



OFFICE OF THE CHAIRPERSON

DIRECTIVE

NUMBER: 27-02
October 13, 2026

SUBJECT: Clarifying the Process for Competitive Distributions in the AbilityOne Program

1. PURPOSE.

This directive clarifies how the U.S. AbilityOne Commission (Commission) will administer competitive distributions of Procurement List (PL) service requirements under 41 C.F.R. 51-3.4 and Commission Policy 51.301-04, *Competitive Distribution of Orders to Nonprofit Agencies for New and Existing Services on the Procurement List*. It defines the grounds on which a Federal Government entity (FGE) may request a competitive distribution of an existing PL service requirement, clarifies the scope of appellate review of a Central Nonprofit Agency (CNA) distribution decision, establishes a process applicable to non-allocation decisions by the CNA, and reiterates the Commission's position on Program Fee.

Commission Policy 51.301-04 provides that the Commission will approve a competitive distribution when competition is expected to advance the Commission's commitment to creating employment opportunities for AbilityOne-participating employees while providing services at the best value for the Federal Government. This directive brings clarity to that standard and ensures that competitive distributions proceed in a manner that is predictable and equitable for FGEs, CNAs, and nonprofit agencies (NPAs).

2. APPLICABILITY AND SCOPE.

This directive applies to the Commission staff, designated CNAs, NPAs, and FGEs requesting or participating in competitive distributions.

3. GUIDANCE.

(a) Basis for Requesting Competition.

Under 41 C.F.R. 51-3.4(b), an FGE requesting a competitive distribution must advise the Commission of its rationale for competition, and under 41 C.F.R. 51-3.4(c), the Commission determines whether a competitive distribution is appropriate after considering applicable Commission policies and procedures. Consistent with that authority, the AbilityOne Competition Subcommittee (AOCS) will approve a request to compete an existing PL service requirement only when the rationale required by paragraph 7(b)(ii)(b) of Commission Policy 51.301-04 rests on one or more of the grounds described below. The AOCS will deny a request that rests on any other grounds, including a general preference for competition.



COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED
An Independent Federal Agency



i. Performance. The incumbent NPA has received at least two adverse Contractor Performance Assessment Reporting System (CPARS) evaluations for its performance of the PL requirement that is the subject of the request within the five years preceding the date the AOCS receives the request. For purposes of this directive:

a. An adverse CPARS evaluation is a final CPARS evaluation that rates the NPA Marginal or Unsatisfactory in one or more evaluation areas. An evaluation is final when it has been completed after the NPA's opportunity to comment and any review by the reviewing official.

b. A request on this ground must include every CPARS evaluation for the requirement covering the five-year period, together with the NPA's comments on each adverse evaluation. This requirement applies notwithstanding the three-year period described at paragraph 7(b)(ii)(d) of Commission Policy 51.301-04.

ii. Innovation. The FGE demonstrates that competition is needed to obtain emerging and competing technologies or techniques available in the commercial sector. The request must identify the specific technologies or techniques, describe their availability in the commercial marketplace, and explain how they bear on the requirement. General interest in modernization without specific explanation does not satisfy this ground. This subsection is particularly relevant and appropriate in the following circumstances:

a. The FGE has not defined a specific solution but is aware of emerging technologies and techniques that address current and future needs and seeks to use competition among NPAs to identify new approaches to meeting the requirements. A request relying on this approach must identify the types of emerging technologies or techniques the FGE is seeking.

b. The FGE has new and emerging requirements, and the incumbent NPA has demonstrated an inability or unwillingness to evolve to meet them. A request relying on this circumstance should describe the FGE's efforts to obtain the needed capability from the incumbent NPA as well as the incumbent NPA's response.

iii. Price. Concerns with price are strictly limited to price impasse situations. Consistent with 41 C.F.R. 51-3.4(e) and paragraph 7(b)(iii) of Commission Policy 51.301-04, an FGE may not directly request a competitive distribution based solely on price. A competitive distribution based on pricing concerns may be directed only by the AOCS, upon recommendation of the Executive Director, after an impasse has been declared and processed under Commission Policy 51.640 and the parties have exhausted all available remedies within the Commission's pricing policies and procedures.

(b) Clarification of Disputes of CNA Distribution Decisions.

Under paragraph 7.2(a) of Commission Policy 51.301-04, an NPA that participated in a competitive distribution and disagrees with the CNA's distribution decision must submit its



dispute to the CNA for resolution. The CNA's review of the distribution decision is limited to reversible errors.

i. Material Mistake and Actual Prejudice. A dispute under paragraph 7.2(a) of Commission Policy 51.301-04 must identify a material mistake made by the Recommending Authority (RA), *i.e.*, a specific failure to follow Commission policy, Commission-approved procedures, the directives of the Federal Register notice, or the parameters established in the Opportunity Notice (ON). Mere disagreement with the judgment of the CNA official who made the distribution decision is not evidence of a material mistake. In addition, the dispute must show that the failure prejudiced the unsuccessful NPA. An error that did not affect the outcome is harmless and does not warrant relief.

ii. Who May Dispute. Only an NPA that participated in the competitive distribution may dispute or challenge the RA's decision. An FGE does not have standing to contest a distribution decision. However, if an FGE believes the CNA exceeded its authority or issued an allocation that clearly conflicts with Commission policy or procedure, it may refer the matter to the Ombudsman – consistent with Commission Policy 51.211, section 6(f) (Other Matters) – with the concurrence of the General Counsel and the Executive Director. A mere disagreement with the judgment of the CNA official who made the distribution decision is not sufficient grounds for reversal.

(c) Non-Allocation Decisions.

A non-allocation occurs when, following evaluation under the CNA's approved phase two procedures, the CNA determines that no authorized NPA is both technically acceptable and otherwise eligible to receive the order. When that occurs:

i. The CNA shall document the determination as a non-allocation, notify the FGE, the servicing contracting activity, and each participating NPA, and provide debriefs in accordance with its approved procedures.

ii. If no dispute is filed within the timeframes described at paragraph 7.2(a) of Commission Policy 51.301-04, the CNA shall refer the non-allocation to the Commission, through the Executive Director, together with the evaluation record and the rationale supporting the determination, for such further action as the Commission deems appropriate.

iii. If a dispute is filed, the CNA shall refer the non-allocation decision to the Commission only after all disputes have been resolved and the non-allocation decision is confirmed in accordance with paragraph 7.2(a) of Commission Policy 51.301-04. In such cases, the CNA must submit the non-allocation decision along with the evaluation record, supporting rationale, and documentation of each dispute's resolution. However, if the resolution of any dispute results in a determination that one or more NPAs are eligible for selection, the CNA shall proceed with a distribution decision in accordance with its approved procedures.



iv. After a non-allocation decision, the Commission is responsible for determining the next steps regarding the requirement. This may include authorizing additional NPAs, initiating a subsequent competitive distribution, or reconsidering its prior suitability determination and issuing a partial or full purchase exception in accordance with 41 C.F.R. 51-5.4 and Commission policy.

(d) AbilityOne Program Fee.

- i. Commission Position. The Commission reiterates its position, as stated in U.S. AbilityOne Commission Directive 26-01, *Non-negotiability of Program Fees* (March 24, 2026), and in Commission Policies 51.302 and 51.601, that the Program Fee is a non-negotiable cost component of the fair market price (FMP). The Program Fee rests on the Commission's authority under 41 U.S.C. § 8503 and 41 C.F.R. 51-3.5 and is calculated in accordance with Commission Policy 51.601. It is not subject to negotiation between an FGE and an NPA, and disputes concerning the Program Fee are resolved through the price impasse process under Commission Policy 51.640, as provided in Directive 26-01.
- ii. Program Fee Clause: If the AOCS approves a request for a competitive distribution, the Memorandum of Agreement (MOA) among the Commission, the CNA, the contracting activity, and the requiring activity must include provisions ensuring that the Program Fee is incorporated into the resulting contract in accordance with Commission Directive 26-01.

4. REFERENCES.

- (a) 41 U.S.C. §§ 8501-8506, Javits-Wagner-O'Day (JWOD) Act
- (b) 41 C.F.R. Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled, including 41 C.F.R. 51-2.4, 51-3.4, and 51-3.5
- (c) Supporting Competition in the AbilityOne Program, Final Rule, 89 FR 20324 (March 22, 2024)
- (d) Commission Policy 51.211, The AbilityOne JWOD Act Ombudsman Program
- (e) Commission Policy 51.301, Procurement List and the NPA Selection Framework
- (f) Commission Policy 51.301-04, Competitive Distribution of Orders to Nonprofit Agencies for New and Existing Services on the Procurement List
- (g) Commission Policy 51.302, Collection and Utilization of Program Fees by Designated Central Nonprofit Agencies
- (h) Commission Policy 51.601, AbilityOne Program Fee Calculation Methodologies
- (i) Commission Policy 51.640, AbilityOne Program Price Impasse
- (j) Commission Directive 26-01, Non-negotiability of Program Fees (March 24, 2026)



5. SUPERSESSION.

None.

6. EFFECTIVE DATE AND IMPLEMENTATION.

This directive is effective immediately. Please send any questions to policy@abilityone.gov.



APPROVED: *Christina Brandt*
Christina Brandt
Chairperson



COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED
An Independent Federal Agency

