

# OFFICIAL DRAFT

## NEW MEXICO COUNCIL FOR PURCHASING FROM PERSONS WITH DISABILITIES Regular Meeting

October 11, 2017, 1:30 P.M.

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

### **AGENDA ITEM 1: CALL TO ORDER**

~~Vice-chair Lisa Dignan called the meeting to order at 1:37 p.m. MDT.~~

### **AGENDA ITEM 2: ROLL CALL**

Vice-chair Dignan, acting as Chair for the duration of the meeting, asked Council member Greg Trapp to perform a roll call.

#### **MEMBERS PRESENT**

Anna Silva	Designee for Council Chairman, Larry Maxwell, State Purchasing Director Representative (participated remotely via telephone)
Lisa Dignan	Council Member, New Mexico Commission for the Deaf and Hard of Hearing Representative
Greg Trapp	Council Member, New Mexico Commission for the Blind Representative
Mike Kivitz	Council Member, Community Rehabilitation Program (CRP) Representative
Pam Lillibridge	Council Member Community Rehabilitation Program (CRP) Representative (participated remotely via telephone)
Roger Newall	Council Member, City of Albuquerque Representative (late arrival at 1:54 p.m., MDT)
Estevan Lujan	Designee for Darryl Ackley, Council Member Department of Information Technology Representative (DoIT) (participated remotely via telephone)

#### **MEMBERS NOT PRESENT**

Paul Kippert	Designee, Council Member for Secretary Rodrigues, Department of Finance Administration (DFA)
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With six council members present, a quorum could not be reached.

The council moved to discuss non-action agenda items until a quorum could be reached.

### **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**

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

**GUESTS**

Brian Ammerman	Adelante Development Center
Lucile Freedland	Freedland Marketing
Therese Baca	Unlimited Office Management Systems

**AGENDA ITEM 4: APPROVAL OF AGENDA**

The approval of the agenda was delayed until a quorum could be reached.

At the time when a quorum was established, Council member Roger Newall moved to approve the October 11, 2017 regular meeting agenda. Council member Trapp seconded the motion and the agenda was approved in a unanimous vote by the Council.

**AGENDA ITEM 5: APPROVAL OF COUNCIL MINUTES OF SEPTEMBER 13, 2017**

The approval of the September 13, 2017 regular meeting minutes was delayed until a quorum could be reached.

At the time when a quorum was established, Council member Trapp requested that the time at which late council members arrived at meetings, thus establishing a quorum, be reflected in the minutes going forward.

Council member Pam Lillibridge moved to approve the September 13, 2017 regular meeting minutes. Council member Newall seconded the motion, Council member Trapp abstained, and the minutes were approved in a 5-0-1 (Approve – Deny – Abstain) vote by the Council.

**AGENDA ITEM 6: CHAIR UPDATE, Larry Maxwell**

There was no chair update at this time.

**AGENDA ITEM 7: CENTRAL NONPROFIT AGENCY UPDATE, Kyle Radford**

Council Chair Larry Maxwell asked Mr. Kyle Radford, Horizons of New Mexico (Horizons), to inform the Council that the Public Employees Retirement Association (PERA) requested a determination of adverse impact regarding a Horizons contract proposal. Ultimately, Horizons was unable to work with PERA on that specific contract due to time constraints, but Chair Maxwell wanted the Council to be notified that state agencies are aware of and utilizing the Adverse Impact Procedure.

Mr. Radford then introduced prospective new Horizons member, Ms. Lucile Freedland, Freedland Marketing, to the Council. Ms. Freedland informed the Council that she provided

services related to marketing troubleshooting, communication services and business advising, among others.

Council member Mike Kivitz asked if Ms. Freedland hired people with disabilities to which Ms. Freedland responded that she employed her website development contractor through the Division of Vocational Rehabilitation (DVR), and that individual currently performed 90% of her organization's web development-related work.

#### **AGENDA ITEM 8: APPROVAL OF SERVICE CONTRACTS**

Approval of service contracts was delayed until a quorum could be reached.

At the time when a quorum was established, the Council acted on the following contracts:

##### **a. Renewal Contracts \$5,000 and Under**

*1. New Mexico Department of Homeland Security and Emergency Management and member My Bug Guy, Pest Control Services; FY17 – \$1,797.00, FY18 – \$1,800.00*

Council member Kivitz moved to approve contract A1. Council member Trapp seconded the motion and the contract was approved in a unanimous vote by the Council.

##### **b. New FY18 Contracts \$5,000 and Under**

*1. New Mexico Department of Game and Fish and member Greetings, Etc.!, Printing Services – \$3,937.50*

*2. New Mexico Children, Youth, and Families Department and member Tresco, Inc.; Janitorial Services – \$2,409.44*

Council member Anna Silva moved to approve contracts B1 and B2. Council member Kivitz seconded the motion and the contracts were approved in a unanimous vote by the Council.

##### **c. Renewal Contracts over \$5,000 Granted Tentative Chair Approval**

*Tentative Chair Approval Granted September 27, 2017*

*1. New Mexico Department of Military Affairs and member Unlimited Office Management Systems; Janitorial Services – \$103,436.46*

Council member Kivitz moved to ratify the tentative chair approval of contract C1. Council member Newall seconded the motion and the contract was ratified in a unanimous vote by the Council.

*Tentative Chair Approval Granted September 28, 2017*

*2. New Mexico Department of Military Affairs and member ARCA; Janitorial Services - \$21,059.73*

Council member Newall moved to ratify the tentative chair approval of contract C2. Council member Silva seconded the motion, Council member Newall then abstained, and the contract was ratified in a 5-0-1 vote by the Council.

**AGENDA ITEM 9: SERVICE CONTRACTS DIRECTLY DISTRIBUTED UNDER CNA AUTHORITY**

**a. Renewal Contracts Directed Under CNA Approval Authority**

- 1. New Mexico Children, Youth and Families Department and member Adelante, Document Destruction Services; FY17 – \$315.00, FY18 – \$333.90*
- 2. New Mexico Taxation and Revenue Department and member Adelante, Document Destruction Services; FY17 – \$315.00, FY18 – \$333.90*

**b. New Service Contracts Directly Distributed Under CNA Authority**

- 1. APS Foundation and member Adelante Development Center; Document Destruction Services – \$30.17*
- 2. Bernalillo County and member Adelante Development Center; Document Destruction Services – \$125.21*
- 3. New Mexico Children, Youth and Families Department and member Adelante Development Center; Document Destruction Services – \$20.48*
- 4. New Mexico Children, Youth and Families Department and member Adelante Development Center; Document Destruction Services – \$41.74*
- 5. New Mexico Department of Health and member Adelante Development Center; Document Destruction Services – \$139.13*
- 6. New Mexico Department of Health and member Adelante Development Center; Document Destruction Services – \$908.59*
- 7. New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services – \$125.19*
- 8. New Mexico Division of Vocational Rehabilitation and member Adelante Development Center; Document Destruction Services – \$222.86*
- 9. New Mexico Energy, Minerals and Natural Resources Department and member Adelante Development Center; Document Destruction Services – \$126.26*
- 10. New Mexico Environment Department and member Adelante Development Center; Document Destruction Services – \$170.63*
- 11. New Mexico State Police and member Adelante Development Center; Document Destruction Services – \$86.36*
- 12. New Mexico Tech and member Adelante Development Center; Document Destruction Services – \$55.65*
- 13. New Mexico Department of Game and Fish and member Greetings, Etc.!: Mailing Services - \$295.32*

Chair Dignan informed the board that two renewal contracts and 13 new contracts had been distributed under the authority of Horizons as the Central Nonprofit Agency (CNA). She added that, by listing the contracts on the agenda, requirements of the Opening Meetings Act were effectively met.

**AGENDA ITEM 10: UPDATE ON REQUEST FOR PROPOSALS FOR CENTRAL NONPROFIT AGENCY**

Chair Dignan announced the Request for Proposal (RFP) for the CNA had been issued in the week previous to the current council meeting. She informed the Council that a pre-proposal conference occurred before the meeting and that one prospective offeror attended that meeting. Chair Dignan also announced that an evaluation committee had been established in an effort to continue to move forward with the RFP process.

**AGENDA ITEM 11: APPROVAL OF REVISION TO PROCEDURE FOR CENTRAL NONPROFIT AGENCY DIRECT DISTRIBUTION OF SMALL CONTRACTS TO ADDRESS ISSUE OF AGENCIES AND LOCAL PUBLIC BODIES HAVING MULTIPLE SMALL CONTRACTS THAT COLLECTIVELY EXCEED \$1,500**

The approval of agenda item 11 was delayed until a quorum could be reached.

At the time when a quorum was established, Chair Dignan explained that a revision had been made to the procedure for the CNA to be able to directly distribute small contracts regarding the distribution of multiple small contracts under the same agency. She asked Council member Trapp to explain the issue further.

Council member Trapp reviewed the revisions made to the procedure regarding the direct distribution of contracts by the CNA.

Council member Silva moved to approve the revised procedure. Council member Estevan Lujan seconded the motion, Council member Kivitz abstained, and the revised procedure was approved in a 5-0-1 vote by the Council.

**AGENDA ITEM 12: APPROVAL OF ADDED AND REMOVED SUITABLE SERVICES**

There were no services to add or approve of at this time.

**AGENDA ITEM 13: DISCUSSION OF 14C SUBMINIMUM WAGE CERTIFICATES AND THE STATE USE ACT PROGRAM**

Council member Trapp announced that there was currently a great deal of interest surrounding the 14(c) subminimum wage debate and that any attempts to eliminate those wages would significantly impact the use of 14(c) certificates in the New Mexico State Use Program. He noted that the Council would likely need to take a position regarding the issue.

Council member Kivitz then clarified that 14(c) wages are wages that the Department of Labor allows for nonprofit organizations to pay people with qualifying disabilities for work commensurate with their productivity, which may be, but is not always, below minimum wage. He added that an exemption within the State Use Act Statute allows for the payment of these wages to prevail over the required minimum wage. Council member Kivitz noted that only three organizations in the state of New Mexico utilize 14(c) wages and that Adelante Development Corporation was one of them, although, as far as Adelante was concerned, very little State Use work was performed by individuals utilizing those wages.

Council member Newall joined the meeting at this time (1:54 p.m., MST), establishing a quorum.

Council member Trapp reiterated Council member Kivitz's thoughts and added that the Council and other individuals contemplating the issue needed to be considerate of what would happen to any displaced individuals, should 14(c) wages be eliminated. He also suggested that the Council seriously consider adopting a position regarding the level of counseling received by individuals utilizing 14(c) wages as a way to ensure that individuals working under the State Use Program are aware of their options for moving into competitive integrated employment.

At the conclusion of the discussion surrounding agenda item 13, the Council moved to act on previous agenda action items that were skipped due to a lack of quorum.

**AGENDA ITEM 14: SUBCOMMITTEE UPDATES**

There were no subcommittee updates at this time.

**AGENDA ITEM 15: OPEN PUBLIC FORUM AND PUBLIC COMMENTS**

Ms. Therese Baca, Unlimited Office Management Systems, thanked Mr. Radford and Mr. Arturo Soliz, Horizons, for their efforts in administering the State Use Program.

**AGENDA ITEM 16: COUNCIL DISCUSSION**

After discussion, the Council decided to include the discussion of and action on the DFA Campaign Disclosure Form as it relates to Horizons of New Mexico contracts and the State Use Program on the next meeting's agenda.

**AGENDA ITEM 17: SUGGESTED AGENDA ITEMS FOR FUTURE MEETINGS**

Council member Trapp suggested that the approval and distribution of an annual report, the receipt of an annual audit from the CNA, and the receipt of a quarterly report from the CNA should all be placed on the agenda for the November Council meeting.

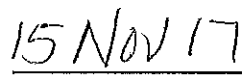
**AGENDA ITEM 18: DATE AND LOCATION OF NEXT MEETING**

The next Council meeting was scheduled for Wednesday, November 15, 2017 at 1:30 p.m., MST, at the New Mexico Commission for Deaf and Hard of Hearing.

**AGENDA ITEM 19: ADJOURN**

With no further business, the meeting was adjourned at 2:38 p.m., MDT.

  
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Larry Maxwell, Chairman

  
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Date

# NEW MEXICO COUNCIL FOR PURCHASING FROM PERSONS WITH DISABILITIES

Adopted: April 12, 2017 (revised October 11, 2017, and November 15, 2017)

## PROCEDURE FOR CENTRAL NONPROFIT AGENCY DIRECT DISTRIBUTION OF SMALL CONTRACTS

### I. Purpose

The purpose of the State Use Act, NMSA 1978, Section 13-1C-1 through Section 13-1C-7, is to “encourage and assist persons with disabilities to achieve maximum personal independence through useful and productive employment by ensuring an expanded and constant market for services delivered by persons with disabilities, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on welfare and entitlements.” To help achieve this purpose, this procedure establishes a process to allow for the Central Nonprofit Agency to “facilitate the equitable distribution” of small contracts as authorized by 2.40.5.10 NMAC, by Section A of 2.40.5.12 NMAC, and by Section B of 2.40.5.14 NMAC. As authorized by **13-1C-5(A)(6) of the State Use Act**, the New Mexico Council for Purchasing from Persons with Disabilities adopts this procedure to facilitate the equitable distribution of contracts by providing a method for the Central Nonprofit Agency to directly distribute qualifying small contracts.

### II. Background

The New Mexico Council for Purchasing from Persons with Disabilities has adopted the practice of discussing and approving all State Use Act contracts during Council meetings, regardless of the size of the contract. This has resulted in the Council and Central Nonprofit Agency spending time and public resources approving very small contracts. By authorizing the Central Nonprofit Agency to directly distribute small contracts, the overall process is made more efficient and productive.

### III. Eligible Contracts

1. For a contract to be eligible for direct distribution by the Central Nonprofit Agency, all of the following shall apply:

- a. The total amount of the contract to be directly distributed shall not exceed \$1,500, unless there has been a determination of immediate and urgent need as set forth in Section IV.
- b. The state agency or local public body shall not have divided the contract or contracts into amounts of \$1,500 or less so as to permit direct distribution.
- c. The services to be provided under the contract must have been determined suitable by the New Mexico Council for Purchasing from Persons with Disabilities.

d. The state agency or local public body and the Central Nonprofit Agency must mutually agree that the services to be provided under the contract are suitable, and the state agency or local public body must have signed the Contract Proposal Acceptance Form.

e. The services to be provided under the contract must be within the "fair market price" range as determined by the New Mexico Council for Purchasing from Persons with Disabilities.

f. Provision of the services under the contract must otherwise not create a significant adverse impact upon the state agency or local public body, as set forth in Section F of 2.40.5.10 NMAC, and as defined by the "Procedure for Determining and Responding to Significant Adverse Impact and Verification of Fair Market Price."

g. The contract for the services to be provided must be in compliance with the Governmental Conduct Act, including the provisions at 10-16-7 that pertain to contracts with public officers of the state, employees of the state, or family members of public officers of the state or employees of the state.

h. The contract for the services to be provided shall otherwise be in compliance with the State Use Act, NMSA 1978, Section 13-1C-1 through Section 13-1C-7.

#### IV. Direct Distributions in Cases of Immediate and Urgent Need

There may be instances in which an agency or local public body may have an immediate and urgent need for services that is greater than \$1,500. In such instances, the Central Nonprofit Agency may directly distribute a contract up to \$5,000. While contracts may be granted tentative Chair approval under Section G of 2.40.5.10 NMAC, the nature of the immediate and urgent need may be such that the contract will be substantially or wholly performed by the next meeting of the Council. For a contract to be eligible for direct distribution by the Central Nonprofit Agency in cases of immediate and urgent need, all of the following shall apply:

a. The total amount of the contract to be directly distributed in cases of immediate and urgent need shall not exceed \$5,000.

b. The state agency or local public body shall indicate that there is an immediate and urgent need for the service and that it is in the public interest to proceed in an expedited fashion; and

1. That proceeding in an expedited fashion may result in avoiding a financial loss to the agency or local public body; or

2. That proceeding in an expedited fashion is necessary for the safe, proper, and efficient operation of the agency or local public body.



c. The services to be provided under the contract must have been determined suitable by the New Mexico Council for Purchasing from Persons with Disabilities.

d. The state agency or local public body and the Central Nonprofit Agency must mutually agree that the services to be provided under the contract are suitable, and the state agency or local public body must have signed the Contract Proposal Acceptance Form.

e. The services to be provided under the contract must be within the "fair market price" range as determined by the New Mexico Council for Purchasing from Persons with Disabilities.

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g. The contract for the services to be provided must be in compliance with the Governmental Conduct Act, including the provisions at 10-16-7 that pertain to contracts with public officers of the state, employees of the state, or family members of public officers of the state or employees of the state.

h. The contract for the services to be provided shall otherwise be in compliance with the State Use Act, NMSA 1978, Section 13-1C-1 through Section 13-1C-7.

## V. Multiple Small Contracts

It is possible that the state agency or local public body procuring the services may have multiple small contracts directly distributed by the Central Nonprofit Agency, and that the sum of those multiple small contracts may exceed \$1,500. It is also possible that the state agency or local public body procuring services in cases of immediate and urgent need may in unusual circumstances need to have multiple small contracts directly distributed by the Central Nonprofit Agency, and that the sum of those multiple small contracts may exceed \$5,000. Such occurrences shall not be a violation of this procedure so long as there is no intentional effort to divide contracts into smaller portions so as to permit direct distribution under this procedure.

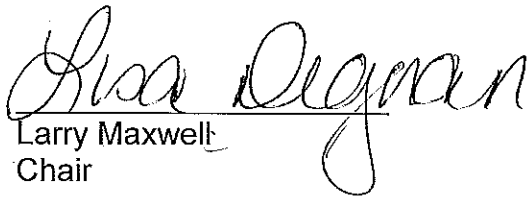
## VI. Transparency and Accountability

So as to provide for maximum transparency and accountability, all small Contracts directly distributed by the Central Nonprofit Agency shall be placed on the agenda of the New Mexico Council for Purchasing from Persons with Disabilities. This placement on the

agenda shall take place as soon as reasonably possible, allowing for compliance with the Open Meetings Act requirement that agendas be posted at least 72 hours in advance of the meeting. Should there be insufficient time to place the contract on the agenda immediately following the Central Nonprofit Agency direct distribution of the contract, the contract shall be placed on the agenda for the next meeting. The agenda shall identify the following:

- a. The amount and nature of the contract.
- b. The state agency or local public body procuring the services.
- c. The Qualified Individual or Community Rehabilitation Program providing the services.

APPROVED BY THE NEW MEXICO COUNCIL FOR PURCHASING FROM PERSONS WITH DISABILITIES THIS 15TH DAY OF November, 2017.

  
Larry Maxwell  
Chair