

1 **PURCHASING FROM COMMUNITY REHABILITATION**
2 **PROGRAMS AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Marie H. Poulson**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **Committee Note:**

10 The Workforce Services and Community and Economic Development Interim
11 Committee recommended this bill.

12 **General Description:**

13 This bill amends provisions of the Utah Procurement Code relating to purchasing from
14 community rehabilitation programs.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ defines the term "reasonably competitive";
- 18 ▶ increases the size of the Purchasing from Persons with Disabilities Advisory Board;
- 19 ▶ requires the advisory board to publish and distribute a list of goods and services to
- 20 all state agencies and interested political subdivisions provided by community
- 21 rehabilitation programs;
- 22 ▶ provides that this bill relates to bids and proposals; and
- 23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63G-6-425**, as renumbered and amended by Laws of Utah 2008, Chapter 382



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **63G-6-425** is amended to read:

33 **63G-6-425. Purchase from community rehabilitation programs.**

34 (1) As used in this section:

35 (a) "Board" means the Purchasing from Persons with Disabilities Advisory Board
36 created under this section.

37 (b) "Central not-for-profit association" means a group of experts designated by the
38 board to do the following, under guidelines established by the board:

39 (i) assist the board with its functions; and

40 (ii) facilitate the implementation of board policies.

41 (c) (i) "Community rehabilitation program" means a program that is operated primarily
42 for the purpose of the employment and training of persons with a disability by a government
43 agency or qualified nonprofit organization which is an income tax exempt organization under
44 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

45 (ii) A community rehabilitation program:

46 (A) maintains an employment ratio of at least 75% of the program employees under the
47 procurement contract in question have severe disabilities;

48 (B) (I) complies with any applicable occupational health and safety standards
49 prescribed by the United States Department of Labor; or

50 (II) is a supported employment program approved by the Utah State Office of
51 Rehabilitation;

52 (C) has its principal place of business in Utah;

53 (D) produces any good provided under this section in Utah; and

54 (E) provides any service that is provided by individuals with a majority of whom
55 domiciled in Utah.

56 (d) "Person with a disability" means a person with any disability as defined by and
57 covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.
58

- 59 (e) "Reasonably competitive" means a price that:
60 (i) the public procurement unit and the community rehabilitation program agree on for
61 the goods or services; or
62 (ii) the board determines is reasonably competitive, based on a review of relevant
63 economic factors, including:
64 (A) wage and salary information provided by the Department of Workforce Services;
65 (B) market indicators; and
66 (C) other factors that the board determines are relevant.
67 (2) (a) There is created the Purchasing from Persons with Disabilities Advisory Board
68 within the Division of Purchasing and General Services of the Department of Administrative
69 Services. The board shall be composed of the following [~~three~~] seven members:
70 (i) the director of the Division of Purchasing and General Services, created [~~under~~] in
71 Section 63A-2-101, or [~~a~~] the director's designee;
72 (ii) the executive director of the Utah State Office of Rehabilitation, created [~~under~~] in
73 Section 53A-24-103, or [~~a~~] the executive director's designee; [~~and~~]
74 [~~(iii) a representative~~]
75 (iii) the director of the Division of Services for People with Disabilities, created in
76 Section 62A-5-102, or the director's designee;
77 (iv) the director of the Governor's Office of Economic Development, created in Section
78 62M-1-201, or the director's designee;
79 (v) two representatives of the private business community who shall be appointed to a
80 three-year term by the governor with the advice and consent of the Senate[-]; and
81 (vi) a representative from the public who has served, but is not currently serving, as a
82 member of the Legislature, appointed to a three-year term by the governor with the advice and
83 consent of the Senate.
84 (b) The board shall meet, as needed, to facilitate the procurement of goods and services
85 from community rehabilitation programs by a public procurement unit under this chapter by:
86 (i) identifying goods and services that are available from community rehabilitation
87 programs [~~according to the requirements under~~] in accordance with the requirements of
88 Subsection (4);
89 (ii) [~~approving~~] determining reasonably competitive prices in accordance with

90 Subsection (4)(c) for goods and services that are identified under Subsection (2)(b)(i);
91 ~~[(iii) developing, maintaining, and approving a preferred procurement contract list of~~
92 ~~goods and services identified and priced under Subsections (2)(b)(i) and (ii);]~~
93 (iii) publishing and distributing to all state agencies and interested political
94 subdivisions a list of goods and services, or categories of goods and services, provided by
95 community rehabilitation programs;
96 (iv) reviewing bids or proposals received by a community rehabilitation program; and
97 (v) awarding and renewing specified contracts for set contract times, without
98 competitive bidding or another competitive procurement process, for the purchase of goods and
99 services under Subsection (4).

100 (c) The provisions of Subsections (2)(b) and (4)(a) are an exception to the procurement
101 provisions under this chapter.

102 (3) (a) The board may designate a central not-for-profit association, appoint its
103 members, and establish guidelines for its duties.

104 (b) The designated central not-for-profit association serves at the pleasure of the board
105 ~~[and the].~~ The central not-for-profit association or its individual members may be removed by
106 the board at any time by a majority vote of the board.

107 (c) Subject to the board guidelines and in its discretion, a designated central
108 not-for-profit association may be assigned to perform the following duties:

109 (i) identify qualified community rehabilitation programs and the goods and services
110 that they provide or have the potential to provide;

111 (ii) help ensure that goods and services are provided at reasonable quality and delivery
112 levels;

113 (iii) recommend pricing for goods and services;

114 (iv) ~~[reviewing]~~ review bids and proposals and ~~[recommending]~~ recommend the award
115 of contracts under the board's direction;

116 (v) ~~[collecting and reporting]~~ collect and report program data to the board and to the
117 division; and

118 (vi) other duties specified by the board.

119 (4) Except as provided under Subsection (6), notwithstanding any provision in this
120 chapter to the contrary, each public procurement unit shall purchase goods and services

121 produced by a community rehabilitation program using the preferred procurement [~~contract list~~
122 ~~approved under~~] list described in Subsection (2)(b)(iii) if:

123 (a) the good or service offered for sale by a community rehabilitation program
124 reasonably conforms to the needs and specifications of the public procurement unit;

125 (b) the community rehabilitation program can supply the good or service within a
126 reasonable time; and

127 (c) the price of the good or service is reasonably competitive with the cost of procuring
128 the good or service from another source.

129 (5) Each community rehabilitation program:

130 (a) may submit a bid or offer to the board at any time and not necessarily in response to
131 a request for bids or a request for proposals; and

132 (b) shall certify on any bid it submits to the board or to a public procurement unit under
133 this section that it is claiming a preference under this section.

134 (6) During a fiscal year, the requirement for a public procurement unit to purchase
135 goods and services produced by a community rehabilitation program under the preferred
136 procurement list under Subsection (4) does not apply if the Division of Purchasing and General
137 Services determines that the total amount of procurement contracts with community
138 rehabilitation programs has reached \$5 million for that fiscal year.

139 (7) In the case of conflict between a purchase under this section and a purchase under
140 Section 63G-6-423, this section prevails.

Legislative Review Note
as of 11-2-11 3:49 PM

Office of Legislative Research and General Counsel