

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

Form #2 ☐

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2004 FEB -4 P 4:29

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

*Purchase of Commodities & Services from the Handicapped*

AGENCY: Department of Administration TITLE NUMBER: 186

RULE TYPE: Procedural CITE AUTHORITY: 5A-3A-4

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: 5

TITLE OF RULE BEING PROPOSED: Rules for Monitoring the Central Non-profit Agency

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 9:00 am AT March 8, 2004 ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Donna Lipscomb Executive Coordinator

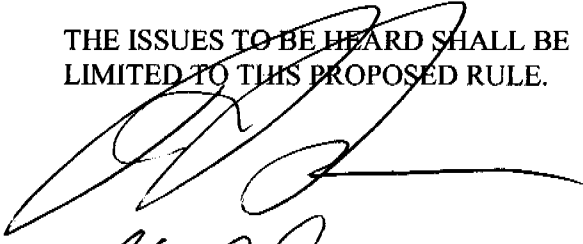
WV Department of Administration

1900 Kanawha Boulevard, East

Room E-119

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE  
LIMITED TO THIS PROPOSED RULE.

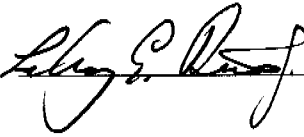
  
LeRoy E. Rison, Jr. - Chairman  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

West Virginia  
Secretary of State  
Joc Manchin, III  
Administrative Law Division

Attachment to FORM #2

The West Virginia Committee For The Purchase of Commodities and Services From the Handicapped has in their January 21, 2004 meeting voted to extend the comment period on proposed rules for monitoring the Central Non-Profit Agency. This was done to accommodate all interested parties who felt they did not have adequate time during the first filing. We respectfully request this extension be granted.

 - Chairman

|                                             |                                |
|---------------------------------------------|--------------------------------|
| <b>Agency:</b> Department of Administration | <b>Title Number:</b> 186       |
| <b>Rule Type:</b> Procedural                | <b>Cite Authority:</b> 5A-3A-4 |

## STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The procedural rules are being established in accordance with WV Code §5A-3A-4(b) wherein it states that the Committee for the Purchase of Commodities and Services from the Handicapped shall make rules necessary to monitor the activities of the Central Non-Profit Agency. These rules will ensure the Central Non-Profit Agency's compliance to statutory requirements, contract requirements and other performance standards set forth by the Committee for the Purchase of Commodities and Services from the Handicapped and in other sections of the code and rules.

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

SERIES 5  
RULES FOR MONITORING THE  
CENTRAL NONPROFIT AGENCY

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186-5-1. General

1.1. Scope. -- The scope of this procedural rule involves the monitoring of the Central Nonprofit Agency by the Committee for the Purchase of Commodities and Services from the Handicapped in relation to the Central Nonprofit Agency's compliance to statutory requirements, contract requirements and other performance standards set forth by the Committee for the Purchase of Commodities and Services from the Handicapped and in other sections of the code and rules.

1.2. Authority.- 5A-3A-4

1.3. Filing Date.-

1.4. Effective Date-

186-5-2. Definitions.

- 1) "Committee" -- means the Committee for the Purchase of Commodities and Services from the Handicapped
- 2) "CNA" -- means the Central Nonprofit Agency
- 3) "Program fee" -- means the fee charged by the Central Nonprofit Agency for the administration and implementation of the program as referred to as the "CNA Service Charge" in rule 186CSR1.
- 4) "CRP" -- also known as a Community Rehabilitation Program -- means a nonprofit workshop as defined in §5A-1-1.
- 5) "Persons With Disabilities" -- means "blind or severely disabled persons" as noted in §5A-1-1; "disabled persons" as noted in §5A-3A-1; "handicapped citizens" and "handicapped" as noted in §5A-3A-4(b) and "handicapped workers" as noted in §5A-3A-4(d).
- 6) "State Use Program" -- means the program as defined in 5A-3-10- and Section 5A-3A-1 et seq.

186-5-3. Committee Responsibilities.

3.1 The Committee will develop performance standards annually for the CNA for the purpose of advancing the employment of persons with disabilities through the state use program.

3.2 The Committee will have oversight over the revenues and expenses associated with the program fee to assure that said funds are used for the promotion, development and operation of the state use program and advancing the employment of persons with disabilities.

3.3 The Committee shall develop guidelines for the assignment of contracts associated with the state use program which shall be followed by the central non-profit agency.

186-5-4. CNA Responsibilities. Annually the CNA will develop and review an action plan to achieve and implement the performance standards as set forth by the Committee. The plan may include, but not be limited to goals for the following;

- (1) Number of persons with disabilities to be employed
- (2) Sales of commodities and services
- (3) Wages paid to persons with disabilities
- (4) Hours worked by persons with disabilities
- (5) Responsiveness to customer inquiries and/or complaints
- (6) Quality standards for participating CRPs
- (7) Training activities to increase CRP capability and efficiency
- (8) Financial Controls

186-5-5. To ensure compliance with the CNA action plan the Committee will conduct an annual review of the CNA's abilities to meet the performance standards and the implementation of the action plan. The Committee will forward a copy of this annual review to the CNA's governing body and to the Director of the West Virginia Division of Rehabilitation Services. At the Committee's sole discretion, it will make a recommendation to the Director of the West Virginia Division of Rehabilitation Services regarding the current organization's status as the approved CNA.

186-5-6. The CNA shall provide to the Committee an annual budget on or before the Committee's May meeting, which reveals all revenues, expenses and earnings prior to the beginning of the CNA's fiscal year that must be approved by the Committee. This budget shall detail how the program fee is being allocated to directly support the program and what amounts are being devoted to expanding direct services to programs that enhance employment of persons with disabilities and what percentage of funds will be used for administrative overhead, such as salaries. Any revisions to said budget must be approved by the Committee in advance of the budgetary revision and transfer of funds.

186-5-7. The CNA will make available to the Committee for the purpose of conducting its annual review of the CNA the following:

- (1) An annual action plan prior to the beginning of the fiscal year which will meet or exceed Committee performance standards.
- (2) Documented outcomes of the CNA's annual plan at the conclusion of the fiscal year.

(3) An audited financial statement at the conclusion of the fiscal year. It will include details on cash balances, earnings attributable to the program fee for the program, accounts receivable, accounts payable, cash reserves, line of credit borrowing, interest payments, bad debts, administration overhead and any detailed supporting documentation requested by the Committee.

(4) Monthly reports of categories of sales and accounts receivable in a reporting format approved by the Committee.

(5) Quarterly reports of its contracted sales of commodities and services, wages paid, and hours worked by persons with disabilities for all CRPs participating in the program.

186-5-8. The Committee may request the appropriate office of State government to perform an independent audit of the service fee set for the CNA and the financial condition of the CNA.

186-5-9. A person or organization may not operate a CRP and at the same time be approved by the director of the West Virginia Division of Rehabilitation Services as the CNA.

In the event of an emergency situation, the CNA may only temporarily maintain a contract until another qualified CRP is assigned and any revenues shall benefit the state use program as directed by the Committee.

186-5-10. The services provided through the provisions of the state use program through the CNA shall be rendered impartially to all CRPs approved by the Committee in accordance with qualifications set forth in the legislative rules.

186-5-11. The Committee must annually review the program fees charged by the CNA. The maximum charged by the CNA for its services must be computed as a percentage of the selling price of the commodity or service, and must be included in the selling price or contract price. The program fee must be remitted to the CNA at the time of payment by the customer. The fee approved by the Committee is for the management, promotion, and adherence to the requirements of the CNA as referred in WV code §5A-3A-2.

186-5-12. The Committee may issue a formal recommendation to the Director of the West Virginia Division of Rehabilitation Services to approve an alterative CNA, or to issue an emergency approval of a new organization to serve as the program's CNA if any of the following occur;

(1) The current CNA ceases operations

(2) The CNA gives notice that it cannot accomplish the performance standards set forth by the Committee or implement the action plan

(3) The Committee's review of the CNA results in disapproval of its performance.

## APPENDIX B

### FISCAL NOTE FOR PROPOSED RULES

Rule Title: 186, Series 5

Type of Rule: Legislative Interpretive X Procedural

Agency: Administration

Address: Donna M. Prunty, Executive Coordinator

1900 Kanawha Boulevard, Building 1, Room E-119

Charleston, WV 25305

#### 1. Effect of Proposed Rule:

This rule is being established to monitor the activities of the Central Non-profit Agency's compliance to statutory requirements, contract requirements, and other performance standards set forth by the Committee for the Purchase of Commodities and Services from the Handicapped and other sections of the code and legislative rules.

|                       | ANNUAL FISCAL YEAR |          |         |      |            |
|-----------------------|--------------------|----------|---------|------|------------|
|                       | Increase           | Decrease | Current | Next | Thereafter |
| ESTIMATED TOTAL COST  | -0-                | -0-      | -0-     | -0-  | -0-        |
| PERSONAL SERVICES     |                    |          |         |      |            |
| CURRENT EXPENSE       |                    |          |         |      |            |
| REPAIRS & ALTERATIONS |                    |          |         |      |            |
| EQUIPMENT             |                    |          |         |      |            |
| OTHER                 |                    |          |         |      |            |

**2. Explanation of Above Estimates:**

There is no anticipated fiscal impact as a result of the adoption of these procedural rules.

**3. Objectives of These Rules:**

This rule clarifies the methods of monitoring of the Central Non-profit Agency

**Rule Title:** Rules for Monitoring the Central Non-profit Agency

**4. Explanation of Overall Economic Impact of Proposed Rule:**

**A. Economic Impact on State Government:**

None

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:**

None

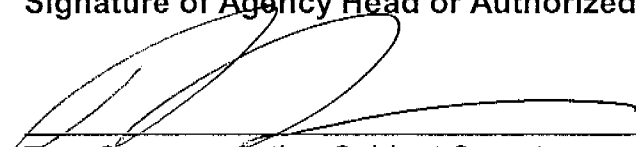
**C. Economic Impact on Citizens/Public at Large.**

None

**Date:**

12/22/03

**Signature of Agency Head or Authorized Representative:**

  
\_\_\_\_\_  
Tom Susman, Acting Cabinet Secretary  
Department of Administration