

ACT 280

H.B. NO. 1974-82

A Bill for an Act Relating to Public Purchasing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide employment opportunities for handicapped individuals and minimize their dependence upon public assistance and costly institutionalization through productive gainful employment by assuring an expanded and constant market for products and services through state and county purchase of products and services from rehabilitation facilities operating workshops for handicapped individuals.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . PRODUCTS AND SERVICES OF
HANDICAPPED INDIVIDUALS**

§103- Definitions. For the purpose of this part:

- (1) "Direct labor" means all work required for preparation, processing, or packing of goods or performance of services, but not work relating to supervision, administration, inspection, or shipping;
- (2) "Fair market price" means the price of a product or service paid by a willing buyer to a willing seller, which price is reasonably comparable to prices on the open market;
- (3) "Handicapped individual" means any person who is so severely incapacitated by any physical or mental disability that the person cannot engage in normal competitive employment because of the disability;
- (4) "Public agency" means any agency of the state or county governments; and
- (5) "Qualified rehabilitation facility" means a nonprofit rehabilitation

facility for the handicapped which:

- (A) Is organized and incorporated under the laws of the United States or *this State; and located in the State;*
- (B) Is operated in the interest of and employs handicapped individuals;
- (C) Does not inure any part of its net income to any shareholder or other individual;
- (D) Complies with all applicable occupational health and safety standards required by the federal, state, and county governments; and
- (E) Is certified as a sheltered workshop or work activity center by the United States Department of Labor, and abides by the state department of labor and industrial relations' rules relating to the employment of handicapped individuals.

§103- Purchase by public agency. (a) Any public agency without advertising or calling for bids may purchase products and services provided by qualified rehabilitation facilities serving the handicapped which have indicated an interest in supplying such goods and services, and on an equitable basis may apportion the business among the interested facilities; provided that such goods and services meet the specifications and needs of the purchasing agency and are purchased at a fair market price as determined by the appropriate public agency; and provided further that such facilities comply with the following:

- (1) Meet all of the requirements as a qualified rehabilitation facility under section 103- (5); and
- (2) Maintain a handicapped-to-nonhandicapped employee ratio equal to or in excess of three-to-one for work hours of direct labor at all times on the work contracted.
- (b) The purchasing department or agent of a public agency shall:
 - (1) Receive and review proposals submitted by qualified rehabilitation facilities to sell products and services, and determine if they are suitable for purchase by the agency;
 - (2) Negotiate the conditions and terms for the purchase, including the price of the product or service, between the agency and the qualified rehabilitation facility; provided that the price of the product or service shall not exceed the fair market price and there is assurance that the qualified rehabilitation facility proposal is in compliance with all of the public agency's rules related to purchasing; and
 - (3) Ensure that any product or service purchased from a qualified rehabilitation facility shall not be placed on the Hawaii products list under section 103-42.

§103- Qualified rehabilitation facility; proposal to sell products and services. A qualified rehabilitation facility interested in selling products or services to a public agency, may submit a proposal to the agency containing the following information:

- (1) A description of the product or service;
- (2) The price of the product or service; and
- (3) Documents and information necessary to qualify as a qualified rehabilitation facility under section 103- (5)."

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SECTION 3. This Act shall take effect upon its approval.
(Approved June 18, 1982.)