

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Parts 51-2 and 51-5

Miscellaneous Amendments to Committee Regulations

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed rule.

SUMMARY: The Committee is proposing to make changes to its pricing and shipping regulations to make them consistent with new Committee pricing policies reflecting a preference for negotiated rather than formula-based fair market prices.

DATES: Submit comments on or before October 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

FOR FURTHER INFORMATION CONTACT: G. John Heyer (703) 603-0665. Copies of this notice will be made available on request in computer diskette format.

SUPPLEMENTARY INFORMATION: The Committee is proposing to revise 41 CFR 51-2.7, the Committee's general fair market pricing regulation, to reflect the preference for negotiated prices set forth in the Committee's recently-adopted pricing policies and the methods of price-setting established by those policies. Paragraph (a) of 41 CFR 51-5.5 is proposed to be revised to emphasize the statutory nature of the Committee's price-setting authority. This revision is intended to emphasize the exemption of the Committee's prices from a statutory requirement that cost or pricing data be submitted to contracting activities before a price can be negotiated and recommended to the Committee. Paragraph (d)(2) of 41 CFR 51-5.5 is proposed to be revised to change the minimum time for a contracting activity to submit required wage determination paperwork to the appropriate central nonprofit agency from 90 to 60 days before the beginning of a new service period, and to eliminate the requirement for submission of Standard Form 98, which is no longer needed to learn the applicable wage determination rate. Paragraph (e) of 41 CFR 51-5.5 is proposed to be revised to give more flexibility in pricing of special packaging and marking of products and

to accommodate current contract documentation.

Prior to a November 16, 1994 change to the Committee's regulations (59 FR 59338), pricing and delivery terms for JWOD commodities, other than military resale commodities, were on an "F.O.B. origin" basis. The 1994 change permitted use of "F.O.B. destination" as an alternative. Since then, the Committee's commodity pricing policies have been revised to designate "F.O.B. destination" as the preferred pricing and delivery basis. "F.O.B. origin" pricing and delivery remain available as an alternative when the nonprofit agency and the Government contracting activity agree to use this basis. The proposed revision of the shipping regulation (41 CFR 51-5.6) reflects the change in Committee pricing policy by identifying "F.O.B. destination" as the preferred pricing and shipping basis for all JWOD commodities, with "F.O.B. origin" as a possible alternative basis.

Regulatory Flexibility Act

I certify that this proposed revision of the Committee regulations will not have a significant economic impact on a substantial number of small entities because the revision clarifies program policies and does not essentially change the impact of the regulations on small entities.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this proposed rule because it contains no new information collection or recordkeeping requirements as defined in that Act and its regulations.

Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs. Additionally, the proposed rule is not a significant regulatory action as defined in the Executive Order.

List of Subjects

41 CFR Part 51-2

Organization and functions (Government agencies).

41 CFR Part 51-5

Government procurement, Handicapped.

For the reasons set out in the preamble, Parts 51-2 and 51-5 of Title 41, Chapter 51 of the Code of Federal Regulations are proposed to be amended as follows:

1. The authority citation for Parts 51-2 and 51-5 continues to read as follows:

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

PART 51-2—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

2. Section 51-2.7 is revised to read as follows:

§ 51-2.7 Fair market price.

(a) The Committee is responsible for determining fair market prices, and changes thereto, for commodities and services on the Procurement List. The Committee establishes an initial fair market price at the time a commodity or service is added to the Procurement List. This initial price is based on Committee procedures, which permit negotiations between the contracting activity and the nonprofit agency which will produce or provide the commodity or service to the Government, assisted by the appropriate central nonprofit agency. If agreed to by the negotiating parties, the initial price may be developed using other methodologies specified in Committee pricing procedures.

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

(c) Recommendations for initial fair market prices, or changes thereto, shall be submitted jointly by the contracting activities and nonprofit agencies concerned to the appropriate central nonprofit agency. After review and analysis, the central nonprofit agency shall submit the recommended prices and methods by which prices shall be changed to the Committee, along with the information required by Committee pricing procedures to support each recommendation. The Committee will review the recommendations, revise the recommended prices where appropriate, and establish a fair market price, or change thereto, for each commodity or service which is the subject of a recommendation.

PART 51-5—CONTRACTING REQUIREMENTS

3. Section 51-5.5 is amended by revising paragraphs (a), (d)(2), and (e), to read as follows:

§ 51-5.5 Prices.

(a) The prices for items on the Procurement List are fair market prices established by the Committee under authority of the Javits-Wagner-O'Day Act (41 U.S.C. 47(b)).

* * * * *

(d) * * *

(2) Provide a copy of the new wage determination rate or the Department of Labor document stating that the wage determination rate is unchanged to the central nonprofit agency at least 60 days before the beginning of the new service period.

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(e) If a contracting activity desires packing, packaging, or marking of products other than the standard pack or as provided in the Procurement List, any difference in cost shall be negotiated with the nonprofit agency.

4. Section 51-5.6 is revised to read as follows:

§ 51-5.6 Shipping.

(a) Except as provided in paragraph (b) of this section, commodities are sold to the Government on an "F.O.B. destination" basis, with delivery being accomplished when the shipment reaches the facility designated by the contracting activity. Time of delivery is when the shipment is released by the carrier and accepted by the contracting activity or its agent. In this delivery method, the nonprofit agency will normally use commercial bills of lading and will be responsible for any loss or damage to the goods occurring before the commodities reach the designated delivery point. The nonprofit agency will prepare and distribute commercial bills of lading, furnish delivery schedules, designate the carriers, and pay all shipping charges to specified delivery points.

(b) The Committee may determine that certain commodities are to be sold to the Government on an "F.O.B. origin" basis, with delivery being accomplished when a shipment is placed aboard the vehicle of the initial carrier. Time of delivery is when the shipment is released to and accepted by the initial carrier. In this delivery method, the nonprofit agency will normally use Government bills of lading, and responsibility for loss or damage to the goods while in transit passes to the Government at the time the initial carrier accepts a shipment. If the contracting activity fails to furnish a Government bill of lading promptly, such failure shall be considered an excusable delay in delivery.

Dated: July 20, 1999.

Beverly L. Milkman,
Executive Director.

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**FEDERAL COMMUNICATIONS
COMMISSION**
47 CFR Chapter 1

[WT Docket No. 99-217; FCC 99-141]

**Promotion of Competitive Networks in
Local Telecommunications Markets**

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: In this *Notice of Inquiry*, the Commission initiates a proceeding intended to facilitate the development of competitive telecommunications networks that will provide consumers with alternatives to services provided by the incumbent wireline local exchange carriers (LECs). In particular, the Commission seeks comment on the following issues: reasonable and nondiscriminatory access to public rights-of-way and competitively neutral state and local taxation. A companion *Notice of Proposed Rulemaking* and a *Third Further Notice of Proposed Rulemaking* are summarized elsewhere in this issue of the **Federal Register**.

DATES: Comments are due August 13, 1999; Reply comments are due September 3, 1999.

ADDRESSES: Parties who choose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W.; TW-A325; Washington, D.C. 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. See **SUPPLEMENTARY INFORMATION** for additional information about paper and electronic filing.

FOR FURTHER INFORMATION CONTACT: Jeff Steinberg at (202) 418-0896 or Joel Taubenblatt at (202) 418-1513 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Inquiry in WT Docket No. 99-217* (the "Notice"), FCC 99-141, adopted June 10, 1999 and released July 7, 1999. The complete text of the Notice is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. and

also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 445 12th Street, S.W., CY-B400, Washington, D.C. 20554. The document is also available via the Internet at <<http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index.html>>.

Introduction

1. This Notice is part of a larger item that seeks comments and initiates an inquiry in order to further the Commission's ongoing efforts to promote facilities-based competition in the local telephone market. The larger item addresses several issues that are not squarely before the Commission in pending proceedings. In particular, this Notice initiates an inquiry regarding reasonable and nondiscriminatory access to public rights-of-way and competitively neutral State and local taxation.

Background

2. In the Telecommunications Act of 1996, *codified at* 47 U.S.C. 151 *et seq.*, Congress included provisions intended to facilitate competition with the incumbent LECs through three entry strategies: resale of the incumbent LEC's services, leasing of unbundled network elements, and use of a new entrant's own facilities. To date, the Commission's efforts to facilitate local competition pursuant to these provisions of the Act have generally encompassed all three of these means of entry. Carriers who provide service by any of the three means of competitive entry have the potential to bring many of the benefits of competition to local exchange markets, and the Commission recognizes it should continue to facilitate competitive entry by all means. However, in the long term, the most substantial benefits to consumers will be achieved through facilities-based competition. Only facilities-based competitors can break down the incumbent LECs' bottleneck control over local networks and provide services without having to rely on their rivals for critical components of their offerings. Moreover, only facilities-based competition can fully unleash competing providers' abilities and incentives to innovate, both technologically and in service development, packaging, and pricing.

Discussion

3. This Notice initiates an inquiry that will develop a record on the effect of state and local rights-of-way and tax policies on facilities-based competition. The Notice states that the Commission