

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box

FILED

2003 APR 17 P 4: 08

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6 ☐

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

Purchase of Commodities

AGENCY: Department of Administration TITLE NUMBER: 186

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 4

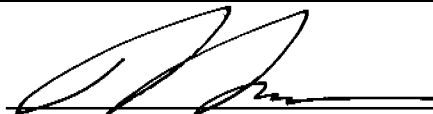
TITLE OF RULE BEING PROPOSED: Rules for Qualifications for Participation

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

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2592

SECTION § 64-2-1(a), PASSED ON March 8, 2003

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2003



Authorized Signature



BOB WISE
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

GREGORY A. BURTON
CABINET SECRETARY

April 17, 2003

Via Hand-Delivery

The Honorable Joe Manchin, III
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

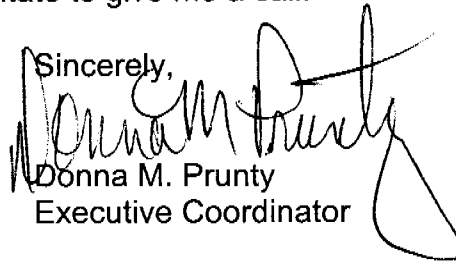
Re: Legislative Rules

Dear Secretary Manchin,

I am enclosing the "Notice of Final Filing and Adoption of a Legislative Rule Authorized by the West Virginia Legislature" as well as the original rules for filing. The new rules reflect changes for state use program qualifications, 186 CSR 4, resulting from the passage of House Bill 2592. As requested, I am also enclosing a disc containing the rules.

Thank you very much for your assistance. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,



Donna M. Prunty
Executive Coordinator

DMP:dp
Enclosures

FILED

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

2003 APR 17 P 4: 08
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 4
RULES 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 W. Va. Code §5A-3-10.

1.2. Authority. -- W. Va. Code §5A-3A-5.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rule. -- This legislative rule amends WV 184CSR4 "Rule s and Regulations for the Qualifications for Participation" filed February 17, 1993 and effective July 1, 1993.

§186-4-2. Definitions.

The following words and terns, when used in this rule, have the following meanings, unless the context clearly indicates otherwise:

2.1. "Eligible Rehabilitation and Employment Oriented Organizations"-- means any nonprofit workshop or Community Rehabilitation Program (Qualified CRP) that directly provides or facilitates the provision of vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement.

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

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

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

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

2.6 "Qualified Community Rehabilitation Programs"-- means a Community Rehabilitation Program that has been approved as an acknowledged vendor of rehabilitation services by the Division of Rehabilitation Services, and has been approved as a participant in the state use program by the Committee for the Purchase of Commodities and Services from the Handicapped, as evidenced by meeting all program qualifications, including all appropriate state and federal regulations.

2.7 "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.

2.8 "Non-profit Workshops" -- shall be defined as stated in WV Code §5A-1-1 and shall also include Qualified Community Rehabilitation Programs.

§186-4-3. Qualification for Program Participation.

3.1. Requirements. -- In order for a Qualified Community Rehabilitation Program to qualify for participation in the program under the provisions of W. Va. Code §5A-3-10, it shall file the following documents with the CNA on behalf of the Committee:

3.1.1. An appropriately signed application, which includes the following attachments:

3.1.1.a. A copy of the Internal Revenue Service letter indicating that the Qualified CRP has been accepted as a nonprofit entity for taxation purposes, or is a state agency which operates in the interest of individuals with disabilities, and that no part of its net income inures to the benefit of any shareholder or other individual.

3.1.1.b. If the Qualified CRP is incorporated, submit a copy of the articles of incorporation showing date of filing and signature of the appropriate state official.

3.1.1.c. Submit a copy of the Qualified CRP's by-laws showing certification by an officer of the corporation.

3.1.1.d. If commensurate wages are paid, submit the current certificate(s) issued by the US Department of Labor authorizing wage payments pursuant to 29 U.S.C. § 214(c).

3.1.1.e. Submit a copy of the letter showing that the Qualified CRP is registered and in good standing with the Secretary of State as a charitable organization pursuant to WV Code §29019-1.

3.1.1.f. Submit a current listing of the officers of the corporation with names, addresses and telephone numbers.

3.1.2. As a part of the application the Qualified CRP will further attest to and adhere to the following conditions:

3.1.2.a. Recognize the Central Nonprofit Agency has the responsibility to represent Qualified CRP's in dealing with state purchasing agents and other bodies charged with purchasing responsibilities.

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

3.1.2.c. Furnish commodities and/or services in strict compliance with contract specifications.

3.1.2.d. Make appropriate records available for inspection by the Committee or the CNA at any reasonable time.

3.1.2.e. Maintain records of direct labor hours and wages performed by each worker and report on the approved quarterly report. Submit these reports in a timely fashion to the CNA.

3.1.2.f. Comply with the applicable occupational health and safety standards prescribed by the US Department of Labor and the State of West Virginia.

3.1.2.g. Maintain a file on each worker with a disability which includes reports of pre-admission evaluation, and annual re-evaluation of the individual's capacity for normal competitive placement, prepared by a person or persons qualified by training and/or experience to evaluate the work potential, interest, aptitudes and abilities of persons with disabilities. This file will also include documentation of disability, and periodic notes related to that individual progress towards competitive placement.

3.1.2.h. Make full disclosure to the CNA of all facts related to the costs, overhead, or profits in the production of a commodity or provision of a service.

3.1.2.i. Maintain an average 75% disabled workers on the sum of all state use contracts. This will be measured by the total of direct labor hours. If this condition cannot be maintained, a plan of correction must be submitted to the committee for their approval, which will establish this 75% level of utilization.

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

3.3. Revocation.--The Committee may revoke the rights of any Qualified Community Rehabilitation Program to participate if, at any time, the Committee determines the Qualified Community Rehabilitation Program 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 Qualified Community Rehabilitation Program, or the revocation or suspension of such status, for failure to comply with this rule or for other good cause, the CNA is to refer the matter to the Committee for review.

3.4. Adverse Small Business Impact. -- When the current vendor is a small business and the individual service or a commodity contract in question comprises 33% or more of the total annual sales of that business, the current vendor will not be displaced without Committee approval unless the agency requests a change in a vendor or the vendor leaves the contract voluntarily. This section does not prevent the approved Qualified Community Rehabilitation Program from competing in the normal competitive bidding process and winning of a contract at the normal renewal time.