

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- HABILITATION PROCUREMENT PROGRAM

Introduced By: Representatives Carson, Casimiro, Kazarian, Cortvriend, Donovan, Spears, and Tanzi

Date Introduced: March 03, 2023

Referred To: House Labor

(Governor's Commission on Disabilities)

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 37-2.4 of the General Laws entitled "Habilitation
2 Procurement Program" is hereby amended to read as follows:

3 ~~CHAPTER 37-2.4~~

4 ~~Habilitation Procurement Program~~

5 CHAPTER 37- 2.4

6 INTEGRATING WORKERS WITH DISABILITIES INTO THE WORKFORCE

7 SECTION 2. Sections 37-2.4-1 and 37-2.4-2 of the General Laws in Chapter 37-2.4 entitled
8 "Habilitation Procurement Program" are hereby amended to read as follows:

9 **37-2.4-1. Definitions.**

10 The words defined in this section have the meanings set forth below whenever they appear
11 in this chapter, unless context in which they are used clearly requires a different meaning or a
12 different definition as prescribed for a particular section, group of sections, or provision:

13 (1) "Board" means the habilitation procurement board created under this section;

14 (2) "Habilitation facility" means a program that is operated primarily for the purpose of the
15 employment and training of persons with a disability by a government agency or a qualified
16 organization, as prime or subcontractors, licensed by the State of Rhode Island providing vocational
17 rehabilitation to support people with disabilities and:

18 (i) Maintains an employment ratio of at least forty percent (40%) of the program employees

1 under the procurement contract in question have severe disabilities;

2 (ii) Complies with any applicable occupational health and safety standards prescribed by
3 the United States Department of Labor ~~or~~, is a supported employment program approved by the
4 state of Rhode Island office of rehabilitation services, [chapter 12 of title 28 \("minimum wages,"](#)
5 [and consent decree case U.S. V. State of Rhode Island, Case No CA14-175 \(1:14-cv-00175-L-](#)
6 [PAS\) and subsequent judicial orders](#);

7 (iii) Has its principal place of business in Rhode Island;

8 (iv) Produces any goods provided under this section in Rhode Island; and

9 (v) The services provided, in accordance with the provisions of this chapter, are provided
10 by individuals with the majority being domiciled residents of the state of Rhode Island.

11 [\(3\) "Integrated employment setting at competitive wages" means any work as defined by](#)
12 [29 U.S.C. 705\(5\).](#)

13 ~~(3)~~[\(4\)](#) "Person with a disability" means any individual who has a severe physical or mental
14 impairment that constitutes a substantial barrier to employment, as certified by the department of
15 human services or the department of behavioral healthcare, developmental disabilities and
16 hospitals.

17 **37-2.4-2. Habilitation procurement board.**

18 (a) There is created the habilitation procurement board within the division of purchasing
19 and general services of the department of administration. The board shall be composed of the
20 following five (5) members:

21 (1) The chief purchasing officer as defined in subdivision 37-2-7(3) or his/her designee;

22 (2) The director of the department of behavioral healthcare, developmental disabilities and
23 hospitals created under title 40.1 or his/her designee;

24 (3) The director of the department of human services created under title 40 or his/her
25 designee;

26 (4) A person with a disability who shall be appointed to a three (3) year term by the
27 governor with the advice and consent of the senate;

28 (5) A representative of the private business community who shall be appointed to a three
29 (3) year term by the governor with the advice and consent of the senate;

30 (b) The board shall meet, as needed, to facilitate the procurement of goods and services
31 from habilitation facilities by a public procurement unit under this chapter by:

32 (1) Identifying goods and services that are available [as prime or subcontractors](#) from
33 habilitation facilities [as prime or subcontractors](#) according to the requirements under subsections
34 37-2.4-3(a), (b) and (c);

1 (2) Helping to ensure that the goods and services are provided at reasonable quality and
2 delivery levels;

3 (3) Recommending to the chief purchasing officer prices in accordance with subdivision
4 37-2.4-3(a)(3) for goods and services that are identified in subdivision (b)(1) of this section;

5 (4) Developing, maintaining, and recommending to the chief purchasing officer a preferred
6 procurement contract list of goods and services identified and priced under subdivisions (b)(1) and
7 (2) of this section;

8 (5) Reviewing bids received by a habilitation facility and making a recommendation of
9 contract award to the chief purchasing officer, the awarding authority that will issue the final
10 purchase order and renew specified contracts for set contract times, without competitive bidding,
11 for the purchase of goods and services as provided for in § 37-2.4-3; and

12 (6) Collecting and reporting program data.

13 (c) The provisions of subsection 37-2.4-2(b) and subdivision 37-2.4-3(1) are an exception
14 to the procurement provisions under this chapter.

15 (d) If two (2) or more certified habilitation facilities bid on the solicitation of services, the
16 purchasing agent, as defined in subdivision 37-2-7(19), of the state agency shall award a contract
17 to one of the certified habilitation facility based on a competitive price determination.

18 (e) The board is authorized to create advisory committees to assist it in the performance of
19 the board's responsibilities.

20 SECTION 3. Chapter 37-2.4 of the General Laws entitled "Habilitation Procurement
21 Program" is hereby amended by adding thereto the following sections:

22 **37-2.4-2.1. Short title and purpose.**

23 This chapter shall be known as the "Integrating workers with disabilities into the workforce
24 act." The purpose of this chapter is to carry out the state's policy of supporting the fullest possible
25 participation of persons with disabilities in state funded and state directed public construction,
26 public projects, in state purchases of goods and services, and prepare workers with disabilities for
27 an integrated employment with opportunity for advancement.

28 **37-2.4-4. Habilitation facilities participation.**

29 The state's annual goal for the habilitation facilities to participate in state procurements and
30 construction projects under this chapter shall be no less than three percent (3%) of the total value
31 of all contracts available to businesses in each fiscal year. The director of the department of
32 administration is further authorized to establish, by rules and regulation, formulas for giving
33 disability business enterprises a preference in contract and subcontract awards.

34 **37-2.4-5. Sanctions.**

1 The director of the department of administration shall have the power to impose sanctions
2 upon contractors not in compliance with this chapter including, but not limited to;
3 (1) Suspension of payments;
4 (2) Termination of the contract;
5 (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated
6 damages; and
7 (4) Denial of the right to participate in future projects for up to three (3) years.

8 **37-2.4-6. Reporting.**

9 By August 1, 2022, and each August 1 thereafter, the department of administration shall
10 submit an annual report to the governor, speaker of the house, senate president, secretary of the
11 executive office of health and human services, the director of the department of behavioral
12 healthcare, developmental disabilities, and hospitals and the director of the office of rehabilitation
13 services for the period from July 1 to June 30 on the actual utilization of habilitation services as
14 contractors, subcontractors, suppliers, and professional service providers for the state. The annual
15 report shall include a list of all disability-owned small businesses that participated as contractors,
16 subcontractors, suppliers, and professional service providers for the state during the previous fiscal
17 year.

18 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- HABILITATION PROCUREMENT
PROGRAM

- 1 This act would provide that persons with disabilities be afforded participation opportunities
- 2 in state funded and state directed public construction projects.
- 3 This act would take effect upon passage.

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