



Fair Market Price

Committee for Purchase
From People Who Are Blind or
Severely Disabled
An Independent Federal Agency





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41 U.S.C. 46-48c

The Committee for Purchase From People Who Are Blind or Severely Disabled is the independent federal agency that administers the Javits-Wagner-O'Day Act. Under this public law, employment is created and sustained through the AbilityOne Program for people who are blind or have other severe disabilities in the manufacture and delivery of products and services to the federal government. This pamphlet is not a substitute for reviewing the JWOD Act, the Committee's regulations, or its administrative memoranda. It is intended to summarize and plainly state important points related to Fair Market Pricing for quick reference.

Fair Market Price (FMP)

The price that the Committee determines for each product or service on the Procurement List

The Javits-Wagner-O'Day Act states that products and services furnished to the government by people who are blind or severely disabled will be furnished at the Fair Market Price. The FMP is discussed in **41 CFR 51-2.7, Fair Market Price**. By statute, only the Committee has the authority to set the FMP. However, this price is not established unilaterally and without the active involvement of both the NPA and the contracting activity. The process for determining the FMP is further detailed below.

Negotiating Prices

Nonprofit agency(ies) (NPA), with the assistance of NIB or NISH, will develop a proposed price, then negotiate with the federal contracting activity a mutually acceptable price to recommend to the Committee. The Committee staff reviews the "recommended fair market price" along with additional project information for the product or service. The recommended price is not necessarily the price ultimately determined by the Committee. The Committee will review the recommendations, revise the recommended prices where appropriate, and establish a fair market price.

FMP— Fair Market Price
NPA— Nonprofit Agency
PL—Procurement List

CNA— Central Nonprofit Agency
FOY— Follow on year
NIB—National Industries for the Blind

Negotiation and agreement on recommended FMP is the process that allows the parties, through bargaining, discussion, persuasion and testing of assumptions, to reach agreement on the contract terms and propose a recommended Fair Market Price to the Committee.



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FAR 15.404.1(b) Price analysis—*FAR 15.404.1(c)* The AbilityOne Program recognizes three analysis methods described in FAR 15.404.1: price analysis, cost analysis, and cost realism. Price analysis is the preferred method. Cost analysis and cost realism shall be used only when price analysis is not feasible.

Market Pricing

All parties are required to conduct market research for price analysis to support their recommended FMP. When cost analysis is necessary, the parties must explain why price analysis is not applicable with the FMP recommendation. Market research should be consistent with FAR Part 10 guidelines. Price analysis involves comparing commercial contracts with AbilityOne contracts, less any provisions not shared by commercial contractors such as commensurate Health & Welfare benefits for low productivity workers.

Nonprofit Agency Business Costs

With price analysis, nonprofit agencies' costs of doing business are incorporated into the price and not itemized as individual cost elements. Indirect costs and the fee nonprofit agencies pay to their CNA are included in overhead — not computed separately when calculating a fair market price. The nonprofit agency may include such allowable fees and net proceeds in its overhead, but the resulting price must fall within the range of market price indicators.

Contract Modifications

All contract changes must be defined by a contract modification. Significant changes to the price (an increase of more than 25% over the previous approved price, for example, or a price that falls outside the approved follow-on year agreement) require Committee approval.

Significant changes to the scope of the requirement must also be approved by the Committee. An increase in the level of effort or frequency of service, like adding weekend cleaning to a building custodial contract or adding midnight rations to a food service contract, would result in a significant change to the scope. Within scope changes to products such as additional sizes or replacement part numbers must be approved and issued by the Committee.

Out-of-scope expansion of requirements (additional locations, types of services or different products than are specified on the Procurement List) are not authorized without Committee action.



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Follow on Year FMP

Prices are revised in accordance with changing market conditions under Committee procedures, which includes negotiations between contracting activities and producing nonprofit agencies, assisted by central nonprofit agencies, and may include the use of economic indices or other methodologies permitted.

Tips

Federal agencies and nonprofit agencies have the right and responsibility to negotiate prices prior to the Committee setting the “Fair Market Price.”

Nonprofit agencies must certify they are capable of completing the work at the price negotiated.

All renewals and renegotiations must be sent to the Committee for approval.

Contracting officers certify their concurrence to the recommended “Fair Market Price.”

Only the Committee establishes the “Fair Market Price.”

Find more information at:

- www.AbilityOne.gov
- Pricing Memo for AbilityOne Products:
www.abilityone.gov/JWOD/Library/PricingMemo2.pdf
- Pricing Memo for AbilityOne Services:
www.abilityone.gov/JWOD/Library/PricingMemo3.pdf
- Regulation:
www.abilityone.gov/jwod/library/JWOD_Regulations.html
- FAR: www.arnet.gov/far/
- Contact information
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