

**April 1, 2007**

**Pricing Memorandum Number 1 (PR-1)**

**Subject: Fair Market Pricing Policy**

**1. Purpose**

This memorandum summarizes the policies and practices established by the Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee) for determining Fair Market Prices (FMP) for products and services provided under the Javits-Wagner-O'Day (JWOD) Act [41 U.S.C. 46-48(c)]. These products and services are identified on the Procurement List established and maintained by the Committee. The policies in this memorandum apply to the legislative, judicial, and executive branches of the Federal Government (including the United States Postal Service) and nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces.

**2. Effective Date: April 1, 2007**

This memorandum supersedes and replaces Committee Pricing Memorandum No. 1, dated January 23, 1998.

**3. Committee Pricing Principles**

As set forth in the JWOD Act, the Committee has sole authority and responsibility for determining the Fair Market Price to be paid by the Government for products and services on the Procurement List. To determine such prices, the Committee has developed procedures outlined in Pricing Memorandum 2 and Pricing Memorandum 3, which can be found at [www.AbilityOne.gov](http://www.AbilityOne.gov), that are intended to result in prices that are recommended as "fair and reasonable" in relationship to the marketplace.

The foundation for all reasonable fair market price recommendations is good faith negotiations between the government and the AbilityOne participating nonprofit agencies. Price analysis is the preferred method for arriving at the negotiated Fair Market Price. In circumstances where no commercial market exists, cost analysis or cost realism may be used.

One key element in these good faith negotiations is the recognition by the government that the purpose of the AbilityOne Program is to provide employment for people who are blind or have other severe disabilities. This means that in some cases the qualified nonprofit agency will be employing a less than fully productive workforce that may result in additional costs for the nonprofit agency. This recognition by the government of the

unique mission and work force of the AbilityOne Program in no way overrides the responsibility of the participating nonprofit agencies to present to the government a fair and reasonable price (not the lowest and not the highest) that is within the relevant commercial market.

#### **4. Responsibilities for Establishing Fair Market Prices**

The Committee establishes the initial FMP through a formal voting procedure at the time a product or service is added to the Procurement List. Subsequent changes to the initial FMP are determined by the Committee staff in accordance with the price change methodology approved by the Committee when the initial price was set. Prior to the Committee FMP determinations, the Committee expects the Contracting Activity, the Nonprofit Agency, and NIB and/or NISH to negotiate a recommended Fair Market Price.

#### **5. CNA Fee**

The program funding fee or CNA fee is paid to NIB or NISH by participating Nonprofit Agencies as a percentage of revenue generated by sales of AbilityOne products and services. The CNA fee is part of the FMP and not a separate cost item. Annually, the Committee reviews NIB's and NISH's budgets, plans and accomplishments and establishes the fee ceiling rate for each CNA. Current CNA fee ceiling(s) and federal and Nonprofit agency guidance can be found in the Committee's Administrative Memorandum No. 11, CNA Fee

#### **6. Disagreements Concerning Recommended Fair Market Prices**

All recommended FMPs submitted to the Committee must be concurred to and certified by the Contracting Activity, the Nonprofit Agency, and NIB or NISH. In the event that the Contracting Activity or the Nonprofit Agency cannot agree on a contract pricing action of a product or service already on the Procurement List, either the Contracting Activity, or the Nonprofit Agency, or the CNA may declare an impasse and refer the matter to the Committee for resolution. The "AbilityOne Price and Price-Related Impasse and Disputes Resolution Procedure" (published separately by the Committee in Pricing Memorandum No. 19, is used to resolve price and price-related disagreements.

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