

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION FOR THE VISUALLY IMPAIRED

### COMMISSION FOR STATEWIDE CONTRACTS TO SUPPORT EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES

Statutory Authority: 16 Delaware Code, Section 9604(e) (16 Del.C. §9604(e))

#### FINAL

#### ORDER

#### **9101 Rules and Regulations of the Statewide Contracts to Support Employment for Individuals with Disabilities**

**AND NOW**, this 21<sup>st</sup> day of March, 2017, the Commission for Statewide Contracts to Support Employment for Individuals with Disabilities (the "Commission") determines and orders the following:

**WHEREAS**, pursuant to 16 Del.C. §9604(e) and 29 Del.C. §10111, the Commission has the statutory power and authority to promulgate regulations which, inter alia, will govern its operations; and

**WHEREAS**, pursuant to 29 Del.C. §§10113(b)(1) and (2), the Commission wishes to adopt and promulgate such regulations and to publish them in the *Register of Regulations* as required by 29 Del.C. §10113(b); and

**WHEREAS**, these regulations are strictly a description of the Commission's organization, operations, and procedures for obtaining information as well as the Commission's rules of practice and procedure. Hence, these regulations are exempt from formal notice requirements pursuant to 29 Del.C. §10113(b)(2), and no formal notice period or public comment period is required pursuant to 29 Del.C. §§10115 to 10118;

#### **NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 16 Del.C. §9604(e) and 29 Del.C. §10113(b)(2), the Commission hereby adopts the Rules and Regulations of the Statewide Contracts to Support Employment for Individuals with Disabilities (the "Rules") as its official regulations as defined by 29 Del.C. §1132(3). A true and correct copy of the Rules is attached as **Exhibit "A"**.

2. The Director of the Division for the Visually Impaired shall transmit a copy of this order (with the attached Rules) to the Registrar of Regulations for publication in the Delaware *Register*. An exact copy of the Rules shall be published as the current official regulations in the Delaware *Register*.

3. The Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper, including promulgating any amendments to the Rules and promulgating any additional regulations in the future.

#### **BY ORDER OF THE COMMISSION:**

Debbie Harrington, Chair

Dean Stotler, Commissioner

Doyle R. Dobbins, Vice-Chair

Cynthia Fairwell, Commissioner

**\*Please Note:** This regulation is effective ten days after publication in the Delaware *Register of Regulations*.

#### **9101 Rules and Regulations of the Statewide Contracts to Support Employment for Individuals with Disabilities**

##### **1.0 General Provisions**

1.1 The name of this entity is the Commission for Statewide Contracts to Support Employment for Individuals with Disabilities ("Commission").

1.2 The mailing address of the Commission is the Biggs Building, 1901 North DuPont Highway, New Castle, Delaware 19720, and the telephone number is 302-255-9800.

1.3 The Commission shall assure an expanded and constant market for products and services of individuals with disabilities. To that end, the Commission will approve proposed contracts and set the price of all products manufactured and services provided by Delaware Industry for the Blind ("DIB") or any community rehabilitation program (CRP) that are being offered to a State agency as defined in 16 Del.C. Ch. 96.

1.4 The Officers of the Commission shall be a Chair (appointed by the Governor) and a Vice-Chair (elected by the members of the Commission).

1.5 The Chair shall preside at all meetings of the Commission. The Chair shall be the only person authorized to make public announcements for the Commission. The Chair may request from the head or administrator of any state agency, as defined in 16 Del.C. Ch. 96, to provide information necessary to enable the Commission to

carry out its duties pursuant to the same chapter. The Chair shall also appoint members to all subcommittees of the Commission. The Chair shall designate members of the Commission to represent the Commission upon all affiliated associations, committees, and organizations; at meetings; and the like. The Chair may also appoint non-Commission members to any subcommittee where he/she deems the person's experience will assist that subcommittee with its responsibilities.

- 1.6 The Vice-Chair shall be vested with all powers and shall perform all the duties of the Chair in his/her absence or disability, to the extent which may be permitted by law, and the Vice-Chair shall perform such other duties as may be prescribed from time to time by the Commission.
- 1.7 The Director of the Division for the Visually Impaired (Director) shall provide administrative services to the Commission. The Director will designate someone to provide administrative assistance at all Commission and all subcommittee meetings and shall record the proceedings of the meetings and shall be responsible for creating the minutes of each meeting. The Director shall give proper notice of all meetings of the Commission and of all of the subcommittees.
- 1.8 The Director shall supervise and direct the execution of all policies, orders, and resolutions of the Commission as may be required of him/her by the Commission.
- 1.9 The Commission shall be composed of the following serving, at the pleasure of the Governor, as voting members with majority members present to rule when voting:
  - 1.9.1 Director of Government Support Services or a designee;
  - 1.9.2 Director of the Division of Vocational Rehabilitation or a designee;
  - 1.9.3 Secretary of Finance or a designee;
  - 1.9.4 Three public members, which shall include at least one person with a disability or a family member of an individual who is 14 years of age or older and has a disability, who are appointed by the Governor;
  - 1.9.5 The Chair, who shall be appointed by the Governor;
  - 1.9.6 Non-voting members who shall consist of the following:
    - 1.9.6.1 A representative of an industry that employs persons with disabilities, appointed by the Governor;
    - 1.9.6.2 The Director of the Delaware Association of Rehabilitation Facilities, Inc. (d/b/a A.N.D.) or its successor; and
    - 1.9.6.3 The Director of the Division for the Visually Impaired.
- 1.10 Members of the Commission shall serve without compensation other than reimbursement for expenses actually incurred in connection with the work of the Commission, and for travel expenses when away from their homes or regular places of business.
- 1.11 There are no set terms for the members of the Commission.

## **2.0 Meetings**

- 2.1 The Commission shall meet once each month; provided, however, that a majority of a quorum present at any such meeting may postpone or change the date of the next monthly meeting.
- 2.2 A special meeting of the Commission may be called at any time by the Chair.
- 2.3 A written notice of each regular meeting of the Commission shall be electronically transmitted by the Director of the Division for the Visually Impaired or his/her designee to each member of the Commission at least seven (7) days prior to the date of such regular meeting. Notice shall be electronically transmitted by the Director of the Division for the Visually Impaired or his/her designee to each member of the Commission at least two (2) days prior to the date of any special meeting which may be duly called, as aforesaid.
- 2.4 A majority of the voting members of the Commission shall constitute a quorum for the transaction of business. Pursuant to 16 Del.C. §9603(j), members of the Commission may participate in a meeting of the Commission by means of conference telephone or other communications equipment by which all persons participating in the meeting can hear each other. Participating in the meeting in this manner shall constitute presence in person at the meeting.
- 2.5 No meeting of the Commission shall be only telephonic. There will be at least one voting member present in the physical location where the public may attend in person.
- 2.6 All Commission meetings shall offer the public the ability to attend the meeting telephonically by including a toll free number in its public notices.
- 2.7 It shall be the duty of the members of the Commission to attend the meetings of the Commission so as to take part in its deliberations. If any appointed member fails to attend three successive meetings of the Commission without good and valid cause or excuse or without leave of absence from the Chair, or if the Chair for any cause cannot act, from the Vice Chair of the Commission, that member's office shall be declared vacant by the

Commission, and the Chair shall notify the Governor of a vacancy on the Commission, and request that the Governor shall fill the same.

2.8 New Commission members shall complete an orientation session designated by the Chair.

2.9 All Commission members shall participate in training session as designated by the Chair.

2.10 At all meetings of the Commission or any subcommittee thereof, all proceedings shall be conducted in accordance with the Delaware Freedom of Information Act, 29 Del.C. Ch. 100 and the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101, as applicable.

### **3.0 Conflicts of Interest**

3.1 Any member of the Commission or subcommittee member having an interest in a matter presented to or being considered by the Commission or a subcommittee for recommendation, authorization, approval or ratification, shall give prompt, full and frank disclosure of his or her interest to the Commission or subcommittee prior to its acting on such matter. The body to which such disclosure is made shall thereupon determine by majority vote, whether the disclosure shows that a conflict of interest exists or can reasonably be construed to exist.

3.2 If the body to which the disclosure is made determines that a conflict exists, the person regarded as having the conflict shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such matter. Such person may not be counted in determining the existence of a quorum for the portion of the meeting where the matter that includes the conflict is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon, and where applicable, the abstention from voting and participation, and whether a quorum was present.

### **4.0 Order of Business**

4.1 The order of business at all regular meetings of the Commission shall be as follows:

4.1.1 Call to Order;

4.1.2 Approval of Minutes of Previous Meeting(s);

4.1.3 Old Business;

4.1.4 New Business;

4.1.5 Report of the Chair;

4.1.6 Report(s) of the Subcommittee(s);

4.1.7 Other Report(s);

4.1.8 Public Comment(s) or Presentation(s); and

4.1.9 Adjournment;

4.2 The Chair shall have the authority to deviate from the order of business as the circumstances warrant.

4.3 Members of the public may speak only during the time that has been designated as "public comment/presentation" under the agenda and only after they have been recognized by the Chair. Members of the public may also speak outside this designated time period but only with the permission of the Chair. Presentations by members of the public shall be limited to five (5) minutes, unless otherwise approved by the Chair. Speakers are requested to give their presentations in the order of sign in. The Chair may limit the number of public speakers heard, as circumstances warrant.

### **5.0 Subcommittees**

5.1 The subcommittees of the Commission shall be as follows:

5.1.1 The Regulations Subcommittee; and

5.1.2 Central Non-Profit Agency (CNA) Subcommittee.

5.2 In December of each year, the Chair shall review the composition of each of the subcommittees, shall make appointments and/or reassign members of the Commission to each of the subcommittees, as needed and permitted by law, and shall name a Chair of each of the subcommittees to serve for the following calendar year. Each member of the Commission shall participate actively in the work of one of the subcommittees. Non-members of the Commission may be appointed by the Chair pursuant to subsection 1.5 of these regulations. Those appointed non-members shall count towards the quorum of that subcommittee and shall have a vote in any matter before the subcommittee. Quorum for any subcommittee shall be a majority of that subcommittee's members.

5.3 The Chair may appoint special or ad hoc committees at any time and from time to time.

- 5.4 The Regulations Subcommittee shall review and revise, when appropriate, the Commission's Regulations to ensure that they are compliant with the Commission's purpose and statutory authority. It will review any recommendations made regarding the regulations.
- 5.5 The CNA Subcommittee shall develop the competitive solicitation for the selection of any central non-profit agency. In addition, the subcommittee shall review the performance of the CNAs as well as review and respond to any complaint filed against a CNA with the Commission. The subcommittee will present its findings and recommendations on any complaint to the Commission.

## **6.0 Annual Report**

- 6.1 Not later than 90 days following the close of each fiscal year, the Commission shall transmit to the Governor and to the General Assembly a report in a format as required by law or executive order. The report shall include the names of the Commission members serving the preceding fiscal year, the dates of the Commission meetings in that year, a description of its activities during that year, and any recommendations for changes in the law which the Commission might suggest.
- 6.2 The Chair may designate the initial drafting of the Annual Report to an ad hoc committee and the Commission shall vote on the final draft prior to its issuance to the Governor and General Assembly.

## **7.0 Amendments**

- 7.1 At any time, anyone, whether a Commissioner or member of the public, who wishes to propose amendments to these regulations shall send such proposal in writing to the Chair of the Regulations Subcommittee who will present the proposal to the subcommittee for their review and consideration.
- 7.2 A copy of any proposed amendment(s) of these regulations as recommended by the subcommittee shall be forwarded by electronic transmittal to each member of the Commission at least ten (10) days prior to the meeting of the Commission at which it is to be presented and acted upon, together with a written notice of the date, hour, and place of such meeting.
- 7.3 Any amendments of these regulations must first be adopted by affirmative vote of two-thirds of the seated voting members of the Commission before the same shall become effective.

**20 DE Reg. 986 (06/01/17) (Final)**