

### §51-3.3

### 41 CFR Ch. 51 (7-1-09 Edition)

(h) Oversee and assist its nonprofit agencies to insure contract compliance in furnishing a commodity or a service.

(i) As market conditions change, recommend price changes with appropriate justification for assigned commodities or services on the Procurement List.

(j) Monitor and assist its nonprofit agencies to meet the statutory and regulatory requirements to fully participate in the program. Conduct assistance visits with its nonprofits as necessary and provide the Committee with the results and recommendations of such visits.

(k) When authorized by the Committee, enter into contracts with Federal contracting activities for the furnishing of commodities or services provided by its nonprofit agencies.

(l) At the time designated by the Committee, submit a completed, original copy of the appropriate Initial Certification (Committee Form 401 or 402) for the nonprofit agency concerned. This requirement does not apply to a nonprofit agency that is already authorized to furnish a commodity or service under the JWOD Act.

(m) Review and forward to the Committee by December 1 of each year a completed original copy of the appropriate Annual Certification (Committee Form 403 or 404) for each of its participating nonprofit agencies covering the fiscal year ending the preceding September 30.

(n) Perform other JWOD administrative functions, including activities to increase Government and public awareness of the JWOD Act subject to the oversight of the Committee.

[56 FR 48979, Sept. 26, 1991, as amended at 59 FR 59342, Nov. 16, 1994; 62 FR 32237, June 13, 1997; 68 FR 53684, Sept. 12, 2003; 73 FR 28043, May 15, 2008]

#### **§51-3.3 Assignment of commodity or service.**

(a) The central nonprofit agencies shall determine by mutual agreement the assignment to one of them of a commodity or service for the purpose of evaluating its potential for possible future addition to the Procurement List, except that the Committee shall initially assign a commodity to National Industries for the Blind when

NISH has expressed an interest in the commodity and National Industries for the Blind has exercised the blind priority.

(b) NISH shall provide National Industries for the Blind with procurement information necessary for a decision to exercise or waive the blind priority when it requests a decision. National Industries for the Blind shall normally notify NISH of its decision within 30 days, but not later than 60 days after receipt of the procurement information, unless the two central nonprofit agencies agree to an extension of time for the decision. Disagreements on extensions shall be referred to the Committee for resolution.

(c) If National Industries for the Blind exercises the blind priority for a commodity, it shall immediately notify the Committee and NISH and shall submit to the Committee a proposal to add the commodity to the Procurement List within nine months of the notification, unless the Committee extends the assignment period because of delays beyond the control of National Industries for the Blind. Upon expiration of the assignment period, the Committee shall reassign the commodity to NISH.

(d) The central nonprofit agency assigned a commodity shall obtain a decision from Federal Prison Industries on the exercise or waiver of its priority and shall submit the procurement information required by Federal Prison Industries when it requests the decision. Federal Prison Industries shall normally notify the central nonprofit agency of its decision within 30 days, but not later than 60 days after receipt of the procurement information, unless it agrees with the central nonprofit agency on an extension of time for the decision. The central nonprofit agency shall refer a disagreement over an extension to the Committee for resolution with Federal Prison Industries.

(e) The central nonprofit agency shall provide the Committee the decision of Federal Prison Industries on the waiver or exercise of its priority when it requests the addition of the commodity to the Procurement List. NISH shall also provide the decision of

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National Industries for the Blind waiving its priority.

[59 FR 59342, Nov. 16, 1994]

### **§51-3.4 Distribution of orders.**

Central nonprofit agencies shall distribute orders from the Government only to nonprofit agencies which the Committee has approved to furnish the specific commodity or service. When the Committee has approved two or more nonprofit agencies to furnish a specific commodity or service, the central nonprofit agency shall distribute orders among those nonprofit agencies in a fair and equitable manner.

[56 FR 48979, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991]

### **§51-3.5 Fees.**

A central nonprofit agency may charge fees to nonprofit agencies for facilitating their participation in the AbilityOne Program. Fees shall be calculated based on nonprofit agency sales to the Government under the AbilityOne Program. Fees shall not exceed the fee limit approved by the Committee.

[56 FR 48979, Sept. 26, 1991, as amended at 71 FR 68494, Nov. 27, 2006]

### **§51-3.6 Reports to central nonprofit agencies.**

Any information, other than that contained in the Annual Certification required by §51-4.3(a) of this chapter, which a central nonprofit agency requires its nonprofit agencies to submit on an annual basis, shall be requested separately from the Annual Certification. If the information is being sought in response to a request by the Committee, nonprofit agencies shall be advised of that fact and the central nonprofit agency shall, prior to distribution, provide to the Committee a copy of each form which it plans to use to obtain such information from its nonprofit agencies.

## **PART 51-4—NONPROFIT AGENCIES**

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AUTHORITY: 41 U.S.C. 46-48c.

SOURCE: 56 FR 48980, Sept. 26, 1991, unless otherwise noted.

### **§51-4.1 General.**

To participate in the AbilityOne Program, a nonprofit agency shall be represented by the central nonprofit agency assigned by the Committee on the basis of the nonprofit agency's articles of incorporation and bylaws.

[56 FR 48980, Sept. 26, 1991, as amended at 71 FR 68494, Nov. 27, 2006]

### **§51-4.2 Initial qualification.**

(a) To qualify for participation in the JWOD Program:

(1) A privately incorporated nonprofit agency shall submit to the Committee through its central nonprofit agency the following documents, transmitted by a letter signed by an officer of the corporation or chief executive:

(i) A legible copy (preferably a photocopy) of the articles of incorporation showing the date of filing and the signature of an appropriate State official.

(ii) A copy of the bylaws certified by an officer of the corporation.

(iii) If the articles of incorporation or bylaws do not include a statement to the effect that no part of the net income of the nonprofit agency may inure to the benefit of any shareholder or other individual, one of the following shall be submitted:

(A) A certified true copy of the State statute under which the nonprofit agency was incorporated which includes wording to the effect that no part of the net income of the nonprofit agency may inure to the benefit of any shareholder or other individual.

(B) A copy of a resolution approved by the governing body of the corporation, certified by an officer of the corporation, to the effect that no part of the net income of the nonprofit agency may inure to the benefit of any shareholder or other individual.

(2) A State-owned or State-operated nonprofit agency, or a nonprofit agency established or authorized by a State statute other than the State corporation laws and not privately incorporated, shall submit to the Committee through its central nonprofit agency