

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 878 Session of
2001

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MARCH 12, 2001

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 30, 2001

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, further providing for supplies manufactured and
3 services performed by persons with disabilities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 520 of Title 62 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 520. Supplies manufactured and services performed by persons
9 with disabilities.

10 (a) General rule.--Contracts for supplies manufactured by
11 and services performed by persons with disabilities shall be
12 entered into in accordance with this section without the
13 requirement for competitive bidding. Persons with disabilities
14 must make an appreciable contribution in manufacturing an item

1 or performing a service.

2 (b) Fair market price.--Upon request [of] TO the department <—
3 and notice to the purchasing agency, the department shall
4 determine the fair market price of any supply manufactured by or
5 service performed by persons with disabilities and offered for
6 sale to any Commonwealth agency by an agency for persons with
7 disabilities. The department shall revise the prices in
8 accordance with changing market conditions.

9 (c) Distribution.--At the request of the department, the
10 Department of Public Welfare or a nonprofit agency with the
11 approval of the Department of Public Welfare shall facilitate
12 the distribution of orders for supplies manufactured by or
13 services performed by persons with disabilities among agencies
14 for persons with disabilities.

15 (d) Procurement of supplies manufactured and services
16 performed by persons with disabilities.--Except as provided in
17 subsection (e), all supplies manufactured by and services
18 furnished by persons with disabilities shall be procured in
19 accordance with applicable specifications of the department or
20 other Commonwealth agencies from any agency for persons with
21 disabilities whenever the supplies and services are available at
22 a price determined by the department to be the fair market
23 price. The head of a purchasing agency shall annually discuss
24 its needs for supplies or services with any agency for persons
25 with disabilities.

26 (e) Procurement from Commonwealth agency.--If any supply
27 manufactured by or any service performed by persons with
28 disabilities and offered for sale is available for procurement
29 from any Commonwealth agency and this part or any other statute
30 requires the procurement of the supply or service from the

Commonwealth agency, then the procurement of the supply or service shall be made in accordance with the other provisions.

(f) Exception.--Notwithstanding subsection (h), when the Commonwealth enters into a contract under this section for the operation of the Commonwealth's driver's license photo centers, at least 70% of the amount paid by the Commonwealth shall be used to cover payment of wages and salaries to persons with disabilities and to cover actual manufacturing costs, real estate lease costs, property insurance and other costs which are specifically required by contract.

(g) Application.--

(1) This section shall not supersede any contract currently in force between a Commonwealth agency and another party.

(2) Nothing in this section shall be construed as conferring upon any party any right or interest in any contract entered into with the Commonwealth.

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Agency for persons with disabilities." Any charitable, nonprofit agency incorporated under the laws of this Commonwealth and approved by the department through which persons with disabilities manufacture supplies or perform services in this Commonwealth.

"Appreciable contribution."

(1) Except as provided in IN ADDITION TO paragraph (2), the department shall determine whether the contribution by individuals with disabilities is appreciable. Persons with disabilities must make an appreciable contribution in

<—

1 manufacturing ~~an item~~ A SUPPLY or performing a service. <—

2 (2) At least 75% of the personnel either engaged in the

3 direct labor of manufacturing of a ~~product~~ SUPPLY or engaged <—

4 in the direct labor in performing a service in this

5 Commonwealth must be visually impaired, mentally retarded,

6 mentally ill or physically disabled. In addition, at least

7 75% of the amount paid by the Commonwealth agency for the

8 ~~product~~ SUPPLY or the service shall be remitted to the agency <—

9 for persons with disabilities to cover payment of wages and

10 salaries to persons with disabilities and to cover other

11 actual manufacturing costs incurred by the agency for persons

12 with disabilities in manufacturing of a ~~product~~ SUPPLY. <—

13 "Manufactured." The transformation of raw materials or the

14 assembly of essential component parts or a combination of both

15 in the production of ~~an item~~ A SUPPLY, which is different in <—

16 form, composition or character from the raw materials or the

17 essential component parts.

18 "Mentally ill." A severe personality or behavioral disorder

19 that constitutes a substantial impediment to employment and

20 which prevents the individual from engaging in normal

21 competitive employment. Those disorders caused by substance

22 abuse or chemical dependency are not included.

23 "Mentally retarded." Subaverage general intellectual

24 functioning which originates during the developmental period and

25 is associated with the impairment of maturation, learning or

26 social adjustment.

27 "Performed." Labor provided to do the work to fulfill the

28 requirements of the contract.

29 "Persons with a disability." A person who is visually

30 impaired, mentally retarded, mentally ill or physically

1 disabled.

2 "Physically disabled." A limitation of most activities and
3 functioning by virtue of a severe impairment of the various
4 bodily systems which cannot be eliminated, modified or
5 substantially reduced by the usual rehabilitation services and
6 which precludes competitive employment.

7 "Services." While "services" is defined in section 103
8 (relating to definitions) of this part, for the purposes of this
9 section, the term specifically includes such packaging or
10 repackaging which, as determined by the department, provides a
11 substantial and real benefit to the Commonwealth agency which
12 needs the supplies to be packaged or repackaged. When packaging
13 or repackaging services are to be provided to a Commonwealth
14 agency by an agency for persons with disabilities, the
15 Commonwealth agency shall make the arrangements for the
16 procurement of the supplies to be packaged or repackaged.
17 Packaging or repackaging shall not be considered "services" if
18 the manufacturer usually packages or repackages the supplies, in
19 the quantity required by the agency, as a part of its
20 manufacturing and distribution process.

21 ["Supply manufactured by or service performed by person with
22 disabilities." At least 75% of the personnel either engaged in
23 the direct labor of manufacturing of a product or engaged in the
24 direct labor in performing a service in this Commonwealth must
25 be visually impaired, mentally retarded or physically disabled.
26 In addition, at least 75% of the amount paid by the Commonwealth
27 agency for the product or the service shall be remitted to the
28 agency for persons with disabilities to cover payment of wages
29 and salaries to persons with disabilities and to cover other
30 actual manufacturing costs incurred by the agency for persons

1 with disabilities in manufacturing of a product.]

2 "Visually impaired." A condition in which central visual
3 acuity does not exceed 20/200 in the better eye with correcting
4 lenses or in which the widest diameter of the visual field
5 subtends an angle no greater than 20 degrees.

6 Section 2. This act shall take effect in 30 days.