
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2485 Session of
2024

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SAMUELSON, CEPEDA-FREYTIZ, DELLOSO AND BOYD, JULY 3, 2024

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 3, 2024

AN ACT

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

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

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

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

11 (a) General rule.--

12 (1) Contracts for supplies manufactured by and services
13 performed by persons with disabilities shall be entered into
14 in accordance with this section without the requirement for
15 competitive bidding. The following apply:

16 (i) Persons with disabilities must make an
17 appreciable contribution in manufacturing [an item] a

1 supply or performing a service.

2 (ii) The department shall determine whether the
3 contribution by persons with disabilities is an
4 appreciable contribution.

5 (2) When the Commonwealth enters into a contract under
6 this section with a cost exceeding \$300,000 per year, the
7 department, in cooperation with the purchasing agency, shall
8 conduct an annual review to confirm compliance with the
9 contract and the requirements of this section. The annual
10 review shall include, but not be limited to, an assessment of
11 all requirements related to appreciable contribution. If the
12 department, in cooperation with the purchasing agency,
13 determines that persons with disabilities are not making an
14 appreciable contribution in the manufacturing of [an item] a
15 supply or the performance of a service or an agency for
16 persons with disabilities is not in compliance with other
17 requirements of this section, the department shall give an
18 agency for persons with disabilities 45 days in which to
19 remedy the deficiency. If the agency for persons with
20 disabilities fails to remedy the deficiency within 45 days,
21 the agency for persons with disabilities shall be deemed to
22 be in noncompliance with the contract, and the purchasing
23 agency may terminate the contract and seek to procure the
24 [item] supply or service through a competitive bidding
25 process. Nothing in this section shall preclude a purchasing
26 agency from procuring [an item] a supply or service through
27 an emergency contract when an agency for persons with
28 disabilities is deemed to be in noncompliance.

29 (3) The following apply to subminimum wage:

30 (i) Beginning on the effective date of this

1 subparagraph, the department is prohibited from entering
2 into any new contract that utilizes a Federal 14(c)
3 certificate for work connected to this section.

4 (ii) Beginning two years following the effective
5 date of this subparagraph, the use of a Federal 14(c)
6 certificate for work connected to this section is
7 prohibited.

8 (4) The following apply to integration:

9 (i) Beginning two years following the effective date
10 of this subparagraph, an agency for persons with
11 disabilities shall have a work environment that is
12 integrated for employees connected to State contracts
13 described in this section.

14 (ii) In determining whether a location is
15 integrated, employees who are persons with disabilities
16 must interact with other individuals who are not persons
17 with disabilities at the work location. The interaction:

18 (A) Shall not apply to supervisors, job coaches
19 and service providers.

20 (B) Shall involve coworkers, customers, vendors
21 and members of the general public.

22 (iii) For purposes of this section, an agency for
23 persons with disabilities may be an organization that
24 affirmatively hires and promotes persons with
25 disabilities, if the agency for persons with disabilities
26 meets the integration requirement and other eligibility
27 requirements under this section.

28 (iv) The department shall require an attestation
29 from each agency for persons with disabilities specifying
30 that applicable locations are integrated in accordance

1 with this paragraph.

2 (v) The department shall monitor compliance with the
3 integration requirement under this paragraph by a
4 participating agency for persons with disabilities
5 through the annual review in accordance with paragraph
6 (2), which shall also include a location site visit to
7 the agency for persons with disabilities:

8 (A) no less frequently than every five years; or

9 (B) upon receipt of a credible allegation that
10 the participating agency for persons with
11 disabilities is in material violation of the
12 integration requirement.

13 (vi) The department may delegate the duty to monitor
14 compliance under subparagraph (v) through an interagency
15 agreement to the Office of Vocational Rehabilitation or
16 another State department or agency.

17 (5) Each agency for persons with disabilities shall
18 prioritize disability inclusion and representation regarding
19 employment strategic planning.

20 (b) Fair market price.--Upon request to the department and
21 notice to the purchasing agency, the department shall determine
22 the fair market price of any supply manufactured by or service
23 performed by persons with disabilities and offered for sale to
24 any Commonwealth agency by an agency for persons with
25 disabilities. The department shall revise the prices in
26 accordance with changing market conditions.

27 (c) Distribution.--[At the request of the department, the
28 Department of Public Welfare or a nonprofit agency with the
29 approval of the Department of Public Welfare] The department, or
30 a nonprofit agency at the request of and with the approval of

1 the department, shall facilitate the distribution of orders for
2 supplies manufactured by or services performed by persons with
3 disabilities among agencies for persons with disabilities.

4 (d) Procurement of supplies manufactured and services
5 performed by persons with disabilities.--Except as provided in
6 subsection (e), all supplies manufactured by and services
7 furnished by persons with disabilities shall be procured in
8 accordance with applicable specifications of the department or
9 other Commonwealth agencies from any agency for persons with
10 disabilities whenever the supplies and services are available at
11 a price determined by the department to be the fair market
12 price. The head of a purchasing agency shall annually discuss
13 its needs for supplies or services with any agency for persons
14 with disabilities.

15 (e) Procurement from Commonwealth agency.--If any supply
16 manufactured by or any service performed by persons with
17 disabilities and offered for sale is available for procurement
18 from any Commonwealth agency and this part or any other statute
19 requires the procurement of the supply or service from the
20 Commonwealth agency, then the procurement of the supply or
21 service shall be made in accordance with the other provisions.

22 (f) [Exception] Exceptions--

23 (1) Notwithstanding [subsection (h)] any other
24 provisions of this section, when the Commonwealth enters into
25 a contract under this section for the operation of the
26 Commonwealth's driver's license photo centers, at least 70%
27 of the amount paid by the Commonwealth shall be used to cover
28 payment of wages and salaries to persons with disabilities
29 and to cover actual manufacturing costs, real estate lease
30 costs, property insurance and other costs which are

1 specifically required by contract.

2 (2) The department may provide an exception to ratio or
3 integration requirements due to unexpected external events
4 outside of the control of the agency for persons with
5 disabilities, for the purposes of piloting new employment
6 initiatives, or other reasons to protect or advance
7 competitive, integrated employment for persons with
8 disabilities for the purposes of this section.

9 (g) Application.--

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

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

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

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

24 ["Appreciable contribution."

25 (1) In addition to paragraph (2), the department shall
26 determine whether the contribution by individuals with
27 disabilities is appreciable. Persons with disabilities must
28 make an appreciable contribution in manufacturing a supply or
29 performing a service.

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

1 direct labor of manufacturing of a supply or engaged in the
2 direct labor in performing a service in this Commonwealth
3 must be visually impaired, mentally retarded or physically
4 disabled. In addition, at least 75% of the amount paid by the
5 Commonwealth agency for the supply or the service shall be
6 remitted to the agency for persons with disabilities to cover
7 payment of wages and salaries to persons with disabilities
8 and to cover other actual manufacturing costs incurred by the
9 agency for persons with disabilities in manufacturing of a
10 supply.]

11 "Appreciable contribution." A contribution that satisfies
12 the direct labor ratio requirements.

13 "Direct labor ratio requirements." As follows:

14 (1) At least 51% of the direct labor involved in
15 manufacturing a supply or engaged in performing a service in
16 this Commonwealth involves persons with disabilities.

17 (2) At least 51% of the amount paid by the Commonwealth
18 agency for the supply or the service is remitted to the
19 agency for persons with disabilities to cover payment of
20 wages and salaries to persons with disabilities and to cover
21 other actual allowable overhead costs incurred by the agency
22 for persons with disabilities in manufacturing the supply or
23 delivering the service.

24 "Federal 14(c) certificate." A subminimum wage certificate
25 that is provided under the Fair Labor Standards Act of 1938 in
26 accordance with 29 U.S.C. § 214(c) (relating to employment under
27 special certificates).

28 "Manufactured." The transformation of raw materials or the
29 assembly of essential component parts or a combination of both
30 in the production of a supply which is different in form,

1 composition or character from the raw materials or the essential
2 component parts. This definition applies only to the assembly of
3 a supply.

4 ["Mentally retarded." Subaverage general intellectual
5 functioning which originates during the developmental period and
6 is associated with the impairment of maturation, learning or
7 social adjustment.]

8 "Performed." Labor provided to do the work to fulfill the
9 requirements of the contract.

10 ["Persons with a disability." A person who is visually
11 impaired, mentally retarded or physically disabled.

12 "Physically disabled." A limitation of most activities and
13 functioning by virtue of a severe impairment of the various
14 bodily systems which cannot be eliminated, modified or
15 substantially reduced by the usual rehabilitation services and
16 which precludes competitive employment.]

17 "Persons with disabilities." Individuals with a physical or
18 mental impairment that presents a substantial impediment to
19 employment.

20 "Services." While "services" is defined in section 103
21 (relating to definitions), for the purposes of this section, the
22 term specifically includes such packaging or repackaging which,
23 as determined by the department, provides a substantial and real
24 benefit to the Commonwealth agency which needs the supplies to
25 be packaged or repackaged. When packaging or repackaging
26 services are to be provided to a Commonwealth agency by an
27 agency for persons with disabilities, the Commonwealth agency
28 shall make the arrangements for the procurement of the supplies
29 to be packaged or repackaged. Packaging or repackaging shall not
30 be considered "services" if the manufacturer usually packages or

1 repackages the supplies in the quantity required by the agency
2 as a part of its manufacturing and distribution process. This
3 definition applies only to the packaging or repackaging of a
4 supply.

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

9 Section 2. This act shall take effect in 60 days.