Fee process and (2) concerns with the Program Fee process. Those comments are as follows:

#### **1. Suggested opportunities to improvement:**

- A system to allow for adjustments to the Program Fee charged on contracts for products and services that have been on the procurement list for years. These contracts do not require as many resources as newer products and services are added to the list. Making the Program Fee more competitive with the market to decrease the limitation on the Program.
- There should be measurable and attainable performance measurements for the CNAs performance evaluations. If the performance is poor there should be an opportunity to correct it before it affects the CNAs Program Fee.
- The Program Fee should not be used for the Commercial sector.

#### **2. Areas of Concern:**

- There is no clear understanding why the Program Fee was recently reduced and there is lack of transparency with how the Program Fee is determined. The overall purpose of the Program Fee should be disclosed to the Commission, CNAs and NPAs.
- There is no transparency with the performance evaluation aspect of the Cooperative Agreement and how it is related to the Program Fee. There is a lack of understanding as to how the rating affects the Program Fee.
- Memo 11 has not been updated to cover the complexity of the new contracts that NPAs have today.
- There is no formal explanation or procedure the NPAs can use or give to the government customers on the Program Fee and use of the Program Fee.
- There is a lack of understanding and transparency in how the Program Fee is set up.

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**Appendix VII**

**Example of the Calculation of the Program Fee – Division vs. Multiplication**

	<b>Division</b>	<b>Multiplication</b>	<b>Difference</b>
<b>Sales Price</b>	\$1,000,000	\$1,000,000	-
<b>Program Fee Calculation</b>	$(1,000,000/0.9615)-1,000,000 = 40,041.60$	$1,000,000*.0385 = 38,500.00$	-
<b>Total Sales Price</b>	\$1,040,041.60	\$1,038,500.00	\$1,541.60
<b>Program Fee Percentage</b>	$40,041.60/1,040,041.60 = 3.85\%$	$38,500.00/1,038,500.00 = 3.71\%$	

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**Appendix VIII**

**ABILITYONE Program Organization**

