The National Association for the Employment of People who are Blind

PUBLIC POLICY COMMITTEE REPORT

SUBMITTED BY DAN KELLY

BOARD MEETING, MAY 13, 204

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i'd like to start off this meeting's report with a thank you and a welcome.

Thank you to our Public Policy Forum Planning Committee:

Over the past two months there have been countless hours of support from NAEPB volunteers and NIB staff including the NIB Events Team to pull off this event. The NAEPB Board recognizes the hard work of the NIB staff and the following committee members from the agencies:

- Brian Patchett
- Dee Budgewater
- JEFFREY MITTMAN
- Jon Katz
- Lauren Branch

A Warm Welcome!

The NAEPB Board would like to welcome the 2024 Advocates Class to our ranks and to this year's public policy forum. The NIB Public Policy Team held an onboarding Zoom meeting for the 2024 Class of Advocates for Leadership and Employment the week of April 12, they're now receiving the Washington Update, and they are completing their first day of training at this conference. This week they will join us on Capitol Hill, advocating for people who are blind working in the AbilityOne Program. We are excited to have more passionate leaders telling our story to Congress.

Congratulations to:

Alabama Industries for the Blind – Christina Taylor
Alphapointe – Rebekah Greib
Beacon Lighthouse – Claire Walker
Bosma Enterprises – Greg Herron
Cincinnati Association for the Blind and Visually Impaired – Mia Ison

Industries for the Blind and Visually Impaired – Jeff Young
Lighthouse for the Blind of San Francisco – Alex Flores
Lighthouse Louisiana – Horace Grayson (Baton Rouge, LA) and Norman Demolle (New Orleans, LA)
The Lighthouse for the Blind, Inc. – Katy Todd (Seattle, WA) and Junior Ah-Siu (Auburn, WA BSC)
Virginia Industries for the Blind – Fayez Kotet (Centreville, VA Pentagon Retail Store) and Zachary Shifflett (Chester, VA)
VisionCorps – Wesley Hillman

AbilityOne Commission's Response to the NAEPB/NIB Letter:

This April the AbilityOne Commission responded to our NAEPB/NIB letter that requested support for the 1% utilization goal. The Commission's response is attached to this report for the record. Unfortunately, we were not surprised by the response that only highlighted the Commission's legislative proposal and did not provide a Commission position on the goal that had been recommended as a part of four 898 panel reports to Congress of which the Commission was a part. The response did highlight the need for members of Congress to hear from all of us on the importance of the goal as it does not appear they will be hearing directly from the administration. Over the next quarter we will be following up with Commission staff and members on their position to determine if a consensus legislative path forward can be established to increase employment opportunities for people who are blind.

Response Letter to NCD:

Predictably, the National Council on Disability (NCD) recopied its letter from last year, again sending a letter to the Armed Services Committee leadership in early April opposing the adoption of a 1% AbilityOne utilization goal for DoD.

A link to the April 1 NCD letter is provided here: https://www.ncd.gov/letters/2024-04-01-ncd-letter-to-sasc-and-hasc-regarding-abilityone/

Just this past week NIB, NAEPB, SourceAmerica, and NCSE were working to finalize a detailed, factual, and vigorous letter of response directly to NCD. You can rest assured that our letter to NCD will be shared with leadership and staff of both Armed Services Committees in order to defend the amazing work of our associated NPAs and to set the record straight yet again.

Information from this draft letter has already been helpful in communicating our concerns with NCD's Congressional oversight committees in the House and Senate (Education and Workforce and Help).

NAEPB Membership by the Numbers:

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To strengthen our advocacy efforts, NIB and NAEPB requested data on the state in which employees of each nonprofit agency in the NIB network reside. Our goal is to use aggregate data (by state) to educate members of Congress and other stakeholders on the broad reach of our program.

- 43 NPA responses out of 56 current NIB AbilityOne NPAs
    - 14/15 large NPAs
    - 16/19 medium sized NPAs
    - 13/22 small NPAs
- 9,008 total employees
    - 4,080 people who are blind
    - 4,928 People who are sighted
    - Employees reported in 48 states DC, other U.S. territories (e.g. Puerto Rico/Guam), and 'Other'
    - New Hampshire and South Dakota are the two states with no employees

If you run one of the 13 agencies that have not yet responded to the survey request, please do so.

U.S. AbilityOne Commission Issues Final Rules and Report to White House:

The staff of the U.S. AbilityOne Commission issued a report that was sent to President Biden which describes Commission actions to transform the AbilityOne Program, including current successes and future initiatives:

- Ending Payment of Subminimum Wages on AbilityOne Contracts
- Proposing Legislative Changes to Update the Javits-Wagner-O'Day Act
- Continuing Implementation of the 898 Panel Recommendations
- Improving Stewardship of the AbilityOne Program
- Updating AbilityOne Program Policies
- Advancing Employee Career Development within the AbilityOne Program
- Expanding and Supporting the AbilityOne Representatives (ABORs) Program
- Beginning IT Modernization

The report also includes a section by the Office of Inspector General.

On March 22, 2024, the U.S. AbilityOne Commission (Commission) published its final rule that it feels clarifies their authority to consider different pricing methodologies to establish the initial Fair Market Price (FMP) for Procurement List (PL) additions and changes to the FMP. The final rule that went into effect April 22, 2024 outlines a process permitting the central nonprofit agency (CNA) to distribute certain high-dollar services orders on a competitive basis to the authorized nonprofit agency (NPA) after considering price and non-price factors. Lastly, the final rule offers a position on the Commission's authority to authorize and deauthorize NPAs as mandatory sources and require all NPAs to provide the right of first refusal of employment to the current employees of an incumbent NPA who are blind or have other significant disabilities for positions for which they are qualified.

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The final rule can be found at:

https://www.federalregister.gov/documents/2024/03/22/2024-05717/supporting-competition-in-the-abilityone-program#:~:text=The%20final%20rule%20requires%20that,Commission's%20pricing%20policies%20and%20procedures.

We have grave concerns about this rule and will continue to monitor its implementation. Concerns revolve around the following:

- The provision in the NDAA that established the 898-panel indicated that the Commission should consider the panel's findings and led the Commission to take the position that preserving DOD business at all costs was its top priority despite the JWOD statutory mandate. The fact that the Commission felt compelled to respond to the competition recommendation and not the 1% utilization goal speaks to the latitude given by Congress to consider and not mandate implementation of panel recommendations.
- Despite the Commission's independent authority to establish fair market price (FMP), the Commission has made it clear with this rule that procurement list pricing needs to move closer to the lowest price technically acceptable in order to preserve contracts.
- FMP recognizes that contract pricing from an NPA that satisfies its ratio requirement may necessarily be different than lowest price technically acceptable to maximize employment opportunities for people who are blind or have the most significant disabilities. FMP was established by Congress because Congress was willing to make this trade-off as it does with many different types of socio-economic contracting programs. By injecting price competition and disavowing FMP, the Commission has undermined a critical aspect of the AbilityOne Program in a way that is inconsistent with the JWOD Act.
- By ignoring the social impact of decisions made through price competition, the Commission is also ignoring the economic impact on state and local governments due to increased reliance on federal and state assistance programs. By taking away meaningful jobs from people with disabilities, the Commission is impacting American families.
- The Commission's decision to compete procurement list contracts undermines the positive community impact of specific NPAs in favor of national program statistics. As such, the Commission is undervaluing the benefits of, and contributions provided by, the NPAs to the specific disability communities in their geographic locations. This will have a domino effect, as NPAs will not have enough money to fund community activities such as summer camps for kids with disabilities, occupational therapy programs, etc.
- Given the significant reduction of participating NPAs in the program over the past ten years, we feel this decision will further accelerate mergers, closures, and withdrawal of participation of many of the smaller NPAs leading to fewer, if any, services or employment opportunities for people with disabilities in those communities.

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Public Policy Platform Subcommittee Update:

The work of our Public Policy Platform Subcommittee is off to a great start. The Subcommittee is busy developing the guardrails around our approach to different public policy initiatives. This includes both the approach to evaluating public policy initiatives that we won't support because it

may negatively impact or erode the foundation of the AbilityOne program, and the limitations and guideposts on what we will support because of the mission of the NAEPB.

Examples of initiatives that the Subcommittee are wrestling with are:

- Reductions in Funding: Any proposed cuts or reductions in funding that would significantly impact the program's ability to provide employment opportunities for individuals who are blind or have significant disabilities.
- Changes to Procurement Policies: Alterations to federal procurement policies that diminish the priority given to AbilityOne products and services reducing the demand for goods and services produced by people who are blind or have significant disabilities.
- Weakening of Regulatory Support: Weakening or elimination of regulations and policies that support the AbilityOne program, such as the AbilityOne Commission's authority or the AbilityOne program's statutory preferences, which could undermine its effectiveness and sustainability.
- Changes to Employment Standards: Changes to labor laws or regulations that impact the wages, benefits, or working conditions of employees within AbilityOne-associated nonprofit agencies.
- Lack of Support for Innovation: Failure to support innovation and modernization efforts that could positively impact the quality of life or work conditions for people who are blind.
- Barriers to Participation: Imposition of administrative or regulatory barriers that make it more difficult for AbilityOne-associated nonprofit agencies to participate in federal contracting opportunities.

After any initiative is evaluated against these guardrails, the Subcommittee is thinking the NAEPB will generally support initiatives in the following categories that promote employment and enhance the quality of life for people who are blind:

- Employment Opportunities: Initiatives that create or enhance job opportunities for individuals who are blind, including vocational training programs, job placement services, and incentives for businesses to hire workers with visual impairments.
- Accessibility and Accommodations: Initiatives focused on improving accessibility and providing necessary accommodations in various aspects of life, such as education, employment, transportation, and technology.
- Education and Training: Initiatives aimed at improving access to quality education and training programs for people who are blind, including funding for specialized schools, scholarships, and support services for students with visual impairments.
- Healthcare and Rehabilitation: Initiatives that ensure access to essential healthcare services, vision rehabilitation programs, assistive devices, and resources to promote the health and well-being of individuals who are blind.
- Independent Living and Community Integration: Initiatives that support independent living skills, social inclusion, and community integration for people who are blind, including housing assistance, transportation options, and recreational programs.
- Civil Rights and Legal Protections: Initiatives that protect and uphold the civil rights and legal protections of individuals who are blind, including anti-discrimination laws, accessibility mandates, and advocacy for equal rights and opportunities.
- Technology and Innovation: Initiatives that promote the development and adoption of assistive technologies, adaptive devices, and innovative solutions to enhance the independence, productivity, and quality of life for people who are blind.

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- Employer Engagement and Awareness: Initiatives that engage employers and raise awareness about the capabilities and contributions of individuals who are blind, promoting inclusive hiring practices and fostering a supportive work environment.
- Community Support and Services: Initiatives that provide social services, support networks, and resources tailored to the needs of people who are blind and their families, including counseling, peer support groups, and advocacy organizations.
- Research and Collaboration: Initiatives that support research, collaboration, and knowledge-sharing to address emerging issues, improve service delivery, and advance the inclusion and empowerment of people who are blind.

These are just some great examples of the Subcommittee's initial work. Both the Committee and I look forward to bringing the NAEPB Board a formalized proposal for our public policy platform in the coming months as their work continues.

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