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### **Georgia's State Use Law**

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### **50-5-135. Creation of State Use Council: Membership, Terms, Appointments, Compensation, Existence.**

There is created the State Use Council, hereafter referred to as the council. The council shall be composed of 15 members as follows:

1. The commissioner of administrative services or his or her designee
  2. The commissioner of human resources or his or her designee
  3. The commissioner of community affairs or his or her designee
  4. The commissioner of corrections or his or her designee
  5. Five members appointed by the Governor who shall represent the business community of the state
  6. Three members appointed by the Governor who shall represent a broad spectrum of persons with disabilities, and
  7. Three members appointed by the Governor who shall represent the interest of organizations representative of persons with disabilities
- b. Initially, the nine members appointed pursuant to paragraphs (5) through (7) in subsection (a) of this Code section shall serve staggered terms of office as follows: three members for two years, three members for three years, and three members for four years. Thereafter, each member shall serve for a term of four years. Such members shall serve until the appointment and qualification of their successors. The members appointed by the Governor shall be selected from the state at large but shall be representative of all of the geographic areas of the state.
- c. All successors shall be appointed in the same manner as original appointments. Vacancies in office shall be filled in the same manner as original appointments. An appointment to fill a vacancy shall be for the unexpired term. The council shall elect its own officers. No vacancy on the

council shall impair the right of the quorum to exercise all rights and perform all duties of the council.

- d. The members of the council shall receive no compensation for their services but shall be entitled to and shall be reimbursed for their actual expenses, including travel and any other expenses incurred in the performance of their duties. Reimbursement for travel by a personal motor vehicle shall be made in the same manner and subject to the same limitations as provided for state employees under Code Section 50-19-7.
- e. The council shall have perpetual existence. Any change in name or composition of the council shall in no way affect the vested rights of any person under this part or impair the obligations of any contracts existing under this part.

**(Code 1981, 50-5-135, enacted by Ga. L. 1993, p. 1736, 2.)**

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**50-5-136. Powers and authority of council.**

- a. The State Use Council shall have the authority authorized in this part concerning the procurement of certain services provided and goods, wares, and merchandise produced by community based rehabilitation programs and training centers and purchased by the Department of Administrative Services. All services provided or goods, wares, or merchandise produced wholly or in part by the community based rehabilitation programs and training centers operated by or under contract with the Department of Human Resources and needed by the departments, institutions, and agencies of the state and its political subdivisions supported wholly or in part by public funds shall be obtained from community based rehabilitation programs and training centers where availability of such services, goods, wares, or merchandise has been certified in writing by the council.
- b. The State Use Council shall have the following powers and authority:
  - 1. To designate a central nonprofit agency to represent community based rehabilitation programs and training centers in the state and to facilitate the distribution of orders of the State of Georgia for goods, wares, merchandise, and services on the procurement list among certified community based rehabilitation programs and training centers. As used in this part, the term "central nonprofit agency" means an agency organized under the laws of Georgia and operated in the interest of persons with disabilities in Georgia, the net income of which does not inure in whole or in part to the benefit of any shareholder or individual. The central nonprofit agency shall be selected using criteria established by the council and shall be selected for a period not to exceed two years, provided that an agency may succeed itself as the central nonprofit agency. The central nonprofit agency will be responsible for selecting the community based rehabilitation program and training center to perform a specific contract for work ordered by the state. Consideration will be given to the strengths of the particular organization, prior work history, and the

ability to produce within time and budgetary parameters. only programs and centers which have been certified by the council will be eligible for state use contracts. Once the community based rehabilitation program and training center has been selected and a subcontract has been established between that community based rehabilitation program and training center and the central nonprofit agency, the central nonprofit agency shall provide management and quality control assistance in the administration of the project. This may be in the form of quality assurance procedures, time and date deadlines, technical assistance in assembly, or a variety of other activities concerning the project at hand. Other than on a specific contract basis, the central nonprofit agency will offer training programs, certification workshops, quality control workshops, and other technical, management, marketing, and general assistance programs to participating programs and centers in the state. These programs may not be mandatory in all cases, however, they will be offered to help the various programs and centers become more productive and efficient in their handling of state use contracts and other work as well. The central nonprofit agency shall maintain the necessary records and data concerning contracts with certified community based rehabilitation programs and training centers and shall maintain communication with community based rehabilitation programs and training centers during the conduct of a contract which has been let with the program and center for various program services as necessary and appropriate

2. To develop, in conjunction with the Department of Administrative Services, a list of goods, wares, merchandise, and services which shall be set aside for purchase from community based rehabilitation programs and training centers. This list shall be reviewed annually and goods, wares, merchandise, and services may be added or deleted as necessary and appropriate
3. To establish fair market prices for commodities or services on the selected procurement list and to consider recommendations from the procuring agencies, the central nonprofit agency, and other relevant sources. The central nonprofit agency shall analyze the data and submit a recommended fair market price to the council along with detailed justification necessary to support the recommended prices. Pricing guidelines shall be established by the council in association with standard methodology for determining fair market value. However, the fair market prices shall not exceed the prices normally paid by state agencies for such commodities or services
4. To oversee and assist in the development of guidelines for the certification of community based rehabilitation programs and training centers in the State of Georgia. The intent of these guidelines shall be to evaluate the qualifications and capabilities of community based rehabilitation programs and training centers interested in certification; to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the production of goods, wares, merchandise, and services to be procured under the state use plan and purchased by the State of Georgia; and to establish a certification process which shall

enable community based rehabilitation programs and training centers qualified under this process to compete in procurement activities provided for by this part. All community based rehabilitation programs and training centers which are certified by the commissioner of human resources as of February 8, 1994, shall not have to undergo the certification evaluation and approval process until 24 months from February 8, 1994

5. With respect to the certification process and the designated community based rehabilitation programs and training centers which may enter into contracts under this part, to establish criteria for determining what constitutes a substantial handicap to employment that prevents the individual under the disability from currently engaging in normal competitive employment. In establishing the criteria, the council shall consult with appropriate entities of government and take into account the views of nongovernmental entities representing the severely handicapped. The council shall give weight to the criteria established by the federal committee for purchase of products and services of the blind and other severely handicapped persons, pursuant to the federal Wagner-O'Day Act (41 U.S.C. Sections 46-48b), as amended
6. To make an annual report to the Governor and the General Assembly concerning its activities under this part and the activities and contracts provided by the central nonprofit agency.

**(Code 1981, 50-5-136, enacted by Ga. L. 1993, p. 1736, 2.)**

Code Commission notes. - Pursuant to Code Section 28-9-5, in 1994, "as of February 8, 1994," and "February 8, 1994" were substituted for "at the time of the effective date of this part" and "said effective date", respectively, in the last sentence in paragraph (4) of subsection (b).

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**50-5-137. Participation of certified community based rehabilitation programs.**

Notwithstanding any other provisions of law to the contrary, certified community based rehabilitation programs and training centers conducting contract work under the state use plan and under the auspices of the central nonprofit agency shall not be required to have prior experience in providing the goods, wares, merchandise, or services in a given contract in order to participate in these contracts.

**(Code 1981, 50-5-137, enacted by Ga. L. 1993, p. 1736, 2.)**

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**50-5-138. Procurement of contracts with central nonprofit agencies; fees; cancellation or modification; existing contracts grandfathered.**

The Department of Administrative Services shall contract with the central nonprofit agency to pay a fee to such agency on the basis of contracts procured from the state. This fee shall be not less than 5 percent nor more than 8 percent of the total

contract fee awarded for a particular project. The fees will be added to the fair market price paid by the state agencies and political subdivisions or will be paid from assessments received from the state agencies and political subdivisions by the Department of Administrative Services. The timeliness and methodology of collection of these fees will be decided upon between the Department of Administrative Services and the central nonprofit agency and shall be incorporated into such contract.

- a. The commissioner of administrative services retains the right to cancel or modify contracts which have been selected for procurement under this part for nonperformance and noncompetitive pricing reasons. (c) All contracts which presently exist between the State of Georgia and community based rehabilitation programs and training centers in Georgia, including the State of Georgia administered Georgia Industries for the Blind, shall be grandfathered in perpetuity, excepting for nonperformance reasons according to the policies, regulations, and determination of the Department of Administrative Services.

**(Code 1981, 50-5-138, enacted by Ga. L. 1993, p. 1736, 2.)**