

Chapter 578

(Senate Bill 194)

AN ACT concerning

State Procurement – ~~Maryland Correctional Enterprises~~ Preferred Provider Requirements – Waiver

FOR the purpose of ~~requiring the Department of General Services~~ authorizing the Pricing and Selection Committee for Preferred Providers to grant a waiver from a certain requirement to use a certain preferred provider for the procurement of supplies and services under certain circumstances; requiring the Committee to review a certain request for a certain waiver to the State or a State-aided or controlled entity under certain circumstances; requiring Maryland Correctional Enterprises to provide certain information on the delivery of supplies and services in an annual report; and generally relating to procurements from preferred providers.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 14–103, ~~14–106~~, and 14–110(d)
 Annotated Code of Maryland
 (2021 Replacement Volume and 2023 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

14–103.

(a) A State or 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 Maryland Correctional Enterprises 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) the Employment Works Program established under § 14–108 of this subtitle, if:

(i) a community service provider 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) a State or State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government.

(b) A State or State aided or controlled entity shall give preference to the providers listed under subsection (a) of this section in the order that the providers are listed.

(c) To the extent practicable, a State or State aided or controlled entity shall include in a maintenance contract that has a component for housekeeping or janitorial services, a requirement that a prime contractor procure janitorial products from Blind Industries and Services of Maryland if the specified products are made, manufactured, remanufactured, or assembled by Blind Industries and Services of Maryland and are available.

(D) (1) ON REQUEST BY A STATE OR STATE AIDED OR CONTROLLED ENTITY, THE ~~DEPARTMENT OF GENERAL SERVICES SHALL~~ PRICING AND SELECTION COMMITTEE FOR PREFERRED PROVIDERS MAY GRANT A WAIVER TO THE STATE OR STATE AIDED OR CONTROLLED ENTITY FROM THE REQUIREMENT UNDER SUBSECTION (A)(1) OF THIS SECTION IF:

(I) THE PRICE OF THE NEEDED SUPPLIES AND SERVICES IS AT LEAST 10% ABOVE MARKET RATES FOR SIMILAR SUPPLIES AND SERVICES; OR

(II) THE TIME AT WHICH THE NEEDED SUPPLIES AND SERVICES WOULD BE DELIVERED DOES NOT MEET THE ENTITY’S NEEDS.

(2) THE DEPARTMENT OF GENERAL SERVICES SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

14–106.

(a) In this section, “Committee” means the Pricing and Selection Committee for Preferred Providers.

(b) There is a Pricing and Selection Committee for Preferred Providers.

(c) The Committee consists of the following 5 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 Assistant Secretary for Vocational Rehabilitation within the State Department of Education or a designee; and
 - (5) the Secretary of Labor or a designee.
- (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) (1) Blind Industries and Services of Maryland shall provide staff for the Committee.
- (2) The staff provided in accordance with paragraph (1) of this subsection shall:
- (i) be a blind or a visually impaired associate of Blind Industries and Services of Maryland; and
 - (ii) complete work related to the duties of the Committee regarding Blind Industries and Services of Maryland under the supervision and direction of the Committee.
- (f) The Committee shall:
- (1) ensure that supplies and services provided by Blind Industries and Services of Maryland or an Employment Works Program community service provider create work opportunities for individuals who have a mental or physical disability, including blindness, for which Blind Industries and Services of Maryland or the Employment Works Program community service provider was established to assist;
 - (2) set the prices of supplies and services that Blind Industries and Services of Maryland provides to reflect the fair market prices for the supplies and services;
 - (3) review and verify the prevailing average market prices, as proposed by Maryland Correctional Enterprises;

(i) when changes are made to the pricing of existing supplies and services that are available from Maryland Correctional Enterprises; and

(ii) for new supplies or services that Maryland Correctional Enterprises intends to make available;

(4) establish procedures to govern procurement of supplies, services, and other sales from Employment Works Program community service providers and individual with disability owned businesses;

(5) from the State procurement list, choose appropriate supplies, services, and other sales for Employment Works Program community service providers and individual with disability owned businesses to offer for procurement;

(6) provide that the State procure those supplies, services, and other sales from an Employment Works Program community service provider or an individual with disability owned business;

(7) if supplies, services, or other sales are not available for procurement from a unit of the State government, determine whether supplies, services, or other sales are available from an Employment Works Program community service provider or an individual with disability owned business;

(8) determine the fair market price of supplies, services, and other sales that Employment Works Program community service providers and individual with disability owned businesses provide;

(9) in accordance with market conditions, adjust prices for the supplies, services, and other sales that Employment Works Program community service providers and individual with disability owned businesses provide; [and]

(10) at the request of a community service provider or an individual with disability owned business, review and, if appropriate, change the price of a supply or service; AND

(11) REVIEW A REQUEST SUBMITTED FROM AND MAY GRANT A WAIVER TO THE STATE OR A STATE-AIDED OR CONTROLLED ENTITY IN ACCORDANCE WITH § 14-103(D)(1) OF THIS SUBTITLE.

(g) In addition to the duties specified under subsection (f) of this section, the committee shall:

(1) establish and periodically review eligibility policies or guidelines for participating community service providers and individual with disability owned businesses;

(2) maintain a current list of community service providers and individual with disability owned businesses;

(3) periodically review and revise its list of community service providers and individual with disability owned businesses; and

(4) send any revised list to the Chief Procurement Officer who shall make the list available to each person responsible for buying supplies or services for the State or a State aided or controlled entity.

14-110.

(d) (1) Within 90 days after the end of each fiscal year, a preferred provider awarded a contract in accordance with § 14-103 of this subtitle shall report to the Department of General Services in accordance with [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection.

(2) For the preceding fiscal year, the report shall state the total number of full-time equivalents for individuals with disabilities who contributed to the work of the contracts.

(3) FOR THE PRECEDING FISCAL YEAR, MARYLAND CORRECTIONAL ENTERPRISES SHALL REPORT THE LENGTH OF TIME BETWEEN EACH ORDER AND DELIVERY OF SUPPLIES AND SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 9, 2024.