

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Form #6

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

AGENCY: Department of Administration TITLE NUMBER: 186

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Committee for the Purchase of Commodities and  
Services from the Handicapped Rules for Qualification  
for Participation

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

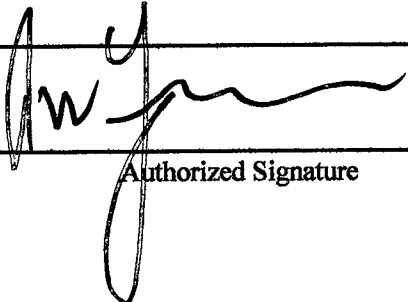
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 172

SECTION 64-2-3(e), PASSED ON April 11, 2009

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: July 1, 2009

  
Authorized Signature

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

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**SERIES 4  
RULES FOR QUALIFICATIONS FOR PARTICIPATION**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§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. --

**§186-4-2. Definitions.**

The following words and terms, 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. "Functional capability" means an individual's ability to perform certain activities taking into consideration factors such as mobility, communication, self-care, self-direction, work tolerance or work skills. Functional capability can be determined on the basis of an evaluation of rehabilitation potential.

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

2.8. "Qualified Community Rehabilitation Programs (CRP)"-- 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.

2.9. "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.

2.10. "Worker with Disabilities" -- means an individual who has a severe physical, visual or mental disability resulting from injury, disease, or congenital defect, which creates a limiting condition to the person's functional capability to engage in competitive employment over an extended period of time.

**§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. A copy of the articles of incorporation showing date of filing and signature of the appropriate state official, if the Qualified CRP is incorporated.

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

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

3.1.1.e. 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. A current listing of the officers of the corporation with names, addresses and telephone numbers.

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

3.2.1 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.

3.2.2 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.

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

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

3.2.5. Maintain records of direct labor hours performed and wages earned by each worker and reported on the approved quarterly report form(s) from the CNA.

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

3.2.7 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 workers with disabilities. This file will also include documentation of disability, and periodic notes related to that individual progress towards competitive placement.

3.2.8. 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.

3.2.9 Maintain an average of 75% workers with disabilities 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.