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**TITLE: NEGOTIATING AND DEVELOPING RECOMMENDED FAIR MARKET PRICE FOR ABILITYONE PRODUCTS**

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**1. PURPOSE.**

This document prescribes the procedures for developing and negotiating the Recommended Fair Market Prices (FMP) for products on the AbilityOne® Program Procurement List (PL).

**2. APPLICABILITY.**

These procedures apply to the U.S. AbilityOne Commission (Commission), Central Nonprofit Agencies (CNAs), and Nonprofit Agencies (NPA) participating in the AbilityOne Program. In addition, all Federal entities subject to the Javits-Wagner-O'Day (JWOD) Act and Federal contractors awarding directed subcontracts to meet the mandatory source requirement in their prime contracts must also comply.

**3. AUTHORITY.**

- (a) 41 CFR 51-5.5, Prices
- (b) Federal Acquisition Regulation (FAR) Subpart 15.4, Contract pricing
- (c) 2 CFR 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
- (d) U.S. AbilityOne Commission Policy 51.610, Pricing AbilityOne Products.
- (e) U.S. AbilityOne Commission Policy 51.630, Market Research.

**4. DEFINITIONS AND ACRONYMS.**

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in 51.102, Definitions. Definitions specific to this document are provided in Policy 51.600, Fair Market Price.

**5. RESPONSIBILITIES.**

- (a) The Commission has sole authority and responsibility for determining the FMP for products on the PL. In addition to reviewing and evaluating data to set the FMP, the Commission's responsibilities include providing guidance to all parties in the development of the Recommended-FMP.
- (b) The CNAs' responsibilities related to pricing AbilityOne products include:
  - i. Ensuring that all parties are knowledgeable of the AbilityOne Program requirements for developing and negotiating a price for AbilityOne products.
  - ii. Providing technical assistance to NPAs and Contracting Activities as necessary.



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- iii. Certifying CNA concurrence and submitting the Recommended-FMP to the Commission.
- (c) NPAs maintain accounting records that capture, allocate and report costs, sales, and direct labor hours of individuals employed on AbilityOne contracts, and make this information available to the Commission as requested.
  - i. Documentation shall demonstrate that the NPA performed appropriate market research, and the market data will be provided to the CNA to support the proposed Recommended-FMP.
- (d) Contracting Activities will communicate with CNA(s) and NPA(s), and provide them with adequate specifics in the solicitation documentation to allow CNAs and NPAs to develop a pricing proposal that properly addresses all aspects of the Government's requirement.
  - i. This included performing standard cost and price negotiation activities to determine whether the Recommended-FMP is fair and reasonable, and furnishing pricing information that assists the Commission in establishing the FMP.

### **6. PROCEDURES.**

- (a) Analysis: The NPA, CNA, and Contracting Activity shall:
  - i. Each conduct analysis to ensure that the final agreed-upon price is fair and reasonable.
  - ii. Evaluate, develop, and negotiate prices using standard Federal proposal analysis techniques.
    - a. Proposal formats shall be at the Contracting Activities' discretion.
  - iii. Apply cost principles in accordance with OMB A-122. Direct and indirect costs shall be reasonable, allocable, and consistent with applicable accounting practices and standards.
    - a. CNA Fee is an indirect cost. It shall be included in all AbilityOne product prices, within burden. No adjustments will be made to agreed-upon prices to add the CNA Fee.
    - b. Rehabilitation costs are not an allowable cost. These costs are incurred by the NPA in supporting people who are blind or have other significant disabilities such as job coaches, special training, transportation and vocational rehabilitation counselors.
    - c. Royalties are indirect and shall be included in burden.
    - d. Use of Government Furnished Material (GFM) in the provision of products on the PL does not preclude a future decision by the Contracting Activity that GFM will no longer be furnished and that the NPA must procure similar items from commercial sources. Accordingly, any price based on use of GFM must be capable of being adjusted to reflect the cost of the components, if the NPA is required to procure all or a portion of the material that was formerly GFM.

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### (b) Price Characteristics

- i. 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.
- ii. Quantity breaks may be negotiated, where prices reflect savings in freight or volume discounts for large quantity purchases. The ranges used for quantity 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 Commission.
- iii. 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-assigned NSN product descriptions and must *remain the same for all channels*. Minimum order quantities should be expressed in units of issue.

### (c) Delivery and Freight

- i. Delivery terms shall 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.
- ii. Freight costs are reviewed by the Commission as a separate cost element from the product price. Freight costs may be different for AbilityOne Commercial Distributors than for direct shipping to Federal Government customers.

### (d) Information Requests

- i. Contracting Officers may request information other than cost and pricing data to support price reasonableness consistent with FAR 15.403-1(b) however, no certified cost and pricing data may be requested from nonprofit agencies in accordance with FAR 15.403-1(c)(2), Prices set by law or regulation.

### (e) Negotiating the Recommended-FMP will result in a Base Price and a Price Change Mechanism (see AbilityOne Procedure 51.610.-01.1000, Price Change Mechanism: Producer Price Index).

- i. The Contracting Activity and NPA may agree to set or change product prices using the following methods:
  - a. **Negotiations** - The pricing negotiations should generally be conducted using the Government's timetable; however, they must be held sufficiently in advance to accommodate Commission approval or any impasse resolution. Price changes will occur in accordance with the contractual agreement.

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- b. **Economic Price Adjustment (EPA)** - Using an EPA clause, the product price will change based upon quarterly-published EPA information. Copies of contracts with EPA clauses must be on file in the office of the Commission prior to submission of requests for EPA based price changes.
- c. **Producer Price Index (PPI)** - Upon selection, Producer Price Index (PPI) information published by the Department of Labor, Bureau of Labor Statistics (BLS) is used to calculate product prices annually. The indices are based on the major raw material or the end products, whichever is considered more appropriate. The price change mechanism is managed by the Commission.

(f) Changes to the recommended-FMP

- i. **Frequency:** Changes to the Recommended-FMP 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.
- ii. **Out-of-cycle requests:** Any request submitted to the Commission to change the FMP outside of the Commission's established cycle and/or without the Contracting Activity and NPA's concurrence must be accompanied by full price analysis and justification documentation.
- iii. **Effective Dates** are determined by the Commission for all AbilityOne price changes. FMP's price changes on items that are in the commercial distribution channels outside of their normal cycle will be effective in accordance with the subsequent quarterly schedule.

**9. SUPERSESSON.**

None.



APPROVED: *E. Ballard* Date: 9/30/15

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