

**Effective 10/1/2016**

**63G-6a-805 Purchase from community rehabilitation programs.**

- (1) As used in this section:
  - (a) "Advisory board" means the Purchasing from Persons with Disabilities Advisory Board created under this section.
  - (b) "Central not-for-profit association" means a group of experts designated by the advisory board to do the following, under guidelines established by the advisory board:
    - (i) assist the advisory board with its functions; and
    - (ii) facilitate the implementation of advisory board policies.
  - (c)
    - (i) "Community rehabilitation program" means a program that is operated primarily for the purpose of the employment and training of persons with a disability by a government agency or qualified nonprofit organization which is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.
    - (ii) A community rehabilitation program:
      - (A) maintains an employment ratio of at least 75% of the program employees under the procurement contract in question have severe disabilities;
      - (B)
        - (I) complies with any applicable occupational health and safety standards prescribed by the United States Department of Labor; or
        - (II) is a supported employment program approved by the Utah State Office of Rehabilitation created in Section 35A-1-202;
      - (C) has its principal place of business in Utah;
      - (D) produces any good provided under this section in Utah; and
      - (E) provides any service that is provided by individuals with a majority of whom domiciled in Utah.
  - (d) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.
- (2) There is created within the division the Purchasing from Persons with Disabilities Advisory Board.
- (3) The advisory board shall consist of three members, as follows:
  - (a) the director of the division or the director's designee;
  - (b) the director of the Utah State Office of Rehabilitation or the director's designee; and
  - (c) a representative of the private business community who shall be appointed to a three-year term by the governor with the advice and consent of the Senate.
- (4) The advisory board shall meet, as needed, to facilitate the procurement of goods and services from community rehabilitation programs by a procurement unit under this chapter by:
  - (a) identifying goods and services that are available from community rehabilitation programs in accordance with the requirements of Subsection (7);
  - (b) approving prices in accordance with Subsection (7)(c) for goods and services that are identified under Subsection (4)(a);
  - (c) developing, maintaining, and approving a preferred procurement contract list of goods and services identified and priced under Subsections (4)(a) and (b);
  - (d) reviewing bids received by a community rehabilitation program; and
  - (e) awarding and renewing specified contracts for set contract times, without competitive bidding, for the purchase of goods and services under Subsection (7).
- (5) The provisions of Subsections (4) and (7)(a) are an exception to the procurement provisions under this chapter.

- (6)
  - (a) The advisory board may designate a central not-for-profit association, appoint its members, and establish guidelines for its duties.
  - (b) The designated central not-for-profit association serves at the pleasure of the advisory board. The central not-for-profit association or its individual members may be removed by the advisory board at any time by a majority vote of the advisory board.
  - (c) Subject to the advisory board guidelines and discretion, a designated central not-for-profit association may be assigned to perform the following duties:
    - (i) identify qualified community rehabilitation programs and the goods and services that they provide or have the potential to provide;
    - (ii) help ensure that goods and services are provided at reasonable quality and delivery levels;
    - (iii) recommend pricing for goods and services;
    - (iv) review bids and recommend the award of contracts under the advisory board's direction;
    - (v) collect and report program data to the advisory board and to the division; and
    - (vi) other duties specified by the advisory board.
- (7) Except as provided under Subsection (9), notwithstanding any provision of this chapter to the contrary, each procurement unit shall purchase goods and services produced by a community rehabilitation program using the preferred procurement contract list approved under Subsection (4)(c) if:
  - (a) the good or service offered for sale by a community rehabilitation program reasonably conforms to the needs and specifications of the procurement unit;
  - (b) the community rehabilitation program can supply the good or service within a reasonable time; and
  - (c) the price of the good or service is reasonably competitive with the cost of procuring the good or service from another source.
- (8) Each community rehabilitation program:
  - (a) may submit a bid to the advisory board at any time and not necessarily in response to an invitation for bids; and
  - (b) shall certify on any bid it submits to the advisory board or to a procurement unit under this section that it is claiming a preference under this section.
- (9) During a fiscal year, the requirement for a procurement unit to purchase goods and services produced by a community rehabilitation program under the preferred procurement list under Subsection (7) does not apply if the division determines that the total amount of procurement contracts with community rehabilitation programs has reached \$5 million for that fiscal year.
- (10) In the case of conflict between a purchase under this section and a purchase under Section 63G-6a-804, this section prevails.

Amended by Chapter 271, 2016 General Session