

January 26, 2007

Pricing Memorandum Number 2 (PR 2)

Subject: Fair Market Price Determination for AbilityOne (formerly JWOD) Product Contracts

1. Purpose

The purpose of Pricing Memorandum Number 2 (PR-2) is to prescribe policies and requirements for Fair Market Prices (FMP) recommendations for products or commodities supplied to the Federal Government in accordance with the terms of the Javits-Wagner-O'Day Act (41 USC 46-48c). The term product and commodities are used interchangeably throughout this memorandum. These requirements are applicable to submitting the recommended Fair Market Price (FMP) when:

- A. Determining the Fair Market Price when adding a product to the Procurement List.
- B. Determining price adjustments to an existing product on the Procurement List.

2. Effective Date: February 1, 2007

This Memorandum is mandatory for price recommendations that commence on or after the effective date and lead to the establishment of a base price recommendation. This memorandum supersedes and replaces previous versions of:

PR-2, dated August 7, 1998,
PR-8 dated July 17, 1978,
PR-9, dated December 5, 1977,
PR-10, dated January 23, 1980,
PR-12, dated July 1, 1986,
PR-13 dated April 27, 1988,
PR-14 dated December 5, 1977,
PR-16, dated January 23, 1980,
PR-17, dated September 17, 1982, and
PR-19, dated February 15, 1990.

3. Authority

The Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) was established by the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c). The Committee implements a comprehensive program to enforce the policy of the Federal Government to increase employment opportunities for people who are blind or severely disabled. The pricing procedures implemented herein derive from the authority of the Javits-Wagner-O'Day Act as

implemented through Federal Acquisition Regulation (FAR) Subpart 8.7, 41 CFR Chapter 51, and OMB Circular A-122. **The Committee has sole authority to establish the Fair Market Price.** Because of this authority, the Committee's pricing procedures take precedence for AbilityOne contracts over other pricing provisions of the FAR (See FAR 8.707). However, the Committee's pricing procedures are intended to be consistent with FAR practices to the degree possible. The Committee is not bound to approve recommended prices and may establish a price other than negotiated.

4. Applicability

The guidance provided in this Memorandum applies to:

- A. All Federal entities subject to the Javits-Wagner-O'Day Act.
- B. The National Industries for the Blind (NIB) and NISH.
- C. Nonprofit Agencies participating in the AbilityOne Program.
- D. Federal contractors awarding subcontracts under the AbilityOne Program.
- E. AbilityOne-Authorized Commercial distributors.
- F. The Fair Market Price determination of all products under the AbilityOne Program.

5. AbilityOne Program Definitions

The following definitions are provided to establish a common language for parties participating in the pricing of an AbilityOne product contract. Appendix A is a Glossary of Terms and Appendix B is a guide to commonly used acronyms.

A. AbilityOne Program. The Committee has changed the program name from JWOD to the AbilityOne Program. Use of the name AbilityOne will be transitioned to gradually replace JWOD as the program name. During that time, the two names will be used synonymously.

B. Authorized AbilityOne Distributors is the term used to identify commercial distributors authorized by the Committee to sell AbilityOne products in the retail market. The AbilityOne authorized commercial distributor has flexibility in establishing the retail price within the parameters of that distributor's Federal contract and/or authorization agreement with the Committee. All distributors pay fair market price for products plus a small fee as approved by the Committee. This fee covers the additional costs associated with small and more frequent orders.

C. Base Date is the term used for the month and year the NPA and the Contracting Activity reach agreement on the initial or subsequent base price, as approved by the Committee.

D. Base Price is the term for the initial Fair Market Price for the product or service in the base year of a contract with multiple follow-on or option years. Base Price is used in the calculations using Producer Price Index to adjust prices.

E. Base Supply Centers (BSC) are retail stores authorized by the Committee to sell AbilityOne and non-AbilityOne products. The Committee staff monitors the retail prices of AbilityOne products. BSCs sell products other than AbilityOne items in their store inventory. The Committee does not regulate the retail prices of products other than AbilityOne items.

F. Central Nonprofit Agency (CNA) means a not-for-profit corporation operated in the interest of people who are blind or have other severe disabilities, and designated by the Committee to facilitate the distribution (by direct allocation, subcontract, or any other means) of Government orders for products and services on the Procurement List among Nonprofit Agencies employing persons who are blind or have other severe disabilities, to provide information required by the Committee to implement the AbilityOne Program, and to otherwise assist the Committee in administering these regulations as set forth herein by the Committee. (41 CFR 51-1.3)

G. Central Nonprofit Agency Fee. NIB and NISH are not government entities and receive no appropriations from the Federal Government. Instead, they receive a percentage of revenue generated by sales of AbilityOne products and services. This percentage, known as the CNA Fee, is paid to NIB or NISH by the Nonprofit Agency. Annually, the Committee reviews NIB's and NISH's budgets, plans and accomplishments and establishes the fee limit for each CNA's fee. Current CNA fee ceiling(s) and Federal and Nonprofit agency guidance can be found in the Committee's Administrative Memorandum Number 11 – CNA Fee, found on the Committee's web site at <http://www.jwod.gov/jwod/library/policy.html>

H. The Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) is the independent Federal Government agency responsible for administering the AbilityOne Program. The Committee establishes rules, regulations, and policies to assure effective implementation of the Javits-Wagner-O'Day Act. For more information, go to <http://www.jwod.gov>.

I. Contracting Officer (CO or KO) is a Federal government employee who has been granted authority by their Contracting Activity (CA) to negotiate and obligate government funds for products and services as the Agency determines necessary to meet their mission.

J. Fair Market Price (FMP) is the price that the Committee has set and approved for each product or service on its PL, and the price that the Government is required to pay when purchasing the product or service from the designated nonprofit agency. FMP can either be FOB Origin or Destination as recommended by negotiation between the designated NPA and CA and as approved by the Committee.

K. Impasse is the term used to describe when a price issue, controversy or disagreement occurs and either the Contracting Activity (CA) or the Nonprofit Agency is unable to

proceed with a contract action. The “JWOD Price and Price-Related Impasse and Disputes Resolution Procedure” (published separately by the Committee in Operations Memorandum Number 19, (<http://www.jwod.gov/jwod/library/policy.html>) is used to resolve price and price-related disagreements. Impasse may occur only during price change actions to an existing product or service on the Procurement List.

L. Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) is the law under which the Program operates; “JWOD” has been used to describe the Program and is often used as an adjective (e.g., a JWOD contract). The Committee has changed the program name from JWOD to the AbilityOne Program. Use of the name AbilityOne will be transitioned to gradually replace JWOD as the program name. During that time the two names will be used synonymously.

M. JWOD.com is an electronic commerce website operated by NIB, acting on behalf of NISH and the AbilityOne Program, as an authorized distribution source for certain AbilityOne products at retail prices. The Committee approves the retail prices on JWOD.com to ensure they are within market range. JWOD.com serves as the distribution mechanism for the “JWOD Corporate Schedule” with the General Services Administration (GSA), and other Government sponsored e-commerce programs such as DOD E-Mall.

N. National Industries for the Blind (NIB) is the CNA designated by the Committee to assist in creating employment opportunities for people who are blind. NIB is not a Government Agency. For more information, go to <http://www.nib.org>.

O. NISH is the CNA designated by the Committee to assist in creating employment opportunities for people with severe disabilities. NISH is not a Government Agency. (NISH is not an acronym.). For more information, go to <http://www.nish.org>.

P. Nonprofit Agency (NPA) is the term used to describe the state and local agencies employing people who are blind (NIB-associated agencies) or severely disabled (NISH-associated agencies). Nonprofit Agencies are also referred to as Community Rehabilitation Programs (CRP).

Q. Procurement List (PL) is the list of products and services provided under the AbilityOne Program as "mandatory source" acquisitions. Products are added to the Procurement List by the Committee and are listed by NSN. To view the Procurement List, go to <http://www.jwod.gov>.

R. Procurement List (PL) Number is the term used to identify a potential or actual Procurement List product(s) or service(s) addition also known as Action Number, JPID number or Request number.

S. Procurement List Information Management System (PLIMS) is the name of the information management system to be used by the Committee, beginning in mid-FY '07, to collect electronic submissions from the CNAs for proposed additions, deletions, and changes to the procurement list, including prices. Guidance will be issued separately for procedures for submission of electronic procurement list requests.

T. Producer Price Index (PPI) - Producer Price Index as reported by the Department of Labor, Bureau of Labor Statistics (BLS). A method negotiated by some Contracting Activities and Nonprofit Agencies to change prices for AbilityOne products.

U. Product Pricing Formats (PPF) All Committee Product pricing formats have multiple uses. These formats may be used by Nonprofit Agencies and NIB/NISH for submitting price proposals to Contracting Activities and must be used for providing information required under this memorandum to the Committee. The Contracting Activities' formats and forms must be used by the Nonprofit Agencies when requested by the CA and must be provided to the Committee, along with the product pricing formats, Draft Contract and Section/Schedule B. See Appendix C for formats.

V. Project Number is the term used to identify specific product(s) on the PL grouped by the NSN(s) and Contracting Activity for each Nonprofit Agency authorized to produce that group of product(s).

W. Recommended FMP is the term used for the price the CNA recommended to the Committee under the AbilityOne Program, based on negotiations between the designated NPA and CA.

X. Retail price is the term for the price at which authorized AbilityOne wholesalers and distributors sell AbilityOne products to end customers.

6. Roles and Responsibilities

A. Committee

- (1) Determines Fair Market Prices for items added to the Procurement List and revises those prices in accordance with changing market conditions to assure that the prices established are reflective of the market. (See 41 CFR 51-2.2(c))
- (2) Designates and sets appropriate ceilings on fee paid to central nonprofit agencies (NIB and NISH) by Nonprofit Agencies selling products under the AbilityOne Program. (See 41 CFR 51-2.2(f))
- (3) Issues guidance as necessary to facilitate negotiations.
- (4) Adjudicates impasses and publishes guidance on impasse resolution.
- (5) Obtains information from the Contracting Activity, NIB or NISH and the Nonprofit Agencies it deems appropriate for review and determination of a FMP.
- (6) Coordinates audits at the request of a contracting activity.

B. Contracting Activities

(1) Provide a copy of the product specifications and Section B of the draft contract and any additional documentation that identifies the volume (Min/Max), unit of issue, standard pack, terms and conditions for prospective supply contracts. Provide the same information for the current or most recent contracts to include price adjustment mechanism, previous contract price and delivery orders, contract modifications, and claims for the current commercial contracts to the NPA, and NIB or NISH.

(2) Conduct Market Research and establish an Independent Government Estimate (IGE), as directed by FAR Part 10 and Part 15.4, consistent with the contract requirements prior to contract negotiations. Estimate and research are to be provided directly to the Committee upon request.

(3) Certify that an analysis has been conducted in a manner consistent with FAR 15.405 and that the negotiated recommended price is fair and reasonable.

(4) Disclose the method of price analysis used in determining that the negotiated recommended price is fair and reasonable.

(5) Act in a timely manner.

(6) Keep the Nonprofit Agency and NIB or NISH involved in all aspects of the negotiation processes.

(7) Provide other documentation and information requested by the Committee Staff as may be needed to set the Fair Market Price.

(8) Upon request, provide the Committee detailed information, to include Government estimates, previous contract prices, previous volumes and freight terms, contract modifications, claims and budgetary restrictions.

(9) Contact the Committee Staff if additional clarification of the AbilityOne Program pricing procedures is needed beyond that provided by NIB or NISH.

(10) Departments, Agencies, Major Commands and local activities may issue implementing guidance to this Memorandum that is specific to their organization. Additional guidance, such as supplements, must be consistent with the procedures of this Memorandum. Additional guidance must be coordinated with the Committee. Activities issuing additional guidance to this Memorandum will provide the Committee, NIB and NISH a copy of that guidance.

C. NIB and NISH

- (1) Recommend to the Committee, with the supporting information required by Committee procedures, initial fair market prices for commodities or services proposed for addition to the Procurement List.
- (2) As market conditions change, recommend price changes with appropriate justification for assigned commodities or services on the Procurement List.
- (3) Provide technical assistance to both Contracting Activities and Nonprofit Agencies in negotiations. NIB or NISH shall participate and/or review all negotiations for Fair Market Price recommendation before submission to the Committee.
- (4) Evaluate prices and, when used, cost elements proposed by Nonprofit Agencies for consistency with Committee guidelines and procedures.
- (5) Ensure the Contracting Activity and the Nonprofit Agency are aware of Committee rules, regulations and policies.
- (6) Assemble and forward required information for Fair Market Price recommendations to the Committee according to Committee procedures.
- (7) Act in a timely manner.
- (8) Certify their concurrence with the Fair Market Price recommendation.

D. Nonprofit Agencies (NPA)

- (1) Develop, with the assistance of NIB or NISH, the pricing data necessary to prepare the proposal for the Recommended Fair Market Price. It is essential for Nonprofit Agencies to be actively involved in negotiations for products they are authorized to produce.
- (2) Comply with PR-2 when negotiating a Fair Market Price recommendation for products.
- (3) Provide products at the established Fair Market Price. All authorized nonprofit agencies must agree to provide the product they are authorized to produce at the recommended FMP prior to submission to the Committee for determination.
- (4) Maintain accounting records to capture, allocate and report costs, sales, and direct labor hours of employees employed on specified PL product contracts.
- (5) Provide NIB or NISH and the Committee all relevant data when requested to support price estimates.

Product Pricing Memorandum No 2 (PR 2)

- (6) Act in a timely manner.
- (7) Keep NIB or NISH informed and involved in all aspects of the negotiation process and any changes to circumstances that result in changes to the approved FMP or the recommended FMP after it has been submitted to the Committee.
- (8) Report to NIB or NISH and provide copies of all contract changes and modifications to price.
- (9) Support audits with full disclosure.
- (10) Act as a responsible partner with Contracting Activities and provide best value products to the Government.
- (11) Perform market research to support the proposed Fair Market Price recommendation.
- (12) Certify their participation in developing the recommended FMP and their agreement to provide the product as negotiated between the Contracting Activity.
- (13) Ensure any subcontracting meets the requirements of AbilityOne policies and procedures as defined in Committee Operations Memorandum 21, "Guidance on Nonprofit Agency Establishment of Subcontract Relationships for Current or Potential JWOD Work."

7. AbilityOne Program Guidance

Contracting under the AbilityOne Program gives Contracting Activities flexibility and represents acquisition streamlining. For a Contracting Officer to take full advantage of AbilityOne contracting and negotiations, an understanding of AbilityOne Program requirements is necessary. Specific guidance can be found in 41 CFR Chapter 51, FAR Subpart 8.7, OMB Circular A-122 and Committee Memoranda. In addition, it is important that the CNAs and NPAs understand that the Federal government is the AbilityOne customer. Where 41 CFR Chapter 51, FAR Subpart 8.7, OMB Circular A-122 and Committee Memoranda do not address exceptions or exemptions, the FAR is applicable. Some subjects with direct applicability to the Recommended Fair Market Price negotiations are:

A. Audits - In most cases, because of the fixed price nature of most AbilityOne contracts, there will seldom be a need for a Contracting Officer to request an audit. If a contracting officer believes that there is a reason for an audit, they shall coordinate the audit with the Committee staff. During any resulting audit, Committee staff will meet with the auditors to insure that they understand the AbilityOne Program and the differences between commercial companies and nonprofit agencies.

B. Competition in Contracting Act (CICA) - FAR Part 6 exempts AbilityOne contracts from the competition requirements of the CICA. (See FAR 6.302-5) This exemption applies only to products and services on the Procurement List.

C. Cost and Pricing Data - In accordance with FAR 15.403-1(c)(2) contracting officers are prohibited from requiring certified cost and pricing data from nonprofit agencies under the AbilityOne Program because the prices are set by law or regulation.

D. Cost Principles - If the negotiation process is based on cost analysis or cost realism analysis, as appropriate, OMB Circular A-122, Cost Principles for Non-Profit Organizations, will apply. Direct and indirect costs are allowable only if they are reasonable, allocable, not prohibited by OMB Circular A-122, and consistent with applicable accounting practices and standards. For a copy of the circular, go to <http://www.whitehouse.gov/omb/circulars/a122/a122.html>.

E. Free on Board (FOB) Destination - The Committee's regulations (41 CFR 51-5.6) allow for products to be priced FOB destination or origin. The Committee will review freight costs as a separate cost element from the product price. Delivery terms should be included in the price negotiations between the NPA and the Contracting Activity. If agreement on delivery terms cannot be reached between the parties, the preference of the Contracting Activity shall prevail. Requests for changes in freight costs for Federal Supply Schedule, Multiple Award and prime Vendor Schedule, Direct Delivery and other non-Transportation Service Orders (TSO) shipments shall be processed according to the current method of change. Freight costs included in Fair Market Prices shall only be adjusted as part of a price change under the Committee's procedures.

F. Free on Board (FOB) Origin - The Committee's regulations (41 CFR 51-5.6) indicate that Government bill of lading (GBL), now referred to as TSO, may be used to ship Government-use products on the Procurement List; however, for small shipments, the contracting activity may designate another method of transportation. Title to the goods is transferred to the Government when the product is placed aboard the initial carrier by the nonprofit agency. The Contracting Activity pays for shipping the product from the NPA to its destination based on the routing and freight classification in the TSO or based on an alternate shipping method approved by the contracting activity.

G. Government Furnished Material (GFM) - The Recommended FMP must reflect the total price of the product including any GFM. Contracting activities procuring products which are usually procured using GFM may at a later date require the NPA to produce the product using material which the NPA has procured from commercial sources. Thus, any price based on a procurement involving GFM must be capable of being readily adjusted to reflect the cost of the product, if the NPA is required to procure all or a portion of the material that was formerly GFM.

H. Incentive Contracts - It is permissible to use Fixed-price incentive contracts (FAR 16.403) and Fixed-price contracts with award fees (FAR 16.404) for contracts awarded under the AbilityOne Program when the Contracting Officer makes the determination it is in the Government's best interest to do so and all FAR requirements for such contracts are met .

I. Information Other than Cost or Pricing Data - In accordance with FAR 15.403-1(b) contracting officers may request information other than cost and pricing data to support price reasonableness. Section 8 discusses when information other than cost or pricing data is to be submitted.

J. AbilityOne Fixed Price Contracts - AbilityOne contracts are generally Fixed Price contracts subject to the Committee's authority to change prices as market conditions warrant. During the contract period, there should not be an adjustment in contract price, other than the agreed upon rules for pricing products in accordance with previously agreed-upon, option years, contractual changes and/or in accordance Committee guidance.

K. Minimum Order Quantities/Units of Issue - Minimum order quantities (MOQ) must be established for all products consistent with the distribution channel, contracting activity requirements, or industry standards. Units of Issue must be consistent with government product descriptions and must remain the same for all channels. Minimum order quantities should be expressed in units of issue.

L. Mistakes - Mistakes discovered by the Nonprofit Agency prior to the determination of the Fair Market Price can be corrected and a revised recommendation submitted. Contracting Officers discovering an apparent mistake should bring the mistake to the attention of NIB or NISH and the Nonprofit Agency. Mistakes identified by either party after determination of the Fair Market Price or award should be corrected using sound business techniques and judgments. If a mistake cannot be resolved, the impasse process will be used to reach a resolution.

M. Multiple Contracting Activities and/or NPA Producers – When multiple contracting activities/NPA producers contract to purchase the same product, the FOB origin Fair Market Price shall be the same for each entity. The Committee will not determine different FOB origin prices for different contracting activities or for different nonprofit agencies for the same product. Before submitting new price recommendations, the CNAs must ensure that the recommended FMPs are agreed to by all parties involved, including multiple NPAs and CAs. If any NPA or CA does not concur to a price for the same product, the Committee may at its discretion establish a price without that entity's concurrence.

N. Multiple Award Schedule (MAS) vendors – AbilityOne products must be approved before being offered for sale through GSA/MAS vendors or commercial wholesalers for distribution by MAS vendors. AbilityOne prices are only changed and disseminated quarterly by the Committee to wholesalers and authorized AbilityOne MAS vendors. Price changes are processed according to Committee published deadlines. All products sold to MAS vendors or wholesalers for commercial distribution channels must have FOB Destination prices, as well as FOB Origin. Vendors may choose to place orders as either FOB Origin or FOB Destination.

O. Pre-Award Survey - During the addition of a new product to the Procurement List the contracting activity will be given the opportunity to conduct a pre-award survey (also called a Plant Facility Inspection) of the nonprofit agency. The survey dates must be coordinated with NIB or NISH to allow personnel from NIB or NISH to be present during the survey.

P. Price Negotiations – Price negotiations shall be conducted in a manner consistent with FAR 15.403-1(c)(2).

Q. Quantity Breaks on Pricing - Prices may reflect savings in freight or volume discounts for large quantity purchases. The ranges used for price break points shall be reflective of industry practices, wherever they can be established. The minimum quantity and subsequent quantity ranges shall be part of the price negotiations and shall be included in price proposals made to the Contracting Activity, and are subject to approval by the Committee staff.

R. Product Licensing Agreements - Nonprofit agencies may enter into licensing agreements with outside firms for components of end items proposed for addition or already on the Procurement List. Such agreements shall be submitted to the Committee for review and approval prior to consummation. They are generally permitted where there is only one source for the component involved and the outside firm will only sell it to the nonprofit agency under such an agreement.

S. Reflecting prices –Unit prices shall be submitted in the following format:

Prices less than \$0.05 shall be listed to the nearest one-hundredth of a cent (4 decimal places).

Prices at least \$0.05 but less than \$0.50 shall be listed to the nearest one-tenth of a cent (3 decimal places).

Prices at least \$0.50 but less than \$1,000 shall be listed to the nearest cent (2 decimal places).

Prices \$1,000 or more shall be listed to the nearest dollar.

T. Rounding of prices – Unit prices shall be rounded using the following method: The last digit shall be increased to the next higher number if the number to the right of the last digit is 5 or more; any number to the right of the last digit less than 5 shall be dropped.

U. Royalties – Royalties paid by the nonprofit agency to the outside firm will not be considered as a separate element of cost for determining the initial Fair Market Price or in adjusting that price under the Committee's Pricing Memorandum PR-2 procedures. That cost is subsumed in Overhead Costs.

V. Subcontracting is defined by the Committee as any acquisition from another source of materials or services required by the nonprofit agency(ies) to provide a Procurement List product or service allocated under the AbilityOne Program. For guidance under the AbilityOne Program refer to the Committee Operations Memorandum 21, “Guidance on Nonprofit Agency Establishment of Subcontract Relationships for Current or Potential JWOD Work.”

W. Worker Productivity -The purpose of the AbilityOne Program is to provide employment for persons who are blind or severely disabled. In accordance with provisions of the Fair Labor Standards Act, employers may pay a sub-minimum (commensurate) wage to workers who are blind or with severe disabilities if they have a special certificate from the Department of Labor. Contracting Activities may not restrict Nonprofit Agencies from using a less than fully productive workforce to reduce the negotiated Fair Market Price recommendation.

8. Fair Market Pricing Determination for AbilityOne Products

A. Development of Product Price

The NPA, CNA and CA must each conduct analysis to ensure that the final agreed-to price is fair and reasonable. The AbilityOne Program recognizes three analysis methods described in FAR 15.404-1. In addition to analyzing proposals under AbilityOne these same methods can be used to develop the proposal prices. Under the AbilityOne Program and in accordance with FAR 15.404-1(2), price analysis is the preferred method. Cost or cost-realism shall be used only when information is not available to analyze price such as no commercial market exists or commercial prices are artificially lowered. Use of exceptions to price analysis shall be documented and submitted to the Committee accompanied with the Recommended FMP.

Before a Recommended Fair Market Price is submitted to the Committee staff, the NPA and the CNA must ensure that the CNA fee (defined in Section 5) is included in all AbilityOne product sales including Indefinite Delivery/Indefinite Quantity (ID/IQ) contract line items. No adjustments will be made to agreed-upon prices to add the CNA fee as a separate cost element.

B. Negotiations

The Committee has the sole authority to determine the Fair Market Price. To assist the Committee in its determination process, the Committee allows the Contracting Activity and the Nonprofit Agency, with participation by NIB or NISH to negotiate Recommended Fair Market Prices. The negotiation process should assure that all parties can introduce relevant data into the recommendations of initial price and price change mechanisms. Good faith negotiations should result in a reasonable Recommended Fair Market Price and an agreed-upon method for adjustment of future prices. The Committee is not bound to approve recommended prices and may establish a price other than the negotiated price.

C. Changes to Existing Product Prices

Price changes for products already on the Procurement List will occur on an annual basis, unless the contract specifies more frequent price changes or includes economic price adjustment (EPA) clauses. Prices may remain in effect for longer than one year as negotiated between the NPA and the Contracting Activity.

During price negotiations for a new or an existing product on the PL, the Contracting Activity and Nonprofit agency shall also negotiate an agreement on the method to be used to adjust prices in the future. Indices of product or raw material prices, market conditions, and negotiations are methods commonly used to determine new price recommendations for AbilityOne products. The Contracting Activity and Nonprofit Agency may agree to change product prices using the following methods:

(1) Producer Price Index (formerly APC process)

The nonprofit agency and the contracting activity will negotiate and recommend to the Committee staff the NAICS code and Producer Price Index (PPI) index to be used in adjusting the prices annually. The codes will be based on the major raw material or the end products, whichever is considered more appropriate. PPI pricing periods will coincide with a January effective date, unless the contract states a different effective date.

Any price change for a commodity established under the producer price change procedure shall not exceed the base price of that commodity by more than 25 percent. If the proposed price exceeds 25 percent of the base price, the price may be renegotiated by the NPA and CA, the NPA may conduct a market survey indicating the price is valid, or the NPA may accept the proposed price (base plus 125%). The Committee will determine the final fair market price.

Products with a Base Date older than 5 years will not be processed for a PPI price change. The Base Date and Base Price must be re-established at least once every 5 years or at the end of the price agreement, whenever is sooner. If the Contracting Activity chooses not to negotiate a new base price after 5 years, they must submit to the Committee an explanation of their continuing requirement for the product, and an estimate of future ordering expectations.

(2) Economic Price Adjustment (EPA)

Contracting Activity and Nonprofit Agencies may contract to adjust future price using EPAs. Product price will change based upon quarterly published EPA method. If this method is used, copies of contracts with EPA clauses must be on file in the office of the Committee staff prior to submission of requests for EPA based price changes. All EPA price changes must be reported to the Committee.

(3) Negotiations

The Contracting Activity and the Nonprofit Agency may choose to negotiate the product price using any combination of approaches. The pricing negotiations should generally be conducted using the contracting activity's timetable; however, they must be held sufficiently in advance to accommodate Committee approval or any impasse resolution. Negotiations will involve methods described in FAR 15.404-1. Price changes will occur in accordance with the contractual agreement.

(4) Market Surveys

If the Contracting Activity declines to negotiate a new price, the Committee exercising its authority to determine the FMP may allow the Nonprofit Agency to conduct market surveys to support the recommended FMP. The market survey will consist of comparing AbilityOne retail prices (not the FMP) to commercial retail prices for the "same or similar" commercial products. See Appendix C CBSD 1005B-1, -2, and -3 for the format.

Price change requests from the NPAs must be submitted through their respective CNA to the Committee within established deadlines to meet the schedule according to the established method of change and the AbilityOne-authorized commercial distribution (if applicable) pricing schedule. Any price change request outside of its established cycle such as annually, PPI and EPA must be accompanied by full price analysis and justification documentation no later than the schedule for each quarterly price update. Price changes on items that are in the commercial distribution channels outside of their normal cycle if approved will be effective in accordance with the subsequent quarterly schedule.

9. Subcontracting Agreements

All subcontracting arrangements under the AbilityOne Program must be in conformance with Committee regulation 41 CFR 51-4.4, Committee Operations Memorandum 21, "Guidance on Nonprofit Agency Establishment of Subcontract Relationships for Current or Potential JWOD Work," and approved by the Committee.

10. Commercial Distribution Channel

Federal customers are encouraged to review several AbilityOne-authorized commercial distributors' pricing on AbilityOne items to select the source that provides the best value to them. The Committee is the only source of pricing provided to the authorized AbilityOne distributors and wholesalers in the commercial distribution channel. Prices provided by the Committee to the distributors are FOB Destination, unless otherwise arranged. The distributors prices are (FMP plus a small administrative fee %) + freight by unit. The freight may be different for the commercial distributors than for direct shipping to government customers. The NPAs may offer discounts off of the MAS freight amount based on volume

Product Pricing Memorandum No 2 (PR 2)

only if they offer the same discounts to all commercial distributors and the price is no lower than the Vendors FOB Origin price would be (FMP + administrative fee).

11. Committee Documentation Formats

The Committee requires documentation of information found in the following formats (see Appendix C) to support requests for Fair Market Price determinations. All Committee formats have multiple uses. These formats may be used by Nonprofit Agencies and NIB/NISH for submitting proposals to Contracting Activities and must be used for providing information required under PR-2 to the Committee. The Contracting Activities' formats and forms must be used by the Nonprofit Agencies when requested by the CA and must be provided to the Committee, along with the following formats and the Contract Section Schedule B.

For Base Price additions or changes, NIB or NISH will submit:

- A. CBSD 1005 Product Pricing Information
- B. CBSD 1005-A Recommendation for Initial Price/Price Change Determination
- C. CBSD 1005-B1, B2, and B3 if a market survey was accomplished
- D. Documentation of data upon which Price Analysis was accomplished, if applicable
- E. All price proposal information submitted to the CA for all changes

Leon A. Wilson, Jr.
Executive Director

Enclosures (3)

Appendix A Glossary of Terms
Appendix B Acronyms
Appendix C Product Pricing Formats (CBSD)
Appendix D Committee Guidelines on Costs

APPENDIX A

Glossary of Terms

Competition in Contracting Act (CICA) is the 1984 Act that amended the Armed Services Procurement Act and the Federal Property and Administrative Services Act of 1949 to, among other things, enhance competition in Federal contracting by requiring a justification for most procurements in which full and open competition would not be obtained. Procurements under the AbilityOne Program are exempt from the competition and justification requirements of CICA. (FAR 6.302-5(b)(2), (c)(2)(ii)).

Contracting Activity means any element of an entity of the Government that has responsibility for identifying and/or procuring Government requirements for products or services. Components of a contracting activity, such as a contracting office and an ordering office, are incorporated in this definition, which includes all offices within the definitions of "procurement activity," "contracting activity," "contracting office," and "contract administration office" contained in the Federal Acquisition Regulation, 48 CFR 2.101. (41 CFR 51-1.3.)

General and Administrative Expense (G&A) is allowable management, financial and other expense which is incurred by or allocated to a business unit and which is for the general management and administration of the business as a whole.

Market prices are current prices that are established in the course of ordinary trade between buyers and sellers, free to bargain and that can be substantiated from sources independent of the offeror.

Market research is a process to collect, organize, maintain, analyze and present data for maximizing the capabilities, technology and competitive forces of the marketplace to meet an organization's need for supplies or services. See FAR Part 10 for detailed definition and procedures.

Negotiation means a flexible process that includes the receipt of a proposal from an offeror, and permits bargaining. Bargaining in the sense of discussion, persuasion, alteration of initial assumptions and positions and give and take may apply to price, schedule, technical requirements and other terms of the proposed contract. See FAR Part 15 for information on contract negotiation.

Net Proceeds is used in OMB Circular A-122, Cost Principles for Nonprofit Organizations, as part of the definition of a nonprofit agency that "uses its net proceeds (revenues less expenses) to maintain; improve; and/or expand its operations."

Overhead is a cost that is incurred for the benefit of, or caused by, and charged to more than one cost objective. Overhead costs are accumulated by logical cost groupings and generally accepted accounting practices and distributed based on benefits accruing to the several cost objectives.

APPENDIX B
List of Common Acronyms

ACO	Administrative Contracting Officer
BOA	Basic Ordering Agreement
CA	Contracting Activity
CAGE	Code Commercial Activity/Government Entity Code
CFR	Code of Federal Regulations
CICA	Competition in Contracting Act
CNA	Central Nonprofit Agency
CRP	Community Rehabilitation Program (Nonprofit Agency)
CO	Contracting Officer
DOL	Department of Labor
FAR	Federal Acquisition Regulation
FOB	Free on Board
FLSA	Fair Labor Standards Act
FMP	Fair Market Price
FOY	Follow-On Year
ID/IQ	Indefinite Delivery/Indefinite Quantity
IGE	Independent Government Estimate
JWOD	Javits-Wagner-O'Day
JPID	JWOD Program Information Database
KO	Contracting Officer
MAS	Multiple Award Schedule
MOU	Memorandum of Understanding
MOQ	Minimum order quantity
NIB	National Industries for the Blind
NPA	Nonprofit Agency
OFPP	Office of Federal Procurement Policy
PCER	Price Change Exception Request
PCO	Procuring Contracting Officer
PLIMS	Procurement List Management System
PPF	Product Pricing Form
QAP	Quality Assurance Plan
QCP	Quality Control Plan
SOW	Statement of Work
TINA	Truth in Negotiation Act
TSO	Transportation Service Order
UI	Unit of Issue
USC	United States Code
WD	DOL Wage Determination

CBSD 1005 Product Pricing Information									
<input type="checkbox"/> Negotiation - attach CBSD 1005-A Recommendation for Initial Price/Price Change Determination									
<input type="checkbox"/> Market Survey - attach CBSD 1005-B1 Price Determination for Proposed AbilityOne Products									
<input type="checkbox"/> Attach CBSD 1005-B2 Price Comparison of Proposed AbilityOne Products to Similar AbilityOne Products									
<input type="checkbox"/> Attach CBSD 1005-B3 Price Change Determination for AbilityOne Products									
<input type="checkbox"/> If other, please explain.									
Recommended Fair Market Price (FMP)								MAS Distributor (if applicable)	
NSN	Product Name	NSN Description	Unit of Issue	Price Category	FOB Origin	Freight Amount	FOB Destn	MOQ	Freight Amount
Initials: CNA _____									
NPA _____									
CA/PA _____									

Product Pricing Memorandum No 2 (PR 2)
CBSD 1005 Pricing Format Instructions:

Column	Description
NSN	National Stock Number
Product Name	General product name
NSN Description	The description of each NSN, e.g. what distinguishes one NSN from another in terms of size, color, etc.
Unit of Issue	Use official 2-letter unit code.
Price Category	Use ONLY if there is more than one origin or destination price; such as, quantity breaks, option years, etc.
FMP FOB Origin	Unit price without freight
FMP Freight	Unit freight if FMP FOB Destination.
FMP FOB Destination	Unit price with freight.
MAS Distributor MOQ	Minimum order quantity for MAS Distribution (if applicable)
MAS Distributor Freight Amount	Unit freight price for MAS Distribution (if applicable)

CBSD 1005-A

RECOMMENDATION FOR INITIAL PRICE/PRICE CHANGE DETERMINATION

The _____ (Contracting Activity) and _____ (Nonprofit Agency) have concurred to the recommended base price(s) for the product(s) as indicated on CBSD 1005 Product Pricing Information form.

The recommended prices(s) will be effective on _____ or upon Committee approval, whichever is latest.

The following mechanism will be used to adjust the future price recommendations:

- Recommended price(s) will be negotiated.
- Recommended price(s) will be adjusted using the Bureau of Labor Statistics Producer Price Index (PPI).
NAICS code: _____
- Recommended price(s) will be adjusted by an Economic Price Adjustment (EPA) clause as stipulated in the attached document.

INITIAL PRICE: THE CONTRACTING ACTIVITY MAY ONLY ISSUE THE CONTRACT/ORDER AT THE APPROVED PRICE 30 DAYS FROM THE DATE OF THE "NOTICE OF CHANGE TO THE PROCUREMENT LIST - ADDITION".

PRICE CHANGE: THE CONTRACTING ACTIVITY MAY ISSUE THE CONTRACT/ORDER/MODIFICATION WITH THE NEW AGREED PRICE ONLY AFTER THE COMMITTEE HAS APPROVED THE PRICE THROUGH THE ISSUANCE OF A "NOTICE OF CHANGE TO THE PROCUREMENT LIST - PRODUCT PRICE CHANGE".

CONTRACTING ACTIVITY

As Contracting Officer, I certify that I have determined the price recommendation to be fair and reasonable in accordance with The Committee's Pricing Memorandum No. 2 and using the standards set forth in FAR 15.404-1 Proposal Analysis Techniques. The analysis method used for determining the recommended price(s) to be fair and reasonable was:
_____ Price Analysis _____ Cost Analysis _____ Cost-realism Analysis _____ Other (Explain)

_____	_____	_____
CONTRACTING OFFICER	SIGNATURE	DATE

NONPROFIT AGENCY

As the Nonprofit Agency representative, I certify that we have participated in development of this FMP recommendation and agree to provide the products according to the pricing terms and conditions of this agreement.

_____	_____	_____
NAME AND TITLE	SIGNATURE	DATE

CENTRAL NONPROFIT AGENCY

In accordance with the Code of Federal Regulations (CFR 51-3.2(e) and 51-3.2(i)), as the Central Nonprofit Agency representative, I certify that my organization has participated in the development and/or review of the recommended FMP and that the Contracting Officer has indicated their agreement with the recommended price. I recommend the Committee approve the Fair Market Price.

_____	_____	_____
NAME AND TITLE	SIGNATURE	DATE

Product Pricing Memorandum No 2 (PR 2)

CBSD 1005B-1 Price Determination for Proposed AbilityOne Products

Data for Comparable Existing AbilityOne Products

Date of Research	
------------------	--

NPA Name	
NPA City/State	

Similar AbilityOne Product Retail Price	
Product Name	
NSN	

Section 1			
Vendor Name #1			
	Current FMP	Vendor's Current GSA Advantage Retail Price	Total markup over FMP

Section 2			
Vendor Name #2			
	Current FMP	Vendor's Current GSA Advantage Retail Price	Total markup over FMP

Section 3			
Vendor Name #3			
	Current FMP	Vendor's Current GSA Advantage Retail Price	Total markup over FMP

Approved for use after:
REVISED:

Date Printed:

Instructions for CBSD 1005B-1 Worksheet – Price Determination for Proposed AbilityOne Products

The instructions outlined below are based on using an Excel spreadsheet. The purpose of Form CBSD 1005B-1 is to document the comparison of a specific AbilityOne product to a proposed new product.

1. Enter the date you obtained the AbilityOne retail prices and the commercial retail prices from the websites in the shaded box at the top of the spreadsheet. The price information should be obtained on the same day or within a few days timeframe. The date should appear on the printed pages of the website.
2. Enter the CRP/NPA Name in the shaded box at the top of the spreadsheet.
3. Enter the City and State where the CRP/NPA is located in the shaded box at the top of the spreadsheet.
4. Identify an existing AbilityOne product that is similar to the AbilityOne product proposed or recommended for a price change.
5. Enter the Product Name of the similar AbilityOne Product in the shaded box.
6. Enter the similar AbilityOne product's NSN in the shaded box.

Sections 1, 2, 3 – Vendors Information

1. Enter the Current FMP of the similar AbilityOne Product in the shaded box. The appropriate boxes in Section 2 and Section 3 will automatically be completed.
2. Locate three Vendors' Current *GSA Advantage!* Retail Prices of the existing AbilityOne product that is similar to the new AbilityOne product proposed for addition. .
3. Enter each Vendor's Name for each of the three lowest AbilityOne retail prices for the similar AbilityOne Product found on *GSA Advantage!* in the shaded box. Include JWOD.com and GSA depots if they are one of the three lowest or the only sources available.
4. Enter the respective Vendor's Current *GSA Advantage!* Retail Price for the similar AbilityOne Product in the shaded box. The spreadsheet automatically calculates the vendor's Total markup over FMP.

Product Pricing Memorandum No 2 (PR 2)

CBSD 1005B-2 Price Comparison of Proposed AbilityOne Products to Similar Commercial Products

Date of Research	
------------------	--

NPA Name	
NPA City/State	

New Product Name	
New NSN	

Section 1		
Vendor Name #1		
Section 1A		
New AbilityOne Retail Price		
New Product Proposed FMP	Total Markup Over FMP	Vendor's New GSA Advantage Retail Price

Section 2		
Vendor Name #2		
Section 2A		
New AbilityOne Retail Price		
New Product Proposed FMP	Total Markup Over FMP	Vendor's New GSA Advantage Retail Price

Section 3		
Vendor Name #3		
Section 3A		
New AbilityOne Retail Price		
New Product Proposed FMP	Total Markup Over FMP	Vendor's New GSA Advantage Retail Price

Section 4			
Commercial Retail Prices - Same or Similar			
Web Price	Supplier name	URL/Web Address	Part Number
	a	http://www.gsaadvantage.gov	1
	b	http://www.gsaadvantage.gov	2
	c	http://www.gsaadvantage.gov	3

Instructions for CBSD 1005B-2 Worksheet – Price Comparison of Proposed AbilityOne Products to Similar Commercial Products

The purpose of Form CBSD 1005B-2 is to document the comparison of a similar commercial product to a proposed new product or an existing product that is recommended a price change.

1. Enter the Product Name of the proposed AbilityOne Product in the shaded box at the top of the worksheet.
2. Enter the New NSN in the shaded box at the top of the worksheet.

Sections 1, 2, 3 – Vendor’s Information

Enter the New Product Proposed FMP being recommended for the new product in the shaded box in Section 1A. The worksheet will automatically copy the New FMP to the appropriate boxes in Sections 2A and 3A. The worksheet will automatically refer to the completed CBSD 1005B-1 worksheet to obtain the Vendor Name and Total markup over FMP.

The spreadsheet automatically calculates each Vendor’s New GSA Advantage! Retail Price in Sections 1A, 2A, and 3A using each vendor’s respective Total markup over FMP Vendor from CBSD 1005B-1. The formula used is (New Product Proposed FMP + (Total markup over FMP * New Product Proposed FMP)).

Section 4 – Commercial Retail Prices – Same or Similar

Determine the Commercial Retail Prices for “same or similar” commercial products by visiting the Internet websites that offer the commercial products.

1. Print copies of each of the web pages that you obtain the Commercial Retail Web Price with the date printed and the Internet address of the website. Print the detailed description for each of the commercial products used.
2. Enter three Commercial Retail Web Prices in the shaded boxes. The worksheet will automatically enter these prices in the appropriate boxes in Section 5.
3. Enter the corresponding supplier names for each of the Web Prices. The worksheet will automatically enter these prices in the appropriate boxes in Section 5.
4. Enter the corresponding URL/Web Addresses for each of the Web Prices.
5. Enter the corresponding commercial part numbers for each of the Web Prices.

Section 5 – Comparison Range of AbilityOne Retail Price to Commercial Retail Price

The spreadsheet automatically completes:

1. AbilityOne Vendor’s Names from Sections 1, 2, and 3
2. AbilityOne Vendor’s New GSA Advantage! Retail Prices from Sections 1A, 2A, and 3A
3. Commercial Retail Web Prices from Commercial products in Section 4
4. Commercial Supplier’s names from Section 4

Product Pricing Memorandum No 2 (PR 2)

CBSD 1005B-3 Price Change Determination for AbilityOne Products

Date of Research	
------------------	--

NPA Name	
NPA City/State	

Product Name	
NSN	

Section 1				
Vendor Name #1				
Section 1A			Section 1B	
Current AbilityOne Retail Price			New AbilityOne Retail Price	
Current FMP	Vendor's Current GSA Advantage Retail Price	Total Markup Over FMP	Proposed FMP	Vendor's New GSA Advantage Retail Price
		N/A		N/A

Section 2				
Vendor Name #2				
Section 2A			Section 2B	
Current AbilityOne Retail Price			New AbilityOne Retail Price	
Current FMP	Vendor's Current GSA Advantage Retail Price	Total Markup Over FMP	Proposed FMP	Vendor's New GSA Advantage Retail Price
0.00		N/A	0.00	N/A

Section 3				
Vendor Name #3				
Section 3A			Section 3B	
Current AbilityOne Retail Price			New AbilityOne Retail Price	
Current FMP	Vendor's Current GSA Advantage Retail Price	Total Markup Over FMP	Proposed FMP	Vendor's New GSA Advantage Retail Price
0.00		N/A	0.00	N/A

Section 4			
Commercial Retail Prices - Same or Similar			
Web Price	Supplier name	Part Number	URL/Web Address
	a	1	http://www.gsaadvantage.gov
	b	2	http://www.gsaadvantage.gov
	c	3	http://www.gsaadvantage.gov

Section 5			
Comparison Range of AbilityOne Retail Price to Commercial Retail Price			
		Web Price	Supplier name
N/A	N/A	N/A	a
N/A	N/A	N/A	b
N/A	N/A	N/A	c

Approved for use after:
REVISED:

Date Printed:

Instructions for CBSD 1005B-3 –Price Change Determination for Existing AbilityOne Products

This worksheet is intended for use as described in the conducting Price Analysis Using Market Research.

1. Enter the date you obtained the Vendors' Current *GSA Advantage!* Retail Prices and the commercial retail prices from the websites in the shaded box at the top of the worksheet. The price information should be obtained on the same day or within a few days timeframe. The date should appear on the printed pages of the website.
2. Enter the CRP/NPA Name in the shaded box at the top of the spreadsheet.
3. Enter the City and State where the CRP/NPA is located in the shaded box at the top of the spreadsheet.
4. Enter the Product Name of the AbilityOne Product in the shaded box.
5. Enter the AbilityOne product's NSN in the shaded box.

Sections 1, 2, and 3 – Vendors Information

1. Enter the Current FMP of the AbilityOne product to be repriced in the shaded box. The appropriate boxes in Section 2 and Section 3 will automatically be completed.
2. Locate the three lowest Vendors' Current *GSA Advantage!* Retail Prices of the existing AbilityOne product.
3. Enter each Vendor's Name for each of the three lowest AbilityOne retail prices for the AbilityOne Product found on *GSA Advantage!* in the shaded box. Include JWOD.com and GSA depots if they are one of the three lowest or the only sources available.
4. Enter the respective Vendor's Current *GSA Advantage!* Retail Price in the shaded box in Section 1A, 2A, and 3A. The spreadsheet automatically calculates the Vendor's Total markup over FMP and the Vendor's New *GSA Advantage!* Retail Price in Section 1B, using the vendor's Current Vendor Markup Percent added to the Proposed FMP.

Section 4 – Commercial Retail Prices – Same or similar

Determine the Commercial Retail Prices for "same or similar" commercial products by visiting the Internet websites that offer the commercial products.

1. Print copies of each of the web pages that you obtain the Commercial Retail Web Price with the date printed and the Internet address of the website. Print the detailed description for each of the commercial products used.
2. Enter three Commercial Retail Web Prices in the shaded boxes. The worksheet will automatically enter these prices in the appropriate boxes in Section 5.

Product Pricing Memorandum No 2 (PR 2)

3. Enter the corresponding supplier names for each of the Web Prices. The worksheet will automatically enter these prices in the appropriate boxes in Section 5.
4. Enter the corresponding URL/Web Addresses for each of the Web Prices.
5. Enter the corresponding commercial part numbers for each of the Web Prices.

Section 5 – Comparison Range of AbilityOne Retail Price to Commercial Retail Price

The spreadsheet automatically completes:

1. AbilityOne Vendor's Names from Sections 1, 2, and 3.
2. AbilityOne Vendor's New *GSA Advantage!* Retail Prices from Sections 1B, 2B and 3B.
3. Commercial Retail Web Prices from Commercial products in Section 4.
4. Commercial Supplier's names from Section 4.

APPENDIX D
Committee Guidelines on Costs

Nonprofit Agencies typically utilize accounting systems different than for-profit companies. To prevent confusion and to mitigate proposal preparation and evaluation costs, the Committee has established some guidelines for use by all parties during negotiations. These guidelines will only apply when cost analysis or cost realism analysis is used to negotiate the Fair Market Price recommendation.

(1) Depreciation schedules should be negotiated for AbilityOne contracts; equipment may be depreciated for periods longer than five years.

(2) Multiple vendor quotes to support non-labor subcontract costs are required only when the item unit cost exceeds \$2,500. Nonprofit Agencies are responsible for obtaining best value prices from vendors based on broad competition as directed in Committee Operation Memorandum 21.

(3) Rehabilitation Costs are costs incurred by the Nonprofit Agency in supporting people with disabilities. Rehabilitation costs are never an allowable cost in Fair Market Price recommendation negotiations. These costs can include services such as job coaches, special training, transportation and vocational rehabilitation counselors.

(4) Overhead, General and Administrative Expense (G&A) and Net Proceeds are calculated as a percentage of direct costs.

(5) CNA Fee (defined in Section 5.G) is included in the Fair Market Price recommendation. The fee is not a markup on the FMP, but is instead a component of the NPA's total price. Total NPA price, including the applicable fee as an overhead cost, must be included in the recommended fair market price submitted for Committee approval. Full cost disclosure should only be made when it becomes necessary in the course of negotiations with Government contracting officers using the cost analysis method of analyzing the proposal. CNA fee is a part of overhead and at no time should CNA fee be factored separately.