

NEW MEXICO COUNCIL FOR PURCHASING
FROM PERSONS WITH DISABILITIES

REGULAR MEETING

April 10, 2019, 1:30 PM

New Mexico Commission for Deaf and Hard of Hearing
505 Marquette Ave NW, Suite 1550
Albuquerque, NM 87102

AGENDA ITEM 1: CALL TO ORDER

Chair Lisa Dignan called the meeting to order at 1:49 p.m. MDT.

AGENDA ITEM 2: ROLL CALL

Chair Dignan performed a roll call.

MEMBERS PRESENT

Lisa Dignan	Council Chair, New Mexico Commission for Deaf and Hard of Hearing Representative
Greg Trapp	Council Member, New Mexico Commission for the Blind Representative (participated remotely by telephone)
Roger Newall	Council Member , Disabled Veteran
Antoinette Holmes	Council member, Division of Vocational Rehabilitation Representative (participated remotely by telephone)
Mike Kivitz	Council Member, Community Rehabilitation Program (CRP) Representative
Paul Kippert	Council Member, Designee for Department of Finance and Administration (DFA) Secretary Olivia Padilla-Jackson (participated remotely by telephone)
Phillip Bachicha	Council Member, Designee for Department of Information Technology (DoIT) Secretary Vincent Martinez (participated remotely by telephone)

MEMBERS NOT PRESENT

Anna Silva	Council Member, Interim State Purchasing Director
Pam Lillibridge	Council Member, Community Rehabilitation Program (CRP) Representative

With seven council members present or participating at the time of the roll call, a quorum was established.

AGENDA ITEM 3: INTRODUCTION OF GUESTS AND STAFF

Chair Dignan asked all guests and staff members present at the meeting and participating via telephone to introduce themselves at this time.

OTHER PARTICIPANTS

Matthew Loehman	Horizons of New Mexico
Arturo Soliz	Horizons of New Mexico
Kyle Radford	Horizons of New Mexico
Scott DeVetter	Horizons of New Mexico
Marie Richter	Horizons of New Mexico (participated remotely via telephone)
Taylor McBride	Horizons of New Mexico (participated remotely via telephone)

GUESTS

Brian Ammerman	Adelante Development Center
Michael Davenport	Adelante Development Center
Rebecca Sanford	Adelante Development Center

AGENDA ITEM 4: APPROVAL OF AGENDA

Council member Roger Newall moved to approve the agenda for the April 10, 2019 council meeting. Council member Mike Kivitz seconded the motion, and the agenda was approved in a unanimous vote by the Council.

AGENDA ITEM 5: APPROVAL OF COUNCIL MINUTES OF FEBRUARY 13, 2019

Council member Greg Trapp noted that the February 13, 2019 minutes should be changed to reflect the correct spelling of his name.

Council member Philip Bachicha moved to approve the February 13, 2019 regular meeting minutes, as amended. Council member Newall seconded the motion, and the minutes were approved in a unanimous vote by the Council.

AGENDA ITEM 6: APPROVAL OF THE MINUTES OF THE COMMITTEE OF THE WHOLE OF MARCH 13, 2019

Chair Dignan noted that the March 13, 2019 minutes of the Committee of the Whole should be changed to reflect the correct spelling of Council member Trapp's name.

Council member Trapp moved to approve the March 13, 2019 Committee of the Whole minutes, as amended. Council member Antoinette Holmes seconded the motion, Council member Paul Kippert and Council member Kivitz abstained, and the minutes were approved in a 5-0-2 (Approve – Deny – Abstain) vote by the Council.

AGENDA ITEM 7: CHAIR UPDATE, LISA DIGNAN

Chair Dignan announced she had contacted the New Mexico Boards and Commissions Division to request representation from the Attorney General's Office, as discussed at the March 2019 committee of the whole meeting. She added that the Attorney General's Office was experiencing a high number of vacancies and would fill our request once they had the ability to do so.

Chair Dignan then added that discussion about the financial disclosure and conflict of interest statements, which began in the March 2019 committee of the whole meeting, would be tabled until representation from the Attorney General's Office could be attained.

AGENDA ITEM 8: CENTRAL NONPROFIT AGENCY UPDATE, MATT LOEHMAN

Mr. Matt Loehman, Horizons of New Mexico (Horizons), announced that Horizons was currently in the process of sending out FY20 contract renewal proposals.

Mr. Loehman then reviewed that, as the New Mexico state legislature had closed its 2019 session, a new minimum wage law that was passed increasing the state minimum wage to \$9.20/hour, and taking effect January 1, 2020, could possibly affect FY20 renewals, and would have to be taken into account when reviewing those proposals.

AGENDA ITEM 9: ACCEPTANCE OF CENTRAL NONPROFIT AGENCY ANNUAL AUDIT, MATT LOEHMAN

Mr. Scott DeVetter, Horizons of New Mexico, reviewed the annual financial audit for Horizons of New Mexico.

Council member Kivitz asked if the Council could receive a report outlining Horizons' sales growth over the past 5 to 7 years. Mr. DeVetter responded that he would put that report together and submit it for the Council's review at a later meeting.

Council member Trapp moved to accept the Central Nonprofit Agency annual audit, as presented. Council member Bachicha seconded the motion, and the audit was unanimously accepted and approved in a vote by the Council.

AGENDA ITEM 10: DISCUSSION OF CONTRACTS WITH MEMBER COMMUNITY REHABILITATION PROGRAMS THAT HAVE CERTIFICATES UNDER SECTION 14 (c) OF THE FAIR LABOR STANDARDS ACT THAT AUTHORIZE THE PAYMENT OF SPECIAL SUBMINIMUM WAGES TO WORKERS WITH DISABILITIES

Chair Dignan informed the Council that an ad hoc committee had been established in response to a lawsuit filed by Disability Rights New Mexico against Adelante Development Center (Adelante), in an attempt to work with Adelante and stay aware of any issues that arise out of that lawsuit as it moves forward. She added that the following discussion was being facilitated as a form of due diligence in response to that lawsuit.

Chair Dignan noted that Council member Kivitz would partake in the following discussion as both a member of the Council and as an Adelante representative, but that he had temporarily relocated to the audience with the rest of Adelante's staff for the duration of the discussion. Chair Dignan and Council member Trapp confirmed that a quorum would be maintained under those guidelines.

Council member Trapp explained 14 (c) wages and labor law as it related to the New Mexico State Use Program, before asking representatives from Adelante how many of their contracts utilized 14 (c) labor. Mr. Brian Ammerman, Adelante, stated that 49 of their 167 document destruction contracts utilized 14 (c) labor, which constituted approximately \$1 million in State Use sales, or about 10% of total State Use sales.

Council member Trapp clarified that 14 (c) labor would also constitute about 10% of the contracts that are distributed under the State Use Act, which Mr. Ammerman confirmed.

Council member Trapp asked Mr. Ammerman to outline what Adelante intended to do to assure the Council that they remained compliant with applicable state use law. Mr. Ammerman responded that the first thing Adelante did was outline which contracts utilized 14 (c) wages and labor on the current meeting's agenda, and added that any contracts utilizing those wages and labor would continue to be noted going forward. He then stated that as far as Adelante is aware, they are in compliance with state laws and statutes regulating 14 (c) wage and labor because they hold a 14 (c) wage certificate from the Department of Labor.

Council member Trapp asked Council member Kivitz if there was anything the Council needed to be made aware of as they moved forward discussing this issue. Council member Kivitz noted that Adelante employed 14 (c) wages and labor in only two of their organization's business locations, their secure document center and their mailing services center, and that a Medicaid waiver applied to both of those locations as well. He added that the mailing services location was considered community support services which means that the location could be utilized for both work purposes and other for other services such as day habilitation.

Council member Trapp noted that the Disability Rights lawsuit asserted that Adelante profits from the utilization of 14 (c) wages and labor and, as a result, contracts utilizing those wages and labor are more lucrative. He asked Council member Kivitz to explain whether or not he agreed with that statement. Council member Kivitz disagreed, stating that employing 14 (c) wages and labor actually diminished profit, due to increased supervisory costs, increased management costs, and increased training costs for a labor force that in some instances needed increased supervision at decreased productivity rates.

Council member Trapp asked Council member Kivitz to explain the typical salary received by someone working under a 14 (c) certificate. Council member Kivitz explained that someone working at 30% productivity, which is the lowest productivity percentage currently being utilized at Adelante under the 14 (c) certificate, would earn 30% of the prevailing wage for that work, which is virtually always higher than the minimum wage rate. Mr. Ammerman added for reference that when Adelante conducted its most recent prevailing wage survey for seven different job categories employed by the company, the wages ranged from \$9.33 to \$10.72.

Council member Trapp then asked why Adelante participated in utilizing 14 (c) wages. Council member Kivitz stated that utilizing a 14 (c) certificate allowed Adelante to service a wider range of individuals with disabilities, and noted that Adelante is the largest single provider of supported employment in the state of New Mexico. He also added that Adelante, by participating in and remaining compliant with 14 (c) wage and labor laws, was able to facilitate employment opportunities and other programs that individuals with disabilities could chose to utilize for their benefit.

Council member Trapp asked if Adelante was in compliance with Section 511. Council member Kivitz confirmed that they are, and also confirmed that all new employees are counseled within 6 weeks of beginning their employment and 14 (c) labor with Adelante, as is required under Section 511.

Chair Dignan noted at the end of discussion that Council member Kivitz had resumed his position at the Council table.

AGENDA ITEM 11: APPROVAL OF REQUIREMENTS THAT ALL MEMBER COMMUNITY REHABILITATION PROGRAMS THAT HAVE SECTION 14 (c) CERTIFICATES ANNUALLY SUBMIT VERIFICATION OF COMPLIANCE WITH APPLICABLE WAGE LAW

Council member Trapp made a motion for the Council to require all member community rehabilitation programs that have Section 14 (c) certificates annually submit verification of compliance with applicable wage law, by May 1st of each year when a compliance review will be conducted. Council member Kippert seconded this motion and the motion approved in a unanimous vote by the Council.

AGENDA ITEM 12: APPROVAL OF REQUIREMENTS THAT ANY MEMBER COMMUNITY REHABILITATION PROGRAM THAT HAS NOT SUBMITTED VERIFICATION OF COMPLIANCE WITH APPLICABLE WAGE LAW SUBMIT A CORRECTIVE ACTION PLAN SPECIFYING A SPECIFIC DATE WHEN SUCH COMPLIANCE SHALL BE ACHEIVED, AND THAT NO NEW CONTRACTS INVOLVING 14 (c) WORK BE APPROVED UNTIL SUCH CORRECTIVE ACTION PLAN HAS BEEN SUBMITTED AND SATISFACTORILY IMPLEMENTED

Council member Trapp explained that this requirement would serve as an insurance policy for community rehabilitation programs that somehow fell out of compliance with 14 (c) wage laws, by allowing them to establish their intentions about how they would go about regaining their compliance through the submission of a corrective action plan.

Council member Trapp made a motion for the Council to require any member community rehabilitation program that has not submitted verification of compliance with applicable wage law submit a corrective action plan specifying a specific date when such compliance shall be achieved, and that no new contracts involving 14 (c) work be approved until such corrective action plan has been submitted and satisfactorily implemented. Council member Newall seconded the motion, and the motion was approved in a unanimous vote by the Council.

AGENDA ITEM 13: APPROVAL OF CENTRAL NONPROFIT AGENCY PROCEDURE FOR REVIEWING COMMUNITY REHABILITATION PROGRAM COMPLIANCE WITH APPLICABLE WAGE LAW

Council member Trapp requested that agenda item 13 be tabled, and brought back up at the next Council meeting when Horizons could present a written procedure for reviewing community rehabilitation program compliance with applicable wage law.

AGENDA ITEM 14: APPROVAL OF COUNCIL STATEMENT AFFIRMING THE IMPORTANCE OF ACTIVE PARTICIPATION BY MEMBER COMMUNITY REHABILITATION PROGRAMS IN THE PROVISIONS OF SECTION 511 OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT THAT ASSIST INDIVIDUALS WITH DISABILITIES TO MAXIMIZE OPPORTUNITIES TO ACHIEVE COMPETITIVE AND INTEGRATED EMPLOYMENT

Chair Dignan read aloud into public record the Council's proposed proclamation affirming the importance of active participation by member community rehabilitation programs in the provision of section 511 of the Workforce Innovation and Opportunities Act that assist individuals with disabilities to maximize opportunities to achieve competitive and integrated employment.

Council member Kippert moved to accept the proclamation, as presented by Chair Dignan. Council member Newall seconded the motion, and the proclamation was accepted in a unanimous vote by the Council.

AGENDA ITEM 15: APPROVAL OF PROPOSED INCREASE FOR MEMBER DOCUMENT DESTRUCTION RATES

Council member Bachicha moved to approve the proposed rate increases for document destruction, as outlined in the Council's meeting packet. Council member Trapp seconded the motion, Council member Kivitz abstained, and the proposed price increases were approved in a 6-0-1 vote by the Council.

AGENDA ITEM 16: APPROVAL OF SERVICE CONTRACTS

Note: Contracts may have minor adjustments up or down from the dollar amounts listed

Before the Council began approving service contracts under agenda item 16, Chair Dignan noted that Adelante had included an annotated version of the agenda, notating which contracts were being completed utilizing 14 (c) wages and labor.

a) New Contracts \$5,000 and Under

1. *New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services – \$3,993.81*
2. *New Mexico State Land Office and member Adelante Development Center; Document Destruction Services – \$2,022.30*
3. *San Miguel County and member Adelante Development Center; Document Destruction Services – \$4,709.27*

Council member Bachicha moved to approve contracts A1 through A3 as a group. Council member Antoinette Holmes seconded the motion, Council member Kivitz abstained, and the contracts were approved in a 6-0-1 vote by the Council.

4. *San Juan College and member Discount Printing & Mail; Printing Services - \$2,813.88.*
5. *San Juan College and member Discount Printing and Mail; Printing Services - \$4,726.05*
6. *New Mexico Department of Game & Fish and member Greetings, Etc.; Mailing Services - \$3,805.37*

Mr. Loehman announced that contract A5 had been pulled from consideration by the Council.

Council member Kivitz moved to approve contracts A4 and A6 as a group. Council member Newall seconded the motion and the contracts were approved in a unanimous vote by the Council.

b) New Contracts Over \$5,000

1. *Bernalillo County and member Adelante Development Center; Document Destruction Services - \$11,820.00*

Mr. Loehman announced that Bernalillo County had requested to change the scope of contract B1, and that the contract would be presented again at a later meeting for approval.

2. *New Mexico Department of Tourism and member Adelante Development Center; Mailing Services - \$12,576.05*

Chair Dignan clarified that the 14 (c) component of this contract related to the individuals working on the contract that would either receive minimum wage if assisting on postage machines, or piece-rate wages for non-machine related work.

Mr. Loehman noted that the contract reflected a price increase to an existing contract as well.

Council member Newall moved to approve contract B2. Council member Bachicha seconded the motion, Council member Kivitz and Kippert abstained, and the contract was approved in a 5-0-2 vote by the Council.

3. *New Mexico Department of Game & Fish and member LifeROOTS; Carpet Cleaning Services - \$6,750.50*

Council member Bachicha moved to approve contract B3. Council member Holmes seconded the motion and the contract was approved in a unanimous vote by the Council.

c) FY19 Renewal Contracts \$5,000 and Under

(None)

d) FY19 Renewal Contracts Over \$5,000

1. *New Mexico Department of Health and member Crystal Maintenance; Janitorial Services – FY 19 - \$33,185.28, FY 20 - \$34,180.92*

Council member Bachicha moved to approve contract D1. Council member Holmes seconded the motion and the contract was approved in a unanimous vote by the Council.

2. *New Mexico Department of Information Technology and member Crystal Maintenance; Janitorial Services – FY 19 - \$5,418.00, FY 20 - \$5,580.60*

Council member Kippert moved to approve contract D2. Council member Bachicha seconded the motion and the contract was approved in a unanimous vote by the Council.

AGENDA ITEM 17: SERVICE CONTRACTS DIRECTLY DISTRIBUTED UNDER CENTRAL NONPROFIT AGENCY AUTHORITY

a) New Service Contracts Directly Distributed Under CNA Authority

1. *Bernalillo County and member Adelante Development; Document Destruction Services - \$1,112.31*
2. *Mid-Region Council of Governments and member Adelante Development Center; Document Destruction Services - \$73.13*
3. *New Mexico Children Youth and Families Department and member Adelante Development Center; Document Destruction Services - \$113.24*
4. *New Mexico Children Youth and Families Department and member Adelante Development Center; Document Destruction Services - \$541.11*
5. *New Mexico Children Youth and Families Department and member Adelante Development Center; Document Destruction Services - \$1,166.05*
6. *New Mexico Department of Game & Fish member Adelante Development Center; Document Destruction Services – \$56.62*
7. *New Mexico Department of Health and member Adelante Development Center; Document Destruction Services - \$141.54*
8. *New Mexico Department of Public Safety and member Adelante Development Center; Document Destruction Services - \$95.45*
9. *New Mexico Department of Public Safety and member Adelante Development Center; Document Destruction Services - \$299.04*
10. *New Mexico Department of Public Safety and member Adelante Development Center; Document Destruction Services - \$1,023.13*
11. *New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services - \$56.62*
12. *New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services - \$184.01*
13. *New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services - \$998.46*
14. *New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services - \$1,437.90*
15. *New Mexico Department of Workforce Solutions and member Adelante Development Center; Document Destruction Services - \$17.22*
16. *New Mexico Human Services Department and member Adelante Development Center; Document Destruction Services - \$70.77*
17. *New Mexico Workforce Connection and member Adelante Development Center; Document Destruction Services - \$73.13*
18. *New Mexico Supreme Court and member Adelante Development Center; Document Destruction Services - \$503.28*

19. *Rio Metro Transit District and member Adelante Development Center; Document Destruction Services - \$73.13*
20. *San Juan College and member Adelante Development Center; Document Destruction Services - \$28.32*
21. *San Juan College and member Adelante Development Center; Document Destruction Services - \$48.86*
22. *New Mexico Department of Game & Fish and member Discount Printing & Mail; Printing Services - \$1,298.06*
23. *San Juan College and member Discount Printing & Mail; Printing Services – \$472.50*
24. *San Juan College and member Greetings, Etc.; Printing Services - \$404.20*
25. *San Juan College and member Greetings, Etc.; Printing Services - \$408.75*

Chair Dignan announced that contract A1 through A21 of the contracts directly distributed under CNA authority contained 14 (c) labor and wage components related to individuals working on the paper sorting portion of those contracts. She added that wage rates for those individuals ranged from \$3.00 to \$9.66 an hour, and that the average wage rate for the area was \$7.03.

b) FY19 Renewal Service Contracts Directly Distributed Under CNA Authority

(None)

c) Contracts Directly Distributed Under CNA Authority in Cases of Urgent and Immediate Need

(None)

AGENDA ITEM 18: CENTRAL NONPROFIT AGENCY QUARTERLY REPORT, MATT LOEHMAN

The Central Nonprofit Agency quarterly report was tabled until the next council meeting.

AGENDA ITEM 19: APPROVAL OF ADDED AND REMOVED SUITABLE SERVICES

There were no services to be added or removed at this time.

AGENDA ITEM 20: SUBCOMMITTEE UPDATES

There were no subcommittee updates at this time

AGENDA ITEM 21: OPEN PUBLIC FORUM AND PUBLIC COMMENTS

There was no public forum and comment at this time.

AGENDA ITEM 22: COUNCIL DISCUSSION

There was no council discussion at this time.

AGENDA ITEM 23: SUGGESTED AGENDA ITEMS FOR FUTURE MEETINGS

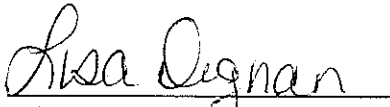
The Central Nonprofit Agency quarterly report, approval of central nonprofit agency procedure for reviewing community rehabilitation program compliance with applicable wage law, and program promotion ideas brought up by Council member Bachicha at the March 2019 committee of the whole, were all added to the next Council meeting agenda.

AGENDA ITEM 24: DATE AND LOCATION OF NEXT MEETING

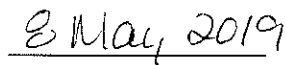
The next regular Council meeting was tentatively scheduled for Wednesday, May 8, 2019 at 1:30 p.m. MDT, at the New Mexico Commission for Deaf and Hard of Hearing.

AGENDA ITEM 25: ADJOURN

With no further business, the meeting was adjourned at 3:44 p.m. MDT.



Lisa Dignan, Chair



Date