

CHAPTER 576

(Senate Bill 368)

AN ACT concerning

Procurement – Preferences – Employment Works Program

FOR the purpose of naming a certain preference procurement program within the Department of General Services as the Employment Works Program; clarifying the preference priority for certain providers with regard to purchases of certain supplies and services by the State or by certain other entities; altering the membership of the Pricing and Selection Committee for the Program; defining, altering, and clarifying certain terms; clarifying provisions relating to a certain entity as the coordinating entity for the distribution of certain procurement contracts among certain Program providers; specifying duties for a certain committee; and generally relating to the Employment Works Program and the procurement process relating to certain community service providers.

BY repealing and reenacting, with amendments,

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

BY repealing

Article – State Finance and Procurement
Section 14–108
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – State Finance and Procurement
Section 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) [“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] **“COMMUNITY SERVICE PROVIDER” MEANS AN ENTITY THAT:**

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

(2) ~~IS APPROVED IS ACCREDITED BY THE DIVISION OF REHABILITATION SERVICES OF THE STATE DEPARTMENT OF EDUCATION FOR PARTICIPATION IN THE EMPLOYMENT WORKS PROGRAM BY THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION;~~

(3) IS OPERATED IN THE INTEREST OF INDIVIDUALS WHO HAVE A MENTAL OR PHYSICAL DISABILITY, INCLUDING BLINDNESS, THAT:

(I) CONSTITUTES A SUBSTANTIAL BARRIER TO EMPLOYMENT; AND

(II) PREVENTS THE INDIVIDUAL FROM ENGAGING IN COMPETITIVE EMPLOYMENT; AND

(4) DOES NOT INURE NET INCOME WHOLLY OR PARTLY TO THE BENEFIT OF ANY SHAREHOLDER OR OTHER INDIVIDUAL.

(c) “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.

(A) 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] **THE EMPLOYMENT WORKS PROGRAM ESTABLISHED UNDER § 14-108 OF THIS SUBTITLE**, if:

(i) a [sheltered workshop] **COMMUNITY SERVICE PROVIDER** 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.

(B) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY SHALL GIVE PREFERENCE TO THE ENTITIES LISTED UNDER SUBSECTION (A) OF THIS SECTION IN THE ORDER THAT THE ENTITIES ARE LISTED.

14-106.

(a) In this section, “Committee” means the Pricing and Selection Committee for [Rehabilitation and Employment Programs] **THE EMPLOYMENT WORKS PROGRAM**.

(b) There is a Pricing and Selection Committee for [Rehabilitation and Employment Programs] **THE EMPLOYMENT WORKS PROGRAM**.

(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.] **THE ASSISTANT SECRETARY FOR VOCATIONAL REHABILITATION WITHIN THE STATE DEPARTMENT OF EDUCATION OR A DESIGNEE; AND**

(6) THE SECRETARY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION 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) The Committee shall:

- (1) establish procedures to govern procurement of supplies and services from [sheltered workshops] **COMMUNITY SERVICE PROVIDERS**;
- (2) from the State procurement list, choose appropriate supplies and services for [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** to offer for procurement;
- (3) provide that the State procure those supplies and services from a [sheltered workshop] **COMMUNITY SERVICE PROVIDER**;

(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] **COMMUNITY SERVICE PROVIDER**;

(5) determine the fair market price of supplies and services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide;

(6) in accordance with market conditions, adjust prices for the supplies and services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide; and

(7) at the request of a [sheltered workshop] **COMMUNITY SERVICE PROVIDER**, review [or] **AND, IF APPROPRIATE**, 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) MAINTAIN A CURRENT LIST OF COMMUNITY SERVICE PROVIDERS;

(2) PERIODICALLY REVIEW AND REVISE ITS LIST OF COMMUNITY SERVICE PROVIDERS; AND

(3) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES 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.

14-107.

[Periodically the] **THE Pricing and Selection Committee for [Rehabilitation and Employment Programs] THE EMPLOYMENT WORKS PROGRAM** shall:

(1) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT COMMUNITY SERVICE PROVIDERS PROVIDE;

[(1)](2) PERIODICALLY REVIEW AND revise its list of supplies and services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide; and

[(2)](3) send [the] ANY REVISED list to the Secretary of General Services [and] **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.

[14-108.

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.]

14-108.

(A) IN THIS SECTION, "PROGRAM" MEANS THE EMPLOYMENT WORKS PROGRAM.

(B) THERE IS AN EMPLOYMENT WORKS PROGRAM IN THE DEPARTMENT OF GENERAL SERVICES.

(C) 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 COMMUNITY SERVICE PROVIDERS.

(D) THE COORDINATING ENTITY DESIGNATED UNDER SUBSECTION (C) OF THIS SECTION SHALL:

(1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND SERVICES ELIGIBLE FOR PROCUREMENT;

(2) ESTABLISH PROCEDURES FOR THE SELECTION OF COMMUNITY SERVICE PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE CONTRACTS FOR PREFERENCE PROCUREMENT;

(3) ESTABLISH PROCEDURES FOR REMEDIATION OF NONCOMPLIANCE WITH STATE OR PROGRAM POLICIES;

(4) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO PARTICIPATING COMMUNITY SERVICE PROVIDERS;

(5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR THE PROGRAM;

(6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION COMMITTEE FOR THE PROGRAM; AND

(7) SERVE AS A MONITORING AGENT TO ENSURE THAT HIGH QUALITY STANDARDS ARE MET AND MAINTAINED BY THE PROGRAM AND ITS PARTICIPATING COMMUNITY SERVICE PROVIDERS.

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

Approved by the Governor, May 22, 2008.