

HUMAN RESOURCES CODE

TITLE 8. RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES

CHAPTER 122. PURCHASING FROM PEOPLE WITH DISABILITIES

Sec. 122.001. PURPOSE. The purpose of this chapter is to further the state's policy of encouraging and assisting persons with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities and, in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to persons with disabilities. Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Sec. 122.0012. SUNSET PROVISION. (a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 6.03, eff. June 10, 2019.

(b) The Texas Workforce Commission's authority to administer and oversee the program administered under this chapter is subject to Chapter 325, Government Code (Texas Sunset Act). Notwithstanding any other law, that authority expires September 1, 2027, unless continued in existence as provided by Chapter 325, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 21, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 4.10, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 6.03, eff. June 10, 2019.

Sec. 122.002. DEFINITIONS. In this chapter:

(1) "Central nonprofit agency" means an agency designated as a central nonprofit agency under contract under

Section 122.019.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(103), eff. April 2, 2015.

(3) "Community rehabilitation program" means a government or nonprofit private program operated under criteria established by the council and under which persons with severe disabilities produce products or perform services for compensation.

(4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 672 , Sec. 27(1), eff. September 1, 2015.

(5) "Disability" means a mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment.

(6) "Workforce commission" means the Texas Workforce Commission.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 132, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(103), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 27(1), eff. September 1, 2015.

Sec. 122.0057. ADVISORY COMMITTEE. (a) The workforce commission shall establish an advisory committee to assist the workforce commission in establishing:

(1) performance goals for the program administered under this chapter; and

(2) criteria for certifying a community rehabilitation program for participation in the program administered under this chapter.

(b) The advisory committee consists of 13 members appointed by the workforce commission as follows:

(1) four representatives from community rehabilitation programs that participate in the program

administered under this chapter;

(2) four representatives from organizations that advocate for persons with disabilities;

(3) the executive commissioner of the health and human services commission or designee; and

(4) four persons with disabilities, of whom two are employed by a community rehabilitation program that participates in the program administered under this chapter.

(c) Members of the advisory committee serve at the will of the workforce commission.

(d) The workforce commission shall appoint a presiding officer from among the advisory committee members.

(e) The members of the advisory committee serve staggered four-year terms, with the terms of either six or seven members expiring February 1 of each odd-numbered year. A member may not serve more than two terms.

(f) A vacancy on the committee shall be filled in the same manner as the original appointment for that position.

(g) The advisory committee shall meet semiannually.

(h) The advisory committee shall:

(1) establish specific objectives for the program administered under this chapter that are appropriate given the program's status as one of several employment-related services this state offers to persons with disabilities;

(2) develop performance measures that may be used by the workforce commission to evaluate whether the program is meeting the objectives established under Subdivision (1); and

(3) recommend criteria for certifying community rehabilitation programs for participation in the program.

(i) In developing the performance measures under Subsection (h), the advisory committee must consider the following factors as applicable to the program administered under this chapter:

(1) the percentage of total sales revenue attributable to the program:

(A) paid in wages to persons with disabilities;
and

(B) spent on direct training and professional

development services for persons with disabilities;

(2) the average hourly wage earned by a person participating in the program;

(3) the average annual salary earned by a person participating in the program;

(4) the number of persons with disabilities participating in the program paid less than minimum wage;

(5) the average number of hours worked each week by a person with a disability who participates in the program;

(6) the percentage of persons with disabilities who participate in the program and who are placed into competitive positions, including competitive management or administrative positions within community rehabilitation programs; and

(7) the percentage of work performed by persons with disabilities who participate in the program that is purely repackaging labor.

(j) The advisory committee shall meet at the call of the presiding officer at least once each fiscal year to review and, if necessary, recommend changes to program objectives, performance measures, and criteria established under Subsection (h).

(k) The advisory committee shall provide input to the workforce commission in adopting rules applicable to the program administered under this chapter relating to the employment-first policies described by Sections [531.02447](#) and [531.02448](#), Government Code.

(l) The workforce commission shall provide administrative support to the advisory committee.

(m) The advisory committee is not subject to Chapter [2110](#), Government Code.

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.418, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 5, eff. September 1, 2015.

Sec. 122.0058. APPLICATION OF OPEN MEETINGS LAW, OPEN

RECORDS LAW, AND ADMINISTRATIVE PROCEDURE LAW TO ADVISORY COMMITTEE. The advisory committee established under Section 122.0057 is subject to the requirements of the open meetings law, Chapter 551, Government Code, the open records law, Chapter 552, Government Code, and Chapter 2001, Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 6, eff. September 1, 2015.

Sec. 122.007. FAIR MARKET PRICE; PURCHASING PROCEDURES.

(a) The workforce commission shall determine the fair market price of all products and services manufactured or provided by persons with disabilities and offered for sale to the various agencies and departments of the state and its political subdivisions by a community rehabilitation program participating in the program administered under this chapter. The workforce commission shall ensure that the products and services offered for sale offer the best value for the state or a political subdivision. The comptroller shall provide the workforce commission with the information and resources necessary for the workforce commission to comply with this subsection.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 672 , Sec. 27(7), eff. September 1, 2015.

(c) The workforce commission shall revise the prices periodically to reflect changing market conditions.

(d) Before offering for sale products and services manufactured or provided by persons with disabilities to state agencies and political subdivisions, the workforce commission shall test the goods and services in accordance with Section 2155.069, Government Code, to the extent necessary to ensure quality. The workforce commission may enter into a contract with a private or public entity to assist with testing. The comptroller shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller or meeting commercial specifications approved by the comptroller.

(e) Requisitions for products and services required by state agencies are processed by the comptroller according to rules

established by the comptroller.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1206, Sec. 25, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.419, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 7, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 27(7), eff. September 1, 2015.

For expiration of this section, see Subsection (h).

Sec. 122.0075. MINIMUM WAGE PLAN. (a) This section applies to a community rehabilitation program that:

(1) is participating in the program administered under this chapter; and

(2) pays workers with disabilities employed by the program wages that are less than the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) The workforce commission shall assist:

(1) a community rehabilitation program in developing a plan to increase the wages paid to its workers with disabilities to the federal minimum wage not later than September 1, 2022, for work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter; and

(2) a community rehabilitation program by providing:

(A) information about certified benefits counselors to ensure that workers are informed about work incentives and the potential impact the increase in wages may have on a worker's eligibility for any federal or state benefit program; and

(B) a referral to a certified benefits counselor to any worker with a disability who requests a referral.

(c) Each community rehabilitation program shall, to the maximum extent possible, ensure that each worker with a disability remains employed by the program after the program increases the

wages paid to those employees in accordance with the plan developed under Subsection (b).

(d) If a community rehabilitation program is unable to employ all workers with a disability after the program increases the wages paid to those employees to the federal minimum wage, the community rehabilitation program shall work with the workforce commission and any other governmental entity to seek and obtain any job training and employment services that may be suitable for those former employees to find other employment that pays at least the federal minimum wage.

(e) In addition to the assistance described by Subsection (d), the workforce commission may, at the worker's request, assist a worker with a disability not retained by a community rehabilitation program to secure employment in a position that pays at least the federal minimum wage.

(f) On request of a community rehabilitation program, the workforce commission may extend the period for compliance with the program participation requirements of Section 122.0076 for not more than 12 months if the community rehabilitation program:

(1) requests the extension not later than March 1, 2022;

(2) has demonstrated to the commission that an extension would be in the best interest of the program's employees with disabilities;

(3) has worked with the commission to develop a transition plan and made meaningful progress toward meeting the program participation requirements of Section 122.0076; and

(4) submits a revised transition plan to the commission detailing how an extension will allow the program to meet the program participation requirements of Section 122.0076.

(g) The workforce commission shall make a decision on a request for an extension under Subsection (f) not later than May 1, 2022. The commission may not grant more than one extension to a community rehabilitation program.

(h) This section expires September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 35 (S.B. 753), Sec. 1, eff. September 1, 2019.

For expiration of Subsections (d) and (e), see Subsection (e).

Sec. 122.0076. WAGE REQUIREMENTS. (a) A community rehabilitation program may not participate in the program administered under this chapter unless each worker with a disability employed by the program is paid at least the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206), for any work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter.

(b) The workforce commission may exempt the community rehabilitation program from the requirements of this section with respect to a worker with a disability if the workforce commission determines, based on the worker's circumstances, that requiring the program to pay the worker at the federal minimum wage would result in the program not being able to retain the worker with a disability, the worker would not have success obtaining work with a different employer, and the worker, based on the worker's circumstances, would not be able to obtain employment at a higher wage than the program would be able to pay the worker notwithstanding the requirements of this section.

(c) To the extent of a conflict between this section and Chapter 62, Labor Code, this section controls.

(d) This section does not apply to a community rehabilitation program's eligibility to participate in the program administered under this chapter before the later of:

(1) September 1, 2022; or

(2) the date an extension granted under Section 122.0075(f) expires.

(e) This subsection and Subsection (d) expire September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 35 (S.B. 753), Sec. 1, eff. September 1, 2019.

Sec. 122.008. PROCUREMENT AT DETERMINED PRICE. A suitable product or service that meets applicable specifications established by the state or its political subdivisions and that is

available within the time specified must be procured from a community rehabilitation program at the price determined by the workforce commission to be the fair market price under Section [122.007](#).

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 8, eff. September 1, 2015.

Sec. 122.009. RECORDS. The records of the workforce commission and of a central nonprofit agency shall, to the extent that the records pertain specifically to state purchases of the products and services of persons with disabilities, be made available upon request to the inspection of representatives of the state auditor, the governor's budget office, or the Legislative Budget Board. The inspection of the records shall be conducted with due regard to the privacy rights of persons with disabilities. A document that is available for inspection under this subsection is an open record for purposes of Chapter [552](#), Government Code.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.420, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 9, eff. September 1, 2015.

Sec. 122.0095. AGENCY COMPLIANCE; NONPROGRAM PURCHASING REPORT. (a) Each state agency that purchases products or services through a program under this chapter shall:

(1) designate an agency employee to ensure that the agency complies with this chapter; and

(2) report to the comptroller and the workforce commission the purchase of products or services available from a central nonprofit agency or community rehabilitation program under

this chapter, but purchased from another business that is not a central nonprofit agency or community rehabilitation program under this chapter.

(b) A report under this section may be based on a sampling of purchases by the agency in an audit conducted after the purchases.

(c) Information in the report under this section shall be included with the exception reports provided under Section [122.016](#).

(d) The comptroller shall post the reports required by Subsection (a)(2) on the comptroller's website.

(e) The workforce commission shall review and analyze the information contained in the reports under this section and Sections [122.012](#) and [122.016](#). The comptroller shall assist the workforce commission in reviewing and analyzing the reports in order to improve state agency compliance with this chapter.

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 4, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 132, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.421, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 10, eff. September 1, 2015.

Sec. 122.010. COOPERATION WITH DEPARTMENT OF CRIMINAL JUSTICE. The workforce commission may cooperate with the Texas Department of Criminal Justice to accomplish the purposes of this chapter and to contribute to the economy of state government. The workforce commission and the department may enter into contractual agreements, cooperative working relationships, or other arrangements necessary for effective coordination and the realization of the objectives of both entities.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.119, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 11, eff.

September 1, 2015.

Sec. 122.011. CORRELATION WITH RELATED FEDERAL PROGRAMS. The workforce commission may adopt procedures, practices, and standards used for federal programs similar to the state program established in this chapter.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 12, eff. September 1, 2015.

Sec. 122.012. DUTIES OF COMPTROLLER; INTERAGENCY COOPERATION. (a) The comptroller shall cooperate with, and provide any necessary support to, the workforce commission in accordance with legislative appropriation.

(b) State agencies responsible for the provision of rehabilitation and related services to persons with disabilities shall cooperate with the workforce commission in the operation of the program. The Department of Assistive and Rehabilitative Services and other state human services agencies responsible for assisting persons with disabilities may, through written agreements or interagency contracts, provide space, storage, logistical support, consultation, expert services, communications services, or financial assistance with respect to the program administered under this chapter.

(c) The comptroller or a state agency may not assume the marketing or fiscal responsibility for the expense of marketing the products and services of persons with disabilities under the program.

(d) The comptroller shall include the programs administered under this chapter in the comptroller's procurement policy manuals.

(e) After any audit or review the comptroller conducts with regard to state agency compliance with purchasing laws and procedures, the comptroller shall report to the workforce commission a state agency that is not complying with this chapter.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1,

1995; Acts 2001, 77th Leg., ch. 1304, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 132, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.422, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 13, eff. September 1, 2015.

Sec. 122.013. RULES. (a) The workforce commission shall adopt rules for the implementation, extension, administration, or improvement of the program authorized by this chapter in accordance with Chapter 2001, Government Code.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 672, Sec. 27(8), eff. September 1, 2015.

(c) The workforce commission shall adopt rules to:

(1) address possible conflicts of interest for central nonprofit agencies and community rehabilitation programs;

(2) establish a process for the certification of community rehabilitation programs;

(3) establish a minimum percentage of disabled labor an organization must employ to be considered a community rehabilitation program under this chapter; and

(4) define the terms "value-added" and "direct labor" for products manufactured and services provided that are offered for sale under this chapter.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.423, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 27(8), eff. September 1, 2015.

Sec. 122.014. PRODUCT SPECIFICATIONS. Except as otherwise provided by this section, a product manufactured for sale through

the comptroller to any office, department, institution, or agency of the state under this chapter shall be manufactured or produced according to specifications developed by the comptroller. If the comptroller has not adopted specifications for a particular product, the production shall be based on commercial or federal specifications in current use by industry for the manufacture of the product for sale to the state.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.424, eff. April 2, 2015.

Sec. 122.015. DETERMINATIONS OF FAIR MARKET VALUE. (a) In determining the fair market value of products or services offered for sale under this chapter, the workforce commission shall give due consideration to the following type of factors:

(1) to the extent applicable, the amounts being paid for similar articles in similar quantities by federal agencies purchasing the products or services under the authorized federal program of like effect to the state program authorized by this chapter;

(2) the amounts which private business would pay for similar products or services in similar quantities if purchasing from a reputable corporation engaged in the business of selling similar products or services;

(3) to the extent applicable, the amount paid by the state in any recent purchases of similar products or services in similar quantities, making due allowance for general inflationary or deflationary trends;

(4) the actual cost of manufacturing the product or performing a service at a community rehabilitation program offering employment services on or off premises to persons with disabilities, with adequate weight to be given to legal and moral imperatives to pay workers with disabilities equitable wages; and

(5) the usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

(b) The actual cost of manufacturing a product or performing a service consists of costs directly associated with a contract and includes costs for labor, raw materials used in the production of the product, storage, and delivery. Actual costs do not include a cost associated with an individual's preparation to perform the work activity.

(c) The fair market value of a product or service, determined after consideration of relevant factors of the foregoing type, may not be excessive or unreasonable.

(d) The comptroller shall provide the workforce commission with the information and resources necessary for the workforce commission to comply with this section.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 15, eff. September 1, 2015.

Sec. 122.016. EXCEPTIONS. (a) Exceptions from the operation of the mandatory provisions of Section 122.014 may be made in any case where:

(1) under the rules of the comptroller, the product or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency; or

(2) the requisitions made cannot be reasonably complied with through provision of products or services produced by persons with disabilities.

(b) Each month, the comptroller shall provide the workforce commission with a list of all items purchased under the exception provided by Subsection (a). The workforce commission shall adopt the form in which the list is to be provided and may require the list to include the date of requisition, the type of product or service requested, the reason for purchase under the exception, and any other information that the workforce commission considers relevant to a determination of why the product or service was not purchased in accordance with Section 122.014.

(c) No office, department, institution, or agency may evade

the intent of this section by slight variations from standards adopted by the comptroller, when the products or services produced or provided by persons with disabilities, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.425, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 16, eff. September 1, 2015.

Sec. 122.017. PROCUREMENT FOR POLITICAL SUBDIVISIONS. A product manufactured for sale to a political subdivision of this state or an office or department thereof shall be manufactured or produced according to specifications developed by the purchaser. A political subdivision of this state may purchase products or services for its use from private businesses through its authorized purchasing procedures, but may substitute equivalent products or services produced by persons with disabilities under the provisions of this chapter. Nothing in this chapter shall be construed to require a nonprofit agency for persons with disabilities to engage in competitive bidding.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Sec. 122.018. POLITICAL SUBDIVISIONS EXCLUDED. There are excluded from the mandatory application of this chapter the political subdivisions of the state that are not covered by Title V of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sections 791 through 794f). This chapter does not prohibit a political subdivision from acting as a willing buyer outside a bid system.

Added by Acts 1983, 68th Leg., p. 2953, ch. 504, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.426, eff. April 2, 2015.

Sec. 122.019. CENTRAL NONPROFIT AGENCY. (a) The workforce commission may select and contract with one or more central nonprofit agencies through a request for proposals for a period not to exceed five years. Once the selection process is completed, the workforce commission may contract with a central nonprofit agency to:

(1) recruit and assist community rehabilitation programs in developing and submitting applications for the selection of suitable products and services;

(2) facilitate the distribution of orders among community rehabilitation programs;

(3) manage and coordinate the day-to-day operation of the program, including the general administration of contracts with community rehabilitation programs;

(4) promote increased supported employment opportunities for persons with disabilities; and

(5) recruit and assist qualified nonprofit organizations that are managed by members of racial minorities, women, or persons with disabilities and that are in the process of qualifying as community rehabilitation programs.

(b) The services of a central nonprofit agency may include marketing and marketing support services, such as:

(1) assistance to community rehabilitation programs regarding solicitation and negotiation of contracts;

(2) direct marketing of products and services to consumers;

(3) research and development of products and services;

(4) public relations activities to promote the program;

(5) customer relations;

(6) education and training;

(7) accounting services related to purchase orders, invoices, and payments to community rehabilitation programs; and

(8) other duties designated by the workforce commission.

(c) Each year, the workforce commission shall review services provided by a central nonprofit agency and the revenues required to accomplish the program to determine whether each agency's performance complies with contractual specifications. Not later than the 60th day before the review, the workforce commission shall publish in the Texas Register a request for comment on the services of a central nonprofit agency that participates in community rehabilitation programs.

(d) At least once during each five-year period, the workforce commission may review and renegotiate the contract with a central nonprofit agency. Not later than the 60th day before the date the workforce commission adopts or renews a contract, the workforce commission shall publish notice of the proposed contract in the Texas Register.

(e) The workforce commission shall determine the best method to structure the maximum management fee rate charged by a central nonprofit agency for its services. The management fee rate must be reviewed on an annual basis.

(f) A percentage of the management fee described by Subsection (e) shall be paid to the workforce commission and is subject to Section [122.023](#). The percentage shall be set by the workforce commission in the amount necessary to reimburse the general revenue fund for direct and reasonable costs incurred by the comptroller and the workforce commission in administering the comptroller's and workforce commission's duties under this chapter, including any costs associated with providing support to the advisory committee.

(g) The workforce commission may terminate a contract with a central nonprofit agency if:

(1) the workforce commission finds substantial evidence of the central nonprofit agency's noncompliance with contractual obligations; and

(2) the workforce commission has provided at least 30 days' notice to the central nonprofit agency of the termination of the contract.

(h) The workforce commission may request an audit by the state auditor of:

(1) the management fee set by a central nonprofit agency; or

(2) the financial condition of a central nonprofit agency.

(i) A person may not operate a community rehabilitation program and at the same time contract with the workforce commission as a central nonprofit agency.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.427, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 17, eff. September 1, 2015.

Sec. 122.020. CONSUMER INFORMATION; COMPLAINTS. (a) The workforce commission shall prepare information of consumer interest describing the activities of the workforce commission under this chapter and describing the workforce commission's procedures by which consumer complaints are filed with and resolved by the workforce commission under this chapter. The workforce commission shall make the information available to the general public and appropriate state agencies.

(b) The workforce commission shall keep an information file about each complaint filed with the workforce commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the workforce commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed,

if the workforce commission closed the file without taking action other than to investigate the complaint.

(c) If a written complaint is filed with the workforce commission, the workforce commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The workforce commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the workforce commission's policies and procedures relating to complaint investigation and resolution.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 132, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 18, eff. September 1, 2015.

Sec. 122.0205. ALTERNATIVE DISPUTE RESOLUTION. (a) A dispute between the workforce commission and a central nonprofit agency or a community rehabilitation program shall first be submitted to alternative dispute resolution.

(b) This section does not constitute authorization to sue and does not modify the remedies available under other law.

(c) This section does not limit the workforce commission's ability to request opinions from the attorney general.

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 19, eff. September 1, 2015.

Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS; INSPECTION. (a) The workforce commission may access financial or other information and records from a central nonprofit agency or a community rehabilitation program if the workforce commission determines the information and records are necessary for the effective administration of this chapter and rules adopted under

this chapter.

(b) Information and records must be obtained under Subsection (a) in recognition of the privacy interest of persons employed by central nonprofit agencies or community rehabilitation programs. The information and records may not be released or made public on subpoena or otherwise, except that release may be made:

(1) for statistical purposes, but only if a person is not identified;

(2) with the consent of each person identified in the information released; or

(3) regarding a compensation package of any central nonprofit agency employee or subcontractor if determined by the workforce commission to be relevant to the administration of this chapter.

(c) The workforce commission shall adopt rules establishing procedures to ensure that the information and records maintained by the workforce commission under this chapter are kept confidential and protected from release to unauthorized persons.

(d) The workforce commission or a central nonprofit agency at the workforce commission's direction may inspect a community rehabilitation program for compliance with certification criteria established under Section [122.013\(c\)](#).

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 9, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 132, Sec. 11, 12, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. [212](#)), Sec. 20, eff. September 1, 2015.

Sec. 122.022. REPORTS. (a) The workforce commission shall include in the commission's supplemental annual report to the governor and the legislature under Section [301.065\(c\)](#), Labor Code, a financial report in the form prescribed by Section [2101.011](#), Government Code, relating to the workforce commission's activities under this chapter.

(b) As part of the report filed under Subsection (a), the workforce commission shall provide:

(1) the number of persons with disabilities, according to their type of disability, who are employed in community rehabilitation programs participating in the programs established by this chapter or who are employed by businesses or workshops that receive supportive employment from community rehabilitation programs;

(2) the amount of annual wages paid to a person participating in the program;

(3) a summary of the sale of products offered by a community rehabilitation program;

(4) a list of products and services offered by a community rehabilitation program;

(5) the geographic distribution of the community rehabilitation programs;

(6) the number of workers without disabilities who are employed in community rehabilitation programs under this chapter; and

(7) the average and range of weekly earnings for workers with disabilities and workers without disabilities who are employed in community rehabilitation programs under this chapter.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1995, 74th Leg., ch. 693, Sec. 14, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 10, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 74, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.428, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 21, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 266 (S.B. 1413), Sec. 1, eff. September 1, 2019.

Sec. 122.023. FUNDS. All money paid to the workforce commission under this chapter is subject to Subchapter F, Chapter 404, Government Code.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 22, eff. September 1, 2015.

Sec. 122.024. STRATEGIC PLAN; FINAL OPERATING PLAN. The workforce commission shall prepare a strategic plan and a final operating plan relating to the workforce commission's activities under this chapter as required by Subchapter E, Chapter 2054, Government Code.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 23, eff. September 1, 2015.

Sec. 122.026. APPLICATION OF OTHER LAW. Chapters 252, 262, and 271, Local Government Code, do not supersede this chapter.

Added by Acts 1995, 74th Leg., ch. 746, Sec. 10, eff. Aug. 28, 1995.

Renumbered from Human Resources Code Sec. 122.020 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(62), eff. Sept. 1, 1997.

Sec. 122.028. PROGRAM PROMOTION. The workforce commission shall establish procedures for the promotion of the program administered under this chapter.

Added by Acts 2003, 78th Leg., ch. 132, Sec. 14, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 24, eff. September 1, 2015.

Sec. 122.029. DUTIES OF STATE AUDITOR. (a) As part of an audit of a state agency authorized under Section 2161.123, Government Code, the state auditor shall:

(1) conduct an audit of a state agency for compliance with this chapter; and

(2) report to the workforce commission a state agency that is not complying with this chapter.

(b) If the state auditor reports to the workforce commission that a state agency is not complying with this chapter, the

workforce commission shall assist the agency in complying.

Added by Acts 2003, 78th Leg., ch. 132, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 25, eff. September 1, 2015.

Sec. 122.030. MANAGEMENT FEE RATE; REVIEW PROCESS.

(a) The workforce commission shall develop a formal review process for the annual review conducted under Section 122.019(e). The review process must include:

(1) notice to affected parties, including community rehabilitation programs;

(2) solicitation of public comment; and

(3) documentation provided by a central nonprofit agency in support of a proposed management fee rate change.

(b) Before making a decision relating to the management fee rate, the workforce commission shall consider:

(1) any public comment received;

(2) documentation provided by a central nonprofit agency; and

(3) any documentation provided by a community rehabilitation program or the public.

(c) The workforce commission shall adopt rules to implement this section.

Added by Acts 2003, 78th Leg., ch. 132, Sec. 16, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 26, eff. September 1, 2015.