

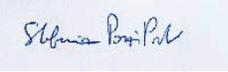


**Office of Inspector General**  
**Committee for Purchase from People**  
**Who Are Blind or Severely Disabled**  
**(U.S. AbilityOne Commission)**

November 15, 2022

MEMORANDUM

FOR: Jeffrey Koses  
Chairperson  
U.S. AbilityOne Commission

FROM: Stefania Pozzi Porter   
Inspector General  
U.S. AbilityOne Commission

SUBJECT: Top Management and Performance Challenges Report (TMPC) FY22

In accordance with the Reports Consolidation Act of 2000,<sup>1</sup> the Office of Inspector General (OIG) reports on the most significant management and performance challenges facing the U.S. AbilityOne Commission (Commission), for inclusion in the Commission's Performance and Accountability Report (PAR) for fiscal year (FY) 2022.

The Reports Consolidation Act requires that each agency's inspector general provide an annual summary perspective on the most significant management and performance challenges facing the agency, as well as a brief assessment of the agency's progress in addressing those challenges. The top challenges summarized in this document are based either on work conducted by the Office of Inspector General (OIG) or separate observations and discussions with senior leaders and staff at the U.S. AbilityOne Commission and other stakeholders.

In June of this year, the Commission published its Strategic Plan for Fiscal Years 2022–2026 (the Strategic Plan or Plan).<sup>2</sup> The Plan has four strategic objectives and directly engages top challenges identified in the OIG's 2021 TMPC report. In this year's report (2022 TMPC), OIG identified implementation of the Strategic Plan as the most pressing challenge facing the Commission, with previously identified challenges as subsets of it.

In addition to identifying the new challenge of Implementation of the Strategic Plan, OIG keeps in the report three separate, previously identified challenges. Program Compliance (as currently executed, before implementation of the new strategic plan, as well as new challenges as a result of the Strategic

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<sup>1</sup> Pub. L. No. 106-531.

<sup>2</sup> U.S. AbilityOne Commission's Strategic Plan for FY 2022–2026. June 30, 2022.

Plan)); Breakdowns in Internal Control; and Unimplemented OIG Audit Recommendations remain top challenges facing the Commission.

Because of the progress made by the Commission in addressing them, we have removed three of the top challenges identified in the 2021 report: Higher Level of Transparency Needed to Enhance Program Confidence; Implementation of Cooperative Agreements with CNAs, as they existed before the Commission issued its new Strategic Plan; and Program Erosion.<sup>3</sup>

As to the watch items identified in the 2021 report, OIG keeps Program Growth and Resulting Risk as a watch item in this 2022 TMPC report. Because of measures the Commission has undertaken, OIG has removed Accessibility, which was a Watch Item in the 2021 report.<sup>4</sup>

We thank you for your support of our role, and we look forward to working with the Commission and the AbilityOne stakeholders, as the OIG continues its oversight mission.

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<sup>3</sup> See Appendix C for background, progress made by the Commission, and OIG removal of them as a top challenge.

<sup>4</sup> See Appendix B for background, progress made by the Commission, and OIG removal of it as watch item.

# Top Management and Performance Challenges Report

## Introduction

In accordance with the Reports Consolidation Act of 2000,<sup>5</sup> the Office of Inspector General (OIG) reports on the most significant management and performance challenges facing the U.S. AbilityOne Commission (Commission), for inclusion in the Commission's Performance and Accountability Report (PAR) for fiscal year (FY) 2022.

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The OIG identified the top management and performance challenges (TMPC) for FY 2022 as:

- 1) Implementation of the Strategic Plan
  - a) Modernization and Enhancement of Oversight of NPA Compliance
  - b) Implementation of new Cooperative Agreements with Central Nonprofit Agencies
  - c) Successful Implementation of the Section 898 Panel Recommendations
  - d) Use of an Enterprise-wide Risk Management (ERM) Framework
- 2) Enhancement of Program Compliance  
(as currently executed, before implementation of the new Strategic Plan,  
as well as new challenges as a result of the Strategic Plan)
- 3) Breakdowns in Internal Control over Financial Management and Reporting
- 4) Growing List of Unimplemented OIG Audit Recommendations

## Appendices

Appendix A – Watch Item: Program Growth and Resulting Risk

Appendix B - Removal of Watch Items: Accessibility

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<sup>5</sup> Pub. L. No. 106-531.

Appendix C - Removal of Top Challenges:

- 1) Higher Level of Transparency Needed to Enhance Program Confidence
- 2) Implementation of Cooperative Agreements with CNAs  
(as they existed before the Commission issued its new Strategic Plan)
- 3) Program Erosion

Appendix D –898 Panel Recommendations for Commission action.

OIG provided a draft of this report to Commission management, whose comments on the Commission's progress in each challenge area have been considered and/or incorporated into this final version. We appreciate the Commission's ongoing support for the OIG's oversight mission.

## Background

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 now known as the U.S. AbilityOne Commission (Commission). The Commission has about 30 full-time employees<sup>6</sup> for the administration of the AbilityOne Program.

### About the U.S. AbilityOne Commission

The AbilityOne Program is administered by the U.S. AbilityOne Commission, the operating name of the Committee for Purchase from People Who Are Blind or Severely Disabled. The Commission is an independent Federal agency composed of 15 Presidential appointees: 11 represent Federal agencies, and four serve as private citizens who are knowledgeable about employment barriers facing people who are blind or have significant disabilities.

### About the AbilityOne Program

The AbilityOne Program facilitates the use of government procurement to provide employment in the United States for people who are blind or have significant disabilities. Approximately 40,000 individuals, including more than 2,500 veterans, are employed nationwide at approximately 450 nonprofit agencies (NPAs) from Maine to Guam. AbilityOne provided nearly \$4 billion in products and services to approximately 40 Federal government agencies in FY 2022.

The U.S. AbilityOne Commission recently issued its new Strategic Plan.<sup>7</sup> The plan is for Fiscal Years (FY) 2022-2026 and outlines four Strategic Objectives:

1. Transform the AbilityOne Program to expand competitive integrated employment (CIE) for people who are blind or have significant disabilities.
2. Identify, publicize, and support the increase of good jobs and optimal jobs in the AbilityOne Program.
3. Ensure effective governance and results across the AbilityOne Program.
4. Engage in partnerships to increase employment for people who are blind or have significant disabilities within and beyond the AbilityOne Program

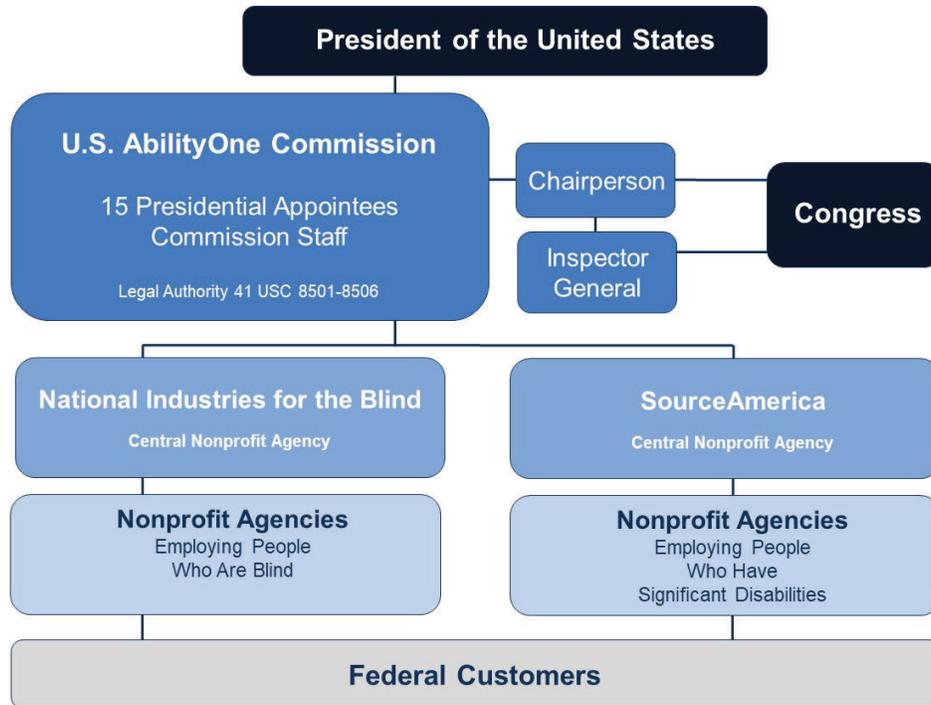
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<sup>6</sup> Thirty full-time employees at the end of FY22.

<sup>7</sup> U.S. AbilityOne Commission’s Strategic Plan for FY 2022–2026. June 30, 2022.

Figure 1:

## AbilityOne Program Organization



## **Top Management Challenge 1: Implementation of Strategic Plan**

In June of this year, the Commission published its Strategic Plan for Fiscal Years 2022–2026 (the Strategic Plan or Plan).<sup>8</sup> The Plan has four strategic objectives and directly engages top challenges identified in the OIG’s 2021 TMPC report. In this year’s report (2022 TMPC report), OIG identified implementation of the Strategic Plan as the most pressing challenge facing the Commission, with previously identified challenges as subsets of it.

Notably, the Commission’s Strategic Objective III “Ensure Effective Governance and Results Across the AbilityOne Program”—incorporates outcomes of OIG’s oversight work. Under Strategic Objective III, Outcome Goal 1, the Commission expressed its intent to “Address top management and performance challenges to improve the operation of the Commission, the CNSs, and the NPAs.”

### **a) Implementation of New Cooperative Agreements with CNAs**

The U.S. AbilityOne Commission’s mission, as outlined in its new Strategic Plan, requires work to be carried out collaboratively by the CNAs and the NPAs with the Commission.

To achieve the objectives of this plan – which is a dynamic and living document – the Commission will work collaboratively with its designated Central Nonprofit Agencies (CNAs), qualified nonprofit agencies (NPAs), and the full range of stakeholders representing people with disabilities to identify barriers to the creation of good jobs and optimal jobs in the Program and provide workable solutions to those barriers. The Commission is aware that some NPAs are further along the path set out in this plan than others. The Commission believes that other NPAs will progress along this path if they are provided the proper infrastructure, resources, and technical expertise. The Commission’s vision requires changes in the Commission’s approach to NPA compliance for the purpose of conducting both oversight and technical assistance within the same operational framework. This shift will require the CNAs’ steadfast commitment to support and achieve the goals of this plan.<sup>9</sup>

Because of the role of CNAs and NPAs outlined in the Strategic Plan, OIG highlights cooperative agreements as a subset of the new top challenge facing the Commission. Achieving the AbilityOne mission, as outlined in the new Strategic Plan, will require new and updated cooperative agreements.

### **b) “Modernize and enhance the oversight of NPA compliance with the strategic direction of the AbilityOne Program”**

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<sup>8</sup> U.S. AbilityOne Commission’s Strategic Plan for FY 2022–2026. June 30, 2022. [AbilityOne Strategic Plan FY 2022-2026 Final](#). The Commission has also published a summary of its Strategic Plan. [Highlights-AbilityOne Strategic Plan FINAL](#)

<sup>9</sup> Message from the U.S. AbilityOne Commission Chairperson, U.S. AbilityOne Commission’s Strategic Plan for FY 2022–2026. June 30, 2022. <https://www.abilityone.gov/commission/documents/AbilityOne%20Strategic%20Plan%20FY%202022-2026%20Final.pdf>.

In its 2021 TMPC, OIG identified Compliance as a top challenge. That challenge remains and is listed as Challenge No. 2 in this 2022 TMPC report and refers to compliance as currently executed. In its Strategic Plan, the Commission has identified Compliance as having new elements. These include creating “good jobs,” and where possible “optimal jobs” and delivering quality contract performance. These elements are described in greater detail below.

Under Strategic Objective III, Outcome Goal 1, Strategy 3, the Commission identified its need to “Modernize and enhance the oversight of NPA compliance with the strategic direction of the AbilityOne Program.” To achieve this Objective and Strategy, the Commission has established two Performance Measures:

**Performance Measure 5:** The Commission’s compliance team is provided with full and timely access to all reports and data from the CNAs’ technical assistance reviews and site visits of associated NPAs.

**Performance Measure 6:** The Commission’s compliance team has identified and presented to the Commission at least five recommendations to continue to implement rigorous documentation requirements while making compliance visits more beneficial for the Commission and the NPAs.

OIG will monitor the Commission’s progress in achieving these Performance Measure over the course of the next year and report back in the 2023 TMPC.

### **c) Successful implementation of Section 898 Panel Recommendations for Increased Accountability, Oversight, and Integrity in the Program**

In its Strategic Plan, the Commission specifically addresses the 898 Panel’s remaining recommendations for Commission implementation.

#### **Why This is a Challenge**

Section 898 of the National Defense Authorization Act for Fiscal Year 2017 established the 898 Panel with the goal of increased accountability, oversight, and integrity in the AbilityOne program. The Panel consisted of representatives, including the Office of the Secretary of Defense (DoD) and its DoD Inspector General (IG), the Chairperson for the U.S. AbilityOne Commission, and the U.S. AbilityOne Commission’s Inspector General as members. The Panel’s membership also consisted of senior leaders and representatives from the military service branches, Department of Justice, Commission, Department of Veterans Affairs, Department of Labor, the General Services Administration, and the Defense Acquisition University.

Section 898 of the National Defense Authorization Act for Fiscal Year 2017 (P.L. 114-328) required the Secretary of Defense to establish the “Panel on Department of Defense and U.S. AbilityOne Contracting Oversight, Accountability and Integrity” (“the Panel”). In December 2021, the Panel sunset when it issued its fourth and final annual report to Congress, culminating more than four years of effort including research, debate, and stakeholder engagement by a diverse Panel comprised of senior executives and staff from 10 Federal agencies.<sup>10</sup> Also, the final Report stated that a supplemental report would be sent to Congress on proposed amendments to JWOD and that the Commission led that interagency effort from May 2022 to August 2022.<sup>11</sup>

The primary mission of the Panel was to identify vulnerabilities and opportunities in the Department of Defense contracting with the AbilityOne Program and recommend improvements. The Panel goals include improving the experience of the Department of Defense as a customer. The Panel established subcommittees to fulfill its duties as determined by Section 898(c) and working on implementing the recommendations involves several Agencies and disciplines. The 898 Panel issued its fourth, and final, report in February 2022 to Congress.<sup>12</sup> The report provided progress on the implementation of the recommendations identified in the Panel’s previous three reports to Congress. This final report was the last report for the 898 Panel, except for a supplemental report to be issued by December 2022.

A challenge for the U.S AbilityOne Commission will be implementing the outstanding 898 Panel recommendations to improve oversight, accountability, transparency, and integrity in contracting with the AbilityOne Program. The majority of the recommendations require action by the U.S. AbilityOne Commission to establish or update policy, business practices, and regulations. Partnering with the Commission, multiple agencies represented in the 898 Panel have a part in the success of completing these recommendations. However, the AbilityOne Commission’s implementation of necessary measures remains vital to ensure the effective completion of the desired improvements, identified by the work of the 898 Panel.

### [Progress in Addressing the Challenge](#)

The 898 Panel was responsible for recommendations in seven areas of Congressional interest. The primary mission of the Panel was to identify vulnerabilities and opportunities in the Department of Defense contracting with the AbilityOne Program and recommend improvements through a Report to Congress. The Commission’s implementation of the recommendations to establish or update policy, business

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<sup>10</sup> Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity: Fourth and Final Annual Report to Congress (December2021)

[https://abilityone.oversight.gov/sites/default/files/reports/Fourth%20and%20Final%20898%20Report\\_0.pdf](https://abilityone.oversight.gov/sites/default/files/reports/Fourth%20and%20Final%20898%20Report_0.pdf)

<sup>11</sup> Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability and Integrity: Fourth and Final Annual Report to Congress

(December2021) [https://abilityone.oversight.gov/sites/default/files/reports/Fourth%20and%20Final%20898%20Report\\_0.pdf](https://abilityone.oversight.gov/sites/default/files/reports/Fourth%20and%20Final%20898%20Report_0.pdf) (p. 26).

<sup>12</sup> <https://abilityone.oversight.gov/reports/2022/898-panel-issues-fourth-and-final-annual-report-congress>

practices, and regulations, or to recommend Congressional amendment of the Javits-Wagner-O'Day (JWOD) Act will have a positive impact on the transparency of the AbilityOne Program. The Commission also worked with an Interagency Task Force in addressing the 898 Panel recommendations. The final 898 Report stated that a supplemental report would be sent to Congress on proposed amendments to JWOD and the Commission led that interagency effort from May 2022 to August 2022.

We have included a table of 898 panel recommendations in Appendix D which also contains the table the Commission prepared for inclusion in the 898 supplemental report to Congress. The Commission is continuing to work to implement and integrate the recommendations to increase the accountability, oversight, and integrity of its Program. Execution of these recommendations will positively impact the employment opportunities for individuals who are blind or have other significant disabilities.

The 898 Panel provided increased opportunities for outreach between the Commission, the AbilityOne program, and DoD, including through program visits, meetings with DoD customers, and designing a communication initiative for the 898 Panel recommendations for the CNAs and the NPAs. This included town halls and webcasts hosted or sponsored by the Commission, and commitment and collaboration of the Panel members and subcommittees to engage CNAs' perspectives and input to improve the AbilityOne Program.

During the past year, the Commission has worked extensively to facilitate completion of the open recommendations of the 898 Panel. Several of the Panel's open recommendations were included in a mini-report attached to its fourth and final report to Congress. These recommendations required action by the Commission to establish or update policies, business practices, and regulations that will modernize the AbilityOne Program, and fulfill the mission to employ people who are blind or have significant disabilities. The Panel noted in its final report that the Commission requires a higher level of funding in the future to fully implement and sustain these changes to the AbilityOne Program. The funding would allow the Commission to further strengthen oversight, accountability, and integrity with respect to the program's DoD contracts. In the meantime, this TMPC report highlights several accomplishments and notes remaining areas for improvement.

One of the 898 Panel subcommittees, the AbilityOne IG subcommittee, made recommendations that additional training be conducted, and that training content be regularly updated by the U.S. AbilityOne Commission in coordination with the Defense Acquisition University (DAU). The Commission has successfully implemented this recommendation thanks to the creation of the content for the Defense Acquisition University (DAU) acquisition training program, and, per the recommendation, the Commission also is working to continuously update the AbilityOne training material to ensure the training materials are current.

As a result of its initial work, the 898 Panel first developed 41 recommendations. Some of the recommendations were implemented through policy issuances from the Department of the Defense and

the AbilityOne Commission. When the Panel issued its fourth and final report,<sup>13</sup> half of its consolidated 24 recommendations were tracked as complete, and the remaining 12 were in various stages of implementation. While the Defense Acquisition University (DAU) and the Office of Defense Pricing and Contracting (DPC) were also directed to complete certain actions via mini-reports in the Panel’s final report, each of the 12 open or partially completed recommendations required some Commission support or input. Three of the closed recommendations required ongoing support from the Commission.<sup>14</sup>

The actions taken to date are improving the oversight, accountability, and transparency in contracting with the AbilityOne Program network, increasing employment opportunities, and should result in improved customer experience for the DoD with the AbilityOne Program.

### **d) Use of an Enterprise Risk Management (ERM) framework to evaluate, prioritize, and track corrective action plans.**

The new Strategic Plan states that the Commission will aggressively deploy its Enterprise Risk Management (“ERM”) framework, established in 2020, to evaluate, prioritize, and track corrective actions.<sup>15</sup>

#### **Why This is a Challenge**

In previous Top Management Challenges Reports, the Commission did not have a formal enterprise-wide program for organizational risk and, as a result, was unable to effectively prioritize and manage risks. Since 2017, the OIG identified a lack of risk management as a serious management challenge. In July 2016, OMB issued an update to Circular A-123 requiring federal agencies to implement Enterprise Risk Management (ERM) procedures so executives can ensure the achievement of the agency’s strategic objectives. OMB Circular A-123 provides guidance to Federal Managers on improving the accountability and effectiveness of Federal programs and operations by identifying and managing risks, establishing requirements to assess, correct, and report on the effectiveness of internal controls.

In July 2020, OIG issued a management alert to the Agency to assist with progress in risk management.<sup>16</sup> In the management alert, OIG concluded that the lack of progress by the Commission in implementing an ERM framework coupled with open audit recommendations leaves the Commission vulnerable to fraud and mismanagement of resources, and diminishes reasonable assurance that the AbilityOne program is being managed and administered efficiently, effectively, and in compliance with applicable laws and regulations. While the Commission has taken some steps toward implementing an ERM framework,

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<sup>13</sup> See Appendix D.

<sup>14</sup> See Appendix D.

<sup>15</sup> U.S. AbilityOne Commission’s Strategic Plan for FY 2022–2026. June 30, 2022.

<sup>16</sup> [https://www.oversight.gov/sites/default/files/oig-reports/Management%20Alert\\_U.S.%20AbilityOne%20Commission%20OIG%2020-05.pdf](https://www.oversight.gov/sites/default/files/oig-reports/Management%20Alert_U.S.%20AbilityOne%20Commission%20OIG%2020-05.pdf)

further development of it are needed to enable the Commission to effectively respond to both expected and unexpected events. Having an ERM is beneficial because it addresses a fundamental organizational principle: the need for information about major risk to flow both vertically (i.e., up and down) and horizontally (i.e., across business functions). As the Commission continues to explore opportunities to increase resources as addressed in the Agency’s Congressional Budget Justification, prioritizing to improve risk planning will better help achieve the intended benefits of the program.

### Progress In Addressing the Challenge

Chairperson Koses, together with the Commission members, made tremendous strides in creating a commissioner-led subcommittee on enterprise risk management and auditing. The Commission hired a Chief Financial Officer in 2021. In this role, the CFO has addressed and instituted stronger controls and begun building the ERM. In 2022, the CFO engaged in efforts in the development and execution of Enterprise Risk Management Planning and made strides in strengthening the Commission’s Management Internal Controls Program. These efforts address the establishment of an Interim Management Internal Control Program policy<sup>17</sup>, the completion of the Commission’s Risk Profile, and the identification and finalization of 21 distinct risk mitigation plans for execution. Furthermore, according to the Commission, it has 1) tracked and reported quarterly progress on 32 risk mitigation plans, 2) completed Management Internal Control Program in accordance with the Federal Managers’ Financial Integrity Act (FMFIA), and 3) conducted an FY 2022 Management Control Review of 119 Agency controls - one-third of the total 336 controls - and determined Agency internal controls were effective. With the continued development, management, execution, and re-evaluation of the Commission’s ERM and Risk Profile, the Commission has an increased ability of mitigating and avoiding risks.

In its Strategic Plan, the Commission has identified using an “Enterprise Risk Management (ERM) framework to evaluate, prioritize, and track corrective action plans.” To achieve this Objective and Strategy, the Commission has established one Performance Measure:

**Performance Measure 1:** The Commission has used the ERM system to identify risks and has established and tracked corrective action milestones.

OIG will monitor the Commission’s progress in achieving this Performance Measure over the course of the next year and report back in the 2023 TMPC.

## Top Management Challenge 2: Enhancement of Program Compliance (as currently executed, before implementation of the new Strategic Plan, as well as new challenges as a result of the Strategic Plan)

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<sup>17</sup>[https://www.abilityone.gov/laws\\_regulations\\_and\\_policy/documents/Policy%2051\\_701%20Interim%20Management%20Internal%20Control%20Program%20Policy%20\(2%20Feb%202021\)%20signed.pdf](https://www.abilityone.gov/laws_regulations_and_policy/documents/Policy%2051_701%20Interim%20Management%20Internal%20Control%20Program%20Policy%20(2%20Feb%202021)%20signed.pdf)

## Why This Is a Challenge

Pursuant to 41 CFR Part 51-4, the Commission's Oversight and Compliance Office assesses the 450 AbilityOne NPAs, with their 40,000 employees, for compliance with AbilityOne program requirements. Inspections by the Commission's Compliance office include verification of the NPA's direct labor hour ratios, eligibility requirements (i.e., NPA-provided documentation regarding the employee's significant disability), and company health and safety standards.

As indicated in previous Top Management and Performance Challenges Reports, the Commission had not prioritized the allocation of sufficient resources for executing its compliance responsibilities. This included full policy guidance, procedural guidance, conducting routine inspections, providing comprehensive reviews of annual certifications, and training the NPAs participating in the AbilityOne Program.

Without allocating additional resources to its Office of Compliance, the Commission cannot meet its compliance mission. Since 2011 the Compliance Office has not performed meaningful compliance visits to NIB-affiliated NPAs. Although the Compliance Office delegates certain compliance duties to the CNAs, this lack of direct oversight of the approximately 60 NPAs under NIB poses a risk to program-wide compliance.

The Commission's Oversight and Compliance office often performs its compliance visits of the NPAs along with the CNAs SourceAmerica and NIB.

Moreover, our audit of the Compliance Program<sup>18</sup> found that the Commission's procedures to monitor program compliance are insufficient. Specifically, Commission conducted four compliance visits during FY 2019, none during FY 2020, and in late FY 2021 began conducting compliance visits jointly with the CNAs. In addition, the Commission's procedures for reviewing compliance transactions are not documented, they do not request sufficient information from CNAs to monitor compliance, and weaknesses in the Commission's approach to NPA compliance visits reduces overall effectiveness.

The audit findings present an opportunity for the Commission to improve the quality of compliance monitoring, which will help identify risks for fraud, as reflected in civil fraud settlements with the Department of Justice by Goodwill Memphis, Wisconsin-based Industries for the Blind and Visually Impaired, and CW Resources, Inc.<sup>19</sup> Essential and basic areas of compliance monitoring of program integrity are still in progress. For instance, NPAs expressed concerns in fulfilling compliance requirements, given the absence of revised and finalized compliance guidance, procedures, and practices by the Commission. The Commission abandoned the completion of the compliance manual and issued new or revised compliance policies but not procedures. In addition, our audit of the Compliance Program identified that some policies are still outdated, while others are incomplete and/or unclear.

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<sup>18</sup> OIG announcement of initiation of Audit of the Compliance Program. <https://www.oversight.gov/node/102316>

<sup>19</sup> <https://www.justice.gov/usao-wdtn/pr/memphis-goodwill-industries-inc-will-pay-150000-united-states-claimswere-violation>; <https://www.justice.gov/opa/pr/wisconsin-based-nonprofit-pay-19-million-settle-allegations-falseclaims-and-kickbacks>; <https://www.justice.gov/usao-ct/pr/connecticut-employment-contractor-pays-600k-resolvefederal-false-claims-act-allegations>.

## Progress in Addressing the Challenge

The Commission has committed resources to the Office of Oversight and Compliance through the appointment of a Director, a Compliance Inspector, and two Vocational Rehabilitation Specialists. With the addition of the two Vocational Rehabilitation Specialists, the Office of Oversight and Compliance had six FTEs through most of FY2022. In summer 2022, one of the Vocational Rehabilitation specialists was promoted to a Workforce Development Specialist and moved to a new team designed to implement the revised compliance approach described below.

The Commission reported that its Oversight and Compliance Office staff conducted more than 200 compliance inspections in FY 2022, about 50 percent on-site and 50 percent virtually. The Commission also stated that they participated in numerous trainings, feedback and CNA/NPA executive dialogue sessions with nonprofit agencies at compliance training symposia hosted by NIB and other conferences hosted by SourceAmerica in May 2022 as well as the NCSE in July 2022.

### Modified Compliance Challenge

In its new FY 2022–2026 Strategic Plan, as described by the Commission staff, the Commission envisions an entirely new approach for compliance, which includes the following:

- Setting forth expectations that NPAs will meet new elements of compliance beyond the NPA’s appropriate documentation of a qualifying disability and achieving the mandated 75% Direct Labor Hour (DLH) DLH ratio. These include the expectation that every AbilityOne job will be a “good job” defined as follows:
  - 1) Employees are paid competitive wages and benefits
  - 2) Employees are covered under all employment laws
  - 3) The NPA performs job customization for each entering employee with a qualifying disability
  - 4) The NPA does a person-centered employment plan for each employee with a qualifying disability

The Strategic Plan also encourages NPAs to create “optimal jobs” whenever possible within the DLH ratio constraints of the statute. An optimal job has the four components of a good job, but is also performed in an integrated setting in which people with and without disabilities work together doing the same or similar jobs.

The Strategic Plan also includes a heightened focus on contract performance as part of its compliance expectations. Compliance reviews will therefore focus on whether the NPA has provided quality services and products that has resulted in customer satisfaction.

The Commission staff and Commissioners have indicated to OIG that a number of NPAs have not traditionally focused on job customization, employment plans, and outward placements for their employees with disabilities.

Compliance as newly envisioned in the Strategic Plan will include a determination of an NPA's technical capacity and financial resources for these new compliance expectations.

The Strategic Plan notes that the CNAs must actively assist their NPAs in achieving the results expected by the Commission. These expectations for the CNAs will be set forth in the revised Cooperative Agreements discussed above.

Commission staff has informed OIG that the Commission is in the process of updating its compliance policies to convey the new expectations on NPAs with regard to achieving good jobs, and optimal jobs where possible, and with regard to contract performance. It is also updating compliance guidance for documenting a qualifying disability that will reduce burdens on the NPAs and allow them to focus on the new compliance expectations. The revised Cooperative Agreements with the CNAs, as described above, will be used to ensure that the CNAs help NPAs succeed under this new approach.

The updated expectations on the NPAs and the CNAs reflect a significant modernization of the AbilityOne program. This modernization responds to many of the concerns raised during the work of the 898 Panel. A top management challenge for the Commission will be to successfully implement the new direction it has set out for the Program. Doing so will require additional staff expertise and financial resources. OIG will monitor the success of the Commission within the agency's current financial resources.

### **Top Management Challenge 3: Breakdowns in internal control over financial management and reporting (formerly named, in the 2020 Report, Addressing Anti-deficiency Violations and Strengthening Financial Management)**

#### **Why This Is a Challenge**

Sound financial management is vital for federal agencies to accomplish their missions in an effective and efficient manner. Yet, the Commission faces significant challenges related to internal control over its financial management operations. Specifically, in their fiscal year 2021 financial statement audit report, the IPA firm Allmond & Company, LLC (Allmond) noted that the Commission's financial statements presented fairly, in all material respects, the financial position of the Commission as of September 30, 2021 and 2020 (unmodified or "clean" opinion).<sup>20</sup> However, the auditors also found serious internal control breakdowns that led to the issuance of six findings and 23 recommendations. The findings included:

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<sup>20</sup> <https://www.oversight.gov/sites/default/files/oig-reports/CPFBSD/FSA-2021-Financial-Statement-Audit-Transmittal-Letter-and-ReportFINAL.pdf>

- One material weakness and four significant deficiencies in internal control over financial reporting, and
- One reportable noncompliance with applicable provisions of laws, regulations, and contracts tested.

The FY2022 FSA report is in draft as of the date of this report and contains at least nine separate findings that include, among other things, breakdowns in internal controls that are either material weaknesses or significant deficiencies in the design and effectiveness of the controls.

Regarding the reportable noncompliance, Allmond determined in previous audits that the Commission potentially violated the Antideficiency Act (ADA) in 17 separate instances. During the 2021 financial statement audit, Allmond found that the Commission verified that the following violations of the ADA occurred during fiscal years (FYs) 2019 and 2020<sup>21</sup>, as follows:

FY 2019:

- Total obligations of \$1,158, 704.35 were impermissibly charged to the Commission’s FY 2018 and FY 2017 Treasury Account Symbols (TAS) that should have been recorded to the Commission’s FY 2019 TAS.
- An over-obligation of \$1,083,532.21 of the FY 2019 TAS would have resulted if the erroneous obligations had been charged against the correct TAS.

FY 2020:

- Three new obligations totaling \$40,885.52 were created in the agency’s FY 2017, FY 2018, and FY 2019 Treasury Account Symbols (TAS) during FY 2020 during the payment process.
- Invalid upward adjustments to prior year obligations totaling \$120,407.25 were recorded to the agency’s FY 2018 TAS.
- Two manual journal vouchers totaling \$43,965.00 were recorded to reclassify transactions from the FY 2020 TAS to the FY 2018 TAS for FY 2018 employee bonuses that were not obligated prior to 09/30/2018 and were to be paid during FY 2020.

To date, these verified violations have not been formally reported to the President and Congress in accordance with 31 USC §1517(b), as they are currently with OMB.

Moreover, we reviewed the Commission’s financial and award data submitted for publication on USASpending.gov for the second quarter of fiscal year 2021, and the applicable procedures, certifications, documentation, and controls to achieve this process as part of a statutorily mandated audit of compliance with the provisions of the Digital Accountability and Transparency Act of 2014 (DATA Act).<sup>22</sup> Our audit found that the Commission did not generally comply with the DATA Act for 2021.<sup>23</sup> Specifically, our

<sup>21</sup> There were no potential ADAs found in FY2021.

<sup>22</sup> Pub. L. No. 113-101 (2014)

<sup>23</sup> <https://www.oversight.gov/sites/default/files/oig-reports/CPFBSD/Final-Report-US-AbilityOne-Commission-DATA-Act-Audit-2022-03-17.pdf>

audit determined that the Commission submitted incomplete, but accurate, financial and award data for its second quarter of fiscal year 2021's publication on USASpending.gov and did not have effective internal controls over its DATA Act submission. For instance, the audit identified the Commission did not have policies and procedures in place that established roles and responsibilities for its DATA Act process.

In addition, the Inter-Agency Agreement (IAA) with the Commission and its federal shared service provider (FSSP), the United States Department of Agriculture (USDA), did not discretely document the roles and responsibilities associated with the DATA Act. The lack of roles and responsibilities allowed errors/warnings to exist within the Commission's DATA Act submission as reconciliations were not established. Furthermore, we identified:

- The Commission lacked an agency-specific Data Quality Plan (DQP) that considered incremental risks to data quality in Federal spending data and controls to manage risks,
- Inaccuracies in certain data elements submitted as these data elements did not match source documentation, and
- Several instances in which the submission of procurement awards to Federal Procurement Data System – Next Generation (FPDS-NG) was untimely.

Overall, these control breakdowns hindered the Commission's Senior Accountable Official (SAO) from providing reasonable assurance that the agency's DATA Act file's submission was valid and reliable.

### Progress in Addressing the Challenge

The Commission has made progress with this challenge by continuing a Commission-member-led subcommittee on enterprise risk management. Moreover, the Commission hired a new Chief Financial Officer (CFO) in 2021, and, in this role, he has been working to address the ADA violations and has instituted additional controls over funds management, obligations, and payments with the goal of preventing future ADA violations and providing CFO guidance about it. In March 2021, the Commission submitted a draft ADA violations' report to the Office of Management and Budget (OMB). In August 2021, OMB requested an update and revision to the draft report. The Commission's draft of the ADA violations' report to the President is under review by the OMB Examiner. No additional actions are yet required of the Commission, pending review of the Commission's draft report by the OMB examiner.

## Management Challenge 4:

**The list of unimplemented OIG audit recommendations will continue to grow significantly without an increased effort to implement corrective actions and strengthen Program controls.**

### Why This Is a Challenge

The Commission is faced with the challenge of implementing a list of OIG audit recommendations that has grown at a compound annual growth rate of almost 25 percent since the OIG first issued

recommendations in 2017. Moreover, each open recommendation presents 1) an unmitigated risk to the Commission's achievement of its goals and strategic objectives and 2) an unseized opportunity to improve the Program's performance. As of September 30, 2022, there are 70 open recommendations, 10 of which were reported as implemented by management but remain open due to inadequate corrective actions and supporting documentation.<sup>24</sup> While there has been an increased focus on remediating open recommendations and improving program controls, the number of recommendations continue to grow at an alarming rate.

### Progress In Addressing The Challenge

The Commission has taken positive steps to foster improved recommendation remediation. For example, the Commission assigned the CFO, the CIO, and the PMO Director as Audit Follow-Up Officials (AFOs) responsible for working with OIG on resolving the open OIG audit recommendations affecting their respective areas. Recommendation follow-up is an integral part of good management and is a shared responsibility of agency management and auditors. To that end, the OIG established a process to provide audit recommendation tracking, assessment, and reporting services. As part of this process, the OIG monitors corrective actions taken by Commission staff as well as assesses supporting evidence provided in response to recommendations to determine if the actions and evidence are sufficient to support recommendation closure. We also established two new AFOs from the Business Operations office and the Oversight and Compliance office in order to improve accountability for as well as timeliness of audit recommendation corrective actions. The establishment of the two new AFOs enabled our office to realign 21 open audit recommendations, which were previously being tracked and managed by the PMO, to other Commission offices that are responsible for the audit subject areas and, as such, are better positioned to ensure implementation of the corresponding audit recommendations.

Corrective action by the Commission on deficiencies identified in OIG engagements led to the closure of 12 recommendations (8 for the CFO and 4 for PMO) since the 2021 TMPC report.

The Commission should continue to devote attention to address the outstanding OIG audit recommendations in efforts to ensure that risks are mitigated, and adequate internal controls are identified, documented, and implemented. The OIG will continue to promote ongoing and recurring discussions with management to help focus attention on current processes and assess actions taken by the Commission to close out remaining recommendations.

## Conclusion

In accordance with the Reports Consolidation Act of 2000, the Office of Inspector General (OIG) reports on the most significant management and performance challenges facing the U.S. AbilityOne Commission (Commission), for inclusion in the Commission's Performance and Accountability Report (PAR) for fiscal

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<sup>24</sup> [Quarterly Audit Recommendation Status Report \(Appendix E\)](#).

year (FY) 2022.

The OIG identified the top management and performance challenges (TMPC) for FY 2022 as: 1. Implementation of the Strategic Plan with subset challenges as Modernization and Enhancement of Oversight of NPA Compliance; Implementation of new Cooperative Agreements with Central Nonprofit Agencies; Successful Implementation of the Section 898 Panel Recommendations; Use of an Enterprise-wide Risk Management (ERM) Framework. 2. Enhancement of Program Compliance (as currently executed, before implementation of the new Strategic Plan, as well as new challenges resulting from the new Strategic Plan). 3. Breakdowns in Internal Control over Financial Management and Reporting. 4. Growing List of Unimplemented OIG Audit Recommendations

Because of the progress made by the Commission in addressing them, we have removed three of the top challenges identified in the 2021 report: Higher Level of Transparency Needed to Enhance Program Confidence; Implementation of Cooperative Agreements with CNAs, as they existed before the Commission issued its new Strategic Plan; and Program Erosion.<sup>25</sup>

As to the watch items identified in the 2021 report, OIG keeps Program Growth and Resulting Risk as a watch item in this 2022 TMPC report. Because of measures the Commission has undertaken in addressing it, OIG has removed Accessibility, which was a Watch Item in the 2021 report.<sup>26</sup>

We thank you for your support of our role, and we look forward to working with the Commission and the AbilityOne stakeholders, as the OIG continues its oversight mission.

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<sup>25</sup> See Appendix C for background, progress made by the Commission, and OIG removal of them as a top challenge.

<sup>26</sup> See Appendix B for background, progress made by the Commission, and OIG removal of it as watch item.

## Appendix A: Watch Item

### Watch Item

#### AbilityOne Program Growth and Resulting Risk

Pursuant to efforts performed by the AbilityOne Commission led by Chairperson Jeffery Koses, a memorandum dated October 30, 2020, OMB’s Office of Federal Procurement Policy (“OFPP”),<sup>27</sup> directed agencies across the federal government<sup>28</sup> to designate an AbilityOne representative (“ABOR”) whose job it is to promote federal procurement in compliance with AbilityOne contract sourcing requirements. The OFPP memo also encourages each agency to pledge to increase its percentage of spend on AbilityOne products and services above its FY 2020 baseline and, to the extent feasible, make a minimum pledge equal to at least 1% of the total amount of funds obligated for contracts entered into with the agency during the fiscal year, with a further goal of increasing spend to 1.5% in FY 2022. As of November 5, 2021, 19 CFO Act agencies have named ABORs, and 12 agencies have made pledges to increase their AbilityOne utilization.<sup>29</sup> The Commission anticipates that the ABOR Program will increase AbilityOne contracts, and with growth comes increased risk. Accordingly, OIG keeps the AbilityOne Program’s growth on a watch list as a potential, reportable challenge for the Commission in this 2022 report.

OIG also understands that a priority of the Commission is first to see evidence that the NPAs are implementing what is needed to offer good jobs, as defined in the strategic plan. This is consistent with the language that the plan’s outcome goals, strategies and performance measures all clearly communicate the Commission’s direction and resource prioritization.

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<sup>27</sup> OMB Memorandum entitled “Increasing the Participation of Americans with Disabilities in Federal Contracting,” dated October 30, 2020.

<sup>28</sup> The memorandum applies to the 24 agencies named in the Chief Financial Officers Act, Pub. L. No. 101-576 (November 15, 1990).

<sup>29</sup> U.S. AbilityOne Commission’s Comments to OIG’s TMC, “Points for Consideration Top Management Challenges,” dated November 5, 2021.

## Appendix B: Removal of Watch Items

### Removal of 2021 Watch Item: Accessibility

In the OIG’s 2021 Top Management Challenges Report, the OIG introduced an emerging challenge regarding the existence of appropriate controls (e.g., knowledge, processes, and resources) to ensure accessibility and reasonable accommodations for people who are blind or have significant disabilities. As a program whose sole purpose is to provide employment opportunities for people with disabilities, it is imperative that the agency understands and utilizes best practices in accessibility and reasonable accommodation. In an effort to address the challenge of accessibility, the Commission staff established a cross-functional Accessibility Council including management and administrative personnel, a vocational rehabilitation specialist, and information technology staff. This internal focus on improving digital accessibility was augmented by contractors with the necessary technical skills to provide functional hardware and software solutions to the agency’s adaptive technology users. The Commission also leveraged the skills and abilities of the Commission’s Accessibility Council, to which they have also been directed to serve as the agency’s Diversity, Equity, Inclusion, and Accessibility (DEIA) team. The DEIA team developed the Commission’s first-ever DEIA plan. The OIG has personally experienced the Commission’s level of attention and implementation of increased efforts for accessibility awareness and product output. The Commission worked directly with the OIG to ensure that all OIG publications and presentations were 508-compliant.

In light of the above-described efforts by the Commission, OIG removes the 2021 watch list item of “Accessibility.”

## Appendix C: Removal of Challenges

### Removing 2021 Management Challenge 6: Higher Level of Transparency Needed to Enhance Program Confidence

Over the last reporting period, the Commission has made significant progress in addressing public outreach. Because the Commission addressed the challenge successfully, OIG is removing it from the report. The Commission holds public meetings regularly four times in a calendar year, and in FY 2022, the Commission held three public meetings virtually, on the Government Zoom platform. The Commission announced the public meetings in the Federal Register and included public engagement sessions where attendees had an opportunity to ask questions, make suggestions, and comment on all aspects of Commission programs. The public meetings' migration to a virtual platform, in addition to the Commission's outreach and engagement efforts, helped boost attendance at the virtual meetings by 6-fold (from approximately 50 to 300 attendees<sup>30</sup>).

Since taking on the Chairperson role at the end of 2020, Jeffrey Koses brought innovation to the Commission's way of doing business. The Chairperson created Commissioner-led subcommittees on enterprise risk management and auditing, performance management, and competition (which later became the Policy and Regulation subcommittee), which introduce innovation and advance transparency. The Commission-led subcommittee system increases open dialogue among the members (the Commissioner) and generates solutions. Subcommittees have the goal of completing initiatives. The Commission regularly published the Commission's public meetings in the Federal Register.

In 2021, four (4) new private citizen Commission members were appointed by the President and were introduced during a public Commission meeting in August 2021. Subsequently, the newly composed Commission conceived its new Strategic Plan and publicly requested comments on its draft by posting it to its website and in the Federal Register, on [www.Regulations.gov](http://www.Regulations.gov), on March 18, 2022. Also, the Commission effectively used the formulation of the Strategic Plan as an opportunity for community engagement and soliciting public comment during the notice and comment period, as announced in the Federal Register.<sup>31</sup> The Commission then held town hall meetings with NPAs and other stakeholders. The Commission also held two listening sessions, one with organizations advocating for the disabled and civil rights and one with self-advocates, including some with experience working on AbilityOne contracts. In June of 2022, the Commission finalized and published its Strategic Plan for Fiscal Years 2022–2026.<sup>32</sup>

On January 20, 2022, the Commission issued its Equity Action Plan, which included a commitment to expand public engagement and transparency. According to the Equity Action Plan, "The Commission began to expand public engagement to increase opportunity for the disability community and other key stakeholders to participate in Commission public meetings. Attendance at the Commission's virtual

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<sup>30</sup> U.S. AbilityOne Commission, Equity Action Plan, p. 3 (January 20, 2022).

<sup>31</sup> 87 Fed. Reg. 15,412 (March 18, 2022).

<sup>32</sup> [FY 2022-2026 Strategic Plan \(abilityone.gov\)](https://www.abilityone.gov/fy-2022-2026-strategic-plan).

October 7, 2021, regular quarterly public meeting represented a 500% increase in attendance compared to pre-March 2020 public meetings (approximately 300 attendees versus approximately 50 attendees).”<sup>33</sup>

The Commission has taken extra steps to increase transparency, such as making the Commission’s proposed rules and all public comments available in the Federal Register and on [www.regulations.gov](http://www.regulations.gov). During the pandemic, the Commission has taken steps to increase outreach with stakeholders in its COVID-19 efforts. For instance, the Commission initiated an information exchange with the CNAs on a real-time basis with Federal customers and other stakeholders. In addition, the Commission launched a COVID-19 page on <https://www.abilityone.gov/covid19.html> that provides the Commission’s pandemic guidance, communications, and other topics involving the global pandemic. The Commission utilized social media, specifically Facebook, Instagram and LinkedIn accounts to communicate about Commission events and activities, including the new Strategic Plan and the end of use of subminimum wages on AbilityOne contracts. As an example, from December 2, 2016, through June 29, 2022 the Commission posted no content on the agency’s public Facebook or LinkedIn feeds. Starting June 29, 2022, and through the date of this report, the Commission had 29 posts on those platforms. The content included topics from announcing the Commission's Strategic Plan, to public meeting’s material, and other relevant news. The increase in posts represents one aspect of the Commission's outreach strategy. The Commission has also taken a forward stance with press releases for the announcement of the new private citizen Commissioners and changes in senior staff.

The 898 Panel was responsible for recommendations in seven areas of Congressional interest. The primary mission of the Panel was to identify vulnerabilities and opportunities in the Department of Defense contracting with the AbilityOne Program and recommend improvements through a Report to Congress. The Commission’s implementation of the recommendations to establish or update policy, business practices, and regulations, or to recommend Congressional amendment of the Javits-Wagner-O’Day (JWOD) Act will have a positive impact on the transparency of the AbilityOne Program. The Commission also worked with an 898 Panel’s Interagency Task Force work from May to August 2022. See Appendix D.

The 898 Panel provided increased opportunities for outreach between the Commission, the AbilityOne program, and DoD, including through program visits, meetings with DoD customers, and designing a communication initiative for the 898 Panel recommendations for the CNAs and the NPAs. This included town halls and webcasts hosted or sponsored by the Commission, and commitment and collaboration of the Panel members and subcommittees to engage CNAs’ perspectives and input to improve the AbilityOne Program.

A House Report<sup>34</sup> points to questions raised by Congress about language in the Cooperative Agreements

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<sup>33</sup> U.S. AbilityOne Commission, Equity Action Plan, p. 3 (January 20, 2022).

<sup>34</sup> House Report. *See also* Joint Explanatory Statement to Consolidated Appropriations Act, FY 2022, Pub. L. No 117-103, Division H, Title IV, p. 139.

between the Commission and the CNAs, requiring the CNAs to notify in advance and report to the Commission any meetings with key stakeholders, including with Congressional members and staff. OIG reports that the Commission has removed from each of the CNAs' Cooperative Agreements the requirement to provide notification of significant meetings.

To help accomplish its regulatory agenda, the Commission has improved staffing in its Office of Counsel, from one to two attorneys and recently announced the selection of a third attorney who is to begin in mid-November 2022.

Overall, the Commission has implemented a system now in place that includes public meetings, town halls, publications of notices and requests for comments in the Federal Register, a broader email list for communications, the 898 panel-related interagency working group which will continue for purposes of collaboration and transparency with other government agencies, and personal communications with disability advocates.

For all the reasons above, OIG removed transparency from the top management challenges facing the Commission.

### Removing 2021 Management Challenge 8: Implementation of Cooperative Agreements with CNAs (as they existed before the Commission issued its new Strategic Plan)

In the FY22 markups of both the House and Senate, the proposed appropriations contained language expressing the Legislators' concerns over the Commission's Cooperative Agreements:

*“The Committee is encouraged by the steps the Commission has taken to address concerns regarding the oversight of the central nonprofit agencies [CNA], the independent contracted organizations which administer the program. The Committee is concerned that CNAs are required to report to the AbilityOne Commission prior to any significant meetings, including congressional oversight meetings, and directs the agency to remove this requirement from the CNA cooperative agreements. The Committee for Purchase From People Who Are Blind or Severely Disabled shall submit in an electronic format quarterly reports on CNA Fees and CNA Expenditures, due no later than 60 days after the end of the fiscal quarter, to the Committees on Oversight and Government Reform and Education and the Workforce of the House of Representatives, Committees on Homeland Security and Governmental Affairs and Health, Education, Labor, and Pensions of the Senate, and Committees on Appropriations of the House of Representatives and the Senate.”*  
*Emphasis added.*

Addressing the Congressional directive referenced above, in the December 17, 2021, and May 3, 2022, Cooperative Agreements (respectively between SourceAmerica and National Industries for the Blind), the Commission has removed the requirement that CNAs provide written notice to the Commission

at least ten business days in advance of significant meetings.<sup>35</sup> Prior to this revisions, the notice requirement applied to significant meetings, which included meetings with key stakeholders such as Congressional members and staff and the White House and Executive Office of the President.

The Cooperative Agreements include the Commission’s requirements for timeliness and accuracy in the CNAs’ reporting submissions, requests for Procurement List or pricing transactions. The Cooperative Agreements have Quality Assurance Surveillance Plans that measure the timeliness and accuracy in accordance with specified standards. Additionally, the Cooperative Agreements address the AbilityOne Program fee ceiling determination and implementation. In accordance with the Consolidated Appropriations Act of 2016, the Cooperative Agreements require program fees and expenditures to be disclosed to Congress on a quarterly basis.

Because of the progress made by the Commission in addressing the challenge, OIG removes Implementation of Cooperative Agreements with CNAs as a top challenge, as identified in the 2021 TMPC report.

On another note, in this 2022 TMPC report, OIG identifies Implementation of new cooperative agreements with the CNAs as a subset of the top challenge facing the commission: Implementation of the New Strategic Plan (see challenge 1 at the beginning of this report).

## Removing Management Challenge 9:

### Program Erosion

#### Why This Is a Challenge

During the last five reports, since 2017, we identified and presented the concept of erosion of statutory program authority as a challenge to ensure this valuable program has the resources and support it needs to grow and increase the employment of people who are blind or have other significant disabilities. The legal framework for the AbilityOne Program was created in 1938 and amended in 1971. Since then, it has not had a reauthorization or modernization. Since 1971 Congress has enacted, and agencies have implemented, multiple acquisition reform laws designed to modernize the way government agencies buy goods and services. Some of these laws have created conflict with the AbilityOne Program. Although Congress has addressed, and the Commission has to some degree been able to mitigate, some of the conflicts presented by legislation, program erosion continues to be a top management challenge. In addition to statutory conflict, the decentralization created by the growth of online sales, has increased the sale of so-called “Essentially-the-Same” products that supplant sales of legitimate AbilityOne products.

#### **Essentially the Same Products (ETS)**

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<sup>35</sup> Cooperative Agreement with SourceAmerica, December 17, 2021. Cooperative Agreement with National Industries for the Blind, May 3, 2022.

If a product or service is contained in the Procurement List maintained by the Commission, the law requires that the federal government purchase that product or service from a nonprofit agency that employs the blind or significantly disabled.<sup>36</sup> In addition to 4,000 specific service contracts, the AbilityOne Procurement List includes approximately 15,000 products.<sup>37</sup> AbilityOne products fulfill a wide range of government needs including cleaning and office supplies and military equipment such as parachutes and armored survival vests. According to Commission numbers, in FY20 for example, AbilityOne product sales totaled \$1.28B.<sup>38</sup>

Pursuant to the AbilityOne’s Policy, this mandatory sourcing requirement includes items—although not specifically identified by a National Stock Number on the Procurement List—represent “form, fit, and function sufficient to enable interchangeability.”<sup>39</sup> The AbilityOne Policy defines such products as essentially the same products (ETS) and prohibits purchases of ETS by federal government procuring officials and purchase card holders. For instance, if a product, such as a toilet paper or hand sanitizer, is included on the AbilityOne mandatory Procurement List, the government agency must purchase that toilet paper or hand sanitizer from an AbilityOne contractor even if an ETS product that costs less exists for purchase elsewhere.

Historically, before 2014, federal customers have fulfilled purchases through centralized distribution systems that ensured products being sold were ETS-free and being produced by qualified AbilityOne NPAs and ultimately employing the blind and severely disabled. The new trend is for these sales occur online. As this system moves online, it has becoming increasingly decentralized. Whereas in the past, federal customers would fulfill their purchases through a central warehouse, the current distribution system encompasses a complex network of distributors including multiple online procurement platforms run by GSA,<sup>40</sup> agency-specific online purchasing platforms built for individual agencies,<sup>41</sup> brick-and-mortar retailers, and AbilityOne NPAs. The Commission’s oversight responsibilities have struggled to keep track with the changing market landscape.

The Commission currently authorizes more than 250 distributors to sell AbilityOne products and has

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<sup>36</sup> JWOD gives the Commission authority to maintain a Procurement List, and pursuant to 41 C.F.R. § 51–5.2(b), “Purchases of commodities on the Procurement List by entities of the Government shall be made from sources authorized by the Committee.”

<sup>37</sup> U.S. AbilityOne Commission, Performance and Accountability Report, Fiscal Year 2021, p. 13.

<sup>38</sup> U.S. AbilityOne PowerPoint, *FY2020 AbilityOne Program Results* (April 22, 2021).

<sup>39</sup> U.S. AbilityOne Commission Policy, *Requirement to Purchase Products on the Procurement List Instead of Essentially the Same (ETS) Items*, Policy 51.541 (Essentially the Same defined).

<sup>40</sup> GSA runs three platforms: GSA Advantage (an online government purchasing service run by GSA for use by all federal agencies), FedMall (an e-Commerce ordering system for DoD, federal, state, and authorized local agencies to search for acquire products from government reserves and commercial sources), GSA Global Supply (yet another online government purchasing service run by GSA for all federal agencies).

<sup>41</sup> In addition to platforms run by GSA, other federal agencies have created other online marketplaces specific to their agencies to fulfill their product purchasing needs. For example, both FEMA and U.S. Air Force have partnered with Amazon Business for an eCommerce pilot program.

policies in place to prevent ETS sales. To maintain their authorization as distributors, they must comply with AbilityOne Policies Procedure 51.540-01<sup>42</sup> and 51.541.<sup>43</sup> Policy 51.541 defines what constitutes “Essentially the Same” products, and 51.540 outlines the requirement that authorized distributors “block and sub,” which means blocking the sale of ETS on their platforms and substituting legitimate AbilityOne products. Pursuant to its Policy 51.540, the Commission has a three-strike policy whereby a third violation within a 12-month period will result in de-authorization of the violating distributor.

Although the Commission has a procedure that outlines penalizing an authorized distributor who sells ETS, NPAs have reported to OIG that the Commission does not adhere to this Procedure and has developed an informal process, whereby the Commission gives noncompliant distributors multiple warnings without actually removing them from the authorized distributor program, despite continued noncompliance. Given the apparent scope of the problem based on the only available data, combined with the fact that the problem is likely worse than the limited data already suggests and a reported lack of internal adherence to AbilityOne’s enforcement procedures, OIG has added ETS sales as a top management challenge.

Although AbilityOne does not track ETS sales across the myriad platforms where AbilityOne products are purchased, data compiled by CNA NIB provides some insight into the substantial scope of the problem. For example, according to statistics compiled by NIB, in FY21 there were \$16,912,036.28 in AbilityOne product sales on the GSA Advantage website. In addition to these legitimate AbilityOne sales on GSA Advantage, \$1,220,371.81 went to the purchase of ETS, just in FY21 alone. This means that for every \$1 spent procuring products for the government on the GSA Advantage website, almost \$.07 in sales were lost to ETS.

One primary objective of GSA Advantage is to provide a safe place to ensure legitimate AbilityOne products are purchased. Yet there is a loss rate of almost 7% to ETS. Moreover, GSA Advantage represents only one component in a complex network of online marketplaces. NIB estimates that only 10-15% of AbilityOne sales take place on GSA Advantage. The Commission does not compile data on other platforms that sell AbilityOne products, so it remains impossible to know the exact extent of the problem. Because GSA Advantage deploys various safeguards to prevent the sale of ETS, it is likely that ETS sales represented a larger portion of sales at less regulated points of sale.

The GSA Commercial Platforms Initiative (CPI), and the lack of ETS safeguards in this pilot program, has the potential to erode further AbilityOne product sales. The FY 2018 NDAA was signed by the President on December 12, 2017 and included Section 846.<sup>44</sup> Section 846 directed the General Services Administration (GSA), in partnership with the Office of Management and Budget (OMB), to “...establish

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<sup>42</sup> AbilityOne Policy 51.540-01, Procedures for Addressing Noncompliance with AbilityOne Authorized Distributor Program Policy (July 1, 2016).

<sup>43</sup> AbilityOne Policy 51.541, Requirement to Purchase Products on the Procurement List Instead of “Essentially the Same (ETS)” Items (April 27, 2015).

<sup>44</sup> Pub. L. No. 115-91.

a program to procure commercial products through commercial E-Commerce portals for the purposes of enhancing competition, expediting procurements, enabling market research, and ensuring reasonable pricing of commercial products.” The GSA Commercial Platforms Initiative (CPI) currently has three contracts with Overstock.com, Fisher Scientific, and Amazon. NIB has raised concerns the CPI is not effectively blocking ETS sales. Furthermore, GSA has issued and shared with industry a draft RFP to bring in additional contractors into CPI. Instead of requiring contractors to remove ETS, the draft RFP allows proposals to alternatively “identify, highlight, and promote AbilityOne products that are offered by authorized distributors.”

The OIG views the innovations of E-Commerce as the future of an evolving marketplace. There is, however, the risk for significant program erosion despite the shared success of the E-Commerce platform. It is paramount that the buyers of products and services, i.e. the government agencies and their purchase officers, understand that the customer that the E-Commerce platform seeks to serve is the AbilityOne Program itself. It is likewise critical that vendors and the platforms on which they operate are able to block effectively ETS offerings on their websites to help prevent government buyers from inadvertently purchasing products that do not fulfill the AbilityOne procurement requirements.

### Progress In Addressing The Challenge

In an important effort to ensure that NPAs performing AbilityOne service contracts also use AbilityOne products, Chairperson Koses signed a new AbilityOne Policy (Policy 51.542) on July 20, 2022, with an effective date of October 1, 2022. Pursuant to the Policy, NIB and SourceAmerica are required to ensure that all AbilityOne service contracts performed by NPAs include a clause in the contract that those NPAs purchase and use supplies from AbilityOne NPAs to the maximum extent practicable. The Policy 51.542, entitled Nonprofit Agency Use of AbilityOne Products in AbilityOne Service Contracts,<sup>45</sup> represents an important tool against program erosion through the prevention of sales of non-AbilityOne products to AbilityOne NPAs performing AbilityOne service contracts.

The Commission’s Regulatory Agenda includes notice of the Commission’s intent to publish a Notice of Proposed Rulemaking related to protecting the exclusivity of AbilityOne mandatory source products from Government purchases of “essentially the same” products.

### The Veterans Benefit Act of 2006 and the “Rule of Two”

In 2020 legislation brought progress with an effort to preserve the employment of the blind and severely disabled, Congress passed the *VA Contracting Preference Consistency Act of 2020*,<sup>46</sup> which became law on August 8, 2020, and was created to preserve the AbilityOne Program with respect to products and services that the VA was purchasing before the VBA was enacted in 2006.

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<sup>45</sup>[https://www.abilityone.gov/laws\\_regulations\\_and\\_policy/documents/Policy%2051.542%20\(final%20version\).pdf](https://www.abilityone.gov/laws_regulations_and_policy/documents/Policy%2051.542%20(final%20version).pdf)

<sup>46</sup> Pub. L. No. 116-155 (2020) (codified as amended at 38 U.S.C. § 8127).

Congress passed the Veterans Benefits Act (VBA of 2003), which encouraged contracts awarded to service-disabled veterans with the explicit exclusion that such award should not be made if the procurement is available as a JWOD set-aside. In 2006, however, Congress enacted the Veterans Benefits, Health Care, and Information Technology Act (VBA of 2006), which removed JWOD language from the VBA of 2003 and created ambiguity as to which law (JWOD or VBA 2006) took priority in determining contract source.

In *Kingdomware Technologies, Inc. v. United States*,<sup>47</sup> the Supreme Court held that VA contracting officers are required to give veteran-owned small businesses (VOSBs) procurement priority when there is a “reasonable expectation” that two or more VOSBs will bid on the contract “at a fair and reasonable price that offers best value to the United States.”<sup>48</sup> This is known as the “Rule of Two” analysis. The Court also held that this analysis was required regardless of whether the VA had already met its annual minimum VOSB contracting goals.<sup>49</sup>

In its 2018 decision, *PDS Consultants*,<sup>50</sup> the U.S. Court of Appeals, Federal Circuit, ruled that the 2006 VBA requirements took priority over the AbilityOne procurement list, jeopardizing contracts for products and services that had previously been provided through AbilityOne program contracts. The Court of Federal Claims held that the VA must conduct a “Rule of Two” analysis for all new procurement contracts before treating the AbilityOne Procurement List as a mandatory source pursuant to the JWOD Act. The Court of Federal Claims also held that because the VBA of 2006 applied only to the VA’s procurements, the VBA was a more specific statute than the JWOD Act’s broad application government-wide, and thus the VBA would take precedence, regardless of the existence of a prior contract with a Procurement List contractor.

In an effort to preserve the employment of people who are blind or have other significant disabilities, Congress passed the *VA Contracting Preference Consistency Act of 2020*,<sup>51</sup> which became law on August 8, 2020, and was created to preserve the AbilityOne Program with respect to products and services that the VA was purchasing before the VBA was enacted in 2006. The Veterans First Program under the VBA still applies to all other products and services. In order to ensure compliance with *VA Contracting Preference Consistency Act of 2020*, the VA revised its Acquisition Regulation VAAR at Part 808 to restore AbilityOne as a priority mandatory source for covered products on the Procurement List, with the exception that contracts previously awarded to VOSBs between December 22, 2006, and August 7, 2020, shall continue to receive preference under certain conditions.

## **Randolph-Sheppard Act**

The Randolph-Sheppard Act (RSA) was passed in 1936 and amended in 1954 and 1974.<sup>52</sup> Its implementation has conflicted with the JWOD Act since the latter’s 1938 inception. The RSA was enacted to provide blind persons with remunerative employment, enlarge their economic opportunities, and

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<sup>47</sup> 136 S.Ct. 1969 (2016).

<sup>48</sup> Veterans Benefits Act of 2006, 38 U.S.C. § 8127(d).

<sup>49</sup> *Kingdomware Technologies, Inc. v. United States*, 136 S.Ct. 1969 (2016).

<sup>50</sup> *PDS Consultants, Inc. v. U.S., Winston-Salem Industries for the Blind*, 907 F.3d 1345 (October 17, 2018).

<sup>51</sup> Pub. L. No. 116-155 (2020) (codified as amended at 38 U.S.C. § 8127).

<sup>52</sup> 20 U.S.C. §§ 107 et. seq.

encourage their self-support through the operation of vending facilities in federal buildings. The U.S. Department of Education (ED) prescribes regulations for the Randolph Sheppard Vending Facility Program (“vending program”) as set forth in 34 CFR, Part 395, implementing RSA as amended.

Under ED’s vending program, “state licensing agencies recruit, train, license, and place individuals who are blind as operators of vending facilities located on federal and other properties. The RSA authorizes a blind individual licensed by the state to conduct specified activities in vending facilities through permits or contracts.”<sup>53</sup> However, recent progress has been made by RSA participants and supporters to implement the respective mandates as Congress intended.

In 2006, Congress sought to dispel the confusion and conflict between the JWOD and RSA Acts via the 2006 National Defense Authorization Act. Congress required the agencies administering both the JWOD Act and the RSA (the Commission and ED, respectively), as well as the Department of Defense (DoD) to issue a joint statement clarifying “the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility.”<sup>54</sup>

The Commission, ED, and the DoD complied with this Congressional directive. The three agencies developed a task force comprised of representatives from each agency that “met weekly and engaged in almost daily discussions by electronic mail and telephone to develop a joint statement of policy pursuant to Section 848 [of the 2006 NDAA].”<sup>55</sup> The three agencies also “solicited public comments through a notice in the Federal Register, and approximately 240 comments were received.”<sup>56</sup>

The agencies memorialized their agreement as to the policy that should govern the application of the JWOD Act and RSA to military dining facilities in a joint report to Congress dated August 29, 2006 (the “Joint Policy Statement”). According to the Joint Policy Statement, “contracts will be competed under the RSA when the [DoD] solicits a contractor to exercise management responsibility and day-to-day decision-making for the overall functioning of a military dining facility,” i.e., operation of the military dining facility.<sup>57</sup> However, “In all other cases, the contracts will be set aside for JWOD performance.”<sup>58</sup>

After two years<sup>59</sup> of lost AbilityOne Program jobs, the Unified Agenda<sup>60</sup> published on June 11, 2018, includes an entry by DoD regarding this proposed rule. The DoD entry states that the “DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) . . . to implement the Joint Report and Policy Statement (Joint Policy Statement) issued by DoD, the Department of Education, and the CFP pursuant to section 848 of the NDAA for FY 2006.

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<sup>53</sup> <https://www2.ed.gov/programs/rsarsp/index.html>.

<sup>54</sup> NDAA of 2006, Pub. L. No. 109-163, § 848(b), 119 Stat. 3136, 3395 (2006).

<sup>55</sup> Joint Report to Congress, Section 848 of the National Defense Authorization Act for Fiscal Year 2006: Application of the Javits-Wagner-O'Day Act and the Randolph-Sheppard Act to the Operation and Management of Military Dining Facilities (Aug. 29, 2006) (“Joint Policy Statement”) at 3.

<sup>56</sup> *Id.*; see also [Statement of Policy and Report Relating to Contracting with Employers of Persons with Disabilities, 71 Fed. Reg. 5819 \(Feb. 3, 2006\) \(requesting public comments\)](#).

<sup>57</sup> Joint Policy Statement at 4, Full Food Services (FFS).

<sup>58</sup> *Id.* (emphasis added).

<sup>59</sup> See FY 2015 NDAA Joint Explanatory Statement (prompting the DFARS rule). P.L. 113-291 (December 2014).

<sup>60</sup> The Unified Agenda is a semi-annual report on the actions that agencies plan to issue in the near and long term.

This program continues to face challenges to its authority. In *Top Gun Services, LLC v. U.S.*<sup>61</sup>, Top Gun alleged that the Defense Commissary Agency’s (DeCa) Notice to Trade utilized a sole-source method in violation of the Competition in Contracting Act. Top Gun contended that DeCa had “deprived it of the opportunity to compete for the work it [was] awarding through NTT 2020.” However, the Court dismissed the suit on the grounds that Top Gun lacked proper standing. The Court ruled that Top Gun lacked subject-matter jurisdiction. In order for it to establish standing, the Court stated that it must show: “(1) that it is an actual or prospective bidder or offeror and (2) that it has a direct economic interest which would be affected by the award of the contract or by failure to award a contract.” Top Gun failed to establish that it was a qualified bidder, it was not a nonprofit agency, and it did not fall within the definition of qualified nonprofit agency” as set forth in 41 U.S.C. §§ 8501(6), 8501(7), and 8503(a)(1).

### **Competitive Source Selection**

In May of 2021, the United States Court of Federal Claims ruled against the establishment of an AbilityOne Commission Pilot Program for competitive pricing.<sup>62</sup> The pilot program was an interim policy modification to follow 898 Panel recommendation for competitive source selection.<sup>63</sup> The Court found that AbilityOne Commission could not use Section 898 of the 2017 NDAA as authority for making the policy.<sup>64</sup> The court held that 898 Panel recommendations and the acceptance of its reports by Congress does not equate to statutory authority to make regulations.<sup>65</sup> The Court also found that the interim policy was contrary to the JWOD Act because it did not follow AbilityOne’s regulations.<sup>66</sup> The Court held that current AbilityOne regulation 41 C.F.R. § 51-2.7 makes price a factor to be considered and negotiated after a non-profit is awarded a contract, and this paradigm makes competitive programs that factor cost incompatible.<sup>67</sup> The Commission’s ability to effect change through the rulemaking process, as opposed to interim policies, presents an administrative challenge to the Program and will require sufficient legal staffing and sustained focus.

### **Additional Examples of Erosion of Statutory Program Authority**

The following illustrates additional examples of AbilityOne Program erosion:

- a. Recommendations for changes to the AbilityOne Program and the definition of “competitive integrated employment” resulting from the report of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities established under Section 609 of the Rehabilitation Act of 1973, as amended by Section 461 of the Workforce Innovation and Opportunity Act;
- b. The 898 Panel report identified definitions that should be amended to bring JWOD into compliance

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<sup>61</sup> *Top Gun Services, LLC v. U.S.*, 1:20-cv-00908-DAT, No. 20908C (Fed. Cl, Nov. 11, 2020).

<sup>62</sup> *Melwood Horticultural Training Ctr., Inc. v. United States*, 153 Fed.Cl. 723 (May 4, 2021).

<sup>63</sup> *Id.* at 731-32.

<sup>64</sup> *Id.* at 736.

<sup>65</sup> *Id.* at 737-38.

<sup>66</sup> *Id.* at 735-41.

<sup>67</sup> *Id.* at 739.

- with the Workforce Innovation and Opportunity Act;<sup>68</sup>
- c. Efforts by the Small Business Administration to assert its preference programs over the mandated priority of the JWOD Act;
  - d. Lack of enforcement capabilities for the AbilityOne Program to assert its mandated source-priority when federal agencies fail to purchase AbilityOne products and services;
  - e. Increased legal challenges from qualified NPAs questioning the Commission’s ability to administer the AbilityOne Program;
  - f. Under its authorizing statute, the 898 Panel’s work sunset in 2021 with the submission of the fourth annual report.<sup>69</sup> The Panel was tasked with recommending actions to eliminate waste, fraud, and abuse of AbilityOne contracts with the Department of Defense.<sup>70</sup>

### Progress In Addressing The Challenge

As mandated by Congress, the Commission is a member of the 898 Panel. The mandate of the 898 Panel included making recommendations to Congress regarding the JWOD Act and improving the AbilityOne Program. The 898 Panel released its fourth and final annual report to Congress on February 7, 2022.<sup>71</sup> Issuing 25 recommendations, the 898 Panel identified as a “consistent finding in each of the Panel reports . . . the limited resources in funding and staffing available to the U.S. AbilityOne Commission.”<sup>72</sup> The 25 recommendations were grouped into eight areas.

The Commission will continue to work with Congress to update legislation improving the AbilityOne Program’s statutory authority per the 898 Panel’s recommendations that the Commission do so. The Commission continues to seek increased cooperation from AbilityOne Program CNAs and NPAs participants to improve processes and controls, and to recognize the market evolution where NPAs increasingly contribute their own ideas for inclusion of items to the Procurement List. On August 8, 2022, The Commission announced its Regulatory Agenda,<sup>73</sup> which included requesting comment on how to incorporate recommendations from the section 898 panel review mandated by the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) into the Committee’s regulation at 41 CFR part 51. The Commission requested comment in areas including responsibilities and procedures associated with authorization/deauthorization of nonperforming nonprofit agencies; transfer of work within the AbilityOne Program; and broadening the methodologies used for the review of and/or negotiation of initial fair market prices and revised fair market prices for products and services on the AbilityOne Program Procurement List.

The Commission has been working closely with the Department of Defense and civilian agencies introducing the AbilityOne Representatives (ABOR) Program. OMB’s Office of Federal Procurement implemented the ABOR Program through a policy on October 30, 2020.<sup>74</sup> The policy establishes ABORs

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<sup>68</sup> [“Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity” 2018 First Annual Report to Congress \(898 Panel Report \(2018\)\) at 19.](#)

<sup>69</sup> Pub. L. No. 114-328 §898(j) (130 Stat 2331).

<sup>70</sup> *Id.* at §898(c).

<sup>71</sup> <https://abilityone.oversight.gov/reports/2022/898-panel-issues-fourth-and-final-annual-report-congress>.

<sup>72</sup> *Id.* at 7.

<sup>73</sup> Fed. Reg. Vol. 87, No. 151 (August 8, 2022).

<sup>74</sup> [https://www.abilityone.gov/media\\_room/documents/Increasing-the-Participation-of-Americans-with-Disabilities-in-](https://www.abilityone.gov/media_room/documents/Increasing-the-Participation-of-Americans-with-Disabilities-in-)

for civilian agencies and encourages agencies to award a minimum percentage of the agency's total contract spend on AbilityOne products and services each year. Also in October 2020, the Office of the Under Secretary of Defense issued a policy directing DoD Components to establish an AbilityOne Representative (ABOR) Program with a target implementation date of October 1, 2021.<sup>75</sup> To date, 19 CFO Act agencies have named their respective ABORs, and 12 agencies have made pledges to increase their AbilityOne utilization.

In an effort to preserve the employment of people who are blind or have other significant disabilities, Congress passed the *VA Contracting Preference Consistency Act of 2020*,<sup>76</sup> which became law on August 8, 2020, and was created to preserve the AbilityOne Program with respect to products and services that the VA was purchasing before the Veterans Benefits Act (VBA) was enacted in 2006. The legislation amended 38 U.S.C. § 8127 to require VA contracting officers to procure covered products and services on the Procurement List, unless the covered product or service was procured from an eligible SDVOSB or VOSB as a result of a VA Rule of Two determination between December 22, 2006, and August 07, 2020.

The compromise legislation restored mandatory status to the AbilityOne Program for VA requirements that were added to the Procurement List prior to December 22, 2006, including replacement products and “essentially the same” products. According to the Commission, in FY22 Commission staff worked with the VA Office of Acquisition to provide a monthly Procurement List spreadsheet sorted by date of addition, to assist VA in complying with the new law.

In January 2021, the Commission entered into a new Memorandum of Understanding (MOU) with the Rehabilitation Services Administration. The purpose of the MOU is to increase communication and coordination between the Commission and RSA so that both the JWOD Act and the Randolph-Sheppard Act are followed when food service or other vending opportunities are identified. The MOU is posted on the Commission's and RSA's website.<sup>77</sup> The Commission and RSA conducted a joint training session on the purpose and content of the MOU via YouTube, with live questions and answers, as well as subsequent written Q&A. The Commission and RSA continued to meet during FY 2022, and the Commission views this MOU as a good example of interagency coordination and cooperation that may be replicated.

The Commission continued to monitor the GSA Commercial Platform Initiative (CPI) pilot test. The Commission facilitated meetings with National Industries for the Blind and GSA to discuss concerns with the CPI's limited sales of AbilityOne products. The Commission's Fall 2021 Regulatory Agenda includes notice of the Commission's intent to publish a Notice of Proposed Rulemaking related to protect the exclusivity of AbilityOne mandatory source products from Government purchases of “essentially the same” products. Through the 898 Panel, the Commission met with the Department of Defense's Director for Contracting eBusiness in the Office of Defense Pricing and Contracting (DPC) to discuss AbilityOne inclusion in other platforms.

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Federal-Contracting.pdf

<sup>75</sup>[https://www.abilityone.gov/media\\_room/documents/Signed%20DoD%20NDEAM%20Memo%20\(08OCT2020\).pdf](https://www.abilityone.gov/media_room/documents/Signed%20DoD%20NDEAM%20Memo%20(08OCT2020).pdf)

<sup>76</sup> Public Law No. 116-155 (2020) (codified as amended at 38 U.S.C. § 8127).

<sup>77</sup> AbilityOne RSA MOU (01.19.2021).pdf.

Because of the progress made by the Commission in addressing the challenge, OIG removes Erosion as a top challenge, as identified in the 2021 TMPC report.

## Appendix D

### 898 Open Recommendations

#### List of Open or Ongoing Recommendations for Commission Action

#	Recommendation for Commission Action	Complete	Status
<b>Subcommittee One: Inspector General</b>			
N/A	U.S. AbilityOne Training must be continually updated, as Panel recommendations are implemented.	<input checked="" type="checkbox"/>	Ongoing
<b>Subcommittee Two: Eliminate Waste, Fraud, and Abuse</b>			
1	Increase oversight and strengthen audit coverage.	Partially; ongoing efforts to continue	Progress made
2	Impose stricter requirements on NPAs for documentation of significant disability and eligibility determinations.	Partially; ongoing efforts to continue	Progress made
<b>Subcommittee Three: Employment Initiatives (merged into Eight – see below)</b>			
<b>Subcommittee Four: Laws and Regulations</b>			
3	Recommend an amendment to the JWOD Act’s 75 percent Direct Labor Hour ratio requirement, 41 U.S.C. §§ 8501(6)(C), (7)(C), to promote employment and upward mobility of individuals with disabilities in integrated work environments, and provide for implementation requirements and guidelines.	Legislative options to be submitted separately	Progress made
4	Amend the JWOD Act’s definition of “Direct labor,” 41 U.S.C. §§ 8501(3), to encourage upward mobility and hiring of people with disabilities in supervisory and other indirect labor positions.	Legislative language to be submitted separately	Progress made
5	Amend the JWOD Act’s definition of “severely disabled,” 41 U.S.C. §§ 8501(5) and (8), to eliminate the presumption	Legislative language to	Progress made

#	Recommendation for Commission Action	Complete	Status
	that eligible individuals are not competitively employable and to clarify and institute a workable definition.	be submitted separately.	
<b>Subcommittee Five: Veterans Eligibility (merged into Subcommittee Eight; see below)</b>			
<b>Subcommittee Six: Acquisition and Procurement</b>			
6	Establish business rules for competition and assignment of work among AbilityOne Program NPAs.	In process; NPRM anticipated by Dec. 2022	Progress made
7	Establish penalties if a CNA or NPA does not follow policies and procedures.	In process; NPRM awaiting OIRA approval	Progress made
8	Revise 41 Code of Federal Regulation (CFR) 51 to include information regarding the deauthorization of NPAs as the authorized source on the PL.	In process; NPRM awaiting OIRA approval	Progress made
<b>Subcommittee Seven: Business Process Re-engineering</b>			
N/A	Update the Procurement List Information Management System (PLIMS) to reflect detailed information, improve the search functions to enable a more user-friendly interface, and be usable to outside agencies.	<input checked="" type="checkbox"/>	Ongoing
9	Deploy an Information Technology (IT) solution either utilizing a system where the PL can be linked to existing contracting vehicles or develop a common system that routes purchases through the PL prior to other avenues.	In process	Progress made
N/A	Implement DoD wide policy to designate an AbilityOne Representative (ABOR) program similar to the Air Force model and includes a goal for growth in AbilityOne	<input checked="" type="checkbox"/>	Ongoing

#	Recommendation for Commission Action	Complete	Status
	Program participation.		
10	Pursue Defense Federal Acquisition Regulation Supplement (DFARS) (Procedures, Guidance, and Information [PGI] language) to detail how to do business with the AbilityOne Program.	Partially; with PGI working group for further action	Progress made
<b>Subcommittee Eight: Employment Initiatives and Veterans Eligibility</b>			
11	Change the Commission’s regulation for initial NPA qualification to include (a) employment criteria of at least minimum wage comparable to coworkers, (b) a work setting that is inclusive of people with and without disabilities, and (c) opportunities for advancement.	☑	Section (a) implemented by a new regulation; section (b) adopted to the extent legally possible in in the Strategic Plan; section (c) fully adopted in the Strategic Plan
12	Modify the Individual Eligibility Evaluation process to enhance the eligibility analysis and certification of results.	In process	Progress made

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**Table 1: Open as of September 30, 2022**

Sequential No.	Report Short Name	Recommendation Number	Recommendation	Target Completion Date (Per Agency)	Current Status	Responsible Office1	Open Sub-Status
1	FY2020 Financial Statement Audit	CFO-2020-01	Continue to gain knowledge of OMB Circular A-136 and other authoritative guidance relating to financial reporting requirements to better oversee the performance of its shared service provider and to ensure that its reporting requirements are being fulfilled, including those relating to the submission of interim financial statements and footnotes and the proper recording and reporting of loss contingencies ( <i>Repeat finding from 2019 Financial Statement Audit</i> ).	10/24/2023	Open	CFO	Implemented
2	FY2020 Financial Statement Audit	CFO-2020-02	Advise the service provider that outdated/superseded guidance was used in the preparation of its financial statements and footnotes so that this issue can be addressed by the service	10/24/2023	Open	CFO	Implemented

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Sequential No.	Report Short Name	Recommendation Number	Recommendation	Target Completion Date (Per Agency)	Current Status	Responsible Office1	Open Sub-Status
3	FY2020 Financial Statement Audit	CFO-2020-03	<p>provider in the future <i>(Repeat finding from 2019 Financial Statement Audit).</i></p> <p>Request that the service provider enhance its current review procedures to identify errors and omissions in the required financial statements and footnotes and to ensure that all required presentation and disclosure requirements have been met <i>(Repeat finding from 2019 Financial Statement Audit).</i></p>	10/24/2023	Open	CFO	Implemented
4	FY2020 Financial Statement Audit	CFO-2020-04	<p>In accordance with generally accepted accounting principles (GAAP), ask the Commission's General Counsel to identify loss contingencies relating to legal matters that should be recorded in the agency's general ledger and/or disclosed in the notes to the financial statements and instruct the service provider to record these entries and/or</p>	10/24/2023	Open	CFO	Implemented

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Sequential No.	Report Short Name	Recommendation Number	Recommendation	Target Completion Date (Per Agency)	Current Status	Responsible Office1	Open Sub-Status
			disclose these amounts, as appropriate ( <i>Repeat finding from 2019 Financial Statement Audit</i> ).				
5	FY2020 Financial Statement Audit	CFO-2020-06	Continue to implement management's corrective action plan, including the filling of vacant positions.	10/24/2023	Open	CFO	Implemented
6	FY2020 Financial Statement Audit	CFO-2020-12	The Commission should continue to implement the actions identified in its corrective action plan relating to employee payroll and benefits, dated September 30, 2020.	10/24/2023	Open	CFO	CAP in place
7	FY2020 Financial Statement Audit	CFO-2020-19	The incoming Chief Financial Officer or other Commission personnel knowledgeable in accounting and finance should work with the service provider to identify, at least quarterly, upward adjustments that have been	10/24/2023	Open	CFO	CAP in place

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<b>Sequential No.</b>	<b>Report Short Name</b>	<b>Recommendation Number</b>	<b>Recommendation</b>	<b>Target Completion Date (Per Agency)</b>	<b>Current Status</b>	<b>Responsible Office1</b>	<b>Open Sub-Status</b>
8	FY2020 Financial Statement Audit	CFO-2020-20	Commission management should work with its service provider to design and implement policies and procedures which enhance the internal review process for upward and downward adjustment transactions and includes a reconciliation of the UDO balances with the supporting documentation to ensure that transactions have been recorded correctly.	10/24/2023	Open	CFO	CAP in place
9	FY2020 Financial Statement Audit	CFO-2020-21	The incoming Chief Financial Officer or other Commission personnel knowledgeable in accounting and finance should independently verify the amounts recorded for reimbursable activity by its	12/31/2022	Open	CFO	Implemented

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<b>Sequential No.</b>	<b>Report Short Name</b>	<b>Recommendation Number</b>	<b>Recommendation</b>	<b>Target Completion Date (Per Agency)</b>	<b>Current Status</b>	<b>Responsible Office1</b>	<b>Open Sub-Status</b>
10	FY2020 Financial Statement Audit	CFO-2020-22	The incoming Chief Financial Officer or other Commission personnel knowledgeable in accounting and finance should develop a procedure to identify accrued liabilities for reimbursable expenses which should also be recorded as accrued accounts receivable.	12/31/2022	Open	CFO	Implemented
11	FY2020 Financial Statement Audit	CFO-2020-23	Commission management should develop written policies and procedures for the financial reporting process, including procedures to identify and perform (or assist its service provider in preparing) year-end entries to the general ledger that are required by generally accepted accounting principles.	10/24/2023	Open	CFO	Implemented

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<b>Sequential No.</b>	<b>Report Short Name</b>	<b>Recommendation Number</b>	<b>Recommendation</b>	<b>Target Completion Date (Per Agency)</b>	<b>Current Status</b>	<b>Responsible Office1</b>	<b>Open Sub-Status</b>
12	FY2021 Financial Statement Audit	CFO-2021-01	Develop a procedure to identify and track all on-top adjustments, worksheet corrections for prior year transactions that were processed during the prior fiscal year, evaluate their effects on current year balances and record them timely (during the first quarter of the fiscal year) in the general ledger.	10/24/2023	Open	CFO	CAP in place
13	FY2021 Financial Statement Audit	CFO-2021-02	Review the posting logic that was applied within Pegasys for each correcting entry and record reclassification journal entries in the general ledger using the appropriate general ledger accounts for the correction of errors, in accordance with generally accepted accounting principles.	10/24/2023	Open	CFO	CAP in place
14	FY2021 Financial Statement Audit	CFO-2021-03	Develop a procedure to validate the agency's beginning balances that are rolled forward from the prior	10/24/2023	Open	CFO	CAP in place

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Sequential No.	Report Short Name	Recommendation Number	Recommendation	Target Completion Date (Per Agency)	Current Status	Responsible Office1	Open Sub-Status
15	FY2021 Financial Statement Audit	CFO-2021-04	year to ensure that valid balances are not eliminated either before or during the closing process. Verify that current Treasury and OMB financial reporting requirements and other authoritative guidance is obtained and followed during the preparation and review of the financial statements and footnotes, including all mandatory and presumptively mandatory provisions, as defined in those sources.	10/24/2023	Open	CFO	CAP in place
16	FY2021 Financial Statement Audit	CFO-2021-05	Reconcile the trial balance to subsidiary or supplementary sources, such as the capitalized expenditure and accrued expense worksheets to the general ledger to validate the balances reported in the trial balance.	12/31/2022	Open	CFO	CAP in place
17	FY2021 Financial Statement Audit	CFO-2021-06	Increase the precision of existing checklists and variance analysis tools so that changes from known	10/24/2023	Open	CFO	CAP in place

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Sequential No.	Report Short Name	Recommendation Number	Recommendation	Target Completion Date (Per Agency)	Current Status	Responsible Office1	Open Sub-Status
18	FY2021 Financial Statement Audit	CFO-2021-07	and expected results can be detected and corrected. Request and obtain the legal representation letter from the Office of the General Counsel (OGC) or consult with the OGC prior to the close of the reporting period so that any required entries can be recorded and the Commitment and Contingencies footnote can be prepared and reviewed timely.	10/24/2023	Open	CFO	CAP in place
19	FY2021 Financial Statement Audit	CFO-2021-08	Verify that the information included in the Commitment and Contingencies footnote is clear, concise, accurate, complete, and properly classified according to generally accepted accounting principles and federal reporting requirements and that all contingencies reported in the footnote exist as of the reporting date.	10/24/2023	Open	CFO	CAP in place

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<b>Sequential No.</b>	<b>Report Short Name</b>	<b>Recommendation Number</b>	<b>Recommendation</b>	<b>Target Completion Date (Per Agency)</b>	<b>Current Status</b>	<b>Responsible Office1</b>	<b>Open Sub-Status</b>
20	FY2021 Financial Statement Audit	CFO-2021-09	The Commission should correct and then regularly update a detailed listing of the assets that are reported in the agency's trial balance and financial statements to enable the agency to verify the capitalized property balances reported in the agency's financial statements are correct and are reported in accordance with generally accepted accounting principles.	12/31/2022	Open	CFO	CAP in place
21	FY2021 Financial Statement Audit	CFO-2021-10	The Commission should regularly assess all capitalized property for assets that are no longer in service or to which the agency no longer has legal rights and ensure that these items are removed timely and proactively by Commission management.	12/31/2022	Open	CFO	CAP in place
22	FY2021 Financial Statement Audit	CFO-2021-11	The Commission should accumulate all expenditures for the leasehold improvements for its new lease, report them as	12/31/2022	Open	CFO	CAP in place

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Sequential No.	Report Short Name	Recommendation Number	Recommendation	Target Completion Date (Per Agency)	Current Status	Responsible Office1	Open Sub-Status
			construction in progress, and adjust the balance at the end of each reporting period to reflect the work completed until the project is completed.				
23	FY2021 Financial Statement Audit	CFO-2021-12	The Commission should ensure that the date of service is entered into the Pegasys property module so that depreciation is properly calculated and recorded for all capitalized assets.	12/31/2022	Open	CFO	CAP in place
24	FY2021 Financial Statement Audit	CFO-2021-13	The Commission should update its financial reporting policies and procedures to include the recording of new capitalized purchases, disposals of capitalized property, and depreciation/amortization in accordance with generally accepted accounting principles.	12/31/2022	Open	CFO	CAP in place

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25	FY2021 Financial Statement Audit	CFO-2021-14 CFO-2019-01	Commission management should develop a procedure to review disbursements made early in the subsequent reporting period to identify items which should be included in its year-end accounts payable or develop an alternative procedure which appropriately estimates the amount of these liabilities at year-end <i>(Repeat finding from 2019 Financial Statement Audit)</i> .	12/31/2022	Open	CFO	CAP in place
26	FY2021 Financial Statement Audit	CFO-2021-15 CFO-2019-02	Commission management should independently verify the amounts recorded for accrued liabilities by its shared service provider or participate in the calculation of the recorded amounts <i>(Repeat finding from 2019 Financial Statement Audit)</i> .	12/31/2022	Open	CFO	CAP in place

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27	FY2021 Financial Statement Audit	CFO-2021-16 CFO-2020-08	Commission management should develop written policies and procedures for the financial reporting process, including procedures to identify and perform (or assist its service provider in preparing) year-end entries to the general ledger that are required by generally accepted accounting principles <i>(Repeat finding from 2019 and 2020 Financial Statement Audits)</i> .	10/24/2023	Open	CFO	Implemented
28	FY2021 Financial Statement Audit	CFO-2021-17 CFO-2019-03	Commission management should develop written policies and procedures that define the roles and responsibilities of the service provider and Commission staff in performing financial reporting functions <i>(Repeat finding from 2019 Financial Statement Audit)</i> .	12/31/2022	Open	CFO	CAP in place

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29	FY2021 Financial Statement Audit	CFO-2021-18 CFO-2020-09	The Chief Financial Officer or other personnel knowledgeable in accounting and finance should independently verify the amounts recorded for accrued liabilities and examine the entries that the service provider has recorded in its general ledger to ensure it agrees with the information the Commission has provided <i>(Repeat finding from 2020 Financial Statement Audit)</i> .	12/31/2022	Open	CFO	CAP in place
30	FY2021 Financial Statement Audit	CFO-2021-19	Commission management should enhance its existing policies and procedures to require a more thorough review of its year-end accounting entries to ensure that all required information pertaining to accrued liabilities has been received from all sources and has been recorded in the general ledger in accordance with generally accepted accounting principles.	12/31/2022	Open	CFO	CAP in place

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31	FY2021 Financial Statement Audit	CFO-2021-20 CFO-2020-10	The Commission should perform routine reviews of employee benefit elections and Official Personnel Files (OPFs) to ensure they are complete and accurate and address this issue with its shared service provider to ensure that OPM guidance is appropriately followed with respect to the Commission's personnel records ( <i>Repeat finding from 2019 and 2020 Financial Statement Audits</i> ).	10/24/2023	Open	CFO	CAP in place
32	FY2021 Financial Statement Audit	CFO-2021-21 CFO-2020-11	The Commission should obtain replacement copies of missing records that have been identified and either provide these documents to the service provider so that the information can be maintained in the e-OPF or consider developing and implementing its own repository of documentation to ease the retrieval and response process ( <i>Repeat finding from 2020 Financial Statement Audit</i> ).	10/24/2023	Open	CFO	CAP in place

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33	FY2021 Financial Statement Audit	CFO-2021-22	At the end of each pay period or at least monthly, the Commission should review reports of employee benefits election changes made through the employee self-service portal and retain the documentation for all changes in the employees' e-OPF.	10/24/2023	Open	CFO	CAP in place
34	FY2021 Financial Statement Audit	CFO-2021-23 CFO-2020-17	Fulfill the requirements of 31 USC §1517(b) by reporting the FY 2019 and FY 2020 violations to the President, Congress, and the Comptroller General of the United States ( <i>Repeat finding from 2020 Financial Statement Audit</i> ).	10/24/2023	Open	CFO	CAP in place
35	FY2020 FISMA	CIO-2020-01	The Commission should follow their vulnerability remediation policies.	12/31/2022	Open	CIO	CAP in place
36	FY2021 FISMA	CIO-2021-01 CIO-2020-02	Scanning should be run on a monthly basis, however if there are medium, high and/or critical vulnerabilities, then they should be remediated, and the scan should be repeated	12/31/2022	Open	CIO	CAP in place

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37	FY2021 FISMA	CIO-2021-02	and run again ( <i>Repeat finding from 2020 FISMA Audit</i> ). Update the configuration settings on the servers to be in compliance with Commission IT Policy and ensure only essential capabilities are being provided.	12/31/2022	Open	CIO	Implemented
38	Program Fee	PMO-2020-01	We recommend the Commission require the Commission Staff to 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.	9/30/2023	Open	PMO	CAP in place

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39	Program Fee	PMO-2020-02	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.	9/30/2023	Open	PMO	CAP in place
40	Program Fee	PMO-2020-04	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.	9/30/2023	Open	PMO	CAP in place

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41	Cooperative Agreement Audit	PMO-2020-05	We recommend the Commission implement better practices for the QASP process that includes additions to the QASP plan or a separate procedure that outlines how the QASP and KPI measurements are developed and the basis for measurements.	9/30/2023	Open	PMO	CAP in place
42	Cooperative Agreement Audit	OCD-2020-07	We recommend the Commission to ensure the Commission's Agreements are harmonized with compliance enforcement protocol to ensure they are capable of meeting the regulatory requirements of the Agreements by the Commission and CNAs	9/30/2023	Open	OCD	CAP in place
43	Cooperative Agreement Audit	PMO-2020-09	We recommend the Commission to 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 to	9/30/2023	Open	PMO	CAP in place

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44	Cooperative Agreement Audit	PMO-2020-10	We recommend the Commission to ensure that responses to follow up questions from CNAs have been addressed and included in the reports prior to sending the Fee and Expenditure Reports to Congress	9/30/2023	Open	PMO	CAP in place
45	Cooperative Agreement Audit	BOP-2020-11	We recommend the Commission to ensure the CNAs have access to clear and complete guidance to follow when responding to Commission requests, enforcing the Commission's regulatory requirements and meeting the requirements of the Agreements.	9/30/2023	Open	BOP	CAP in place
46	Audit of Project Assignment and Allocation of Orders	BOP-2021-02	Update policy 51.301 to include clarifying the meaning of equitable and transparent distributions, consistent with Standards for	9/30/2023	Open	BOP	CAP in place

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			Internal Controls in the Federal Government and prior GAO recommendations.				
47	Audit of Project Assignment and Allocation of Orders	BOP-2021-03	Review and address the outstanding issues identified during the Commission's 2017 review to ensure NIB's project assignment policy aligns with Commission policy 51.301.	6/30/2023	Open	BOP	CAP in place
48	Audit of Project Assignment and Allocation of Orders	BOP-2021-04	Ensure that NIB completes its order allocation policy and provide sufficient guidance to NIB to ensure that this policy aligns with Commission policy 51.301.	6/30/2023	Open	BOP	CAP in place
49	Audit of Project Assignment and Allocation of Orders	BOP-2021-05	Require the CNAs to include specific criteria for considering the size of NPAs in their recommendation decisions. As part of this, develop metrics for assessing the CNAs on the equitable distribution of projects and monitor progress on an annual basis, consistent with the Standards for Internal	6/30/2023	Open	BOP	CAP in place

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50	Audit of Project Assignment and Allocation of Orders	BOP-2021-06	Controls in the Federal Government.  Conduct a study to determine whether a different mix of different sized NPAs could help increase the number of people employed through the program and their total work hours.	6/30/2023	Open	BOP	CAP in place
51	Audit of Project Assignment and Allocation of Orders	BOP-2021-07	Identify metrics for assessing transparency and monitor progress on annual basis, consistent with the Standards for Internal Controls in the Federal Government.	6/30/2023	Open	BOP	CAP in place
52	Audit of Procurement List Addition Process	BOP-2021-08	Develop a systematic approach to reviewing and updating policies and procedures every five years as needed in accordance with policy 51.101 including documentation of the review	6/30/2023	Open	BOP	CAP in place

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53	Audit of Procurement List Addition Process	BOP-2021-09	Update D&F policy 51.207 to improve transparency by clearly stating its use, purpose, and implementation including how D&F authority delegated to designated Commission staff is required to be approved by Commission members, documented, and periodically updated.	6/30/2023	Open	BOP	CAP in place
54	Audit of Procurement List Addition Process	BOP-2021-10	Review and evaluate the D&F thresholds, and the eight (8) other criteria for assessing whether using D&F approval authority is appropriate, in determining whether the risk tolerance for the volume of D&F approvals is at an acceptable level.	6/30/2023	Open	BOP	CAP in place

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55	Audit of Procurement List Addition Process	BOP-2021-11	Monitor the annual use of D&F authority to include restarting the regular reporting to Commission members about the use of this authority.	6/30/2023	Open	BOP	CAP in place
56	Audit of Procurement List Addition Process	BOP-2021-12	Develop comprehensive written documentation of the procedures performed by Commission staff for reviewing and evaluating PL additions including the approval process under D&F authority.	6/30/2023	Open	BOP	CAP in place
57	Audit of Procurement List Addition Process	CIO-2021-13	Complete in a timely manner the implementation to update the middleware software to facilitate the upgrades of the outdated vendor software and implement system patches or security updates as warranted.	12/31/2022	Open	CIO	CAP in place
58	Audit of Procurement List Addition Process	CIO-2021-14	Update the Commission's contingency plan to include an offsite or alternative	12/31/2022	Open	CIO	CAP in place

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59	Audit of Procurement List Addition Process	BOP-2021-15	recovery location for PLIMS in the event of a natural disaster or catastrophic incident. Review existing enhancements to PLIMS and determine any other enhancements needed to improve the PL additions process. The review should include documenting these processes, prioritizing enhancements, and establishing a timeline for implementation.	12/30/2022	Open	BOP	CAP in place
60	Audit of Procurement List Addition Process	BOP-2021-16	Review the process for extracting and tabulating data to assess the CNAs' performance including new PLIMS data fields and standard reports. The review should include documenting these processes, prioritizing enhancements, and establishing a timeline for implementation.	6/30/2023	Open	BOP	CAP in place

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61	Audit of Procurement List Addition Process	BOP-2021-17	Evaluate the security and functionality of PLIMS after enhancements are completed and determine whether the upgraded version of PLIMS addresses the Commission's needs or should be replaced.	6/30/2024	Open	BOP	CAP in place
62	Audit of Procurement List Addition Process	BOP-2021-18	Establish and document a process to ensure final PLIMS data files and other calculations supporting the metrics in assessing and reporting the CNAs' performance on PL additions and other PL transactions are maintained in a centralized location; and all assumptions, adjustments, and decisions made to adjust CNA final metric ratings based on the calculated results are documented.	6/30/2024	Open	BOP	CAP in place
63	Audit of Procurement List Addition Process	BOP-2021-19	Establish and document a process to evaluate the PLIMS information for new metrics prior to including the new metrics in the CNAs' QASPs.	6/30/2024	Open	BOP	CAP in place

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64	Audit of Procurement List Addition Process	BOP-2021-20	Identify metrics for assessing the efficiency and effectiveness of the PL additions process and monitor progress on an annual basis. This should include tracking approval rates for PL additions separately as well as end-to-end cycle times for completing a PL addition for products and services under full Commission voting process and D&F authority.	6/30/2023	Open	BOP	CAP in Place
65	FY 2021 DATA Act	OCP-2022-01	Design and implement a review process of its DATA Act File submissions and source documentation to ensure information is accurate. Specifically, we recommend that the Commission review submissions performed by USDA on behalf of the Commission.	10/17/2022	Open	OCP	CAP in place
66	FY 2021 DATA Act	OCP-2022-02	Design and implement policies and procedures that require the agency to complete the CAR in FPDS	10/17/2022	Open	OCP	CAP in place

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67	FY 2021 DATA Act	OCP-2022-03	<p>within three (3) business days after an award is issued.</p> <p>Design and implement policies and procedures that require the agency to ensure its monthly submissions to the Broker are completed before the required deadlines established by Treasury.</p>	10/17/2022	Open	OCP	CAP in place
68	FY 2021 DATA Act	OCP-2022-04	<p>RMA recommends that the Commission work with USDA to establish roles and responsibilities regarding its DATA Act reconciliation process. Additionally, it should update their policies and procedures to include a requirement for reconciliations of Broker errors/warnings to be documented. To increase the likelihood of errors/warnings from existing in the agency's file submissions, the Commission should also design, implement, and document the following</p>	10/17/2022	Open	OCP	CAP in place

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			review processes: <ul style="list-style-type: none"> <li>• Review all DATA Act file submissions to verify that data reported matches their authoritative source;</li> <li>• Review DATA Act files A through F to provide reasonable assurance that their alignment is valid and reliable; and</li> <li>• Review object class data to ensure they are reporting object class codes in accordance with OMB guidance.</li> </ul>				

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69	FY 2021 DATA Act	OCP-2022-05	<p>Work with USDA to revise its quarterly DATA Act reporting assurance statement template to include requirements of OMB M-18-16. In order to comply with OMB M-18-16, we recommend the Commission develop a DQP that covers significant milestones and major decisions pertaining to:</p> <ul style="list-style-type: none"> <li>• Organizational structure and key processes governing internal controls for spending reporting;</li> <li>• Testing plan and identification of high-risk reported data; and</li> <li>• Actions taken to manage identified risks.</li> </ul> <p>To assist in the development of a DQP that complies with OMB M-18-16, we recommend that the Commission refer to the Data Quality Playbook (dated November 30, 2018)</p>	10/17/2022	Open	OCP	CAP in place

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70	FY 2021 DATA Act	OCP-2022-06	<p>formulated by the Leveraging Data as a Strategic Asset Working Group. This document contains DQP outlines with processes and methodologies.</p> <p>Work with USDA to update its IAA, SOW, and develop a DQP to discretely outline the roles and responsibilities associated with the DATA Act of each agency. These roles and responsibilities should establish the responsible personnel for DATA Act file preparation,</p>	12/31/2022	Open	OCP	CAP in place

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			submission, reconciliation, and certification processes.				

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**Table 2: Closed during the 4<sup>th</sup> Quarter, FY2022**

Sequential No.	Report Short Name	Recommendation Number	Recommendation	Close Date	Current Status	Responsible Office <sup>1</sup>
1	Cooperative Agreement Audit	PMO-2020-08	We recommend the Commission review and assess the requirements of the deliverables listed in Section G, attachment 1 of the Agreements, to determine if there are opportunities to reduce the volume and enhance the preparation effectiveness	9/30/2022	Closed	PMO

<sup>1</sup> Legend for Responsible Office is as follows:  
 PMO – Director of the Program Management Office