RESEARCH BRIEF

Nobody Owns It

Accountability, Contracts, and Cost in the Tri-Party Model | The Missing Workforce Series, Brief 2 of 4

Prepared by the Neurodivergence and Disabled Contingent Hiring Best Practices Working Group

SEPTEMBER 2026 | BRIEF 2 OF 4 | FROM THE WHITE PAPER THE MISSING WORKFORCE

PATHWAYS OPPORTUNITY COUNCIL

Advancing Inclusion, Igniting Potential

A Joint Initiative of Defiant Solutions, Primary Talent Partners, and AgileOne

01 -- EXECUTIVE SUMMARY

Executive Summary

An accommodation request in a contingent program passes through a client, an MSP, a staffing supplier, and a VMS. In most programs, none of them owns it. **One of sixteen programs has a VMS that supports accommodation requests natively**; five run workarounds outside the platform and six say the platform cannot do it at all. **Three of sixteen have supplier contracts that clearly allocate ADA responsibility and cost**; the rest are vague, silent, or unknown. Three of sixteen have rate cards that contemplate accommodation expense; two of sixteen carry a disability-specific scorecard metric.

Under EEOC guidance in force since 1997, the staffing firm and the client are jointly and severally liable for ADA accommodation. Half of the respondents who answered (7 of 14) have that right; five named the client alone; none named the supplier alone or the MSP. **Only 5 of 14 have a defined, consistently followed accommodation process.** Yet 10 of 15 rate their own accommodation process favorably, and half of those have no defined process. Programs grade themselves on intent.

The industry's favorite objection, co-employment risk, did not appear in the data. Zero respondents described a co-employment incident. The litigation exposure runs the other way: the EEOC settled with Peak Performers, a staffing firm whose mission is employing people with disabilities, for $160,000 in January 2026 after it denied an accommodation and fired the requester. Nobody gets sued for having a clear accommodation process. They get sued for not having one.

Money is not the constraint: the Job Accommodation Network finds 61 percent of accommodations cost nothing and the median one-time cost is $300. Two practitioner accounts show the seam from inside: a program owner who nearly spent $40,000 on a worksite audit before discovering that nobody could say whose budget would pay for what it found, and a recruiter whose firm saw accommodation requests roughly triple in a quarter after adding one manual intake field. The demand was always there. The channel was not.

The framework asks for four things: named ownership, one reliable intake channel, a funding rule decided in advance, and measurement. Open the accommodation channel Monday, with a named mailbox, a 48-hour response standard, and a funding rule, before the VMS can support it.

Council members also receive the register behind this series: 167 documented inclusive hiring programs at 144 North American public companies, with source documents. Request access or talk with the Working Group at pathways@defiantsolutions.com.

02 -- ABOUT THIS BRIEF

Nobody Owns It

ABOUT THIS BRIEF

This is Brief 2 of four drawn from *The Missing Workforce: Disability and Neurodivergent Inclusion in the Contingent Workforce*, a white paper of the Pathways Opportunity Council's Neurodivergence and Disabled Contingent Hiring Best Practices Working Group, published September 2026. This brief follows an accommodation request through the client, MSP, supplier, and VMS, and shows where it falls between them: contracts that are silent, rate cards that never contemplated the cost, scorecards that do not measure it, and a co-employment fear that is invoked far more than it is experienced. Each brief stands alone; together the four carry the full argument. The complete report, including methodology, the survey instrument, and full response tables, is available from the Council at pathways@defiantsolutions.com.

ABOUT THE EVIDENCE

Survey findings are the Council's own data: a 24-item practitioner survey fielded June 16 to July 28, 2026, through the founding partners' networks; 17 responses, item-level n stated with each figure. Read them as directional signal, not market measurement. **Corpus findings** come from the Council's employer program register: 167 publicly documented inclusive hiring program entries at 144 North American public companies, built from ESG reports, program pages, and press records and re-verified July 2026. **Market data** are cited public sources. The legal landscape described is current as of July 17, 2026, and is not legal advice. Council publications do not name commercial staffing, recruitment, or talent-platform providers; they are described by function.

COUNCIL RESOURCES

Behind this brief sits the Council's employer program register: 167 publicly documented inclusive hiring program entries at 144 North American public companies, each tiered by program intensity, verified for current activity, and paired with the source program pages and ESG report excerpts in a searchable PDF library. The register is re-verified quarterly and is available to Council members, along with the full white paper, the Implementation Toolkit, and the Working Group's monthly sessions. **To request access, ask about membership, or talk with the Working Group about your program, email pathways@defiantsolutions.com.**

03 -- THE SEAM

Where Disability Falls Between the Parties

The structural cause is tri-party complexity. In direct hire, one employer owns policy, budget, process, and liability. In a contingent program, those four things are deliberately scattered across a client, an MSP, staffing suppliers, and a VMS, and disability inclusion falls into the seams. The legal answer to “whose job is the accommodation?” is, under EEOC guidance in force since 1997, **both the staffing firm's and the client's, jointly and severally**; the operational answer in most programs is “no one's, visibly.” JAN's own contingent-worker page, the field's best accommodation resource, routes readers back to that 1997 document and a companion 2000 Q&A; nothing newer exists. This report found no disability-in-contingent-workforce playbook from any industry association, standards body, or government agency. That absence is the gap the Council was formed to close, and the gap Chapter 5 of the full report quantifies.[1][2]

Three numbers

1 of 16

programs has a VMS that supports accommodation requests natively. Five more run requests through workarounds or manual processes outside the platform, six say their VMS does not support them at all, and three do not know. Our parallel review of public VMS documentation found no major platform publishing a worker-facing accommodation workflow. (Survey finding; market review.)

5 of 14

Accountability is unowned. Only 5 of 14 programs have a defined, consistently followed process for handling accommodation requests in the tri-party model, despite joint-employer ADA liability attaching to client and staffing firm alike under EEOC guidance in force since 1997. Half of those who answered (7 of 14) name the supplier and client jointly, which is the legally correct answer; five name the client alone; none names the supplier alone or the MSP. Yet 10 of 15 rate their own accommodation process favorably: programs grade themselves on intent. Zero programs described a co-employment incident, confirming that the industry's dominant fear is experienced far less than it is invoked. (Survey finding; EEOC Notice 915.002.)

$300

The levers are known and cheap. Practitioners rated eight candidate solutions. The top five are structural: industry-wide recognition of DOBE-certified suppliers (9 of 12 agree), VMS-native accommodation features (8 of 12), and standardized contract language, required recruiter training, and disability-specific scorecard metrics (9 of 12 each). Rate card accommodation allowances rated last. That ranking is rational: the Job Accommodation Network's current employer survey finds 61 percent of accommodations cost nothing and the median one-time cost is $300. The barrier is not budget. It is machinery. (Survey finding; JAN market data.)[3]

04 -- INFRASTRUCTURE

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[1] U.S. EEOC, “Enforcement Guidance: Application of EEO Laws to Contingent Workers Placed by Temporary Employment Agencies and Other Staffing Firms,” Notice 915.002, December 3, 1997 (in force as of July 2026). https://www.eeoc.gov/laws/guidance/enforcement-guidance-application-eeo-laws-contingent-workers-placed-temporary

[2] Job Accommodation Network, “A to Z: Contingent Workers.” https://askjan.org/topics/contin.cfm

[3] Job Accommodation Network, “Costs and Benefits of Accommodations” (employer survey of JAN contacts; updated September 17, 2025): 61 percent of accommodations at no cost; $300 median one-time cost. https://askjan.org/topics/costs.cfm

Infrastructure Not Built for Accommodation

The infrastructure findings are the report's most concrete, because infrastructure is binary; a field either exists or it does not. **One of sixteen programs has a VMS that supports accommodation requests natively.** Five more manage requests through workarounds or manual processes outside the platform, six say their VMS does not support accommodation requests at all, three do not know, and one does not use a VMS. Practitioners described email chains, shared spreadsheets, recruiter memory, or silence. The Council's parallel documentation review found the same thing market-wide: the dominant platforms publish interface-accessibility conformance (SAP Fieldglass reports WCAG 2.0 AA conformance in its published service definitions, for example) but **no major VMS publishes a worker-facing accommodation workflow**: no structured intake at assignment, no routing between supplier and client, no cost-code allocation, no assistive-technology provisioning. The accommodation case-management tools that do exist were built for permanent employees of a single employer, not for a tri-party assignment.[4]

Contracts are mostly vague or silent. Three of sixteen respondents say their supplier agreements clearly define who is responsible for accommodation and how costs are shared. Five describe the language as vague or boilerplate, four say their contracts are silent, three do not know, and one says it varies by supplier. The template agreements the Working Group reviewed matched the majority: a one-line compliance-with-laws clause, with no allocation of accommodation decision rights, response-time standards, or costs between client, MSP, and supplier, despite EEOC guidance making clear the parties may allocate these duties by contract but remain jointly liable if no one performs them.[5]

Rate cards mostly ignore accommodation costs. Three of sixteen say accommodation costs are built into their rate card framework. Five say rate cards do not address them, four say the question has never been considered, three do not know, and one says it does not apply to their model. In at least nine of sixteen programs, then, a supplier that proactively accommodates is, economically, a supplier that eats margin. Practitioners ranked cost-based fixes lowest not because money is irrelevant but because nobody has designed where the money sits. Playbook Section 4.2 supplies three workable structures, including a centralized program accommodation fund (the mechanism JAN's toolkit documents for direct employers).[6]

Scorecards are nearly silent. Supplier scorecards measure fill rate, time-to-fill, quality, and increasingly diversity spend. Two of sixteen programs carry a disability-specific metric for contingent suppliers; three more track disability only inside a general DEI metric; six carry nothing, three do not know, one has no formal scorecard, and one is considering adding a metric. Section 5.6 of the full report shows practitioners rate this among the most effective fixes available.

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[4]Council documentation review, July 2026; SAP Fieldglass UK G-Cloud service definition (WCAG conformance, vendor self-attestation); Beeline, Magnit, and Workday VNDLY public documentation.

[5]EEOC Notice 915.002 (1997) and companion ADA Q&A (December 2000): contractual allocation permitted; liability joint and several.

[6]Job Accommodation Network, Workplace Accommodation Toolkit (centralized accommodation funds).

05 -- ACCOUNTABILITY

Nobody Clearly Owns ADA in the Tri-Party Model

Ask a room of contingent-workforce professionals who is responsible for ADA accommodations for a placed worker and the answers scatter. Half of those who answered (7 of 14) say the staffing supplier and the client jointly; five say the client alone, because it controls the worksite; one has not determined it; one does not know. Nobody named the supplier alone, and nobody named the MSP. The legally correct answer is the joint one: **both, jointly and severally**, under EEOC enforcement guidance that has been in force since December 1997 and was supplemented with ADA-specific questions and answers in 2000. So half the room has the law right. The guidance is unambiguous; programs are not. **Only 5 of 14 respondents have a defined, consistently followed process** for receiving, routing, deciding, funding, and delivering an accommodation request across the three parties. Four handle requests case by case with no defined process, two defer to the client, one defers to the supplier, and one is unclear who is responsible.[7]

The gap between belief and machinery is visible inside the survey itself. Ten of fifteen respondents agree or strongly agree that their organization performs well on the accommodation process for contingent workers. Of those ten, five have a defined process. The other five handle requests case by case, defer them to the client, or did not say how requests are handled at all. The self-assessment is not dishonest; it is the honest report of people who believe requests get handled, because someone, somewhere, usually handles them. That is exactly the condition the recruiter profile later in this brief describes, and it is not machinery.

And yet the industry's favorite objection, co-employment risk, failed to materialize in our data: **zero respondents described a co-employment incident or claim** arising from accommodation or inclusion activity. All eight who answered the open-ended question wrote “N/A” (one added, “we are a federally regulated bank”). The ambiguity is felt, since unclear legal responsibility in the tri-party model ranked third of seven organizational barriers, ahead of technology, supplier readiness, budget, and competing priorities; the incidents are not. The pattern is what Playbook Chapter 10 calls “feared more than experienced”: caution about co-employment functions as a reason to keep disability at arm's length, while the actual litigation exposure runs the other direction. The EEOC sued Peak Performers, a staffing firm whose mission is employing people with disabilities, in September 2025 for denying unpaid-leave accommodations and firing the requester; the case settled in January 2026 for $160,000 plus policy and training requirements. Nobody gets sued for having a clear accommodation process. They get sued for not having one.[8]

[7]U.S. EEOC, Notice 915.002, December 3, 1997: staffing firm and client typically qualify as joint employers; remedies joint and several with individually assessed punitive damages; guidance remains posted and operative as of July 2026.

[8]U.S. EEOC v. St. Vincent de Paul Rehabilitation Services of Texas, Inc. d/b/a Peak Performers, No. 1:25-cv-01551 (W.D. Tex., Austin Div.); EEOC press release September 24, 2025; consent decree signed January 6, 2026.

06 -- VOICES FROM THE FIELD

Two Practitioners

Three composite profiles illustrate how the machinery gap is experienced from inside. Each is assembled from conversations among Working Group members, who operate or oversee contingent programs themselves, and from informal exchanges with survey respondents and Council network members during the fielding period. Details are composited and anonymized so that no single organization is identifiable, and the quotations are composite renderings of what practitioners told us, not verbatim transcripts. The survey data in Chapter 5 of the full report confirm each pattern the profiles describe.

The program owner who asked the wrong question first

A contingent-workforce program owner at a national logistics client, running roughly 4,000 active temporary workers through an MSP, began with facilities: a worksite accessibility audit, budgeted and scheduled. What stopped the project was a question from her MSP counterpart during the kickoff: if the audit found a needed modification, whose budget line would pay, and whose approval would be required, the client's, the MSP's, or the staffing supplier's as employer of record? Nobody in the room could answer, and the contracts on the table did not answer either. The audit was deferred; in its place, the program spent three months writing the responsibility-and-funding matrix that should have preceded it. The audit eventually happened, after the contract language existed to act on its findings.

> *We were about to spend forty thousand dollars finding problems we had no machinery to fix. The audit wasn't the starting point. The contract was.*
>
> Program owner, client side (composite)

The recruiter who built the workaround

A senior recruiter at a light-industrial supplier described the accommodation process at her firm as “me.” Candidates disclose to her directly (a request for a written rather than verbal instruction set, for a stool on the line, for a consistent shift because of medication schedules) and she negotiates each one informally with the site supervisor. It works because she is experienced and trusted; it would collapse if she changed jobs, and it is invisible to everyone: the client does not know the accommodations exist, the MSP sees nothing, and no record survives the assignment. When her firm joined a program that added an accommodation field to its onboarding checklist, a manual field, not a VMS feature, request volume roughly tripled in the first quarter. The demand was always there. The channel was not.

> *People don't ask for what they think will get them screened out. The day we made asking safe, the requests tripled. Nothing else changed; not the jobs, not the sites, not the people.*
>
> Senior recruiter, staffing supplier (composite)

07 -- WHAT TO DO

Recommendations: Ownership, Money, and Machinery

WHAT THIS FRAMEWORK DOES NOT REQUIRE

This framework does not require employers to lower essential job standards, guarantee every requested accommodation, collect diagnoses, disclose medical information to supervisors, or wait for perfect technology before acting. It requires four things: named ownership, one reliable intake channel, a funding rule decided in advance, and measurement. The recommendations that follow assume nothing more.

Program owners and clients

Own the policy. Adopt a written disability inclusion policy that names contingent labor explicitly (Playbook Section 2.3), and assign a named executive owner.

Fund the accommodations. Establish a centralized program accommodation fund or an explicit allocation rule (Playbook Section 4.2) so cost never defaults to the supplier's margin or the worker's silence. JAN's data (61 percent of accommodations at $0, a $300 median one-time cost, and employee retention the most frequently cited employer benefit[9]) makes this the cheapest retention investment in the program.

Procure the technology. Put the Playbook Section 8.3 question set into every VMS and assessment-tool RFP and renewal: WCAG 2.1 AA conformance, a worker-facing accommodation workflow, and disability-inclusive AI validation.

Managed service providers

Manage the accommodation workflow. Operate the intake register, enforce the 48-hour acknowledgment SLA, run the escalation path (Playbook Sections 5.1 and 5.4), and chair the quarterly review of cycle times and outcomes.

Broker the technology gap. Until VMS platforms ship native features, run the workaround playbook (Playbook Section 5.3) on the program's behalf, and carry the program's consolidated feature demands to the VMS provider. An MSP representing 40 programs has leverage a single client does not.

VMS and technology providers

Build native accommodation support. A worker-facing request field at assignment, routing logic between supplier and client contacts, status tracking against SLAs, cost-code allocation, and reporting. One of sixteen programs has anything like this today; the first platform to ship it owns a differentiator every MSP in this report has said it would pay attention to.

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[9] Job Accommodation Network, "Costs and Benefits of Accommodations," updated September 17, 2025 (employee retention is the most frequently cited employer benefit of accommodation).

Monday morning

Open the accommodation channel. Stand up the intake workflow in Playbook Chapter 5, meaning a named mailbox, a 48-hour response SLA, and a funding rule decided in advance, even before the VMS can support it natively. Playbook Section 5.3 is the workaround playbook.

IN THIS SERIES

The Missing Workforce series: Brief 1, *Goodwill Without Machinery*, the workforce contingent programs cannot see, the talent math, and the end of the compliance era; Brief 2, *Nobody Owns It*, accountability, contracts, and cost in the tri-party model (this brief); Brief 3, *The Unexamined Front End*, sourcing barriers, recruiter training, and AI screening; Brief 4, *Measurement Is the Intervention*, the retrenchment test, the maturity model, and what programs do Monday morning.

COUNCIL RESOURCES

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About the Pathways Opportunity Council

The Pathways Opportunity Council is an invite-only council of workforce professionals focused on expanding access and economic mobility for underrepresented talent, including Black, Hispanic, disabled, and veteran communities, as well as other historically disadvantaged groups. The Council's mission is to elevate industry practice and the professional standing of its members by convening leaders committed to measurable improvements in access, hiring, and advancement outcomes. The Council prioritizes organizations that demonstrate sustained, authentic commitment to expanding opportunity. Research and thought leadership are sponsored by Primary Talent Partners and AgileOne and executed by Defiant Solutions as the Council's named consulting partner. For more information email us at pathways@defiantsolutions.com

About Primary Talent Partners

Primary Talent Partners (PTP) is a woman-owned staffing firm focused on contingent workforce programs and full service staffing, including temporary and direct hire. Headquartered near Charlotte, North Carolina, with locations nationwide, PTP serves enterprise clients and supports MSP led and structured workforce programs. The firm operates effectively in margin constrained environments and uses a consultative approach to align candidates with roles, with an emphasis on inclusive talent delivery.

www.primarytalentpartners.com

About AgileOne

AgileOne designs and delivers global workforce and procurement solutions for Fortune 1000 companies. The firm provides consultative support to streamline processes for HR, procurement, and suppliers. AgileOne supports flexible and direct hire workforce programs and helps integrate technologies that capture and manage suppliers across the enterprise. Solutions emphasize operational efficiency, cost control, risk management, vendor management, and alignment to industry best practices.

www.agile-one.com

About Defiant Solutions

Defiant Solutions is the named consulting partner for the Pathways Opportunity Council, supporting the Council's research, stakeholder alignment, and delivery of actionable workforce insights. The firm advises enterprise buyers and workforce solution providers on external workforce strategy, contingent labor governance, and go to market execution. Engagements commonly include diagnostic assessments, operating model and governance design, program and supplier strategy, and fractional strategic leadership.

www.defiantsolutions.com

> **NOTE**
> All web sources were accessed June 1 to July 17, 2026. Regulatory items in flux at access time (OFCCP rulemaking, Colorado AI Act enforcement, the EU Digital Omnibus, and the lapsed Work Opportunity Tax Credit) should be re-verified before reliance. This brief is for general informational purposes and is not legal advice.[10]

[10] Congressional Research Service, “The Work Opportunity Tax Credit,” R43729, updated May 13, 2026.