

## NORTHCARE NETWORK

**POLICY TITLE:** Procurement Process

**REVIEWED:** 10/1/04; 3/24/05; 7/3/08

**POLICY EFFECTIVE DATE:** 6-26-02

**BOARD ADOPTED:** 6-26-02

**TEXT REVISIONS:**

**BOARD APPROVED REVISIONS:** 12-18-02

10/29/02

---

### **PURPOSE**

To assign responsibility and establish a uniform and centralized approach to evaluating and selecting service providers, negotiating and awarding service contracts, and entering into agreements.

### **DEFINITIONS**

**Avoidable Cost Analysis** Compare the cost of the provider currently providing a service (known as the avoidable costs) with the sum of the total costs of a contractor (contract costs) providing the service plus the cost associated with the work the current provider has to do to manage the contract (transaction costs).

**Competitive Bidding** The formal process of soliciting proposals/quotations for the provision of services through public advertisements pursuant to a Request for Proposal.

**Competitive Negotiation** The process of selecting several short-listed vendors using particular criteria and then negotiating with each to obtain the best proposal based on clear objectives.

**Competitive Sealed Bids** Following an invitation to bid, confidential bids are received, tabulated, and evaluated. Awards are then made to the lowest responsive and responsible provider.

**Consultant** Any individual, organization, group, association, partnership, firm, joint venture, corporation or any combination thereof providing professional service to NorthCare who is not an employee of NorthCare.

**Contractor** A public or private sector entity with which NorthCare has entered into a formal contract.

**Deliverables** Services or work product to be performed including status reports, recommendations, analysis and other reports and documentation as required.

**Evaluation Criteria** Criteria listed in a solicitation letter, RFQ or RFP against which the proposer and/or proposal will be evaluated for purposes of determining which proposer and/or proposal will be awarded a contract.

**Non-Competitive Negotiation** The selection of a service provider and negotiation of a written contract, which does not occur through a competitive bidding process.

**Professional Services** Those services provided by independent contractors within the scope of their practice including nursing, physicians, therapist, residential services, day program services, inpatient services, and all other services to staff and/or consumers of NorthCare.

**Proposal** Refers to written and oral information submitted by a proposer in response to a Solicitation Document, (RFP or RFQ).

**Proposer** Refers to those responding to a solicitation document RFP or RFQ.

**Request for Proposal (RFP)** The specifications required for submission of a proposal/quotation for the provision of services as delineated by NorthCare.

**Request for Qualifications (RFQ)** The specification of required qualifications for the provision of services as delineated by NorthCare.

**Selection Panel** A multi-disciplinary team of three or more people (minimum of at least one consumer representative) created to evaluate submittals against the stated

evaluation criteria for the purpose of making a selection.

**Solicitation Document** A RFP or RFQ that consists of a package of documents or materials sent to potential proposers when soliciting proposals. Materials would include scope of work, evaluation criteria, submittal requirements and required forms.

**Solicitation Period** The time between the date when a solicitation document (such as an RFP or RFQ) is advertised or distributed and the dates the proposals are to be reviewed.

**Submittal Information** Information submitted by a proposer in order to evaluate qualifications to perform the work or provide service.

**Substantial Nature** This refers to contracts worth \$5000.00 or more.

## **POLICY**

It is the policy of NorthCare that Procurement transactions of a substantial nature be conducted, whenever possible, in a manner which encourages open and free competition, but which does not sacrifice nor have an adverse impact on the quality of the services which the affiliate Boards are required to deliver to the priority population. NorthCare will continually assess its member's needs, and secure services/items in appropriate settings to meet those care needs, while planning for the expansion, adjustment, and improvement of the Provider Network. It is the policy of NorthCare that:

1. The procedures set forth in this document are for the selection of all services retained by NorthCare.
2. The preferred method of procurement is through the competitive process.
3. These procurement procedures may be waived by the CEO when a single source, special market condition or emergency exists.
4. It is the policy of NorthCare that all qualified providers (criteria: accreditation status, fiscal stability, litigation status, insurance levels and enrollment in the Provider Network, warranty, guarantee) expressing an interest in contracting with NorthCare be given the opportunity to compete for contracts.
5. In order to insure a competitive process, NorthCare will solicit at least three (3) responses to any solicitation not advertised in the newspapers.
6. NorthCare will maintain centralized files documenting the procurement process for all procurement for a period of seven years from contract award.
7. Amendments and other changes may only be made to contracts within the original scope of work of the contract.
8. The MDCH procurement checklist will be used as a guide in procurement activities.

## **GENERAL PROCUREMENT PROCEDURES**

1. The item needed is an identified, proven need and approval is obtained from NorthCare or designee to seek a contractual provider through purchase or contract.

2. An avoidable cost analysis/price analysis is completed to determine the necessity and practicality of the purchase.
3. Efforts are made to include small business, minority owned firms, and women's business enterprises.
4. Assess compliance with Limited English Proficiency Guidelines and cultural competence.
5. Contracting entities must establish/have advisory boards and fill positions with consumers, as stipulated in the RFP.
6. The type of procurement process to be used (i.e.: Competitive Sealed Bids, Competitive Negotiation, Non-Competitive Negotiation) is determined.

### **PROCEDURES FOR COMPETITIVE BIDDING**

1. A master list of interested bidders will be maintained on file. Notice will be given to current providers in advance of the date of the advertisement.
2. The person requesting the service:
  - a. Drafts the RFP/RFQ including the following:
    - i. Scope of Work – which includes start and end dates, description/technical requirements of the services to be performed, a description of the deliverables, credentialing/privileging, any constraints on performance and the circumstances (i.e.: population, statutes, rules, licensing requirements, etc.) under which services are to be provided.
    - ii. Evaluation Criteria – the criteria must clearly state the standard against which the proposal will be evaluated as well as how criteria will be weighed (worth so many points each). NorthCare requires that criteria include consideration for experience/expertise.
    - iii. Submittal Information – identifies required submittal information which may include a statement of qualification, a proposal, written information submitted via a questionnaire, other written information, an oral presentation or interview, insurance information and references. Consumers and families may be involved in developing required information.
    - iv. Announcement – The date, time and location of the bidder's meeting for all contractors interested in the submission of proposal/quotations.
    - v. Contract – A sample contract will be included.
  - b. Creates evaluation process/forms to be used by the selection panel. The evaluation Process/forms must include the Evaluation Criteria (i.e.: qualifications, cost, compliance, quality, etc). The weighing as described in the RFP for each criteria, a place for each evaluator to numerically score each proposal against each evaluation criteria and a place for the evaluator to record written comments.

- c. Identifies and recommends at least three people (may include staff and consumers) to serve on the selection panel. The selection panel to be approved by the CEO or designee.
  - d. Provides three or more proposers with the Scope of Work, Evaluation Criteria and Submittal Requirements and/or advertises the RFP in entire catchment area, for at least three (3) days. The RFP shall be forwarded to all contractors requesting such whether solicited via advertisement or other means.
  - e. Answers questions that come up during the solicitation period, particularly technical questions. Any question that cannot be answered by pointing to language in the RFP must be responded to (if at all) in writing to all proposers.
3. The Contract Grant Coordinator receives the Submittal Information.
  4. The Contract Grant Coordinator sends submittal information and evaluation forms to the Selection Panel.

Action By: **Selection Panel**

1. The selection panel composition must reflect consumer involvement and participation by staff/board members who have an expertise in the area(s) under consideration.
2. All selection panel members shall sign a statement of confidentiality prior to participation on the panel.
3. All selection panel members shall sign a statement of no conflict of interest.
4. Reviews and evaluates the submittals, conducts reference checks and scores each proposer against the stated evaluation criteria using information contained in the proposals. The Selection Panel may also request oral interviews with proposers. Consumer involvement is recommended.
5. Sends a selection recommendation to NorthCare along with the basis for the final ranking and all evaluation forms.

Action By: **NorthCare CEO**

1. Presents to the NorthCare Board for approval of contract.

### **Board**

The board reserves the right to reject all bids, to waive or not to waive irregularities in bids or bidding procedures, and to select any bid even though not the lowest.

Action By: **NorthCare Contract Management**

1. Ensures all procurement transactions are conducted in a manner to provide, to the maximum extent practical, open and free competition.

2. Prepares contract which includes the following elements:
  - a. Provisions found in Standard boilerplate including “Equal Opportunity Employer”, Fair Labor Standards Act, Americans with Disabilities Act, Balanced Budget Act, Fair Housing Act, Michigan Handicapper Civil Rights Act, Michigan Mandatory Special Education Act, the Anti-Kickback Act, Public Act 469 of 1980, being MCL 15.361 et seq., otherwise known as the Whistle Blowers Protection Act, OSHA and/or MIOSHA Regulations, The Child Protection Act, Adult Protective Services Act and Assault Reporting, The Anti-Lobbying Act, Pro Children Act, The Hatch Act, The Drug Free Workplace Act, HIPAA regulations;
  - b. Duty to treat and accept referrals, prior authorization requirements, access standards and treatment time lines, relationship with other providers, reporting requirements, QA/QI systems, payment arrangements for services and withholds that may apply to contractor failing to meet deliverables, anti-delegation clause, compliance with the Office of Civil Right Policy Guidelines on Title VI “Language Assistance to Persons with Limited English Proficiency”, Early Periodic Screening, Diagnosis and Treatment (EPSDT) requirements;
  - c. Provisions for the Contractor to participate in NorthCare quality improvement and utilization review activities, as appropriate;
  - d. Provisions for the immediate transfer of consumers to a different contractor if their health or safety is in jeopardy;
  - e. Termination clause, remedial actions clause and requirement for all subcontracting by contractors follow NorthCare standards;
  - f. Not prohibit a provider from discussing treatment options with a consumer that may not reflect NorthCare’s position or may not be covered by NorthCare;
  - g. Not prohibit a contractor from advocating on behalf of the consumer in any grievance or utilization review process, or individual authorization process to obtain necessary health care services;
  - h. Prescribe the frequency with which performance reports shall be submitted;
  - i. Require contractors to meet Medicaid accessibility standards as established in Medicaid policy and the contract;
  - j. Identifies the complete scope of work, description of all deliverables, the contract period, and names of contact representatives for NorthCare and contractor.
3. Credentials/re-credentials providers, including criminal background checks, and checks to make sure the proposer has not previously or currently been sanctioned by the Medicaid program.
4. May not contract or employ providers excluded from participation in Federal health care programs under either Section 1128 or 1128A of the Social Security Act.

5. Must not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment.
6. Sends proposer two copies of the contract and letter requesting any other needed information.
7. Receives and distributes copies of signed contract.

### **PROCEDURES FOR NON-COMPETITIVE BIDDING**

1. Under certain circumstances, NorthCare may select a service provider without a competitive bidding process. These circumstances include:
  - The service is available only from a single source;
  - There is a public exigency or emergency, and the urgency for obtaining the service does not permit a delay to allow competitive bidding;
  - After solicitation of a number of sources, competition is determined to be inadequate;
  - The services sought are professional services of limited quantity or duration;
  - The services are unique and/or the selection of the service provider has been delegated to the consumer as the result of person-centered planning; and
  - Existing residential service programs where continuity of care is a concern.

Action By: **Person Requesting the Waiver**

1. Drafts a memo to NorthCare requesting a waiver from competitive procurement processes. At a minimum the memo will include: A statement of the procurement process to be waived; the basis for the waiver (i.e. sole source, special market condition, or emergency); the factual circumstances justifying the waiver and any steps taken to ensure that NorthCare is getting qualified services at a reasonable price.
2. If a waiver request is in response to an emergency and approved by the CEO, or his designee, negotiate the contract with the Contract Grant Coordinator and Chief Operating Officer.

Action By: **NorthCare CEO**

1. Request NorthCare Board approval of contracts including retroactive approval for emergency contracts.

### **POST AWARD PROCEDURES**

1. Contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. The contract management review team will evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract. Minimally these shall include financial and program performance and necessary standard reporting forms. An annual site review will be conducted for all sites and prior to contract

renewal.

2. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.
3. Procurement files shall be maintained for 7 years and contain at minimum: (a) basis for the contractor selection (b) justification for lack of competition when competitive bids or offers were not obtained, and (c) basis for award cost or price.

## **APPENDICES**

A. Procurement Ethics – All members of NorthCare ascribe to conduct NorthCare business in compliance with the following ethical standards:

- Avoid the intent and appearance of unethical or comprising practice in relationships, actions and communications.
- Demonstrate loyalty to NorthCare by diligently following the lawful instructions of NorthCare, using reasonable care and only authority granted.
- Refrain from any private business or professional activity that would create a conflict between personal interests and the interests of NorthCare.
- Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors or services from present or potential suppliers that might influence procurement decisions.
- Handle information of a confidential or proprietary nature to NorthCare and/or contractors with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- Promote positive contractor relationships through courtesy and impartiality in all phases of the procurement process.
- Refrain from reciprocal agreements that restrain competition.
- Know and obey the letter and spirit of laws governing the procurement function and remain alert to the legal ramifications of procurement decisions.
- Encourage that all segments of society have the opportunity to participate by demonstrating support for small, disadvantaged and minority-owned businesses.

## **REFERENCES**

- ✓ 42 CFR, Balanced Budget Act of 1997, 438.214
- ✓ MDCH Procurement Checklist from Specialty Supports and Services Contract Attachment 6.4.1.1
- ✓ 45 CFR 74
- ✓ 42 CFR 434
- ✓ OMB Circular A – 110
- ✓ NorthCare Criminal Background Checks Policy
- ✓ NorthCare Credentialing/Privileging Policy
- ✓ NorthCare Staff Competency/Education Policy
- ✓ NorthCare Sanction Policy