

CHAPTER 575

(House Bill 881)

AN ACT concerning

Procurement – Preference Procurement Program for Sheltered Workshops – Individual With Disability Owned Businesses

FOR the purpose of expanding eligibility in the preference procurement program for sheltered workshops within the Department of General Services to include a specified ~~entity~~ business; defining the ~~entity~~ business and specifying requirements for the ~~entity~~ business to qualify to participate in the program; requiring the State or certain State aided or controlled entities to buy certain supplies and services from certain businesses under certain circumstances; requiring a specified committee to establish and review specified eligibility guidelines for participation in the program; requiring the committee to maintain and periodically review and revise a specified list of ~~entities~~ certain sheltered workshops and businesses eligible for the program; and generally relating to the preference procurement program for sheltered workshops and individual with disability owned businesses.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–101, 14–103, 14–106, 14–107, and 14–108
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

14–101.

(a) In this subtitle the following words have the meanings indicated.

(B) **“INDIVIDUAL WITH DISABILITY OWNED BUSINESS” MEANS ~~AN ENTITY~~ A BUSINESS:**

(1) **THAT IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR OF THIS STATE;**

(2) **THAT IS MAJORITY OWNED BY AN INDIVIDUAL OR INDIVIDUALS ~~CERTIFIED AS HAVING A DISABILITY~~ DETERMINED BY THE**

DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION TO HAVE A DISABILITY, AS DEFINED BY TITLE 21, SUBTITLE 3 OF THE EDUCATION ARTICLE;

(3) WHOSE MAJORITY OWNER OR OWNERS ARE DIRECTLY AND SIGNIFICANTLY ENGAGED IN THE DAILY OPERATION OF THE BUSINESS;

(4) WHOSE WORKFORCE INCLUDES INDIVIDUALS WITH DISABILITIES COMPRISING A PERCENTAGE OF THE WORKFORCE THAT IS AT OR ABOVE THE MINIMUM REQUIRED UNDER THE POLICIES OR GUIDELINES ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS;

(5) WHOSE TOTAL GROSS REVENUES FOR CONTRACTS ASSIGNED UNDER THE PROGRAM AT THE TIME OF ASSIGNMENT DO NOT EXCEED THE MAXIMUM ALLOWED UNDER POLICIES OR GUIDELINES ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS; AND

(6) THAT CONTINUES TO MEET ALL OTHER ELIGIBILITY CRITERIA ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS.

[(b)] (C) "Sheltered workshop" means an agency:

(1) that is organized under the laws of the United States or the State;

(2) that is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

(3) that is accredited by the Division of Rehabilitation Services of the State Department of Education;

(4) that is operated in the interest of individuals who have a mental or physical disability, including blindness, that:

(i) constitutes a substantial handicap to employment; and

(ii) prevents the individual from engaging in normal competitive employment; and

(5) the net income of which does not inure wholly or partly to the benefit of any shareholder or other individual.

[(c)] (D) “State aided or controlled entity” means any public or quasi-public institution that receives aid from the State or that is owned, controlled, or managed by the State.

14-103.

The State or a State aided or controlled entity shall buy supplies and services from:

(1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if State Use Industries provides the supplies or services;

(2) Blind Industries and Services of Maryland, if:

(i) Blind Industries and Services of Maryland provides the supplies or services; and

(ii) Maryland Correctional Enterprises does not provide the supplies or services; ~~or~~

(3) sheltered workshops ~~OR INDIVIDUAL WITH DISABILITY OWNED BUSINESSES~~ if:

(i) a sheltered workshop ~~OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS~~ provides the supplies or services;

(ii) neither Maryland Correctional Enterprises nor Blind Industries and Services of Maryland provides the supplies or services; and

(iii) the State or a State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government; OR

(4) INDIVIDUAL WITH DISABILITY OWNED BUSINESSES IF:

(I) AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS PROVIDES THE SUPPLIES OR SERVICES;

(II) NEITHER MARYLAND CORRECTIONAL ENTERPRISES, BLIND INDUSTRIES AND SERVICES OF MARYLAND, NOR A SHELTERED WORKSHOP PROVIDES THE SUPPLIES OR SERVICES; AND

(III) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY IS NOT REQUIRED BY LAW TO BUY THE SUPPLIES OR SERVICES FROM ANY OTHER UNIT OF THE STATE GOVERNMENT.

14-106.

(a) In this section, "Committee" means the Pricing and Selection Committee for Rehabilitation and Employment Programs.

(b) There is a Pricing and Selection Committee for Rehabilitation and Employment Programs.

(c) The Committee consists of the following 6 members:

- (1) the Secretary of Transportation or a designee;
- (2) the Secretary of General Services or a designee;
- (3) the Secretary of Public Safety and Correctional Services or a designee;
- (4) the President of Blind Industries and Services of Maryland or a designee; and
- (5) 2 members of Maryland Works, Inc.

(d) A member of the Committee:

- (1) may not receive compensation; but
- (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(e) The Committee shall:

- (1) establish procedures to govern procurement of supplies and services from sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**;
- (2) from the State procurement list, choose appropriate supplies and services for sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** to offer for procurement;
- (3) provide that the State procure those supplies and services from a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**;
- (4) if supplies or services are not available for procurement from a unit of the State government, determine whether supplies or services are available from a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**;

(5) determine the fair market price of supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide;

(6) in accordance with market conditions, adjust prices for the supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide; and

(7) at the request of a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**, review or change the price of a supply or service.

(F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF THIS SECTION, THE COMMITTEE SHALL:

(1) ESTABLISH AND PERIODICALLY REVIEW ELIGIBILITY POLICIES OR GUIDELINES FOR PARTICIPATING SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES;

(2) MAINTAIN A CURRENT LIST OF SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES; AND

(3) PERIODICALLY REVIEW AND REVISE THE LIST OF SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES; AND

(4) (I) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES; AND

(II) MAKE THE LIST AVAILABLE TO EACH PERSON RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE AIDED OR CONTROLLED ENTITY.

14-107.

Periodically the Pricing and Selection Committee for Rehabilitation and Employment Programs shall:

(1) (I) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT COMMUNITY SERVICE PROVIDERS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES PROVIDE; AND

[(1)] **(II) PERIODICALLY REVIEW AND** revise its list of supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide; and

(2) send the list, **INCLUDING ANY REVISED LIST**, to the Secretary of General Services and each person responsible for buying supplies or services for the State or a State aided or controlled entity.

14-108.

The Secretary of General Services shall designate Maryland Works, Inc., or another appropriate coordinating entity, to facilitate the distribution of procurement contracts for supplies and services among sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.