WEST VIRGINIA CODE CHAPTER 5a ARTICLE 3A

WV Legislature

§5A-3A-1. Purpose.

The purpose of this article is to further the state's policy of encouraging disabled persons to achieve maximum personal independence by engaging in productive activities and in addition to provide state agencies, institutions and political subdivisions with a method for achieving conformity with purchasing procedures and requirements of nondiscrimination, affirmative action, in employment matters related to disabled persons.

WV Legislature

§5A-3A-2. Central nonprofit agency.

A central nonprofit agency approved by the director of the Division of Rehabilitation Services is established for the purpose of coordinating purchases under the provisions of section ten, article three of this chapter, between various "spending units" of the state and "nonprofit workshops." This agency shall have the following responsibilities:

(a) Represent qualified nonprofit workshops in dealing with state purchasing agents and the other bodies charged with purchasing responsibilities;

(b) Evaluating the qualifications and capabilities of workshops and entering, as necessary, into contracts with government procuring entities for the furnishing of the commodities or services provided by the workshops;

(c) Overseeing workshops to ensure compliance with contract performance and quality standards; list the commodities and services of participating workshops, research and assist the workshops in developing new products and upgrading existing ones, and shall survey applicable private industry to provide input on fair market prices; and

(d) Present an annual report for each fiscal year concerning the operations of its nonprofit workshops to the director of the Division of Rehabilitation Services.

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§5A-3A-3. Committee for the purchase of commodities and services from the handicapped.

(a) The committee for the purchase of commodities and services from the handicapped is hereby created as a part of the Department of Administration and shall be composed of the following six members who are to be appointed by the Governor with the advice and consent of the Senate: A private citizen who is conversant with the problems incidental to the employment of handicapped persons; a representative of a producing nonprofit workshop; a representative of the Division of Rehabilitation Services; a representative of the Department of Administration who is knowledgeable in the purchasing requirements of the state; a representative of private business who is knowledgeable in the activities involved in the sale of commodities or services to governmental entities; and a representative of organized labor who is knowledgeable in matters relating to employment of the disabled. The Governor shall appoint one member to serve as chairperson.

(b) Members of the committee are appointed to serve two-year terms expiring on January 31 of odd-numbered years. Members who are not state employees shall receive compensation for their service of $50 per day for each day actually engaged in the work of the committee and all members shall receive reimbursement by the state for expenses incurred in performing their duties as members.

(c) The committee shall have as an executive secretary the person charged with program management in section ten, article three of this chapter. The executive secretary shall be responsible for the day-to-day management of the committee and shall coordinate with the central nonprofit agency to perform the duties outlined in section ten, article three of this chapter.

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§5A-3A-4. Responsibilities of the committee for the purchase of commodities and services from the handicapped.

The committee shall have the following duties and responsibilities:

(a) Determining the fair market price of all commodities, printing and services produced by nonprofit workshops and offered for sale by the central nonprofit agency to the various departments and political subdivisions of the state. Prices shall be revised periodically to reflect changing market conditions.

(b) Monitoring the activities of the central nonprofit agency to assure that the interests of the state's handicapped citizens are advanced by the agency. The committee shall make rules necessary to monitor the agency as well as matters related to the state's use of the products and services produced by the handicapped. Except as stated in section ten, article three of this chapter, rules shall reflect agreement with the policies and procedures established by the state's purchasing units.

(c) Monitoring the performance of the central nonprofit agency to see that the commodities and services produced meet state specifications (or in the absence of specifications meet standards in use by the federal government or industry) as to quality and delivery. The committee shall provide procedures for formal and informal resolution of provider and consumer grievances or complaints.

(d) Maintaining records pertaining to its activities under the act including records of sales, formal grievances, number of handicapped workers employed, a summary of disabilities for workers providing services, a list of workshop products and services, and the geographic distribution of provider workshops. On or before January 1, of each year the committee shall file with the Governor and the presiding officer of each house of the Legislature a written report summarizing the above records and giving a detailed accounting for all funds received and disbursed by the committee during the preceding year.

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§5A-3A-5. Rules.

The committee may adopt rules for the implementation, extension, administration, or improvement of the program authorized by this article.

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§5A-3A-6. Exceptions.

The purchasing unit is exempt from the operation of the mandatory provisions of section ten, article three of this chapter when:

(1) The director of purchasing determines that the commodity or service so produced or provided does not meet the reasonable requirements of the purchasing unit;

(2) The committee or central nonprofit agency determines that a nonprofit workshop cannot reasonably provide the commodity or service;

(3) The purchasing director determines, after considering any recommendation of the committee or bids which may have been offered, that the commodity or service is not of a fair market price; or

(4) The purchasing director determines, after consulting with the committee, that the commodity or service is not of like quality to other commodities or services available.

No purchasing unit may evade the intent of this section when required goods or services are reasonably available from nonprofit workshops: Provided, That if a purchasing unit is required or may be required by federal statute or regulations to purchase commodities or services with competitive bidding, or may otherwise be disqualified from federal funding or assistance if it fails to purchase commodities or services with competitive bidding, the purchasing unit shall not be required to purchase commodities or services from nonprofit workshops. Such purchasing units not required to purchase commodities or services from nonprofit workshops include military installations of the National Guard.

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