

**CHAPTER 99****STATE USE LAW FOR REHABILITATION  
FACILITIES****Authority**

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

**Source and Effective Date**

R.1990 d.295, effective June 4, 1990.  
See: 22 N.J.R. 766(a), 22 N.J.R. 1724(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 99, State Use Law for Rehabilitation Facilities, expires on June 4, 1995.

**Chapter Historical Note**

Chapter 99, State Use Law for Rehabilitation Facilities, was filed and became effective on January 28, 1971, as R.1971 d.15A. See: 2 N.J.R. 100(b), 3 N.J.R. 41(a). Chapter 99 was repealed by R.1980 d.178, effective April 22, 1980. See: 12 N.J.R. 322(a). Chapter 99 was adopted as new rules by R.1985 d.55, effective February 19, 1985. See: 12 N.J.R. 322(a). Pursuant to Executive Order No. 66(1978), Chapter 99 expired on February 19, 1990. Chapter 99 was adopted as new rules as R.1990 d.295. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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**SUBCHAPTER 1. DEFINITIONS****Authority**

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

**Source and Effective Date**

R.1985 d.55, effective February 19, 1985.  
See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a).

**10:99-1.1 Definitions**

When used in this chapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise.

“Blind person” means a person whose vision in his better eye with proper correction does not exceed 20/200 or who has a field defect in his better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.

“Central Nonprofit Agency” means an agency organized under the laws of New Jersey, operated in the interest of the blind, or other severely handicapped, the net income of which does not inure in whole, or in part, to the benefit of any shareholder or individual, and designated by the Commissioner to facilitate the distribution (by direct allocation, or other means) of orders of the State for commodities and services on the procurement list among qualified rehabilitation facilities for the blind, or qualified rehabilitation facilities for other severely handicapped, and to assist the Council in administering these regulations.

“Commissioner” means the Commissioner of the Department of Human Services.

“Commodities and Services Council” means the Commodities and Services Council for blind and other severely handicapped persons as constituted in Section 3 of Chapter 488, 1981 Laws of New Jersey.

"Fiscal year" means the twelve-month period beginning on July 1, of each year.

"Ordering office" means any activity in an entity of the State that places orders for the procurement of any commodity or service on the procurement list.

"Other severely handicapped" means persons (other than blind persons) who are so severely incapacitated by any physical or mental disability, that they cannot engage in normal competitive employment because of such disability. Some specific categories of severely handicapped persons as defined above include but are not limited to those disabled by the following:

1. Spinal cord injury;
2. Hearing impaired;
3. Muscular dystrophy (adults);
4. Multiple sclerosis;
5. Developmental disabilities or other neurological disorders;
6. Severe orthopedic handicaps;
7. Multiple disabilities;
8. Severe personality or behavioral disorders, including psychosis and neurosis;
9. Severe pulmonary disease;
10. Severe cardiac disorders.

"Rehabilitation facility" means a rehabilitation facility approved by the Division of Vocational Rehabilitation Services or the Commission for the Blind and Visually Impaired and which is engaged in the production of commodities or the provision of services in connection with which not less than 75 percent of the total hours of direct labor is performed by blind or other severely handicapped persons excluding any hours of supervision, administration, inspection or shipping.

"State agency" means any agency of State government, including quasi-State agency entities.

## SUBCHAPTER 2. COMMODITIES AND SERVICES COUNCIL FOR THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS

### Authority

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

### Source and Effective Date

R.1985 d.55, effective February 19, 1985.  
See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a).

### 10:99-2.1 Establishment

There is established in the Department for Human Services, the Commodities and Services for blind and other severely handicapped persons.

### 10:99-2.2 Membership

(a) The Council shall consist of the Director of the Division of Vocational Rehabilitation Services; the Director of the Division of Purchase and Property; the Chief of the Bureau of the State Use Industries; President of the New Jersey Business and Industry Association; the President of the New Jersey AFL-CIO; the Executive Director of the Commission for the Blind and Visually Impaired; the President of the New Jersey Association of Rehabilitation Facilities; or their designees; three citizens as at-large members, at least one of whom shall be a blind person, and one of whom shall represent the general public. The at-large members shall be appointed by the Governor, with the advice and consent of the Senate, for terms of three years, except that of the first at-large members appointed, one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year.

(b) The members of the Council shall organize annually by the selection of one of their members to serve as chairman. Members shall serve without compensation but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

### 10:99-2.3 Duties of the Council

(a) The Council develops, in conjunction with the Division of Purchase and Property in the Department of the Treasury, a list of commodities and services which shall be set aside for purchase from approved rehabilitation facilities and establishes a fair market price for those commodities and services.

(b) The Council recommends to the Commissioner an agency for designation as the Central Nonprofit Agency for the purposes of this program.

(c) The Council encourages the purchase of commodities and services of blind and other severely handicapped persons by political subdivisions of the State.

(d) The Council establishes allowable fees for the Central Nonprofit Agency services to participating rehabilitation facilities.

(e) The Council addresses, as deemed appropriate, grievances presented by participating rehabilitation facilities regarding action by the Central Nonprofit Agency.

(f) The Council monitors the activities of the Central Nonprofit Agency both in terms of its relations with participating rehabilitation facilities and with State Use customer agencies, and, in cases of documented non-compliance on the part of the Central Nonprofit Agency, recommends appropriate corrective action or rescinding of the Central Nonprofit Agency status.

**10:99-2.4 Procurement list**

(a) The Council shall issue to each ordering office a procurement list which will include commodities and services which shall be procured from the designated Central Nonprofit Agency or its approved rehabilitation facilities.

1. For commodities, the procurement list includes the item description, specifications, identification, price and other pertinent information.
2. For services, the procurement list identifies the type of service to be provided, the area(s) and/or agency(s) to be serviced, prices, and other relevant information.

**10:99-2.5 Fair market price**

The Council is responsible for establishing fair market prices, including changes thereto, for commodities or services on the procurement list and shall consider recommendations from the procuring agencies and the Central Nonprofit Agency concerned. Recommendations for fair market prices or changes thereto shall be submitted by the rehabilitation facility to the Central Nonprofit Agency representing the rehabilitation facility. The Central Nonprofit Agency shall analyze the data and submit a recommended fair market price to the Council along with detailed justification necessary to support the recommended price. Pricing guidelines shall be established by the Council.

**10:99-2.6 Annual report**

The Council shall prepare and submit to the Commissioner an annual report on the activities conducted under N.J.S.A. 20:6-23 et seq. (hereinafter the Act) and results within 60 days following the close of the fiscal year.

### SUBCHAPTER 3. CENTRAL NONPROFIT AGENCY

**Authority**

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

**Source and Effective Date**

R.1985 d.55, effective February 19, 1985.  
See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a).

**10:99-3.1 Designation**

A Central Nonprofit Agency shall be designated by the Commissioner to represent the rehabilitation facilities for the blind and rehabilitation facilities for other severely handicapped.

**10:99-3.2 Duties and responsibilities**

(a) The Central Nonprofit Agency shall:

1. Represent rehabilitation facilities in dealings with the Council under the Act.

2. Evaluate the qualifications and capabilities and provide the Council with the pertinent data concerning these rehabilitation facilities, their status as qualified nonprofit agencies, their manufacturing and/or service capabilities, and other information required by the Council.

3. Recommend to the Council, with appropriate justification, including recommended prices, suitable commodities or services for procurement from its qualified rehabilitation facilities.

4. Distribute within the policy guidelines of the Council (by direct allocation, or any other means) orders from State purchasing activities among its qualified rehabilitation facilities.

5. Maintain the necessary records and data on its qualified facilities to enable it to allocate orders equitably.

6. Monitor participating rehabilitation facilities to insure contract compliance in production of a commodity or performance of a service.

7. Monitor and inspect the activities of participating facilities to insure compliance with N.J.S.A. 30:6-23 et seq. and this chapter.

8. As market conditions change, recommend price changes, with appropriate justification, for assigned commodities or services on the procurement list.

9. Enter, as required, into contracts with State procuring activities for the furnishing of commodities or the provision of services provided by the rehabilitation facilities.

10. Submit to the Council a comprehensive annual report for each fiscal year concerning the operations of participating rehabilitation facilities under N.J.S.A. 30:6-23 et seq., including significant accomplishments and developments, and such other details as the Central Nonprofit Agency considers appropriate or the Council may request. This report will be submitted within six weeks following the close of the fiscal year.

11. Provide an appeal process to address disputes or grievances which may occur between the participating rehabilitation facilities and the Central Nonprofit Agency.

**10:99-3.3 Assignment of commodity or service**

(a) The facility first proposing a commodity or service through the Central Nonprofit Agency for addition to the procurement list shall have priority on its assignment unless the Bureau of State Use Industries exercises its priority.

(b) Within 30 days after notification by the Council, or 60 days upon approval by the Council, after the Central Nonprofit Agency has proposed a commodity or service for addition to the procurement list, the Bureau of State Use Industries shall notify the Council of their intention to exercise their priority on the proposed commodity or service.

(c) The Council shall assign commodities or services to approved rehabilitation facilities based on (a) and (b) above.

(d) The facility proposing a commodity or service shall complete action to place it on the procurement list within nine months after assignment. If, within nine months, the rehabilitation facility has not completed action, the Council may reassign the commodity or service to another facility capable of producing the commodity or performing the service, provided that the facility is prepared to take prompt action to submit a proposal to place the commodity or service on the procurement list. Priority on reassignment will be determined by the order in which the facilities proposed the commodity or service for addition to the procurement list, the first proponent having the highest priority.

#### 10:99-3.4 Distribution of orders

The Central Nonprofit Agency shall distribute orders from the State only to facilities which the Council has approved to produce the specific commodity or to perform the particular service. When the Council has approved two or more facilities to produce a specific commodity, or perform a particular service, the Central Nonprofit Agency shall distribute orders among those facilities in a fair and equitable manner.

#### 10:99-3.5 Fees

The fees that the Central Nonprofit Agency charges rehabilitation facilities for coordinating and assisting in their participation under the Act, shall not exceed the rates approved by the Council.

### SUBCHAPTER 4. REHABILITATION FACILITIES

#### Authority

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

#### Source and Effective Date

R.1985 d.55, effective February 19, 1985.  
See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a).

#### 10:99-4.1 Procedures for qualifications

(a) A rehabilitation facility shall submit to the Council, through the Central Nonprofit Agency, the following documents, transmitted by a letter signed by an officer of the corporation:

1. A legible copy of the articles of incorporation showing the date of filing and the signature of an appropriate State official.
2. A copy of the by-laws certified by an officer of the corporation.

3. A copy of the Internal Revenue Service certificate indicating that the corporation has been accepted as a nonprofit agency for taxation purposes.

4. Evidence that the facility meets the criteria for determining nonprofit status under the applicable provisions of New Jersey Statutes, and is registered and in good standing as a charitable organization with the Secretary of State, under the provisions of New Jersey Statutes.

5. A copy of current certificate(s) issued by United States Department of Labor authorizing wage payments under section 14(c) of the Fair Labor Standards Act.

(b) After the review and approval of submitted documentation the Council shall review the documents submitted, and if they are approved by the council the facility will be notified through the Central Nonprofit Agency of the facility's eligibility to participate under the Act.

(c) At the time the Central Nonprofit Agency recommends to the Council the addition of a commodity or service to the procurement list, it shall submit a signed copy of the appropriate initial certification for the facility concerned. This requirement does not apply when a facility is already authorized to produce a commodity or provide a service under the Act.

(d) To maintain its qualifications under the Act, each facility authorized to produce a commodity or provide a service under the Act shall complete an annual certification and submit a signed copy to the Council through the Central Nonprofit Agency within six weeks following the close of the fiscal year.

#### 10:99-4.2 Responsibilities

(a) Each facility participating under the Act shall:

1. Furnish commodities or services in strict accordance with the allocation and State orders.
2. Make appropriate records available for inspection by the Central nonprofit agency at any reasonable time.
3. Maintain records of direct labor hours performed in the facility by each worker.
4. Submit the appropriate annual certification to the Council through its Central Nonprofit Agency within six weeks following the close of the fiscal year.
5. Comply with applicable occupational health and safety standards prescribed by the United States Secretary of Labor.
6. Maintain a file on each blind and other severely handicapped individual which includes reports of pre-admission evaluation, and annual re-evaluations of the individual's capability for normal competitive employment, prepared by a person or persons qualified by training and experience to evaluate the work potential, interest, aptitudes and abilities of handicapped person.

**10:99-4.3 Purchase of raw materials**

Facilities shall seek broad competition in the purchase of raw materials and components used in commodities and services provided by the State under the Act. Facilities shall consult with the Council before entering into multi-year contracts for raw materials or components used in the commodities and services provided the State under the Act.

**10:99-4.4 Production of commodities**

In the production of commodities under the Act, a facility shall make an appreciable contribution to the reforming of raw materials or the assembly of components or a combination thereof.

**10:99-4.5 Suspension of contract**

(a) A contract with a facility may be suspended by the Central Non-Profit Agency for non-compliance with the terms of the contract, such as failure to meet State specifications, quality assurance standards, or quantity and delivery requirements. Prior to any contract suspension, the facility shall be informed of the problem and shall be given a reasonable period to correct the non-compliance.

(b) If a contract with a facility has been suspended under this provision, the facility may subsequently present evidence to the Central Non-Profit Agency that it is capable of meeting the terms of the contract. The Central Non-Profit Agency must document the readiness or capability of the facility to resume production according to the terms of the specific contract prior to resumption of the contract.

**10:99-4.6 Revocation of Approval of Non-Profit Facility**

If the Central Non-Profit Agency recommends the denial of approved status to a facility, or the revocation or suspension of such status, for failure to comply with these regulations or for other good cause, the matter shall be referred to the Council. The Council shall attempt to resolve the matter. If satisfactory resolution of the matter is not accomplished, the matter shall be referred for a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1-1 et seq.

## SUBCHAPTER 5. PROCUREMENT REQUIREMENTS AND PROCEDURES

**Authority**

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

**Source and Effective Date**

R.1985 d.55, effective February 19, 1985.  
See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a).

**10:99-5.1 Ordering offices**

Ordering offices shall obtain commodities and services on the procurement list from the Central Nonprofit Agency.

**10:99-5.2 Allocation and orders**

(a) Allocation is the action to be taken by a Central Nonprofit Agency to designate the facilities that will produce definite quantities of commodities or perform specific services upon receipt of an order.

(b) For commodities, purchase orders shall contain name, commodity number, latest specification, quantity, unit price, and place and time of delivery.

(c) For services, purchase orders shall contain type and location of service required, latest specification, work to be performed, estimated volume, and time for completion.

(d) Ordering offices shall issue purchase orders with sufficient time for the Central Nonprofit Agency to reply, for the order(s) to be placed, and for the facility to produce the commodity or provide the service. (See (i) below).

(e) When a commodity on the procurement list also appears on the schedule of products supplied by the Bureau of State Use Industries, the ordering office shall obtain clearance from the Bureau of State Use Industries prior to placing an order with the Central Nonprofit Agency.

(f) The Central Nonprofit Agency shall make allocations to the appropriate facilities upon receipt of an order from the ordering office.

(g) The Central Nonprofit Agency shall promptly acknowledge purchase orders. When a purchase order provides a delivery schedule which cannot be met, the Central Nonprofit Agency shall request a revision, which the ordering office should grant, if feasible, or the Central Nonprofit Agency shall issue a purchase exception authorizing procurement from commercial sources.

(h) The procurement list shall state for commodities or services lead time for purchase of material, production or preparation and delivery or completion.

(i) The Central Nonprofit Agency shall keep the ordering office informed of any changes in the lead time experienced by its facilities in order to keep to a minimum requests for extensions once an order is placed by the ordering office. Where, due to unusual conditions, an order does not provide sufficient lead time, the Central Nonprofit Agency may request an extension of the delivery or completion date which should be granted, if feasible. If extension of delivery or completion date is not feasible, the ordering office shall first notify the Central Nonprofit Agency, and request the Central Nonprofit Agency to reallocate or to issue a purchase exception authorizing procurement from commercial sources.

**10:99-5.3 Certification of exceptions**

(a) The Central Nonprofit Agency shall certify to an ordering office to permit procurement from commercial sources in accordance with provisions of New Jersey Statutes, or other applicable local ordinances, commodities or services on the procurement list when both of the following conditions are met:

1. The facility cannot furnish a commodity or service within the period specified, and;

2. The commodity or service is available from commercial sources in the quantities and at an earlier time than it is available from the facility.

(b) The Central Nonprofit Agency may similarly issue a certification of exception as in (a) above when the quantity involved is not sufficient for economical production or provision by the facilities.

(c) When the conditions, in (a) or (b) above are met, the Central Nonprofit Agency shall provide such certification promptly and shall specify the quantities and delivery period covered by the certification, and shall notify the Council of its action.

(d) Certification of exception should be provided in written form except that verbal certifications can be accepted when circumstances warrant such action.

#### 10:99-5.4 Prices

(a) The prices included in the procurement list are fair market prices established by the Council.

(b) Prices for commodities include delivery costs (FOB destination), and include packaging, packing and marking as shown on the procurement list.

(c) Price changes for commodities and services shall apply to all orders placed on or after the effective date of the change.

#### 10:99-5.5 Shipping and packing

(a) Commodities shall be shipped freight prepaid (FOB destination). Delivery is accomplished when a shipment is received and accepted by the purchasing agency. Time of delivery is the date the shipment is received.

(b) Standard pack information is stated in item descriptions. In ascending order, standard pack is given in multiples of the unit of issue contained within the inner wrap(s) and the outer shipping container pack.

(c) Shipping weights, where available or applicable, are included in the procurement list. The weight indicated applies to the last quantity shown in the information on standard pack.

#### 10:99-5.6 Payments

Payments for products or services of rehabilitation facilities shall be made within 30 days after receipt of shipment and a correct invoice or voucher whichever is later, unless altered by specific contract provision or applicable state law.

#### 10:99-5.7 Adjustment and cancellation of orders

When the Central Nonprofit Agency or a facility fails to comply with the terms of a State order, the ordering office shall make every effort to negotiate and adjustments before taking action to cancel the order. When a State order is cancelled for failure to comply with its terms, the Central Nonprofit Agency shall be notified, and if practicable, request to reallocate the order. The Central Nonprofit Agency shall notify the Council of any cancellation of an order and the reason therefore.

#### 10:99-5.8 Correspondence and inquiries

Routine correspondence or inquiries concerning deliveries of commodities being shipped from or performance of service by rehabilitation facilities shall be with the Central Nonprofit Agency.

#### 10:99-5.9 Quality of merchandise and services produced or provided by facilities

(a) Commodities furnished under State specification by rehabilitation facilities shall be manufactured in strict compliance with such specifications. Where no specifications exist, commodities produced shall be of the highest quality and equal to similar items available on the commercial market. Commodities shall be inspected utilizing nationally, recognized test methods and procedures for sampling and inspection.

(b) Services provided by rehabilitation facilities shall be performed in accordance with State specifications and standards. Where no State specification or standard exists, the services shall be performed in accordance with good commercial practices.

#### 10:99-5.10 Quality complaints

When the quality of a commodity or service received from rehabilitation facilities is not considered satisfactory by the using activity, the activity shall address complaints to the Central Nonprofit Agency. The Central Nonprofit Agency shall take necessary action to remedy the problem and shall advise the Council accordingly.

#### 10:99-5.11 Specification changes

(a) Specifications cited in the procurement list may undergo a series of changes, indicated by revision dates, to keep current with industry changes and agency needs. Since it is not feasible to show the latest revision current on the publication date, only the basis specification is referenced in the procurement list. Procurement agencies shall notify the Central Nonprofit Agency of the latest applicable specification.

(b) When a State department or agency is changing the design or construction of a commodity on the procurement list that involves the assignment of a new commodity number, the Council and the Central Nonprofit Agency shall be notified of the contemplated change prior to its effective date, and be permitted to incorporate such change in its listed products.