

Operations Manual

for the
Committee on the Purchase of
Goods and Services from
Community Rehabilitation Organizations

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I. INTRODUCTION

Public Act 167 was signed by Governor William Milliken on May 26, 1978. The intent of Public act 167 is to “help provide a more stabilized and diversified work base for rehabilitation persons with handicaps served in Sheltered Workshops and Work Activity Centers in Michigan.” In 1984, Act 167 was incorporated into Public Act 431, 1984; referred to as “The Management and Budget Act.” Sections 293 to 297 apply to the purchase of goods and services from sheltered workshops and work activity centers.

In 2010 the PA 431 (The Act) was amended to clarify the duties of the committee and modernize the language. (See Appendix A). The act clearly states “The department shall purchase goods and services that are manufactured or provided by community rehabilitation organizations in this state...” The Act also states: “To advance the employment of people with disabilities, community rehabilitation organizations shall have preferred status for the purposes of procurement in accord with the provisions of this section. The department's procurements of goods and services from community rehabilitation organizations are exempt from other competitive procurement requirements of this act and, to the extent possible, exempt from other competitive procurement statutes and executive orders. This subsection does not prohibit the department from applying competitive bid requirements to select among community rehabilitation organizations for the purchase of goods and services.

II. COMMITTEE DUTIES

The mandated functions of the committee are to:

- (A) Meet as often as necessary, but at least quarterly, to carry out its duties.
- (B) Coordinate and monitor the implementation of Sections 293- 297 (see Appendix A).
- (C) Identify, review and recommend approval or disapproval to the State Administrative Board requests from community rehabilitation organizations to provide goods and services for purchase by the Department.
- (D) Establish eligibility criteria for participating community rehabilitation organizations, including criteria that demonstrate the ability to perform the requirements of the contract and establish that the majority of the direct labor hours required to fulfill the contract are performed by individuals with significant disabilities as defined in 29 USC 705(21)(A).
- (E) At least annually, in cooperation with the Department, establish and review fair market prices and methods for establishing fair market prices for goods and services to be purchased from community rehabilitation organizations.
- (F) Establish procedures regarding the functions and operations of the committee.
- (G) Prepare an Annual Report depicting the activities related to this section that includes, at a minimum all of the following:
 - a. A summary of products and services purchased by the department from community rehabilitation organizations.
 - b. The names of community rehabilitation organizations participating.

- c. The impact of this section upon production, work stabilization, program development, and the number of persons with a disability served by community rehabilitation organizations.
- d. An indication of the areas to which and the amounts for which the budget of the committee was allocated

III. OPERATIONAL PROCEDURES

A. **Legal Assurances.** The operational procedures of the Committee are based upon applicable standards, public acts, policies, rules and regulations, including but not limited to:

- Professional Rehabilitation Standards
- Legislation Authorizing Set-Aside, Michigan PA 372 of 2010
- Michigan Open Meeting Act, PA 267 of 1976, as amended by Act No. 256 of 1978
- Michigan's Freedom of Information Act, Public Act No. 442 of 1976, as amended by Act No. 329 of 1978.

B. **Quorum.** A quorum of a majority of the members appointed and serving will be required to conduct business.

C. **Meetings.**

1. All meeting of the Set-Aside Committee are open to the public.
2. The agenda, minutes of the previous meeting, and related attachments shall be prepared by the Committee chair and distributed seven days prior to the meeting.
3. All meeting notices, Committee minutes and correspondence shall appear on Department letterhead.
4. Meeting notices indicating the agenda, meeting time and place, shall be publicly posted at the Department.
5. The outline for Committee agendas shall typically be:
 - a) Introductions
 - b) Approval of previous meeting minutes
 - c) Procurement update
 - d) Set aside requests
 - e) Public comment
 - f) Old business
 - g) New business

The Committee has the right to set a time limit for individual public comment.

6. The committee may conduct committee-of-the-whole work sessions at which no official action is taken, in addition to the public posted meetings. The purpose of such work sessions may include such matters as preparation for the annual report and preparation of motions for public meetings.

7. Meetings shall be conducted according to Robert Rules of Order.

D. Voting.

1. Each member shall have one vote on each issue of committee business.
2. A motion will be carried by the vote of a majority of appointed Committee members in attendance.

E. Conflict of Interest

A potential conflict of interest exists when a committee member's private or business interests and his or her committee responsibilities are at odds. This means an individual should not be in a position to gain personally or financially as a result of a decision for procuring goods or services on behalf of the State of Michigan.

Committee members who have, or reasonably anticipate having, an ownership interest, a significant executive position, or another remunerative relationship with a prospective set aside supplier of goods or services to the State of Michigan, or who know that a member of their family or other person with whom they have a personal or financial relationship has such an interest, shall disclose such relationship. The committee shall then vote on whether or not the committee member should recuse himself or herself from voting on a particular set aside request.

F. Appeals

1. The Set-Aside Committee will hear appeals on their decisions to set-aside products and services with the State of Michigan, Department of Management, Technology and Budget (DTMB) Procurement. Requests for appeal must be made in writing to the committee within seven (7) business days following committee action. Appeals are required to include the contract in reference and the basis for the appeal.
2. Appeals by a private eligible vendor will be given particular consideration if
 - a. the vendor will use persons with disabilities (as defined by the Rehabilitation Act) for at least 50% of the direct labor on the contract, or
 - b. the vendor can demonstrate severe economic hardship resulting from the contract being set aside.
3. Decisions regarding appeals shall be communicated in writing to the affected parties immediately following the committee meeting.
4. Decisions of the committee regarding appeals are final.

F. Annual Report. The Annual Report, referred to in article II.B. 6., shall generally be available near the end of the first quarter of the calendar year. It shall be prepared by the chairperson and approved by the Committee.

G. Expenses. Members of the Committee shall serve without compensation.

APPENDIX A

THE MANAGEMENT AND BUDGET ACT (EXCERPT) Act 431 of 1984 AS AMENDED BY ACT 372 OF 2010

18.1293 Definitions.

Sec. 293.

As used in this section and sections 294 to 297:

- (a) "Committee" means the committee on the purchase of goods and services from community rehabilitation organizations created in section 295.
- (b) "Community rehabilitation organization" means a nonprofit charitable organization or institution incorporated in this state that is operated for the purpose of carrying out a recognized program of employment and training services for people with disabilities.
- (c) "Fair market price" means the price established by the committee for goods or services to be purchased from community rehabilitation organizations based upon 1 or more of the following:
 - (i) Available information from reliable market sources.
 - (ii) A market survey conducted by a person designated by the committee.
 - (iii) Previous contract prices adjusted for market conditions.
 - (iv) The range of bids from the most recent solicitation, including a determination of the median price, average price, and any market conditions that have changed since the most recent solicitation.
 - (v) Cost analysis.
 - (vi) Other methods as determined by the committee.

18.1294 Purchase of goods and services from community rehabilitation organizations; preferred status.

Sec. 294.

- (1) To advance the employment of people with disabilities, community rehabilitation organizations shall have preferred status for the purposes of procurement in accord with the provisions of this section. The department's procurements of goods and services from community rehabilitation organizations are exempt from other competitive procurement requirements of this act and, to the extent possible, exempt from other competitive procurement statutes and executive orders. This subsection does not prohibit the department from applying competitive bid requirements to select among community rehabilitation organizations for the purchase of goods and services.
- (2) The department shall purchase goods and services that are manufactured or provided by community rehabilitation organizations in this state pursuant to sections 293 to 297.

18.1295 Committee on purchase of goods and services from community rehabilitation organizations; creation; appointment, qualifications, and terms of members; compensation.

Sec. 295.

The committee on the purchase of goods and services from community rehabilitation organizations is created within the department and shall consist of 6 members appointed by the governor. The members shall serve for a term of 2 years. The committee shall consist of 1 member from the purchasing division of the department, 1 member from Michigan rehabilitation services, 1 member from the commission on disability concerns, 1 member, who shall serve as the chairperson of the committee, from a statewide nonprofit corporation concerned with community rehabilitation organizations, and 2 members at large. Members of the committee shall serve without compensation.

18.1296 Duties of committee.

Sec. 296.

The committee shall do all of the following:

- (a) Meet as often as necessary, but at least quarterly, to carry out its duties.
- (b) Coordinate and monitor the implementation of sections 293 to 297.
- (c) Identify, review, and recommend approval or disapproval to the state administrative board of requests from community rehabilitation organizations to provide goods and services for purchase by the department.
- (d) Establish eligibility criteria for participating community rehabilitation organizations, including criteria that demonstrate the ability to perform the requirements of the contract and establish that the majority of the direct labor hours required to fulfill the contract are performed by individuals with significant disabilities as that phrase is defined in 29 USC 705(21)(A).
- (e) At least annually, in cooperation with the department, establish and review fair market prices and methods for establishing fair market prices for goods and services to be purchased from community rehabilitation organizations.
- (f) Establish procedures regarding the functions and operations of the committee.
- (g) Prepare an annual report depicting the activities related to this section that includes, at a minimum, all of the following:
 - (i) A summary of products and services purchased by the department from community rehabilitation organizations.
 - (ii) The names of community rehabilitation organizations participating.
 - (iii) The impact of this section upon production, work stabilization, program development, and the number of persons with a disability served by community rehabilitation organizations.
 - (iv) An indication of the areas to which and the amounts for which the budget of the committee was allocated.
- (h) At least annually conduct a review of the prices paid by the department for the goods and services provided by community rehabilitation organizations and make any adjustments necessary to establish new fair market prices.

18.1297 Priority of selection; specifications; sale of goods and services to other governmental agencies or private businesses.

Sec. 297.

- (1) For the purposes of identifying those goods or services or both to be provided by community rehabilitation organizations, first priority of selection shall be given to those goods or services or both currently purchased by the department from commercial businesses outside this state. Next selection priority shall be given to those goods or services or both purchased from commercial businesses within this state. If upon review of the current bids or fair market price of both priorities of goods or services or both, the committee finds that community rehabilitation organizations can provide equal goods or services to the department within current bids or fair market price, then those goods or services or both shall be set aside for exclusive provision by community rehabilitation organizations for purchase by the purchasing division of the department.
- (2) All goods and services purchased by the department from community rehabilitation organizations shall meet the specifications regarding quality, function, and quantity established and published by the department.
- (3) This section does not prevent community rehabilitation organizations from selling goods and services to other governmental agencies or private businesses of their choosing.

APPENDIX B
CRITERIA FOR PARTICIPATING REHABILITATION ORGANIZATIONS

The following eligibility criteria for participation in the state set-aside program are developed by the Committee on the Purchase of Goods and Services from Rehabilitation Organizations as required by PA 372 OF 2010, Section 295.C.

Eligible organizations:

1. Must, as specified by the Act, be a nonprofit, charitable organization or institution, incorporated in Michigan, and is operated for the purpose of carrying out a recognized program of employment and training services for people with disabilities.
2. Must have all wage and hour certificates and be in compliance with all wage and hour regulations;
3. Must have completed a State of Michigan Vendor Application Form;
4. Must abide by bidding requirements of Department of Technology, Management and Budget-Procurement
5. Must be incorporated in the State of Michigan as a non-profit organization and must be in compliance with OSHA and MIOSHA regulations;
6. Produce data required by the Act on the request of the Committee;
7. Must meet vendor requirements as established by the Procurement-DTMB;
8. At least seventy-five percent (75%) of each set-aside contract for goods or services must be performed by persons with disabilities.

APPENDIX C
CRO INITIAL SET ASIDE REQUEST FORM

- To request that a location be place on set-aside by the Committee, a community rehabilitation organization should complete a CRO Set Aside Request Form (next page).
- Forms not completely filled out will be returned to the requestor.
- The CRO Committee will evaluate each request and determine whether the contract will be set aside for provision by a CRO.
- All CROs responding to solicitations must be registered on the State's bid posting system (www.buy4michigan.com) and follow the solicitation instructions.

Appendix C: CRO Set Aside Initial Request Form

Name of CRO		Date	
Address of CRO			
<i>(Street)</i>		<i>(City)</i>	<i>(State)</i>
			<i>(Zip Code)</i>
Name and title of requestor		Phone number of requestor	
Email address of requestor			
Description of set aside request. Attach an additional sheet of paper if necessary.			
Do you certify that the CRO named above is a nonprofit charitable organization or institution incorporated in Michigan that is operated for the purpose of carrying out a recognized program of employment and training services for people with disabilities?			<input type="checkbox"/> YES <input type="checkbox"/> NO
Do you certify that the majority of direct labor hours required to fulfill the requested set aside contract will be performed by individuals with significant disabilities as that phrase is defined in 29 USC 705(21)(A)?			<input type="checkbox"/> YES <input type="checkbox"/> NO
How many full-time and part-time disabled employees will be put to work on the requested set aside contract?			
Full-time employees		Part-time employees	
Does the CRO have prior experience (in scope, quality, function, quantity) in providing the good or service to other customers? If so, please provide documentation showing this experience, including at least 3 customer references. Provide any other relevant information, such as a business plan, revenue forecast etc., if request is for new category of product or service.			<input type="checkbox"/> YES <input type="checkbox"/> NO
Reference 1	<i>(Name)</i>	<i>(Title)</i>	<i>(Phone #)</i>
Reference 2	<i>(Name)</i>	<i>(Title)</i>	<i>(Phone #)</i>
Reference 3	<i>(Name)</i>	<i>(Title)</i>	<i>(Phone #)</i>
If set aside request is for on-site or janitorial services, please identify the physical address of the requested location below. Attach an additional sheet of paper if there are multiple locations.			
Address of set aside location			
<i>(Street)</i>		<i>(City)</i>	<i>(State)</i>
			<i>(Zip Code)</i>
Is there a current contract in place for the set aside request?			<input type="checkbox"/> YES <input type="checkbox"/> NO
If so, what is the contract number?			
Is the current contract expiration date within 6 to 12 months from date of request? Note: Set aside requests will not be considered outside this time frame unless an exception is granted by the CRO Committee. Solicitations are typically posted 3-4 months prior to contract expiration.			<input type="checkbox"/> YES <input type="checkbox"/> NO

Appendix D: CRO Set Aside Renewal / Continuation Form



Name of CRO		Date	
Address of CRO			
<i>(Street)</i>		<i>(City)</i>	<i>(State)</i>
			<i>(Zip Code)</i>
Name and title of requestor		Phone number of requestor	
Email address of requestor			
Description of set aside request. Attach an additional sheet of paper if necessary.			
Do you certify that the CRO named above is a nonprofit charitable organization or institution incorporated in Michigan that is operated for the purpose of carrying out a recognized program of employment and training services for people with disabilities?			<input type="checkbox"/> YES <input type="checkbox"/> NO
Do you certify that the majority of direct labor hours required to fulfill the requested set aside contract will be performed by individuals with significant disabilities as that phrase is defined in 29 USC 705(21)(A)?			<input type="checkbox"/> YES <input type="checkbox"/> NO
If set aside request is for on-site or janitorial services, please identify the physical address of the requested location below. Attach an additional sheet of paper if there are multiple locations.			
Address of set aside location			
<i>(Street)</i>		<i>(City)</i>	<i>(State)</i>
			<i>(Zip Code)</i>
Is the current contract for this product or service on set aside?			<input type="checkbox"/> YES <input type="checkbox"/> NO
If so, what is the contract number?			
Is the current contract expiration date within 6 to 12 months from date of request? Note: Set aside requests will not be considered outside this time frame unless an exception is granted by the CRO Committee. Solicitations are typically posted 3-4 months prior to contract expiration.			<input type="checkbox"/> YES <input type="checkbox"/> NO

Appendix E: CRO Set Aside Evaluation Form



Sec. 18.296		
Requirement (c): Identify, review, and recommend approval or disapproval to the state administrative board of requests from community rehabilitation organizations to provide goods and services for purchase by the department.		
1.	Does the requesting organization meet the statutory definition of a CRO?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2.	Does the requesting CRO have prior experience (in quality, function, quantity) in providing the good or service to other customers? Attach supporting documentation.	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.	Will the majority (75%) of direct labor hours to fulfill the contract be performed by individuals with significant disabilities as that phrase is defined in 29 USC 705(21)(A)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
4.	Number of full-time and part-time disabled employees who will be put to work on the requested set aside contract:	Full Time: Part Time:
5.	Has a fair market price been established or can one be established?	<input type="checkbox"/> YES <input type="checkbox"/> NO
6.	a.) Does the set-aside request cover all products and/or services on the existing contract?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	b.) If not, is a carve-out of one or more of the products and services on the existing contract being requested for set aside?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Sec. 18.297		
Requirement (1): For the purposes of identifying those goods or services or both to be provided by community rehabilitation organizations, first priority of selection shall be given to those goods or services or both currently purchased by the department from commercial businesses outside this state. Next selection priority shall be given to those goods or services or both purchased from commercial businesses within this state. If upon review of the current bids or fair market price of both priorities of goods or services or both, the committee finds that community rehabilitation organizations can provide equal goods or services to the department within current market bids or fair market price, then those goods or services or both shall be set aside for exclusive provision by community rehabilitation organizations by the purchasing division of the department.		
1.	a.) Has the current contract holder been identified?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	b.) Is it a Michigan or non-Michigan business (as defined by the department)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2.	Can the CRO provide equal goods and services at a fair market price?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.	What are the financial implications of this request (see number 6 above)?	

_____ Recommend **APPROVAL** of set-aside request (upon approval, CRO Committee will research marketplace and communicate the opportunity to qualified CROs)

_____ Recommend **DISAPPROVAL** of set-aside request. Detail reasons for disapproval on additional sheet of paper.

_____ Further study required

_____ Date of Committee action

The CRO Committee reserves the right to modify the above evaluation criteria above at any time.