Massachusetts Commission for the Blind VR Research Initiatives 2020

Feasibility Study to Evaluate Establishment of a For-Profit Business Employing the Blind

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# Abstract / Executive Summary

1. Predominantly hire individuals who are legally blind
2. Provide competitive integrated employment opportunities with competitive wages commensurate to their non-blind peers
3. Conduct work in market-competitive industries
4. Create competitive job skills and relevant work experience that enhance the workers’ long-term employability through a career path

**MCB is interested in establishing an enterprise that would:**

On behalf of the Massachusetts Commission for the Blind (MCB), Public Consulting Group, Inc. (PCG) conducted a study on the feasibility of establishing a business enterprise to provide competitive, integrated employment opportunities to MCB’s VR consumers. Although the original charge was to explore the feasibility of establishing a “for-profit” business, PCG expanded the research beyond “for-profit” to include a variety of business models we felt MCB should consider. The goal of the study was to better understand the structure of potential business enterprises, how different models could impact MCB’s goals for the enterprise, and the steps that MCB could take in the establishment of such an enterprise.

PCG conducted a literature review, stakeholder interviews, analyzed data, and cross-referenced findings with prior studies produced for MCB by PCG. The study explores the history of sheltered blind “workshops” and the creation of the AbilityOne Commission. The study finds that although many workers with disabilities, including the blind and visually impaired, have found employment with nonprofit agencies affiliated with the AbilityOne Commission, there are limitations to the model. These limitations include subminimum wage employment and conflicting definitions on positive competitive integrated employment outcomes.

Beyond affiliation with the AbilityOne Commission, the study examines various business structures and related governing legislation, including Business Corporations, Worker Cooperatives, Not-for-Profit Corporations, Public-Private Partnerships (P3s), and Hybrid models. The study explores opportunities to create a sustainable model that reduces or eliminates the need for government support, and discusses prospective barriers to success, such as potential compliance and allowability issues. The study concludes with strategies for potential business structures and recommendations for MCB:

* Contact CNA organizations to share MCB’s interest in establishing a modern business enterprise and explore a collaboration to develop a fundable pilot model**;**
* Establish an advisory committee to help develop a business plan based on pilot program model;
* Explore whether AbilityOne affiliation could be a proposed business development strategy for MCB’s enterprise;
* Recruit appropriate expertise to develop and implement the new enterprise; and
* Review and evaluate potential barriers to success prior to launching a business enterprise.

# introduction

The following section introduces the goals of this research and the reason it was commissioned.

## Study Objective

The Massachusetts Commission for the Blind (MCB) is charged with administering Vocational Rehabilitation (VR) services for the Commonwealth’s legally blind job-seeking consumers. Prior to the Americans with Disabilities Act (ADA), Workforce Innovation & Opportunity Act (WIOA), and recent improvements in technology solutions, employment for the blind fell to organizations that would employ individuals in facility-based work. This work was often based on New Deal-era policies such as the Wagner O’Day Act, which required the federal government to procure products from suppliers that employ the blind. The policies created opportunities for states to establish workshops for blind individuals to assemble goods – such as mops, brooms, and pillowcases – to deliver under contract to the federal government. (Koestler, 2004)

Today, the ADA and the WIOA establish a framework for VR agencies to support what is known as “Employment First” for VR consumers. Whereas in the past organizations took an approach to “rehabilitate” a worker with a disability prior to their pursuit of work, today federal disability and workforce policy encourage a view that workers with disabilities can choose to pursue work in the general workforce as the first and preferred option, with appropriate support such as accessibility accommodations provided by employers and relevant support organizations like VR agencies.

With these changes in mind, MCB is interested in the feasibility of developing and deploying a fiscally sustainable enterprise to provide competitive, integrated employment opportunities to its VR consumers. MCB is interested in better understanding how it, as an RSA-funded state commission for the blind and WIOA workforce partner, can develop and deploy a modernized work environment that better integrates its VR consumers into current and future workforce trends and work environments.

This report assesses the feasibility of pursuing such an enterprise. To provide this assessment, Public Consulting Group (PCG):

1. Evaluated historical models of employment for the blind and visually impaired and their guiding policies.
2. Assessed the benefits and trade-offs of organizations that affiliate with the Jay-Wagner-O’Davis (JWOD) Act AbilityOne network.
3. Conducted a literature review and stakeholder interviews focused on blind and disability workforce policy.
4. Developed and provided a spectrum of options for incorporating or operationalizing an enterprise.
5. Developed and provided a matrix of benefits and trade-offs for various incorporation models.
6. Analyzed business structures for opportunities to deploy modern, integrated workforce development strategies such as Registered Apprenticeship Programs, Industry-Recognized Apprenticeship Programs, gig economy, eCommerce, and other “future of work” areas.
7. Provided preliminary analysis of where MCB could leverage its VR consumers’ occupational skills to provide solutions through this new enterprise.
8. Provided recommendations on steps MCB could take to implement an enterprise.

It is important to note that PCG’s focus during this process is on the *structure* of the prospective enterprise and the impact this structure has on the goals notes above. While PCG did conduct some preliminary research on prospective industries and occupations, this report should not be considered a business plan. As noted in the recommendations, PCG recommends MCB conduct further market assessment and develop appropriate business plans should it choose to establish an enterprise. Similarly, business structures involve legal judgement around risk, liability, taxes, and employment law. This report should not be interpreted as legal advice. PCG recommends MCB consult with legal counsel before implementing any recommendations.

We have documented our research and findings below. We conclude this report with a series of recommendations for MCB to consider should it choose to pursue this endeavor.

## Results Vision

This report will help MCB understand:

1. Common business structures for organizations seeking to sell goods and services while predominantly employing the blind and visually impaired.
2. The benefits and trade-offs of various business structures in providing a competitive integrated employment environment.
3. An analysis on which structures could be feasible for MCB to help implement.

# methodology

This section explains important terms used in this research for ease of reference, and briefly describes how PCG went about collecting research and information.

## Terminology

Key terms are addressed and defined here in the context of this report and MCB’s goals.

**Business Structure:** Business structures represent how an entity governs itself, assumes risk and liability, and handles taxation. Business structures are codified and regulated by states (U.S. Small Business Administration, n.d.).

**Central Non-Profit Agencies (CNAs):** CNAs recruit, provide technical assistance to, and assist with business development opportunities for a national network of non-profit organizations that predominantly employ the blind and those with significant disabilities under the AbilityOne Commission (AbilityOne Commission, n.d.).

**Employment First:**  A framework for systems change that is centered on the premise that **all** citizens, including individuals with significant disabilities, are capable of full participation in integrated employment and community life (U.S. Department of Labor Office of Disability Employment Policy, 2020).

**Enterprise:** A business or a company, regardless of ownership structure or organization.

**Liability:** Any obligation, legal, financial, or otherwise, to which an entity or person is responsible for by law or weight of contract.

**Workshops:** Historic facility-based, sheltered work environment for the blind, of which arrangements provided both on-site living and employment for residents. (Koestler, 2004)

Table 1 below represents acronyms frequently used throughout the report.

Table : Frequently Used Acronyms

|  |  |
| --- | --- |
| **Acronym** | **Description** |
| ADA | Americans with Disabilities Act of 1990 |
| AFB | American Foundation for the Blind |
| CNA | Central non-profit agency |
| JWOD | Jay-Wagner-O’Davis Act of 1971 |
| L3C | Low-profit limited liability corporation |
| MCB | Massachusetts Commission for the Blind |
| NIB | National Industries of the Blind |
| NPA | Non-profit agency |
| SOC | Standard Occupational Classification (codes) |
| VR | Vocational Rehabilitation |
| WIA & WIOA | Workforce Investment Act of 1998Workforce Innovation and Opportunity Act of 2014 |

## Data Collection & Research

PCG used several methods for data collection and research to better understand the feasibility of establishing a business enterprise. We have summarized these methods below:

|  |  |
| --- | --- |
| **Interviews** | * PCG conducted four interviews as part of the research.
* Interviewees included representatives from AbilityOne Central Non-Profit Agencies, a locally based AbilityOne Non-Profit Agency (NPA) employing blind individuals in advanced manufacturing, and an independent retailer that predominantly employs individuals with disabilities.
 |
| **Data Analysis** | * PCG assessed the interview responses for trends and example case studies cited.
* PCG analyzed reviewed occupation and industry data.
 |
| **Research** | PCG reviewed more than 35 sources on:* The history of workshops for the blind and agency-based employment models.
* Federal policy on employment for the blind.
* Business incorporation models in Massachusetts.
 |
| **Research Review** | * PCG cross-referenced this feasibility assessment with research conducted as part of MCB’s 2020 VR Research Initiative.
* PCG provided preliminary assessments on the opportunities and challenges the current COVID-19 pandemic provides.
 |

#

# research

This section describes the findings of the literature review, national scan of best practices, as well as a review of the relationship between this scope of work and a selection of other scopes PCG has completed with MCB. This section details the points of greatest relevance to MCB’s goals for this research and their greater mission. Full references for each of the works cited in this section can be found in the References section.

## Literature Review

Background on Workshops & Employment Entities for the Blind

To frame what a potential modern enterprise could look like, it is important to understand the background of labor and workforce policy for the blind in America. Starting in the late 1800’s and brought to fruition in the early 1900’s, employment strategies specific to the blind have yielded mixed results. Many blind programs were founded to support participants in multiple ways. Known early on as “workshops”, these facility-based arrangements provided both onsite living and employment to their residents. While this arrangement provided subsistence for many individuals with blindness, participants typically received subminimum wage and were presumed to be unable to contribute competitively in the broader American workforce. These models isolated the individuals from the workforce and reinforced the notion that individuals with blindness must be “rehabilitated” before integrating into a modern work environment. However, these models often precluded any future career beyond the sheltered workshop. (Koestler, 2004)

**Legislation Impacting Blind Workforce Policy & Workshops**

**Randolph Sheppard Act of 1936** – New Deal-era policy which establishes licensing processes and creates priority for blind individuals to operate vending programs in federal, state, and (in some states) local government offices.

**Wagner-O’Day Act of 1938** – New Deal policy which required the federal government procure products from suppliers that employ the blind.

**Javits-Wagner-O'Day (JWOD) Act of 1971** – Establishes federally-authorized nonprofit agencies -- known today as SourceAmerica, National Industries for the Blind (NIB) and the American Federation for the Blind (AFB) -- to facilitate competitive procurements by agencies that predominantly employ the blind and individuals with significant disabilities for federal contracts. These agencies cultivate and support a national network of nonprofit agencies that employ blind and significantly disabled to compete for federal contracts. The program would later grow to be called the AbilityOne program.

**Americans with Disabilities Act (ADA) of 1990** – Prohibits Discrimination of individuals with disabilities in the workplace.

**Workforce Investment Act (WIA) of 1998** – Amends Rehabilitation Act of 1973 to create links between WIA Title I workforce development activities and Rehabilitation Act activities.

**Workforce Innovation & Opportunity Act (WIOA) of 2014** – Amends various Rehabilitation Services Agency requirements to create a system that prioritizes employment first. Adds performance reporting for state RSA-funded agencies for competitive employment of participants to hold states accountable.

Over the course of the 20th century, federal policy evolved to create new opportunities for workers who are blind. From the 1930’s through present, legislation and regulatory policy established various mechanisms to provide new support to workers who are blind and shift presumptions. Whereas policies initially operated on a presumption of medical rehabilitation – where the individual is presumed to need extensive assistance – new policies moved to a presumption of employability and equal contribution. In other words, where blind services agencies have historically sheltered workers with disabilities in workshop employment environments, disability policy today presumes the individual can contribute fully in an integrated work environment with – where necessary – reasonable accommodations and support from the employer (Kate Cooney, 2014).

One of the largest contributions to blind employment policy over the 20th century was the creation of the AbilityOne Program.

AbilityOne Program

To understand how MCB could pursue the establishment of a business enterprise that hires individuals who are blind, it is important to understand the benefits and trade-offs of the AbilityOne Program.

The AbilityOne Program was created by the Javits-Wagner-O’Day Act of 1971 (JWOD) and aimed to employ those with blindness by fulfilling federal contracts for various goods and services. Under JWOD, Congress established a federal commission appointed by the President, known as the AbilityOne Commission since 2006, to designate central non-profit agencies (CNAs) to recruit local non-profit agencies (NPAs) to employ individuals who are blind and fulfill these contracts. These CNAs recruit, provide technical assistance to, and assist with business development opportunities for a national network of non-profit organizations that predominantly employ individuals who are blind and those with significant disabilities. Through this network, those with blindness and significant disabilities who are employed at an affiliated NPA can gain increased access to competitive integrated employment. There are currently three designated CNAs – SourceAmerica, National Industries for the Blind (NIB), and American Foundation for the Blind (AFB). As their name implies, NIB and AFB provide opportunities for individuals who are blind while SourceAmerica assists those who are blind who have additional significant disabilities. These CNAs coordinate with local non-profit agencies (NPAs) to fulfill federal contracts while employing individuals who are blind in direct labor positions (AbilityOne Commission, n.d.).

The AbilityOne Network fulfills billions of dollars annually in contract obligations. In the U.S. AbilityOne Commission’s Congressional Budget Justification, the Commission staff “oversee[s] $3.3 billion in annual AbilityOne sales – with total contract value of more than $8 billion.” (AbilityOne Commission). These contracts are fulfilled by a network of “more than 500 NPA’s across 15 time zones.” (AbilityOne Commission)

Organizations interested in employing those with blindness have predominantly turned to the AbilityOne Program. Between FY 2008 and 2017, NPAs employed an average of 46,670 people per year who are blind or have a significant disability and provided over $3.3 billion in procured goods and services (National Council on Disability, 2019). AbilityOne publishes the following benefits of affiliation:

* Employees gain greater independence, self-esteem, and confidence; and acquire new skills and work experiences that can lead to opportunities for advancement.
* Federal and state governments and the American taxpaying public benefit from the employment of thousands of people who might otherwise be dependent on public assistance. Three AbilityOne programs alone - commissary, food services and custodial services have led to a net impact of nearly $47 million annually through entitlement reductions and increased tax revenue.
* With the participation of more of its citizens in the workplace, every community benefits from greater cultural diversity and awareness, and a highly motivated workforce (AbilityOne, n.d.).

However, multiple research reports by congressional and federal agencies show the AbilityOne strategy may need to be modernized to be consistent with Employment First policy goals. An article by the independent federal National Disability Council questions whether the program successfully achieves its stated goals. “Very few persons with disabilities exit the program each year into competitive employment within the community or are promoted to supervisory positions” (National Council on Disability, 2019).

A 2020 United States Commission on Civil Rights report states the “AbilityOne Commission unnecessarily perpetuates segregated employment of people with disabilities, and that during Fiscal Year 2014, only 1,936 individuals (4%) were transitioned to competitive integrated employment" (U.S. Commission on Civil Rights, 2020).

Both a National Council on Disability assessment and United States Commission on Civil Rights (USCCR) assessment find that the AbilityOne Program’s ability to meet these goals is predominantly inhibited by the following areas:

* **Direct Labor Ratio** – The AbilityOne Program mandates that people who are blind or have a severe disability perform 75 percent of the “direct labor” necessary to produce the goods or provide the services offered by the NPA. This has the (likely unintended) effect of (a) sheltering workers to front-line work and (b) severely limiting the opportunity for advancement inside an AbilityOne enterprise by creating a disincentive to promote individuals with disabilities to new roles that are not classified as direct labor. The National Disability Council, using its previous reports, calculated that *only about 4% of AbilityOne employees exit into competitive integrated employment outcomes*. The report 3.2% of employees were promoted in some manner in FY 2016, with *only 0.87% achieving a supervisory position* (National Council on Disability, 2019).
* **Subminimum Wage Certificates** – JWOD allows participating AbilityOne Program NPA’s to apply for Fair Labor Standards Act 14(c) exemption certifications to pay subminimum wage, also known as subminimum wage certificates. The USCCR cites research that “shows that Section 14(c) is antiquated as it was enacted prior to our nation’s civil rights laws, and its operation in practice remains discriminatory by permitting payment of subminimum wages based on disability without sufficient controls to ensure that the program operates as designed ‘to the extent necessary to prevent curtailment of opportunities for employment’” (U.S. Commission on Civil Rights, 2020). Despite this, an assessment by the National Council on Disability found that “between 40 to 44 percent, or as many as 234 of the 527 NPAs, were allowed to pay subminimum wages.” (National Council on Disability, 2019) This use of subminimum wages fosters unequal pay and contradicts the spirit of the Americans with Disabilities Act which sought to eliminate pay discrepancies for those who are blind and/or disabled.
* **Definition of Positive Employment Outcomes** – Both JWOD and WIOA programs (including VR programs as amended) state that their programs lead to competitive integrated employment. However, the JWOD Act direct labor ratio conflicts with the goals of WIOA. (National Council on Disability, 2019) The Commission “views competitive employment and reasonable accommodations in ways which differ from the ADA and other federal laws” (National Council on Disability, 2019). JWOD program placements in direct labor positions with subminimum wages can be considered “positive” outcomes for the program as they fulfill the programs purpose. Meanwhile, WIOA and ADA require that positive VR placements meet minimum wage requirements – ideally paying prevailing market wages – with employers who provide reasonable accommodations to the employee. VR programs cannot place a participant into many AbilityOne programs and claim a positive outcome as many of the jobs fail to meet WIOA standards for a positive placement.
* **Program Fees** – While program fees to participate are fixed, CNAs may charge additional fees for conference, trainings, and sponsorship. These additional fees may limit participation by organizations with more limited budgets, especially early stage organizations.

There are various trade-offs for affiliation with the AbilityOne Program as an enterprise. The program can provide an opportunity to tap into a ready-made, prioritized market that can help a non-profit agency grow employment opportunities for those who are blind or visually impaired in their community.

However, the lack of updates to the AbilityOne network model to align with the current Employment First strategies embedded in ADA and WIOA create various exceptions which may prove to negate the benefits of affiliation with AbilityOne and is in conflict with MCB’s stated goals for this initiative.

Business Structures & Governing Legislation

Business structures represent how an entity governs itself, assumes risk and liability, and handles taxation. Business structures are codified and regulated by states. In Massachusetts, for-profit corporations are governed under Massachusetts General Law and administered by the Secretary of the Commonwealth.

This section reviews formally recognized business structures in Massachusetts that could serve as options for MCB should the agency choose to establish an enterprise. The narrative also explores where other prospective structures, such as Public Private Partnerships (P3s), could be adopted with appropriate legislative or regulatory support.

Table : Massachusetts Business Structures

| Business Structure | Governing Massachusetts Legislation & Summary |
| --- | --- |
| Business Corporations | Massachusetts General Law [Chapter 156](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter156). This covers limited liability corporations (LLCs), corporations (“C-Corps”), and other similar private corporation structures. |
| Benefit Corporation | Benefit Corporations are legislatively-recognized subset of Business Corporations codified in [Chapter 156, Section E](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter156E). Benefit Corporations are incorporated under Section 156A or 156D and subsequently elect to be governed as a “Benefit Corporation.” The Benefit Corporation must provide a “material, positive impact on society and the environment, taken as a whole, as measured by a third-party standard, from the business and operations of a benefit corporation.” The organization is “expressly permitted to consider and prioritize the social and environmental impacts of their corporate decision-making” over maximizing financial return to investors.” |
| Non-Profit Corporations | Covers charitable organizations and organizations for other civic purposes as defined under [Section 4](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter180/Section4) of Massachusetts General Laws [Chapter 180](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter180). Many organizations that form as nonprofit corporations at the state level also submit for 501(c)(3) tax-exempt status with the IRS. |
| Cooperatives | Massachusetts has three classifications of Cooperatives defined in Massachusetts General Laws [Chapter 157](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter157), [157A](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter157A), and [157B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter157B). Chapter 157 defines Cooperative Corporations. Chapter 157A defines Employee-Cooperative Corporations. Chapter 157B defines Housing Cooperatives.  |
| Public Private Partnerships  | Public private partnerships are not defined as a business structure by Massachusetts General Laws. However, a variety of laws articulate the definitions and regulations and oversight of public private partnerships in transportation ([Chapter 6C, Section 73](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter6C/Section73)) and the Massachusetts [eHealth Institute](https://mehi.masstech.org/about-mehi) ([Chapter 40J, Section 6D](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40J/Section6D)). |

MCB has requested PCG evaluate business structures and how those structures could impact fiscal sustainability and employee experience. The table below provides a summary of criteria for consideration and support and combines information from:

*It is important to note this section provides public information only and should not be interpreted as specific recommendations or legal advice. Recommendations are addressed in Section 6 of this report. Prior to implementing any recommendations, MCB should consult with legal counsel to better understand the allowability, legality, and liabilities of pursuing any of the options below.*

* The Small Business Administration: Used as source for federally recognized incorporation models (LLC, Corporation, Not-for-Profits)
* Massachusetts Commonwealth Law
* Community Enterprise Project of the Harvard Transactional Law Clinics: Used for information on Commonwealth laws regarding cooperative entities
* Various studies on public private partnerships

**Table 3: Business Structure Criteria for Consideration and Table 4: Business Structure Criteria for Consideration (Continued)** represents matrices showing how different business structures may impact any organization formed using that structure. Business structures are presented in the first column on the left, and the top row represents key questions about the business structure.
Each question is answered in the matrix with a “yes”, “no”, and any accompanying detail highlighting important features and programs the enterprise could take advantage of. This is only a brief summary of these structures. It should be used as an introduction to the differences between structures, not considered a complete definition or comparison of these structures. PCG did not include structures that do not shield ownership from personal liability, such as sole proprietorships.

Table : Business Structure Criteria for Consideration

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Business Structure**      | **Business Structure is Standardized in Commonwealth Law?** | **Structure limits individual/personal liability?** | **Structure allows organization to raise revenue through the sale of goods or services?** | **Structure allows for profits to be distributed to workers?** |
| **Corporation (LLC or C-Corp)** | Yes | Yes, if structured as an LLC or C-Corporation. | Yes | Yes |
| **Benefit Corporation** | Yes | Yes  | Yes | Yes |
| **Not-for-Profit**  | Yes | Yes, since this requires structuring as a corporation | Yes | No. Shareholder disbursements of any kind are prohibited |
| **Member or Worker Cooperative** | Yes | Yes, if structured first as a corporation | Yes | Yes, but with limits on disbursements |
| **Public Private Partnerships** | No, Established on case-by-case basis  | Yes, if incorporated into a non-profit | Yes, though this return on investment is typically limited to the specific charter of the organization | No, typically profits are returned to investors as part of the charter |

Table : Business Structure Criteria for Consideration (Continued)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Business Structure**      | **Structure allows for “Worker-owners”** | **Eligible for AbilityOne Program Affiliation (SourceAmerica, NIB, AFB)** | **Eligible for Disability-Owned Business Enterprise Certification (DisabilityIN)** | **Can contract with other entities to bid on services.** |
| **Corporation (LLC or C-Corp)** | No, unless corporation elects to be governed as a cooperative | No | Yes | Yes |
| **Benefit Corporation** | No | No | Yes | Yes |
| **Not-for-Profit**  | No | Yes | No | Yes |
| **Member or Worker Cooperative** | Yes | No | Yes, if not incorporated as a not-for-profit | Yes |
| **Public Private Partnerships** | No, typically a non-profit is established with a Board of Directors | Yes, if incorporated into or with a 501(c)3. | If not incorporated, no | Yes, if incorporated into a business structure |

Business Corporations

Business structures are regulated by states. Business Corporations are the Commonwealth’s classification for entities conducting business in the Commonwealth. Business Corporations – as a legal structure – are the basis by which other business structures, such as worker cooperatives, incorporate and may elect alternative governance structures regarding how they use profit or establish ownership.

It’s important to note that a corporation is not necessarily obligated to “pursue profit at the expense of everything else.” As a Cornell article notes:

*“In nearly all legal jurisdictions, disinterested and informed directors have the discretion to act in what they believe to be the interest of the business corporate entity, even if this differs from maximizing profits for present shareholders.”* (Clarke Business Law Institute, 2020)

**Section 4.1.3** provides the relevant Massachusetts General Laws which define business corporation structures. Broadly speaking, these structures include:

* Sole Proprietors
* Partnerships
* Limited Liability Corporations (“LLCs”)
* Corporations (“C-Corps”)
* S-Corporations (“S-Corps”)
* Benefit Corporations
* Close Corporations
* Nonprofit Corporations

Business corporations can generate profit and – unless otherwise designated in cooperatives or non-profits – distribute profits back to shareholders through multiple methods such as shares or stocks. Corporations that are not sole proprietorships or partnerships can also reinvest revenue into the firm in accordance with the bylaws and governance structures. Corporations can also use revenue, profit, or instruments of debt outside the firm to fund other activities, as corporations exist as separate entities from their owners. Sole proprietorships and partnerships are not separate entities from their owners. Owners can be held personally liable for debts, and business assets are not distinguishable from personal assets. (U.S. Small Business Administration, n.d.). Sole proprietorships and partnerships were not included in PCG’s report.

The Small Business Administration provides a summary of common structures. Different corporate structures provide different tax advantages, liabilities, tax structures, and shareholder benefits. (U.S. Small Business Administration, n.d.)

Benefit Corporation

Benefit corporations (sometimes referred to as “B-corps”) are corporations in which the directors and officers of the business are “expressly permitted to consider and prioritize the social and environmental impacts of their corporate decision-making” over maximizing financial return to investors. In Massachusetts, corporations elect in their articles of organization to be governed under Mass. Gen. Laws Chapter 156E. A benefit corporation must comply with additional corporate formalities, including preparing and submitting to the Secretary of the Commonwealth an annual benefits report and designating a “benefits director” to oversee the corporation’s public benefit goals. The corporation may (but is not required to) designate one of its officers as a “benefit officer” (Community Enterprise Project of the Harvard Transactional Law Clinics, 2015).

Benefit Corporations effectively operate the same as traditional corporations outlined in **Section 4.1.4**. These entities can accept investment, establish shareholder structures, and overall operate like a corporation. However, unlike traditional corporations where profits can drive decision-making, Benefit Corporations establish governance structures that explicitly account for conflicts of interest between profit and the societal “benefit” that the corporation was established to uphold. The Benefit Corporation incorporates that societal value into its the return on investment calculations and governance.

B-Lab, a non-profit that expands awareness and use of business structures and certification that recognize public good in addition to profits, explains this further through the following hypothetical from the perspective from a prospective investor in a benefit corporation:

*Imagine an institution considering an investment in a corporation whose successful execution of its business plan would yield a $100 profit to the investor. Then imagine another investment in a similar entity that, by pledging to contribute 10% of its profits to charitable causes, could yield a profit of $120 for the same investment by engaging its employees and customers through publicizing its charitable commitment. At that point, $120 less the 10% pledge would yield $108 profit, an 8% increase in profitability. While this is obviously simplified, it illustrates that there is no conceptual contradiction between maximizing stockholder value and committing to a mission* (B-Lab, n.d.)*.*

As a note, a Benefit Corporation is a legal structure. Despite the name, it is not the same as a Certified B-Corporation certification. As B-Corporation notes on its website:

*Benefit corporations and Certified B Corporations are often confused. The B Corp Certification is a third-party certification administered by the non-profit B Lab, based in part on a company's verified performance on the B Impact Assessment. The benefit corporation is a legal structure for a business, like an LLC or a corporation* (B-Lab, n.d.)*.*

Not-for-Profit Corporation

Not-for-profit corporations in Massachusetts are formed under Chapter 156B: Certain Business Corporations in Massachusetts General Law. However, the corporation does not have capital stock, the articles of organization omit reference to stock and stockholders and the corporation is formed for a purpose recognized by M.G.L. Chapter 180 (Secretary of the Commonwealth of Massachusetts, n.d.). Board Members, employees, and other stakeholders cannot receive profits or stock from the organization. Not-for-profits which claim 501(c)3 tax exemption “must not be organized or operated for the benefit of private interests, and no part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual. If the organization engages in an excess benefit transaction with a person having substantial influence over the organization, an excise tax may be imposed on the person and any organization managers agreeing to the transaction” (Internal Revenue Service, 2020) .

Member or Worker Cooperative

Sometimes called “employee cooperatives,” worker cooperatives are businesses owned and controlled by the workers who contribute their labor to the business (typically called “members” or “worker-owners”). Profits are returned to workers in proportion to the hours they work or the value they contribute to the business. Because only members have voting rights, control of the cooperative stays within the workforce. An example of a local worker cooperative is CERO, a zero-waste management company in Dorchester, Massachusetts. (Community Enterprise Project of the Harvard Transactional Law Clinics, 2015).

Worker cooperatives have varying structures around how they return investment to cooperative members.

The United States Federation of Worker Cooperatives provides a full directory of worker cooperatives nationally. The directory organizes cooperatives by industry and provides location and contact information. (U.S. Federation of Worker Cooperatives, 2019)

Public-Private Partnerships (P3s)

Public-Private Partnerships (also known as P3s) in the United States have historically referred to arrangements between governments and private sector businesses as financial investors to advance large-scale infrastructure projects. Historically, governments would prioritize projects such as toll reads and identify private sector investors to finance portions or the entirety of the project. The government works with the investor to negotiate a return on investment. The goal of the relationship is to reduce the risk of the government and reward risk for private sector investment.

Public-Private Partnerships (P3s): The Southern Connector

The Southern Connector, a 16-mile toll highway outside of Greenville, South Carolina.

The project is structured as a public-private partnership between the South Carolina Department of Transportation (SCDOT) and the private partner, Interwest Carolina Transportation Group, LLC. The two formed a 63-20 non-profit corporation, Connector 2000 Association, Inc. (C2A), which issued tax-exempt toll revenue bonds to construct the facility. C2A operates under a 50-year license and during this time is responsible for the design, financing, construction, operation, and maintenance of the facility. Under C2A's agreement, C2A pays a fee to SCDOT for licensing and maintenance. SCDOT retains ownership of the Connector.

Source: [Federal Highway Administration](https://www.fhwa.dot.gov/ipd/project_profiles/sc_southern_connector.aspx)

The Southern Connector, a 16-mile toll highway outside of Greenville, South Carolina, and Boston Crossing in downtown Boston, Massachusetts, provide classic examples of this arrangement.

However, use of P3 models is expanding beyond infrastructure. Healthcare and hospital systems – systems more akin to the human services sector – have long used public-private partnerships to deliver infrastructure or even operations.

As Gilbert Probst of the World Economic Forum shared in an interview with the Wharton School of Business at University of Pennsylvania:

*In the last [few] decades, we have seen a trend towards public and private actors more collaboratively addressing societal challenges that one of them alone cannot solve. The areas are health, education, water [and] poverty — where we need all the different stakeholders to collaborate.* (How Public-private Partnerships Can Help Build Nations’ Brands, 2016)

In separate example, the Senegalese government experimented with a *faire-fair* model P3 which prioritized service delivery of literacy training through local for-profits, not-for-profits, and other non-governmental organizations. A study by the University of Massachusetts-Amherst found some tradeoffs. The partnership saved on fixed transaction costs (e.g., the specific investments necessary for setting up the institutional arrangements such as project management and implementation). However, variable transaction costs (e.g. the expense of running the partnership system such as compliance monitoring) were noted as high.

*“Since the [Senegalese] public-private partnership projects are mostly using existing infrastructure owned by civil society associations, the projects’ expenses in fixed transactions costs may be lower than the fixed transaction costs of a state-run literacy project (for which necessary infrastructure would in many cases need to be rented or built). On the other hand, the variable transactions costs can be particularly heavy when using public-private partnerships, because of the costs of ensuring contract compliance… a considerable amount of money has been spent on a monitoring and on an evaluation system which has largely failed to ensure that the literacy activities were of adequate quality.”* (Bjorn Harald Nordtveit, 2005)

Operationally, P3s can be highly customized. However, customization should be aligned with goals of the project. Some P3s are designed purely to deliver infrastructure, such as a highway or hospital building. Others incorporate elements of service delivery, such as medical services in a hospital. Table 5 below provides an example of P3 models from the healthcare sector of how a public private partnership might be organized to construct and operate a hospital facility.

Table : Models of Public-Private Partnership in Hospital Provision (Martin McKee, 2006)

|  |  |
| --- | --- |
| **Model** | **Description** |
| Franchising | Public authority contracts a private company to manage existing hospital |
| DBFO (design, build, finance, operate) | Private consortium designs facilities base on public authority's specified requirements, builds the facility, finances the capital cost and operates their facilities |
| BOO (Build, own, operate) | Public authority purchases services for fixed period (say 30 years) after which ownership remains with private provider |
| BOOT (build, own, operate, transfer) | Public authority purchases services for fixed period after which ownership reverts to public authority |
| BOLB (buy, own, lease back) | Private contractor builds hospitals; facility is lease back and managed by public authority |
| Alzira model | Private contractor builds and operates hospital, with contract to provide care for a defined population |

P3s can charter a recognized business structure to operate under such as a non-profit corporation or remain a quasi-state enterprise similar to the Massachusetts eHealth Institute (Massaschusetts eHealth Institute, 2020) .This entity typically becomes the bridge between the funders, project stakeholders, project delivery and project revenue. Using The Southern Connector as an example, partners joined together to establish Connector 2000 Association, Inc., a non-profit corporation, to administer funds and operations of the partnership and receive revenue raised via toll booth collections.

P3’s provide a benefit of typically operating more quickly. By matching the resources and administrative authority of the government with the agility and ROI-focus of the private sector, investors and stakeholders (ex. The community benefitting from the project), P3s can often address major societal challenges in a way that maximizes the strengths of different sectors.

## National Scan of Best Practices

As noted throughout Section 4, the history of employment policy and entities for individuals who are blind has centered on government subsidized programs such as JWOD and the Randolph Sheppard Act. To get a better sense of current and future business structures that prioritize expanding competitive integrated employment outcomes for those who are blind, PCG identified four organizations to interview. Interviewees were senior level executives who represented:

1. Two national AbilityOne Commission Central Non-Profit Agencies (CNA)
2. A local AbilityOne Non-Profit Agency (NPA) based in the Midwest that has affiliated with the AbilityOne Program, and
3. A private business expanding to multiple locations nationally that prioritizes competitive integrated employment practices and does not affiliate with the AbilityOne program

PCG’s conversations with these organizations yielded the following findings delineated in the subsections that follow.

AbilityOne Affiliation Can Subsisize a Profitable Enterprise with Diverse Job Opportunities

PCG interviewed an AbilityOne-affiliated NPA. The NPA was a former public sector sheltered workshop for individuals who are blind that was converted in a 501(c)3 following state budget cuts in the 1970s. Today, the NPA operates four lines of business based on AbilityOne goods and services:

1. Machine Shop for Metal Fabrication
2. Commercial Assembly & Packing
3. Call Center Staffing
4. Base Supply Center for Military Distribution

The NPA sells these goods and services both in fulfillment of AbilityOne Program federal contracts and on open market yielding an annual budget of approximately $44M. The NPA employs approximately 130 individuals to fulfill its obligations of whom 51-52% are blind. However, the NPA states that AbilityOne work “makes up about 90% of our revenue.”

The NPA also cited some of the following practices that have allowed it to operate profitably:

1. **Focus on Financial Sustainability:** The NPA shared that they operate like a competitive business as much as possible.

*“We are a non-profit. But we operate like a for-profit. ‘No margin, no mission. Non-profit, but not for loss.’ We operate the business just like a commercial for-profit enterprise.”*
2. **Diversifying Offerings & Revenue:** The NPA shared how they secure additional funding beyond selling goods and services.

*“As a non-profit, we get to do grant writing. About 1-2% of our revenue comes from grants. It’s not much, but it’s an important 1-2%. It funds a lot of special equipment. It funds a lot of training.”*

Additionally, the interviewee emphasized that they are focused on finding market niches that both pay well and are a sustainable market.

*“We are very focused on non-commodity type items because [commodities] tend to have lower margin.”*

The NPA emphasized that they actively seek opportunities outside of AbilityOne to remain competitive.

*“Our number one strategic initiative is diversifying away from AbilityOne.”*
3. **Securing Relevant Expertise:** The NPA noted that separating and incorporating into a new entity required extensive expertise.

*“One of our more tenured board members is an attorney that actually orchestrated the separation.”*
4. **Using AbilityOne Revenue to Stabilize the Organization:** The NPA noted that AbilityOne contracts have provided a stabilizing effect on revenue. When the organization lost contracts due to customers that relocated, the organization was able to fall back on the AbilityOne Program to keep revenue.

*“When [a major customer] left town, it almost crushed us… Millions of dollars worth of contracts left our place. If it wasn’t for our involvement in the AbilityOne Program, frankly, we probably would be gone… It took a while to get the company sound again.”*
5. **Using the State as an Investor:** The NPA noted that the state was a critical investor in the initial enterprise. The state “wanted us to succeed” and provided financial support. The state would have served as a backstop had the enterprise failed. If the newly formed 501(c)3 could not perform the service, the state would step in to assist.

*“The State gave a runway of money. [They gave us] a few million dollars that decreased over a four-to-five year period. They gave us a free lease… They wanted us to succeed.”*
6. **The NPA Creates a Competitive Corporate Culture:** The interviewee cited that the organization pays competitive wages, fosters a culture of inclusive and upward mobility, and fosters a culture of success beyond the enterprise.

The NPA pays competitive wages. *“The year I joined [as CEO], we got rid of subminimum wage. We went to hourly pay and increased above minimum wage.”*The NPA embraces its role as creating competitive work experience for employees. *“[Our organization] is a runway for individuals – a place to land and a place to takeoff, whether here or somewhere else. We’re advocating helping people go someplace else. If any of our employees want to work with [a major national manufacturer located in the area], we encourage that.”*The NPA embraces its role as a home for those with similar life experiences. *“A lot of our employees don’t want to go anywhere else. The employees know they’re accepted here, we can address their disability needs, they know they have equal opportunity with their sighted counterparts.”*The NPA regularly promotes individuals based on competency, resulting in blind individuals entering into management positions. *“Roughly 80% of our direct labor workforce is legally blind. About 25% of our indirect workforce is legally blind. Our Vice President of Human Resources is legally blind. Our engineer who just retired is completely blind. The [employee] who writes our ISO quality manual [advanced manufacturing quality assurance system] is totally blind. A young lady that does our sales is totally blind. …. A (blind) young lady that was our talent coordinator was just promoted to a business development role. I think she’s going to be a CEO someday.”*

AbilityOne Program Affiliates (CNA’s and NPA’s) Are Piloting New Models

In acknowledging the need for modernization of AbiltyOne Programs, interviewees representing the CNAs shared that both are either actively running pilot programs – or are interested establishing new programs – to demonstrate new models that better align with modern Employment First policies. Both CNAs encouraged MCB to reach out to discuss opportunities to coordinate pilot programs. Both CNAs mentioned they currently fund pilot programs or are exploring funding options for future programs.

During the interviews, one CNA shared that it is exploring the establishment of an angel investment fund to support the creation of blind-owned enterprises and accelerate their growth. Like other recipients of investment, these enterprises would be expected to develop business plans, generate a return on investment for the fund, and would receive mentorship and support from investors to help guide their success.

The CNA is exploring establishing this fund by creating a separate corporation which would receive, distribute, and monitor the investment. The corporation itself would be established separately from the CNA with the CNA stating it believed a potential $20-30 million could be raised to invest in blind-owned enterprises.

Another CNA shared that it was exploring using WIOA-customized employment strategies to better match skillsets to needs through a person-centered approach. The CNA also stated it was seeking pilot programs to better use augmented reality technologies to unlock different types of opportunities within job types.

Interviewees Advised Against Government “Running” a Business

Interviewees advised MCB avoid directly operating a business. Multiple interviewees cited the inherit limitations governmental organizations face when trying to compete in the private sector. Interviewees noted that identifying and partnering with third-party organizations – such as non-profits or private sector firms – would provide better outcomes in alignment with MCB’s mission and vision. Interviewees noted that MCB should hire an expert to deploy the final model. Interviewees advised MCB to focus on cultivating its network to expand awareness of the enterprise, providing resources to a prospective enterprise, and complementing the enterprise by providing advisory services.

Through Partnerships, MCB Could Spur the Formation of Business Enterprises Operated by Individuals who are Blind in Growth Industries:

As noted in **Section 4.2.2**, one interviewee shared that their organization is exploring establishing an investment fund specifically to foster the establishment and growth of enterprises owned and operated by individuals who are blind.

The interviewee recommended that MCB seek to become a partner in the fund and leverage its position as a VR agency to prepare and refer individuals who may be interested in establishing an enterprise for future investment by the fund.

The AbilityOne Program Needs Updates to Meet Modern Employment First Policies

The individuals we interviewed who work with the AbilityOne Program acknowledged the AbilityOne Program’s limitations and its need for legislative (and subsequent operational) modernization. Interviewees noted that CNAs are aware of the program’s inherent challenges related to the Direct Labor requirements, consistent definitions of Competitive Integrated Employment outcomes, and use of subminimum wage certificates.

Of note, one interviewee with knowledge of AbilityOne CNAs and NPAs noted that many of the limitations – particularly around subminimum wage certificate use and “sheltered” workshops – are not in wide use for those with blindness and visual impairments. According to the interviewee, many of the current critiques relate to how NPAs provide employment opportunities for those with physical or intellectual disabilities that greatly impact their ability to contribute to a traditional workplace, not those with blindness or visual impairments.

Interviewees Suggest MCB Seek Expertise in Navigating the Establishment of an Enterprise

As noted in **Section 4.2.1**, multiple interviewees advised MCB to seek specific expertise in moving forward with establishing an enterprise. Interviewees cited the complexity of business structures, tax advantages, liability, and establishing a market-competitive enterprise as issues that require specific expertise and guidance.

An Enterprise Established by MCB Should Take Advantage of Disability Enterprise Programs

Interviewees cited that an entity that predominantly employs, is owned by, or prioritizes the employment of individuals with blindness can take advantage of various certifications and procurement programs beyond the AbilityOne Program, such a state or local level minority procurement programs.

For example, interviewees cited the DisabilityIN program (included in **Section 4.1.3, Table 4**) which provides third-party certification that a privately-owned enterprise is disability-owned and connects the business to a network of more than 220 organizations across multiple industries seeking to diversify their supply chains. The Commonwealth of Massachusetts recognizes this certification (DisabilityIN: Get Certified, n.d.).

L3C Corporations & Benefit Corporations

PCG interviewed a private organization expanding into Maine that prioritizes hiring individuals with physical, intellectual, and developmental disabilities. When asked about the origins and operating structure of the organization, representatives responded that an element of the mission of the organization – to establish career pathways for traditionally underserved populations – informed how they chose a business structure. The founders elected to establish a Low-Profit Limited Liability Corporation (L3C). This business structure allows the founders to operate a private business that acknowledges the social benefit the business seeks to provide without being required to operate as a pure not-for-profit entity. According to an article in the *Stanford Social Innovation Review*, L3C’s are effectively a hybrid of a Limited Liability Corporation and non-profit corporation. As of 2014, 1,051 LC3s were registered in nine states that legally recognized the model. Massachusetts does not recognize the LC3 model. As the article notes at the time of publication, LC3 formation and authorizing state legislation were both on the decline. However, use of the Benefit Corporation – a similar legal structure – was expanding rapidly and is legal in twenty states (Kate Cooney, 2014).

As noted in **Section 4.1.3**, the Commonwealth of Massachusetts *does* recognize Benefit Corporations as a legal entity. Since definitions of corporations and business structures falls to the states to define, differences and advantages between L3Cs and Benefits Corporations can be difficult to define. As the *Review* article notes “The administrative burden of registering as a benefit corporation differs between states, and this is almost certainly responsible for some of the differences” (Kate Cooney, 2014).

## Selection of MCB 2020 Research Initiatives

MCB’s vision to establish a business enterprise represents an opportunity for MCB to demonstrate best practices and pilot programs that can set a new standard for achieving competitive integrated employment outcomes for its VR consumers. This section identifies findings from other PCG research projects for MCB that MCB may wish to consider as part of the deployment of a business enterprise to better deliver on its vision. A summary of findings from PCG research projects is listed below and described in further detail in **Sections 4.3.1 through 4.3.5**.

As part of any business enterprise MCB should choose to establish, MCB should consider the following findings identified by PCG’s research projects:

* Reduce or eliminate the need for transportation for employees of the business.
* Offer internship, apprenticeship, and entry-level career opportunities to youth with blind and visual impairments to help them with early career development.
* Explore Workforce Opportunity Tax Credits (WOTC) for hiring the blind and visually impaired, to reduce tax liability.
* Explore Registered Apprenticeship Programs (RAPs) as a workforce development strategy to help the business enterprise develop a talent pipeline of skilled labor and increase representation of blind individuals in executive-level positions through a formalized process.
* Support the establishment of eCommerce enterprises operated by individuals who are blind by purchasing goods or services through these enterprises.
* Assess if a large enough market exists to establish a business enterprise that connects resources and expertise to expand the accessibility and use of online platform-based enterprises operated by VR consumers.
* Coordinate with the state workforce system and its WIOA partners to develop a policy and operational framework that would allow partners to claim the establishment of ecommerce business enterprises as a compliant positive outcome.

Comprehensive Statewide Needs Assessment (CSNA)

**Transportation:** Transportation was considered a major barrier to employment by a large share of MCB’s VR participants, and a frequent subject of conversation during focus groups and interviews with service providers and support organizations. Multiple potential solutions and policies to address transportation barriers are presented in the full CSNA document, but the establishment of a new organization could provide a new vision of employment that more fully overcomes the transportation barrier. Recent world events have shown the ability of organizations providing professional and knowledge services to be telework-first organizations. This removes the barrier of commutes, the need to modify or learn to navigate a workplace, and ensures that equipment can be adapted for the custom use of employees with a particular need. MCB should consider reducing or eliminating the need for transportation for employees as part of any business is choses to establish. This may also help to minimize start-up costs.

**Employment for Youth with Disabilities:** Several individuals who participated in CSNA interviews and focus groups mentioned the difficulty of employment for youth with visual impairments. The exact reasons were varied, but respondents suggested youth with disabilities were unable to get early workforce experience, resulting in a lack of relevant work experience when compared to others with relevant work experience. An entity formed by MCB would be well positioned to offer entry-level careers to youth with visual impairments or blindness, particularly if their relationship with MCB remained strong. The entity could also offer internship or apprenticeship opportunities to help youth form early career experiences. This would provide youth with experiences to add to a resume and the day-to-day skills necessary to work with adaptive equipment while acculturating them to the workforce.

Study of Tax Tables and Publications as They Relate to VR Consumers and Tax Guide

PCG’s research into tax tables and publications revealed a variety of opportunities available to organizations employing those with visual impairments. These include workforce opportunity tax credits (WOTC). An entity formed by MCB could take full advantage of these to reduce any tax liability, and MCB should ensure that the finances of such an organization are handled by individuals with the experience and knowledge to make use of these credits.

Feasibility of Apprenticeships in Emerging Industries for Blind VR Consumers Feasibility Assessment eCommerce

Registered Apprenticeship Programs (RAPs) are structured paid work-based learning programs which aim to provide businesses with a diverse and consistent talent pipeline and provide apprentices a structured opportunity to grow their skillset while increasing their earnings. RAPs are a viable model for expanding integrated employment opportunities for MCB’s VR consumers. There are multiple incentives and resources available to support RAPs, including:

* Businesses that maintain less than 50 employees and hire eligible consumers in the federally-funded workforce development system may be able to have their wages covered by Title I WIOA funding (U.S. Department of Labor Employment and Training Administration, 2017).
* VR Consumers who are hired as apprentices may be eligible to have required training costs necessary for the RAP covered under WIOA funds through Individual Training Accounts.
* Combine with Vocation Rehabilitation resources to increase Registered Apprenticeship enrollments (count as hires) by reducing employer barriers to hiring individuals with disabilities.
* Consider establishing a business enterprise in high-growth industries such as healthcare and IT/Tech that are projected to grow over time and encompass a wide range of occupations and skill levels.
* Cross-reference the interests and skillsets of the potential workforce for the business enterprise with jobs that exist in high-growth industries to help ensure the business enterprise is hiring workers into jobs with career ladders and industries with anticipated long-term demand for goods and services.

MCB could use a RAP as a workforce development strategy in any incorporated enterprise that hires employees. This would allow MCB to leverage workforce development and VR system resources to develop a skilled workforce and expand integrated employment opportunities for MCB consumers. A RAP could help MCB’s future enterprise meet its talent development goals and increase representation of blind individuals in internal executive-level positions through a formalized process.

Feasibility of Blind Business Enterprises on eBay or Amazon

The increase in digital technology use across commerce has helped to increase employment and entrepreneurial opportunities for individuals who are blind in traditional work environments. In addition, the increase use of technology to expand accessibility has created opportunities for the blind to work from home or integrate into traditional professional work environments ranging from call centers to advanced manufacturing facilities. Meanwhile, the ADA and WIOA have shifted the policy framework to presume those with disabilities can choose to participate in a work environment with reasonable accommodations from employers. These accommodations can often be claimed as tax credits by the employers.

That said, while many Americans have turned to enterprises like Amazon and eBay, barriers to access for those with disabilities remain.

An MCB enterprise seeking to demonstrate best practices could and should support the establishment of eCommerce enterprises operated by individuals who are blind by purchasing goods or services through these enterprises. Alternatively, MCB could assess if a large enough market exists to establish a business enterprise that connects resources and expertise to expand the accessibility and use of online platform-based enterprises operated by VR consumers.

Examples include the firm Portals (<https://www.portalsllc.org/>) which helps pair those interested in self-employment with the expertise and resources of public VR agencies. MCB may be able to replicate such a model to expand the supply of eCommerce enterprises operated by blind and visually impaired individuals in Massachusetts.

As noted in the report, MCB should coordinate with the state workforce system and its WIOA partners to develop a policy and operational framework that would allow partners to claim the establishment of these enterprises as a compliant positive outcome.

An Understanding of the Most Prevalent "Essential Job Duties" in Successful VR Closures

Healthcare and Information Technology (IT/Tech) represent a large portion of the Massachusetts economy and employment. Both industries are expected to grow long-term (see Table 6: Long-Term Industry Employment Projections 2018-2028 below). MCB could consider establishing a business enterprise in industries such as these that are projected to grow over time and encompass a wide range of occupations and skill levels. Table 6 represents a selection of industries that fall under healthcare and IT/Tech and not a comprehensive list of industries with expected growth. See PCG’s “Essential Job Duties” report for more detail on industry and occupation growth.

Table : Long-Term Industry Employment Projections 2018-2028

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Industry Title** | **Employment 2018** | **Predicted Employment 2028** | **Change Level** | **Change Percent** |
| Health Care and Social Assistance | 638,481 | 673,228 | 34,747 | 5.44% |
| Professional, Scientific, and Technical Services | 327,628 | 357,859 | 30,231 | 9.23% |
| Hospitals | 203,234 | 216,927 | 13,693 | 6.74% |
| Ambulatory Health Care Services | 190,542 | 201,908 | 11,366 | 5.97% |
| Nursing and Residential Care Facilities | 105,823 | 111,590 | 5,767 | 5.45% |
| Social Assistance | 138,882 | 142,803 | 3,921 | 2.82% |

(Massachusetts Executive Office of Labor and Workforce Development, 2020)

*The tech sector continues to be a strong driver of the Massachusetts economy. When considering tech sector jobs, tech occupation jobs, and the indirect and induced jobs that support them, tech in Massachusetts underpins 35% of all jobs in the Commonwealth, 37% of the gross state product (GSP), and 46% of payroll, contributing 17% of the revenue that makes up the state’s overall budget.*

 *– MassTLC State of the Massachusetts Tech Economy, 2019*

Table 7 and Table 8 below reflect MCB VR closure data on exiting cases from 2017 to 2019. They list the most common Standard Occupational Classifications (SOC Codes) MCB VR participants entered immediately after exiting MCB services and the average wages and number of hours worked. The data contained in the Projected Employment % Change 2018 to 2028 column were pulled from the Massachusetts Department of Unemployment Assistance long-term occupation projections Industry-Occupation Employment Projection Matrix for 2018-2028. These 10-year forecasts are updated every other year and include adjustments reflecting the significant economic impact from COVID-19.

MCB may want to consider the interests of their potential workforce when designing an entity and business plan, and may need to consider what sort of wages would be required to be competitive with the current jobs an MCB VR participant is likely to find with competitor organizations when designing a compensation package. Furthermore, MCB should cross-reference the interests and skillsets of their potential workforce with jobs that exist in high-growth industries to help ensure the business enterprise is hiring workers into jobs with career ladders and industries with anticipated long-term demand for goods and services.

Table : Most Common Job Titles of MCB VR Exiting Cases, SOC Codes (2020)

|  |  |  |  |
| --- | --- | --- | --- |
| SOC Code | Title | Number of Placements | Projected Employment % Change 2018 to 2028 |
| 434051 | Customer Service Representatives | 21 | -5.15% |
| 253099 | Teachers, All Other[[1]](#footnote-2) | 14 | 6.73% |
| 412031 | Retail Salespersons | 13 | 0.60% |
| 211029 | Social Workers, All Other | 10 | 7.08% |
| 439199 | Office and Administrative Support Workers, All Other | 8 | 4.03% |
| 211019 | Counselors, All Other | 5 | 3.91% |

Table : Average Hourly Wage and Weekly Hours at Exit for Successful MCB VR Closure (2020)

| Age |   | Hourly Wage at Exit | Weekly Hours at Exit |
| --- | --- | --- | --- |
| 22 to 34 | Mean | $20.00 | 32.4 |
| N | 79 | 79 |
| 35 to 44 | Mean | $21.24 | 31.4 |
| N | 61 | 61 |
| 45 to 54 | Mean | $20.79 | 28.0 |
| N | 68 | 68 |
| 55 to 64 | Mean | $24.76 | 30.0 |
| N | 73 | 73 |
| 65 and older | Mean | $25.37 | 28.9 |
| N | 55 | 55 |

Table 9 and Table 10 show statistics compiled by the Bureau of Labor Statistics in the 2019 Current Population Survey. They show the major occupation categories (Table 8) and major industry categories (Table 9) of employed US adults with, and without, a visual disability. They show that the most adults with a visual disability are employment in service occupations, professional occupations, and management, business and financial occupations. Table 9 displays these populations by industry of employment, showing most individuals with a visual disability are employed at firms in education or health, wholesale or retail services, or leisure and hospitality. See the full report**, “An Understanding of the Most Prevalent "Essential Job Duties" in Successful VR Closures”** for more detail on the exact sorts of jobs and workplaces in these industries.

Table : Major Job categories of Employed, Civilian US Adults by Presence of a Visual Disability (2019)

|   | Individuals with a Visual Disability | Individuals without a Visual Disability |
| --- | --- | --- |
| Management, business, and financial occupations | 13.9% | 16.6% |
| Professional and related occupations | 17.5% | 23.4% |
| Service occupations | 20.7% | 17.5% |
| Sales and related occupations | 11.5% | 10.0% |
| Office and administrative support occupations | 12.3% | 11.3% |
| Farming, fishing, and forestry occupations | 0.3% | 0.8% |
| Construction and extraction occupations | 6.5% | 5.3% |
| Installation, maintenance, and repair occupations | 2.6% | 2.9% |
| Production occupations | 7.7% | 5.5% |
| Transportation and material moving occupations | 7.0% | 6.5% |

Table : Major Industry of Employment, Employed US Adults by Presence of a Visual Disability (2019)

|   | Individuals with a Visual Disability | Individuals without a Visual Disability |
| --- | --- | --- |
| Agriculture, forestry, fishing, and hunting | 2.1% | 1.5% |
| Mining | 0.9% | 0.5% |
| Construction | 9.1% | 7.0% |
| Manufacturing | 8.1% | 9.9% |
| Wholesale and retail trade | 18.0% | 12.7% |
| Transportation and utilities | 5.2% | 5.6% |
| Information | 1.2% | 1.8% |
| Financial activities | 4.2% | 6.6% |
| Professional and business services | 9.1% | 12.4% |
| Educational and health services | 21.2% | 23.0% |
| Leisure and hospitality | 10.2% | 9.7% |
| Other services | 6.9% | 4.8% |
| Public administration | 3.9% | 4.5% |

# Summary of findings

MCB seeks to better understand the feasibility of establishing a sustainable business enterprise that provides competitive integrated employment to individuals who are blind and visually impaired. MCB seeks to understand how it can achieve the following objectives:

1. Establish, incorporate, and finance such an enterprise.
2. Establish an enterprise that prioritizes positive social impact *and* financial return to investors or workers.
3. Establish an enterprise that expands beyond “traditional” employment areas for the blind such as in Medical Billing/Coding, Information Technology Support, Contract Support, Sourcing, Cyber-Security, and 508 Assurance etc.

PCG provides the following assessment based on its research.

## Assessment of Incorporation Options

PCG’s literature review and interviews with key informants suggest that MCB should seek to establish an entity that is separate from MCB and should not seek to retrofit an existing program.

As noted in **Section 4.1.3.**, PCG found multiple business structure options recognized in Massachusetts that meet MCB’s objectives. Each of these options will have respective trade-offs and benefits that align with MCB’s objectives. These options are outlined below.

Benefits Corporation

This business structure would allow MCB to establish a corporation that accounts for both profit maximization and social benefit. The governance structure allows for the corporation to operate as a competitive private sector entity that can seek private investment or capital. However, unlike traditional corporations, a Benefit Corporation institutionalizes a commitment to consider the social impact of the organization as a co-equal factor to profit when considering a return to shareholders. This structure would insulate workers and ownership from personal liability by establishing a separate corporate entity. This structure would not be able to participate in AbilityOne commission programs and likely cannot apply for direct federal grants. While for-profit entities are not universally excluded, many grant programs require a not-for-profit or governmental entity to serve as a lead to ensure transparency in financial practices. An entity established under this structure could provide goods and services in any industry market and could apply to be a supplier to government contracts in lieu of federal grants. As noted in **Section 4.2.6.**, this entity could apply for and take advantage of programs that prioritize such an enterprise in the procurement process for these contracts.

Not-for-Profit Corporation

This structure would allow MCB to conduct business as a separate legal entity for the philanthropic or civic good. This structure would insulate workers and ownership from personal liability by establishing a separate corporate entity. All revenue generated must be used to advance the mission of the organization and cannot be returned to workers, executive staff, or board members. An entity established under this structure could provide goods and services in any industry market so long as those goods and services support the organization’s charter or essential duties. Additionally, this entity would be eligible to pursue affiliation with the AbilityOne Program and is typically allowed to apply for direct federal grants and foundation grants. These resources could help accelerate its growth.

Worker Cooperative

This structure would allow MCB to establish a corporation that is driven by the workers as the owners and operators. The governance structure allows for the corporation to operate as a competitive private sector entity while returning profits back to the workers. An entity established under this structure could provide goods and services in any industry market and could apply to be a supplier to government contracts in lieu of federal grants. As noted in **Section 4.2.6.**, this entity could apply and take advantage of programs that prioritize such an enterprise in the procurement process for these contracts. This entity would not be eligible to affiliate with AbilityOne Programs as those programs explicitly require the affiliate to be an incorporated 501(c)3. Additional research would be necessary to better understand if and how this structure can receive investments and how it can govern compliantly under state law.

Public Private Partnership (P3)

A public-private partnership (P3) model would create a legislatively recognized opportunity for MCB to seek private sector investment for an enterprise. Establishing a P3 in the human services sector would likely be a first-of-its-kind approach in Massachusetts. Since P3’s involving the Commonwealth are typically established under the legislative branch, establishing a P3 may require extensive coordination with state partners. However, once established, an enterprise under this model could receive private sector funding, could define ROI for those funders and the taxpayer, and subsequently be managed against this. As noted in **Section 4.1.8,** P3’s typically result in the incorporation of a not-for-profit entity to operationalize the investment. Thus, the P3 would ultimately result in a not-for-profit corporation with a charter anchored in the authorizing legislation of the P3. Under a P3, MCB may be able to retain a board seat or similar role to help hold the entity accountable to its mission. As noted in the Massachusetts eHealth Institute example, the P3 could also remain a “quasi-governmental” agency.

Hybrid Models

Hybrid models would require extensive research to better understand how an MCB enterprise could leverage a combination of the business structures and their various governance elections meet MCB’s mission and stated objectives. For example, MCB could potentially consider a non-profit worker cooperative or worker cooperative benefit corporation. MCB would need to work with relevant experts to better understand the business, liability, and tax implications of a hybrid model.

## Opportunities

Should MCB choose one of the incorporation options noted in **Section 5.1.**, MCB has an opportunity to achieve the following:

Demonstrate a Viable Modern Version of Workforce Policy of the Future for the Blind

As noted through **Section 4,** employment policy for individuals who are blind or visually impaired has historically lagged behind today’s more modern, inclusive workforce policy. The AbilityOne Program serves as the best-known federal program that attempts to pair those who are blind with work opportunities that result in competitive integrated employment. However, PCG’s research confirms there are significant limitations and drawbacks to the program if not deployed with an eye towards the future. The recent reports from the National Council on Disability and the US Commission on Civil Rights and PCG’s interviews with key informants working with AbilityOne Programs demonstrate there are opportunities to define what a more equitable model of workforce policy and programs for the blind can look like. MCB’s pursuit of such an enterprise will likely be a welcome one by policymakers and those interested in advancing workforce policy and programs for the blind. As noted in **Section 4.2.1,** it is possible to establish a forward-thinking AbilityOne-affiliated program that maximizes affiliation while providing for a modern, equitable work environment.

Institutionalize Mission-Driven Best Practices into the Charter of an Organization

Should MCB choose one of the incorporation options noted in **Section 5.1.**, MCB has an opportunity to ensure the organization’s charter addresses the positive social and economic benefits for workers who are blind or visually impaired addressed in the objectives described in the introduction to **Section 5.**

Support the Regional Economy by Creating Career Pathways and Paid Work Experiences for the Blind in High-Demand Industries

Successful deployment of a business enterprise can create jobs and training opportunities for those jobs. The jobs can be aligned with career pathways beyond “traditional” employment programs for those who are blind. This enterprise can help overcome a common barrier to employment for those who are blind – real-world work experience – by giving them said experience in a modern, integrated, and inclusive environment. This strategy will allow MCB to better support employers in Massachusetts by expanding the availability of workers with the experience employers seek to remain competitive.

Create a Sustainable Model that Reduces or Eliminates the Need for Government Support from Workers and the Enterprise

MCB’s desire to create a business enterprise represents an opportunity to leverage funds to create a self-sustaining enterprise. While this enterprise will likely need an initial round of funding, the incorporation options described in **Section 5.1** provide a range of options to secure initial seed capital from public sector, private sector, or philanthropic resources. As noted in **Section 5.2.1.**, investors can trust this investment will provide for the public good when paired with a strong business plan and competent execution. Moreover, investors (public or private) typically provide mentorship, technical assistance, or support to monitor the risk of their investment. Thus, MCB’s enterprise will benefit from this additional expertise.

As the enterprise grows, each model provides an opportunity for the entity to reinvest its resources and provide accountability back to funders, workers, or the public through chartered social good of the enterprise.

Ultimately, this enterprise should be able to meet its obligations to investors, debtors (if instruments of debt are used), or funders (if philanthropic or public sector grants are used). Upon meeting these obligations, the enterprise should be able to remain sustainable with competent leadership.

As noted in **Section 4.2.1.,** the Commonwealth can even serve as an initial investor in a not-for-profit model with a diminishing commitment as the entity becomes financially self-sufficient.

## Prospective Barriers to Success

All new initiatives have barriers to success and trade-offs. PCG’s research identified the following prospective barriers that MCB will need to address.

Establishing and Sustaining a Competitive Business

To ensure a successful enterprise, MCB will need to establish a *competitive* business. While risks cannot be completely eliminated, they should be identified and documented as part of the business plan.

As noted by the Small Business Administration, a business plan generally includes the following items:

1. **Description of the company**, including its mission, vision, and potential consumers it plans to serve.
2. **A market analysis** that documents the enterprise’s understanding of the marketplace including known or potential competitors, the firm’s strengths, and how it can capitalize on its market position, industry trends, and competitive advantages to capture this market.
3. **Organizational management** to identify how the firm will be structured and who will manage it.
4. **Service or products** the firm intends to provide.
5. **Marketing & sales** strategies to identify how it will solicit and secure customers.
6. **Funding and financial information** including what capital the firm needs to get started, how investors will secure a return, how the organization will manage its financials, and projections for revenue and growth (U.S. Small Business Administation, n.d.).

The Small Business Administration publishes a variety of [sample business plan templates](https://www.sba.gov/business-guide/plan-your-business/write-your-business-plan) on its website.

Compliance and Allowability

MCB should evaluate its funding structure and legal position to understand its role and participation in such an enterprise and what is allowable and compliant with relevant statute and authority. MCB’s allowable participation in establishing, sustaining, and doing business with a business enterprise may change depending on the business structure deployed, governing laws around business incorporation in Massachusetts, and use of funds received by MCB from the Commonwealth or federal sources. Likewise, MCB may discover that certain business structures limit MCB’s ability to fully participate in the enterprise after it is established.

Complexity of Establishing an Enterprise

Establishing any enterprise is a complex process that involves various regulatory and business processes. As noted in **Section 4.2.**, the stakeholders interviewed for this study advise MCB secure specialized expertise to ensure it navigates this complexity effectively.

 Impact of COVID-19

COVID-19 has triggered unprecedented disruptions in business formation, business sustainability, and workers. This may both be a barrier and an opportunity for MCB. As a barrier, MCB may find it difficult to establish an enterprise through the numerous barriers COVID-19 has created. Retail and hospitality industries – which employ many individuals with blindness and visual impairments – are being disproportionately impacted by COVID-19. Likewise, funding may be difficult to secure. Local and state governments are project major shortfalls in gaps. However, these shortfalls may precisely be the opportunity for the state to evaluate more creative models for service delivery and human services support. Further research should be done on the unique impact COVID-19 is having on the economy, state governments and constituents.

Policies Around Employment for the Blind

As noted in this report, employment policy assisting the blind appears to be at a crossroads. National councils and commissions are pushing for a more equitable system that modernizes programs like the AbilityOne Program with Employment First policies. Meanwhile, CNAs and other organizations are evaluating forward-thinking policies which may serve as a pilot for the future of these programs and what a truly inclusive workforce looks like.

Identifying a Market Using Past Data

This report has focused on the feasibility of establishing an enterprise and what structures could look like using past data. PCG recommends MCB work with relevant business and economic experts, such as economic development partnerships, to assess what forward-looking industry and market trends yield.

Liabilty and Risk Mitigation

This report has focused on assessing generally what is feasible for MCB to pursue. However, this report does not and cannot provide an assessment of the various liabilities and implications of deploying such an enterprise. Further research should be done to better understand the liability and risks to MCB of any business structure.

# Prospective Incorporation Strategies

MCB could pursue a variety of different strategies for establishing an enterprise. Below are four options PCG believes MCB should consider as a starting point based on our research. **It is important to note these options are not in any particular order, nor are they ranked in any way.** Rather, they represent a series of options with differing benefits and tradeoffs in pursuit of MCB’s objectives as stated in the introduction of this report. **MCB will need to evaluate the appropriateness of each strategy against a proposed business plan, liability, strategic considerations, etc.** We further elaborate on this topic in **Section 7** of our report.

## Establish a Blind Business Incubator & Accelerator for Massachusetts

PCG’s research uncovered a specific and potentially timely opportunity for MCB discussed in **Sections 4.2.2 through 4.2.4**. During stakeholder interviews, one representative from a CNA mentioned that the CNA is interested in developing a large-scale angel fund to support the growth of enterprises owned and operated by individuals with blindness. MCB may be well-positioned to establish an enterprise which prepares firms for funding and expansion from such an investment fund. These kinds of organizations are typically referred to as business incubators or accelerators.

Incubators and accelerators both typically provide mentorship, training, support for businesses, and have some kind of “selection” process to join. Incubators specifically help take an aspiring entrepreneur’s idea and move it from concept to an established business. Meanwhile an accelerator helps connect the early stage business with capital, markets, talent, and other needs to accelerate the enterprise’s growth and scale its business impact (MassChallenge, 2020). Accelerators are particularly vital as they often identify and foster the most promising businesses and connect them to investment resources. According to one study, businesses that join an accelerator “raised almost eight times the investment money than non-accelerated businesses” (Ortmans, 2016).

MCB has expressed an interested in fostering a new vision for employment policy with a particular interest in expanding enterprises owned and operated by the blind, such as the study it commissioned to assess the **Feasibility of Blind Business Enterprises on eBay or Amazon** (**Section 4.3.4**). MCB has specifically expressed an interest in better understanding how it can foster the various strengths and well-intended principles behind policies like the Randolph Sheppard Act, JWOD, ADA, and WIOA to change the culture around employment, both in terms of how businesses look at hiring individuals who are blind and how biases against individuals who are blind can impact a blind workers’ self-perception.

An incubator or accelerator may be an ideal bridge to “bring to life” these values expressed by MCB.

Incubators and accelerators can be established in a variety of formats. First, they can be separate entities or combined programs under one entity. Second, there are a large number of examples of incubator and accelerator programs run as for-profit entities, not-for-profit entities, and by public institutions such as higher education organizations. While an in-depth analysis of each of these different business structures for incubators and accelerators is outside the scope of this report, we have provided a few selected Massachusetts examples below.

1. **Not-for-Profit -** [Entrepreneurship for All](https://eforall.org/about/) (EforAll): Based in Lowell, MA, this organization accelerates “economic and social impact in communities nationwide through inclusive entrepreneurship.” The organization offers a business accelerator program, virtual workshop, co-working space, and programs to assist aspiring entrepreneurs in disadvantaged communities. EforAll alumni have started over 500 businesses, created 720 local jobs, raised nearly $35M in capital, and generated over $25M in 2019 revenue.
2. **Public -** [University of Massachusetts-Boston Venture Development Center (VDC)](http://vdc.umb.edu/)**:** VDC is “is a thriving community of promising entrepreneurs in residence from around the world launching innovative technology and life science companies in our incubator, and talented students from our own university preparing for careers in venture capital backed companies.” According to its website, the incubator has supported 104 companies, secured $1.16B in investment for companies, and connected companies with 132 investors, including “5 of the top 10 venture capital firms.” Companies have been acquired by Amazon and S&P.
3. **For-Profit -** [Qubic Labs](https://www.qubiclabs.com/about) is private investment and equity firm which offers business incubation and acceleration services and investments for aspiring firms in financial, government, and civic technologies.

Lastly, incubators and accelerators can stay revenue positive in a variety of ways. Because incubators are usually working with early stage concepts, they typically raise revenue through donations, leasing office space, or other models. Meanwhile, “Accelerators typically offer seed money in exchange for equity in the company” (Cremades, 2019). Other accelerators are seeking new ways of raising revenue, such as “charging for mentorship, subletting office space, hosting events and working with corporations.” The latter has increased the most, according to Miklos Grof. “Revenue from corporations has seen the largest increase. More than half (52.1 percent) of accelerators are at least partially funded by a corporation, and 67.2 percent aim to generate future revenue from services sold to corporations” (Grof, 2017).

**MCB could establish a business incubator and accelerator enterprise which fosters and grows future blind-owned enterprises** using the businesses structures shared in this report. MCB could establish a network of funding and advisory partners from the public, private, and independent sectors to support the growth of these businesses and could enter into partnerships with national agencies to prepare and refer high-quality firms for investment.

## Establish a Not-for-Profit Corporation

MCB could move forward with establishing a not-for-profit corporation. This corporate structure would recognize the civic, social, and philanthropic good provided by the enterprise. However, as noted in PCG’s interview with an NPA (**Section 4.2.1**), not-for-profit does not preclude the entity from running a “profitable” enterprise. A not-for-profit can develop and deploy competitive product lines and services, compete for contracts and bids, and run a revenue positive organization. Subsequent “profit” would be reinvested into the programs and operations of the non-profit to improve the organization and address its mission.

By incorporating as a Massachusetts Not-for-Profit Corporation and seeking 501(c)3 tax exemption, MCB can establish an entity that can seek a variety of funding streams, such as foundation or governmental grants, in addition to competitive contracts where the enterprise may be able to reasonably compete. Additionally, by incorporating as a not-for-profit, the enterprise would be eligible to apply to affiliate with AbilityOne as an NPA and pursue non-competitive contracts under Federal Acquisition Regulations (AbilityOne Commission, n.d.).

As noted by PCG’s NPA interviewee in **Section 4.2.1**, AbilityOne contracts can provide significant revenue to sustain the operations of an organization while allowing the entity to diversify its products and services and establish new job opportunities. As the interviewee noted, a significant benefit of AbilityOne Program’s model is ability to use “fair pricing” in a non-competitive environment. This allows the enterprise to recover reasonable costs and stay profitable as opposed to competing on lowest pricing, particularly for commodity products. However, there are high compliance costs to ensure an entity can adequately participate in the AbilityOne Program and comply with its mandates. If the Non-Profit Organization plans to pursue AbilityOne as a business development line, it should take these costs into consideration.

## Pursue a Public Private Partnership (p3)

MCB could choose to pursue a Public Private Partnership (P3) enterprise model. MCB could consider working with the Massachusetts Legislature to design and implement in statute a public private partnership that seeks to demonstrate the viability enterprises owned and operated by the blind that:

1. Competes in a high-demand industry
2. Employs individuals in an inclusive environment while focusing on developing representation of blind individuals in high-demand jobs
3. Actively seeks investment from the private and public sectors as shareholders to subsidize early stages of the enterprise and returns an investment to those shareholders over a long-term commitment

As noted in **Section 4.1.8**, this model would likely result in the ultimate formation of a not-for-profit entity to directly administer the operations of the P3, though a quasi-governmental agency seems feasible based on the Massachusetts eHealth Institute example. This could allow the future enterprise to leverage resources from the Commonwealth more expediently while also taking advantage of the benefits of not-for-profit incorporation. This model also has extensive cost trade-offs and would likely require vigilant monitoring to protect the Commonwealth’s investment.

PCG would recommend MCB look to the [Massachusetts eHealth Institute](https://mehi.masstech.org/about-mehi) to see an example of how a healthcare enterprise was codified under Massachusetts General Law and implemented as a “quasi-state entity” (Massaschusetts eHealth Institute, 2020).

## Establish a Benefit Corporation

MCB could move forward with establishing a Benefit Corporation. As noted in Section **5.1.1**, a benefit corporation’s business structure accounts for both profit maximization and social benefit. It institutionalizes a commitment to consider the social impact of the organization as co-equal to profit when considering a return to shareholders.

To provide an opportunity for returns to workers in the form of shares, equity, or management, MCB could potentially establish a Benefit Corporation governed under Massachusetts worker cooperative election (**Section 4.1.7)**. However, it’s important to note that this may require an investment from the workers to fund the initial enterprise. Alternatively, a future enterprise could establish an employee stock option program (ESOP). An ESOP is where a company “creates a trust, which owns stock on behalf of the employees [and] makes contributions to the trust primarily in the form of employee stock... Distributions are made when a worker leaves the company or retires” (The Aspen Institute, 2017).

As noted in our PCG interviews (**Section 4.2.2)**, an enterprise like this may be eligible to participate in pilot projects or seek investment from CNAs or other not-for-profit agencies interested in advancing blind-owned and operated enterprises. This could be a way to kickstart the enterprise.

Unlike a not-for-profit corporation, a benefit corporation would not be eligible to directly apply for most human services grants and would be required to raise capital on its own. It also would be unable to bid on federal contracts typically procured through the AbilityOne Program. This, of course, does not preclude the enterprise from competing on *all* federal contracts. However, it does mean the enterprise would not be able to compete first for those contracts which are set aside on the AbilityOne Program. Federal Acquisition Regulation notes:

*“FAR 8.704, Purchase priorities, states that the Javits-Wagner-O’Day Act requires the Government to purchase supplies or services on the Procurement List, at prices established by the U.S. AbilityOne Commission, from AbilityOne participating nonprofit agencies [NPAs] if they are available within the period required”* (AbilityOne Commission, n.d.)*.*

Those respondents must be a CNA-affiliated not-for-profit organization with 501(c)3 tax exemption status.

That said, several small business development programs provide grants and loans with varying terms (low interest, loan forgiveness) that could potentially be used as seed capital to launch an enterprise. MCB’s business plan would need to show how it aligns these available resources, since many depend on kind of products produced, services provided, or customers served. For example, some grants fund technology commercialization while others support enterprises that intend to export products. The Small Business Administration provides more information on its Grants page. (U.S. Small Business Administation, n.d.)

# Recommendations / Next Steps

MCB has an educated and talented base of VR consumers. Likewise, individuals with blindness are well-represented in retail, hospitality, health services, and business services as noted above in **Section 4.3.5.** Meanwhile, the Commonwealth of Massachusetts has a strong, diverse knowledge economy with well-paying jobs in finance, pharma, healthcare, software, business services, advanced manufacturing and more. Technology and knowledge-intensive industry clusters provide some of the highest paying jobs in Massachusetts. Increased employment concentration in these clusters also indicates a competitive advantage for Massachusetts and potential for future economic growth through innovation and business growth (Massachusetts Technology Collaborative, 2016). Likewise, technology has increased the ability for individuals who are blind to participate in these kinds of job as part of the talent necessary to grow businesses.

Put simply, MCB has a “supply” of individuals with excellent potential to contribute to high growth industries. This “supply” needs to be matched with “demand” to ensure a sustainable enterprise is established. We encourage MCB to explore all of the recommendations described below before making any final decisions about whether to move forward with any particular business enterprise model. PCG recommends the following:

## Explore Development of a Pilot Project

PCG’s research revealed that AbilityOne CNA’s are actively seeking ways to better modernize the AbilityOne Program and align outcomes with modern Employment First and Vocational Rehabilitation outcomes. MCB’s interest in, and willingness to, establishing a new enterprise – along with MCB’s lack of a current enterprise – creates a unique opportunity to establish a pilot program to test new concepts within MCB’s current role as a VR agency.

Moreover, a pilot project would give MCB the opportunity to explore how different workforce development strategies could be deployed in a modern, forward-thinking enterprise as fundable pilot programs. As noted in **Section 4.3**, a pilot program could be established through an enterprise that feature apprenticeships as a way to increase blind representation in management positions or high-demand occupations **(Section 4.3.3** and **4.3.5)**. Or MCB could establish an enterprise that prioritizes increasing the visibility of youth with disabilities in high-demand occupations **(Section 4.3.1)**.

These types of enterprises may be attractive to prospective funders through CNA’s, blind advocacy organizations, or social investment funds (ex. Strada Education’s Council for Adult and Experiential Learning) as programs worth investing in and expanding. These pilots could ultimately lay the groundwork for an enterprise that could be spun out from MCB into an independent entity.

**PCG recommends MCB contact AbilityOne CNA organizations to share MCB’s interest in establishing a modern business enterprise and explore a collaboration to develop a fundable pilot model.**

##  Develop A Business Plan & Advisory Committee

MCB should use this pilot program (**Section 7.1**) to test what a prospective business line or business could look like, ultimately informing what would become a business plan.

This plan should use pilot program data to conduct further analysis on market needs and trends, identify potential partners and advisors – such as the National Industries for the Blind or state partners, confirm what the return to investors would be (financial, civic, social, or some combination) and explain how the enterprise will provide this return through its mission and activities.

MCB may be able to work with existing publicly available resources in Massachusetts - such as the Small Business Development Corporation, Massachusetts Office of Business Development, or an industry-focused organization like the Massachusetts Technology Collaborative – to develop a business plan.

Similarly, MCB should identify potential stakeholders in the business enterprise. These stakeholders may be interested from a financial, social, or civic perspective. As noted in **Section 4.2.1**, investors may be interested in supporting the enterprise by providing seed capital (such as a diminishing financial investment from the state) or assets (such as free or low-cost space) to support the enterprise mission. MCB should use this advisory committee to guide the development of a business plan that aligns with stakeholder interests and identify resources which could expedite the development of the program while mitigating costs and risks for stakeholders.

**PCG recommends MCB establish an advisory committee to help develop a business plan based on a pilot program recommended in Section 7.1.**

## Evaluate the Role AbilityOne Affiliation Can Play in Establishing an Enterprise

PCG’s research unveiled various benefits and tradeoffs to affiliating with the AbilityOne Program as an NPA. PCG’s literature review highlighted questions about the program’s standards and positive outcomes for the individuals it serves. CNAs acknowledged these limitations that are embedded in the outdated statutes that govern AbilityOne CNAs.

However, CNAs noted (**Section 4.2.2**) that they are actively supporting pilot projects that could become the future standard for the AbilityOne Program. Similarly, a NPA shared how it was able to grow beyond the more regressive elements of the AbilityOne Program (such as subminimum wage certificates) to incorporate AbilityOne Program affiliation into a business development strategy that has grown into a diverse and profitable enterprise. The interviewee specifically noted that the NPA participates in a national network of NPAs that partner to expand service offerings, compete at scale, and exchange best practices.

MCB should contact each CNA and a selection of NPA’s to get a better sense of the market for innovative, forward-thinking enterprises and how MCB can fill that role through a business enterprise model.

It’s important to note that all AbilityOne-affiliated enterprises must be 501(c)3 not-for-profit organizations. However, CNAs did express that they do pursue partnerships and projects with organizations that a for-profit enterprise could participate in without necessarily being an incorporated not-for-profit.

Should MCB choose to establish an entity that seeks to formally affiliate with AbilityOne, the eligibility requirement that entities be a not-for-profit would eliminate the need to research other incorporation models.

**PCG recommends MCB explore whether AbilityOne affiliation could be a proposed business development strategy for its enterprise.**

## Secure Relevant Expertise to Guide Incorporation

MCB should secure relevant expertise before choosing to pursue incorporation. As noted in **Section 4.2.1,** the establishment of a separate corporation by a state agency is a complicated process. MCB will need to evaluate liability, tax, mission, and compliance issues to ensure they establish an enterprise in a compliant manner. Standing up the necessary corporate infrastructure will require extensive expertise in areas such as securing initial capital, business registration filings, identification and hiring of key personnel, securing relevant facilities, calculating legal risk, and so on.

**PCG recommends MCB recruit appropriate expertise to develop and implement the new enterprise.**

The recommendations outlined above represent an exciting and unique starting point for MCB. These initial steps will help MCB establish a business enterprise that brings employment opportunities for individuals who are blind into the 21st century.

##  Research and Evaluate Potential Barriers to Success

MCB should review the potential barriers to success outlined in **Section 5.3** and summarized below:

* Establishing and sustaining a *competitive* business
* Compliance and allowability
* Complexity of establishing an enterprise
* Impact of COVID-19
* Policies around employment for the blind
* Identifying a market using past data
* Liability and risk mitigation

MCB should understand how these potential barriers might impact efforts to successfully launch a business enterprise.

**PCG recommends MCB review and evaluate potential barriers to success prior to launching a business enterprise.**

# Conclusion

The recommendations put forth by PCG are summarized in Table 11 below. We encourage MCB to explore all of the recommendations described below before making any final decisions about whether to move forward with any particular business enterprise model.

Table 11: PCG Recommendations

|  |  |
| --- | --- |
| Pilot Project | **MCB should contact AbilityOne CNA organizations to share MCB’s interest in establishing a modern business enterprise and explore a collaboration to develop a fundable pilot model.** |
| Business Plan | **MCB should establish an advisory committee to help develop a business plan based on a pilot program.** |
| AbilityOne Affiliation | **MCB should explore whether AbilityOne affiliation could be a proposed business development strategy for its enterprise.**  |
| Recruit Experts | **MCB should recruit appropriate expertise to develop and implement the new enterprise.** |
| Evaluate Barriers | **MCB should review and evaluate potential barriers to success prior to launching a business enterprise.** |

# References

*AbilityOne*. (n.d.). Retrieved September 14, 2020, from Living History: https://www.abilityone.gov/livinghistory/about/factsheets/index.html

AbilityOne Commission. (n.d.). *AbilityOne | Central Non-Profit Agencies*. Retrieved September 14, 2020, from Central Non-Profit Agencies: https://www.abilityone.gov/abilityone\_network/cnas.html

AbilityOne Commission. (n.d.). *Central Nonprofit Agencies*. Retrieved September 15, 2020, from AbilityOne Commission: https://abilityone.gov/abilityone\_network/cnas.html

AbilityOne Commission. (n.d.). *Fiscal Year 2020 Congressional Budget Justification.* Retrieved from AbilityOne Commission: https://www.abilityone.gov/commission/documents/CPPBSD%20AbilityOne%20FY2020%20CBJ\_Final%2020190311-Updated.pdf

AbilityOne Commission. (n.d.). *Frequently Asked Questions*. Retrieved September 24, 2020, from Ability One Commission: https://abilityone.gov/abilityone\_program/faqs.html

Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities. (2016, September 8). *Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities*. Retrieved September 24, 2020, from Office of Disability Employment Policy | USDOL: https://www.dol.gov/sites/dolgov/files/odep/topics/pdf/acicieid\_final\_report\_9-8-16.pdf

Bjorn Harald Nordtveit, P. (2005, October). *Use of Public Private Partnerships to Deliver Social Services: Advantages and Drawbacks.* doi:NORDTVEIT/EFA 2006/PPP

B-Lab. (n.d.). *About B-Corps*. Retrieved September 19, 2020, from B-Corporations: https://bcorporation.net/about-b-corps

B-Lab. (n.d.). *Benefit Corporations: Frequently Asked Questions for Investors*. Retrieved September 17, 2020, from Benefit Corporation: https://benefitcorp.net/sites/default/files/FAQs%20Investors%206\_9.pdf

Clarke Business Law Institute. (2020). *Common Misunderstandings About Corporations*. Retrieved September 20, 2020, from Clarke Business Law Institute at Cornell Law School: https://www.lawschool.cornell.edu/academics/clarke\_business\_law\_institute/corporations-and-society/Common-Misunderstandings-About-Corporations.cfm

Community Enterprise Project of the Harvard Transactional Law Clinics. (2015). *Tackling the Law: A Legal Guide to Worker Cooperatives Generally and in Massachusetts.* Community Enterprise Project of the Harvard Transactional Law Clinics, Boston. Retrieved from http://clinics.law.harvard.edu/tlc/files/2015/12/Tackling-the-Law-Together-Legal-Guide-to-Worker-Co-Ops-FINAL1.pdf

Cremades, A. (2019, January 10). *How Startup Acceletators Work*. Retrieved from Forbes: https://www.forbes.com/sites/alejandrocremades/2019/01/10/how-startup-accelerators-work/

*DisabilityIN: Get Certified*. (n.d.). Retrieved September 17, 2020, from DisabilityIn: https://disabilityin.org/what-we-do/supplier-diversity/get-certified/

Grof, M. (2017, October 1). *Startup Accelerators Aren't Banking on Exits Anymore*. Retrieved from Entreprenuer.com: https://www.entrepreneur.com/article/300921

*How Public-private Partnerships Can Help Build Nations’ Brands*. (2016, September 30). Retrieved September 25, 2020, from Knoweldge@Wharton | University of Pennsylvania: https://knowledge.wharton.upenn.edu/article/how-public-private-partnerships-can-help-build-nations-brands/

Internal Revenue Service. (2020, July 23). *Exemption Requirements - 501(c)(3) Organizations*. (I. R. Services, Producer) Retrieved September 18, 2020, from Exemption Requirements - 501(c)(3) Organizations: https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations

Kate Cooney, J. K. (2014, December 5). *Benefit Corporation and L3C Adoption: A Survey*. Retrieved from Stanford Social Innovation Review: https://ssir.org/articles/entry/benefit\_corporation\_and\_l3c\_adoption\_a\_survey

Koestler, F. (2004). https://www.afb.org/online-library/unseen-minority-0/chapter-14. In F. Koestler, *The Unseen Minority.* American Foundation for the Blind. Retrieved from https://www.afb.org/online-library/unseen-minority-0/chapter-14

Martin McKee, N. E. (2006, July 5). *Bulletin of the World Health Organization | Public-private partnerships for hospitals.* Retrieved September 16, 2020, from SciELO Public Health | Scientific Electronic Library Online: https://www.scielosp.org/article/bwho/2006.v84n11/890-896/

Massachusetts Executive Office of Labor and Workforce Development. (2020, September 18). *Long-Term Industry Projections*. Retrieved from Labor Market Information: https://lmi.dua.eol.mass.gov/lmi/LongTermIndustryProjections/Index

Massachusetts Technology Collaborative. (2016). *20 Years of the Annual Index of the Massachusetts Innovation Economy.* Retrieved September 23, 2020, from Massachusetts Technology Collaborative: https://masstech.org/sites/mtc/files/documents/InnovationInstitute/Index/MaInnovationEconomy\_2016%28update7-10-17%29.pdf

Massaschusetts eHealth Institute. (2020, September ). *About MeHI: Massachusetts eHealth Institute*. Retrieved September 24, 2020, from Massachusetts eHealth Institute: https://mehi.masstech.org/about-mehi

MassChallenge. (2020, February 25). *Accelerators vs. Incubators: How to Choose the Right One*. Retrieved September 25, 2020, from MassChallenge: https://masschallenge.org/article/accelerators-vs-incubators

MassTLC. (2019). *State of the Massachusetts Tech Economy.*

National Council on Disability. (2019). *A Cursory Look at AbilityOne.* Washington: National Council on Disability. Retrieved September 16, 2020, from https://ncd.gov/publications/2019/cursory-look-abilityone

Ortmans, J. (2016, April 11). *A hard look at accelerators*. Retrieved from Ewing Marion Kauffman Foundation: https://www.kauffman.org/currents/a-hard-look-at-accelerators/

Secretary of the Commonwealth of Massachusetts. (n.d.). *Nonprofit Corporation Information*. Retrieved September 17, 2020, from Secretary of the Commonwealth of Massachusetts: https://www.sec.state.ma.us/cor/corpweb/cornp/npinf.htm

The Aspen Institute. (2017, July). *What are worker cooperatives, ESOPs and B Corporations?* Retrieved September 23, 2020, from The Aspen Institute Economic Opportunities Program: https://assets.aspeninstitute.org/content/uploads/2017/07/Overview-of-Coops-ESOPs-and-B-Corps.pdf

U.S. Commission on Civil Rights. (2020). *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities.* Washington: United States Commission on Civil Rights. Retrieved from https://www.usccr.gov/files/2020-09-17-Subminimum-Wages-Report.pdf

U.S. Department of Labor Employment and Training Administration. (2017, March 1). *Training and Employment Guidance Letter WIOA No. 19-16 .* Retrieved from https://wdr.doleta.gov/directives/attach/TEGL/TEGL\_19-16\_acc.pdf

U.S. Department of Labor Office of Disability Employment Policy. (2020, September 18). *Employment First*. Retrieved from https://www.dol.gov/agencies/odep/initiatives/employment-first

U.S. Department of Labor Office of Disability Employment Policy. (2020, September 18). *Employment First*. Retrieved from https://www.dol.gov/agencies/odep/initiatives/employment-first

U.S. Federation of Worker Cooperatives. (2019). *Worker Co-ops & Democratic Workplaces in the United States.* Retrieved from U.S. Federation of Worker Cooperatives: https://institute.app.box.com/s/5v7tnxs7afh65kghyv3hqfro1nrqpkd4

U.S. Small Business Administation. (n.d.). *Grants*. Retrieved September 25, 2020, from U.S. Small Business Administration: https://www.sba.gov/funding-programs/grants

U.S. Small Business Administation. (n.d.). *Write your business plan*. Retrieved from Small Business Administation: https://www.sba.gov/business-guide/plan-your-business/write-your-business-plan

U.S. Small Business Administration. (n.d.). *Choose a Business Structure*. Retrieved September 16, 2020, from U.S. Small Business Administration: https://www.sba.gov/business-guide/launch-your-business/choose-business-structure

1. MA Dept. of Unemployment Assistance SOC code 253097 for Teachers and Instructors, All Others, Except Substitute Teachers. [↑](#footnote-ref-2)