

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

JUN 17 1 59 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

Department of Administration,
Committee for the Purchase of Commodities
and Services From the Handicapped

AGENCY: _____ TITLE NUMBER: 186

AMENDMENT TO AN EXISTING RULE: YES ☒, NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Qualifications for Participation

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

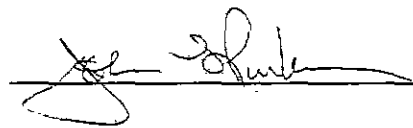
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 100

SECTION 64-2-10, PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: June 17, 1993



3.00

FILED

TITLE 186
LEGISLATIVE RULES
COMMITTEE
FOR THE PURCHASE OF COMMODITIES
AND SERVICES FROM THE HANDICAPPED

JUN 17 1 59 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 4
RULES AND REGULATIONS FOR
QUALIFICATIONS FOR PARTICIPATION

\$186-4-1. General.

1.1. Scope.--The scope of this legislative rule is to set forth the qualifications for participation under the provisions of West Virginia Code, Section 5A-3-10.

1.2. Authority. -- West Virginia Code, § 5A-3A-5

1.3. Filing Date. -- February 17, 1993

1.4. Effective Date. --

1.5. Repeal of former rule. -- This legislative rule repeals and replaces WV 186CSR4 "Rules and Regulations for the Qualifications for Participation" filed September 18, 1990 and effective October 19, 1990.

\$186-4-2. Definitions.

The following words and terms, when used in this rule, shall have the following meaning, unless the context clearly indicates otherwise:

2.1. "CNA" -- means the Central Nonprofit Agency.

2.2. "Committee" -- means the Committee for the Purchase of Commodities and Services from the Handicapped.

2.3. "Commodities" -- means supplies, material, equipment, contractual services, and any other articles or things used by or furnished to a department, agency or institution of state government.

2.4. "DRS" -- means the West Virginia Division of Rehabilitation Services.

2.5. "Services" -- means a product by labor when that product is not considered a tangible commodity. Services include, but are not limited to, janitorial service, printing, food service, microfilming, temporary labor, and grounds maintenance.

2.6. 'Non Profit Workshop', 'workshop', and 'rehabilitation facility' -- means an establishment (a) where any manufacture or handiwork is carried on, (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, (c) which is operated for the primary purpose of providing remunerative employment to blind or severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of vocational rehabilitation."

\$186-4-3. Qualifications for Program Participation.

3.1. Requirements. -- In order for a workshop or rehabilitation facility to qualify for participation in the program under the provisions of West Virginia Code § 5A-3-10, it shall file the following documents with the Executive Secretary of the Committee for the Purchase of Commodities and Services from the Handicapped, "Committee," and the Central Nonprofit Agency, "CNA":

3.1.1. A letter of application by an officer of the workshop or rehabilitation facility attesting that the workshop or rehabilitation facility:

3.1.1.a. Operates as non-profit entity pursuant to 26 U.S.C. § 501 et seq. or as a State agency which operates in the interest of persons with disabilities, and that no part of its net income inures to the benefit of any shareholder or other individual.

3.1.1.b. Complies with applicable occupational health and safety standards required by the laws of the United States and of this State.

3.1.1.c. In the manufacturing of commodities and in the provision of services, whether or not procured under the state's program, is to employ persons with disabilities to perform at least 50% of its total production or service labor. If this condition is not met, the applicant must attach to the letter of application a satisfactory plan and timetable to achieve at least this level of labor using disabled individuals.

3.1.1.d. Has an ongoing placement program which includes at least pre-admission evaluation and annual review to determine each worker's capability for normal competitive employment and maintenance of liaison with appropriate community services for the placement in such employment of any of its workers qualifying for such placement.

3.1.1.e. That the applicant agrees to abide by the following rules:

3.1.1.e.A. To furnish commodities or services in strict compliance with contract specifications.

3.1.1.e.B. To make appropriate records available for inspection by the Committee or CNA at any reasonable time.

3.1.1.e.C. To maintain records of direct labor hours performed in the facility by each worker and report monthly, on the approved form, hours worked by type of disability.

3.1.1.e.D. To comply with state and federal laws regarding safety standards and wage payment.

3.1.1.e.E. To maintain a file on each person with a disability which includes reports of pre-admission evaluation, and annual re-evaluation of the individual's capacity for normal competitive employment, prepared by a person or persons qualified by training and experience to evaluate the work potential, interest, aptitudes and abilities of handicapped persons.

3.1.1.e.F. To make full disclosure to the CNA of all facts related to the costs, overhead, or profits in the production of commodity or provision of service.

3.1.2. A letter of approval from the DRS for participation in the program which attests DRS has audited, examined or has on file current documentation of the following items:

3.1.2.a. If workshop or rehabilitation facility is incorporated, a legible copy of the articles of incorporation showing the date of filing and signature of an appropriate State official and a copy of the bylaws certified by an officer of the corporation.

3.1.2.b. A copy of the Internal Revenue Service certificate indicating that the workshop or rehabilitation facility has been accepted as nonprofit for taxation purposes.

3.1.2.c. Evidence that the workshop or rehabilitation facility meets the criteria for determining nonprofit status pursuant to 26 U.S.C. § 501 et seq. and is registered and in good standing as a charitable organization with the Secretary of State pursuant to W. Va. Code, § 29-19-1 et seq.

3.1.2.d. If sub-minimum wages are to be paid, the current certificate(s) issued by the United States Department of Labor authorizing wage payments pursuant to 29 U.S.C. § 214(c).

3.1.2.e. A current listing of the names, addresses and phone numbers of officers of the workshop or rehabilitation facility.

3.2. Notification. -- The Committee reviews the application letter and the DRS approval letter, and, if acceptable, notifies the workshop or rehabilitation facility through the CNA of its eligibility to participate in the program.

3.3. Revocation. -- The Committee may revoke the right of any workshop or rehabilitation facility to participate if, at any time, the Committee determines the workshop or rehabilitation facility is not in compliance with all the requirements in Section 3.1 of this rule.

3.3.1. If the CNA recommends the denial of approved status to a workshop or rehabilitation facility, or the revocation or suspension of such status, for failure to comply with these regulations or for other good cause, the CNA is to refer the matter to the Committee for review.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

May 28, 1993

John L. Parker
Purchase of Commodities & Services
P.O. Box 50890
Charleston, WV 25305

HB 100 authorizing, **Title 186, Series 4, Qualifications for Participation**, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section **64-2-10(b)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

SENATE BILL NO. 146

(By **Senator Manchin**)

[Introduced March 1, 1993; referred to the
Committee on Government Organization; and then
to the Committee on the Judiciary.]

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to qualifications for participation: committee for the purchase of commodities and services from the handicapped.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine, to read as follows:

**ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO
PROMULGATE LEGISLATIVE RULES.**

1 §64-2-9. Committee for the purchase of commodities and services
2 from the handicapped.

3 The legislative rules filed in the state register on the
4 eighteenth day of September, one thousand nine hundred ninety-
5 two, modified by the committee for the purchase of commodities
6 and services from the handicapped to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the seventeenth day of February, one thousand nine
9 hundred ninety-three, relating to the committee for the purchase
10 of commodities and services from the handicapped (qualifications
11 for participation: committee for the purchase of commodities and
12 services from the handicapped), are authorized.

13

14 NOTE: The purpose of this bill is to authorize the Committee
15 for the Purchase of Commodities and Services from the Handicapped
16 to promulgate legislative rules relating to Qualifications for
17 Participation: Committee for the Purchase of Commodities and
18 Services from the Handicapped.

19

20 This section is new; therefore, strike-throughs and
21 underscoring have been omitted.