

PURCHASING AND PROCUREMENT POLICY
FOR
CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY

Resolution No. 12-01
Replacement of Resolution 10-01

WHEREAS, the California Mental Health Services Authority (“CalMHSA”) adopted an initial procurement policy specifying broad principals regarding competitive and non-competitive procurement, authorization to procure, and conflicts of interest;

WHEREAS, the initial version of the Procurement Policy did not address the specifics of Requests for Proposals and other methods of procurement, or exceptions to the requirement of competitive procurement; and

WHEREAS, the Board wishes to provide additional guidance in these areas;

NOW THEREFORE BE IT RESOLVED THAT:

The Board of Directors of CalMHSA hereby adopts the following revised policy to govern its procurement of goods and services.

**CalMHSA
PURCHASING AND PROCUREMENT POLICY**

SECTION 1: PURPOSE

The purpose of this purchasing and procurement policy is to provide a framework describing the different methodologies used to procure goods and services. The methodologies described below are intended to insure fairness and accountability in the selection process while affording the flexibility necessary to efficiently conduct the business affairs of CalMHSA.

SECTION 2: POLICY

The California Mental Health Services Authority (CalMHSA) is a Joint Powers Authority (JPA) of county (and in some cases, city) mental health programs acting jointly. Under its Joint Exercise of Powers Agreement, CalMHSA has the power to enter into contracts necessary or appropriate to carry out its purpose. No individual may contract on behalf of CalMHSA unless he or she has been specifically delegated authority by this policy or other act of the CalMHSA Board of Directors (hereafter, “Board”).

CalMHSA is not required to award a contract for services to the proposal with the lowest cost. CalMHSA will select the service provider that best meets the needs of CalMHSA.

SECTION 3: PURCHASE OF GOODS OR SERVICES

Procurement of goods or services by CalMHSA from any one provider in the amount of \$100,000 or more in any one fiscal year must be approved by the Board, or by a Committee of the Board to whom such authority is delegated; provided, however, that any contract for administrative or legal services shall be approved by the full Board.

The purchase of goods or services less than \$100,000 for the same or similar services from the same vendor in the same fiscal year may be procured by using an informal selection process as described in Section 4.

Purchase of goods or services from any one provider in the amount of \$5,000 or less in any one fiscal year may be approved by the Executive Director, and purchase of goods or services in an amount up to \$100,000 in any one fiscal year may be approved by the President or Treasurer of the Board. The service provider, amount and date of each contract so approved shall be disclosed at the next meeting of the Executive Committee or Board, whichever meets first following execution of the contract.

The purchase of goods over \$100,000 for the same or similar goods from the same vendor in the same fiscal year requires an Invitation to Bid (ITB) as described in Section 6 or a similar process.

The purchase of services over \$100,000 for the same or similar services from the same vendor in the same fiscal year requires a Request for Proposals process unless the Selection Process Exceptions in Section 8 apply.

The Board has the authority to extend a service contract in order to enable the contractor to complete the Scope of Work as long as there are no additional costs incurred.

Incremental contracting with the same vendor cannot be used to avoid the requirements of this policy.

SECTION 4: INFORMAL SELECTION PROCESS

No documented process is required for purchases of the same or similar goods or services from a single vendor in the same fiscal year if the total purchase price does not exceed \$5,000.

For purchases of the same goods or services from a single vendor in the same fiscal year above \$5,000 but less than \$100,000, an Informal Selection Process may be used. An Informal Selection Process based primarily on price involves a price request over the phone, fax or email from at least three vendors and selecting the vendor that best fits CalMHSA's needs, considering quality and price. The request and any responses must be documented. If it is not possible to obtain at least three offers, the reasons should be documented in writing. A written record must be created for phone solicitations. A written summary of the selection process, including the written documentation required by this paragraph, must be provided to the officer who is requested to approve the purchase, or to the Executive Committee or Board if approval is requested from one of those bodies. This Informal Selection Process may be used only if the

goods or services are clearly defined and a potential vendor can give an accurate price quotation. If the goods or services are not so clearly defined, the procedures in the next paragraph should be used instead.

For the purchase of goods or services for which price should not be the primary deciding factor, the Informal Selection Process consists of taking steps to evaluate experience, competence, quality and price of the recommended provider as compared to other providers of similar goods or services, if any. A written summary of the selection process must be provided to the officers who are requested to approve the purchase, or to the Executive Committee or Board if approval is requested from one of those bodies. The summary should include the names of the providers contacted, a written description of any telephone inquiries made, a description of the reasons for the staff recommendation, and, if applicable, an explanation why less than three providers were contacted. The summary should be accompanied by copies of the following: all written inquiries made, all solicitations issued, and all written responses received.

Upon successful completion of the initial term, contracts for services procured through an informal selection process may be extended for up to an additional year if it is in CalMHSA's best interest to do so.

For purchases of goods or services from a single vendor in the same fiscal year above \$100,000, the procedures in Sections 5 and 6 apply.

SECTION 5: REQUEST FOR PROPOSALS (RFP)

A Request for Proposal (RFP) is used for solicitation purposes when CalMHSA's requirements are not well defined but CalMHSA needs to achieve specified outcomes. The solicitation requires the potential vendor to prepare a written proposal that explains in detail how the potential vendor plans to meet CalMHSA's requirements. Innovative ideas and techniques that may benefit CalMHSA may be included in the proposal.

An RFP award is not made based on the lowest price, but upon technical superiority of the proposal within a reasonable proximity to the other proposed prices. The initial term and provisions for allowable extensions will be specified in the RFP.

The full possible contract term includes the initial term and any allowable extensions as specified in the RFP. After the full contract term and any allowable extensions, CalMHSA will evaluate the service delivery and determine whether to conduct a new selection process or whether it is in CalMHSA's best interest to extend the contract with the same provider for the same or similar services.

Drafting the RFP

CalMHSA staff will draft the RFP with the assistance of subject matter experts as needed. Staff may seek input from stakeholders and other interested parties regarding the selection of subject matter experts. After the RFP is drafted, it will be approved by the Board or the Board's designee.

Persons who have a relationship with a potential “Proposer” may not be involved in drafting the RFP. Before the RFP for a particular program is prepared, those responsible for preparing the RFP will be expected to complete a Non-Conflict Statement. Any person with a “conflict of interest” must declare it and take no part in preparation of the RFP. “Proposer” and “conflict of interest” are defined in Section 8.

Contents of the RFP

An RFP should contain the following:

1. A brief description of CalMHSA and its purpose.
2. A description of the overall program of which the RFP is a part.
3. A clear and concise statement of the Scope of Work describing the problem to be solved and what the Proposer is expected to accomplish. The requirements statement may include standards for quality and quantity, expected deliverables and time lines, outcome evaluation, eligibility requirements, staffing requirements, or financial requirements. The specifications contained in the requirements statement shall be nonrestrictive to provide an equal basis for competition and participation and an optimum number of potential vendors. Alternatively, the RFP may specify objectives and request responding parties to submit a Scope of Work designed to achieve the specified objectives.
4. A statement of the budget for the service to be provided, or price limitations if there is not a specified budget amount. The budget or price description will describe the payment provisions under the contemplated contract, including an absolute prohibition of payment beyond the contract price and notice of any applicable holdback pending distributions of funds by DMH or other funding source in that such entities may have a policy of holding their final distribution until they receive completed fiscal and programmatic reports.
5. Proposer responsibility criteria that may include references, financial statements, licenses, bonding and insurance.
6. A sample of the contract the successful Proposer will be expected to sign. The contract will incorporate any provisions required by statute, by DMH and/or the OAC, and by CalMHSA. The RFP shall include a statement that by submitting a proposal, the Proposer has no objection to the attached draft or any of its provisions such that, if selected, the Proposer will enter into a final agreement based upon the sample contract.
7. Submission criteria including a calendar of key dates and times, instructions where and to whom proposals are to be submitted, and any formatting requirements.
8. A description of the review process and criteria for evaluating the proposal. The RFP shall set forth the criteria and may include the weight each is given. An oral interview may be included as part of the review process. The review panel will recommend the proposal that best satisfies the criteria stated in the RFP.
9. Terms and conditions of the RFP process including, but not limited to, CalMHSA’s right to reject all proposals, amend, or cancel the RFP at any time for any reason before the contract is executed, to accept all or a portion of any proposal, and to waive any minor irregularities or informalities in any proposal, and to request clarification from any proposer.
10. A stated appeals process outlining the time, place and person to whom an appeal must be filed.

11. A contact person at CalMHSA who is available during the RFP process.
12. A statement that all proposals shall be treated as confidential until the selection process is completed, but thereafter all proposals will be deemed public records.

Proposals must be received at the time and place specified in the RFP solicitation. Late proposals cannot be accepted. Proposals remain confidential until a contract is executed.

While specifications can be obtained from potential service providers, CalMHSA is responsible for ensuring that those specifications are not unduly restrictive.

An RFP may be amended if the change is issued in writing in the form of an Addendum to all vendors who received the original solicitation and advertised in a manner consistent with the original RFP.

Evaluation of Proposals By Review Panel

Members of the review panel will be appointed by CalMHSA staff, subject to approval by the President of CalMHSA's Board or other Board member designated by the President. Review panel composition may include, but is not be limited to, mental health consumer and family representatives, subject matter experts, staff, Board members, and members of other specialties as may be indicated by a particular set of proposals. The review panel will normally have five to seven members.

No person with a "conflict of interest" shall participate in a review panel. "Conflict of interest" is defined in Section 8. All review panel members must sign a Non-Conflict Statement and comply with CalMHSA's Conflict of Interest Policy. Review panel deliberations are confidential.

Review Panel Recommendation to Board for Approval

The review panel shall evaluate the proposals based on the criteria stated in the RFP and recommend the highest-scoring proposal to the board for approval. Board members with a "conflict of interest" as to any of the Proposers must recuse themselves from deliberations and voting. "Conflict of interest" is defined in Section 8. The Board shall then determine whether to accept the proposal, or some part thereof, accept another proposal, or restart the process.

Should it become apparent that a Request for Applications or Request for Qualifications process would be suitable, the board may adopt procedures consistent in spirit with this Policy.

SECTION 6: INVITATION TO BID (ITB)

An Invitation to Bid (ITB) is used to obtain clearly specified goods in excess of \$100,000 from the same vendor in the same fiscal year. The initial term and provisions for allowable extensions will be specified in the ITB. After the initial term, CalMHSA may extend or enter into a new contract with the same vendor for the same or similar goods without conducting a new selection process if the vendor is meeting the service delivery goals. After the second term or the contract,

CalMHSA will review the contract and determine whether or not a new selection process is needed or if it is in CalMHSA's best interest to continue the contract.

All ITBs shall include the following:

1. A clear and concise specification that describes the goods sought, but must not be too restrictive. For instance, if the specification requires "brand name or equal," the bidder offering "equal" must submit complete specifications and/or samplers with their bids. Determination of equity is the sole discretion of CalMHSA.
2. The bidder's responsibility criteria that may include references, plan capacity, credit data, financial statements, licenses, bonding and insurance.
3. Submission criteria that may include a calendar of key dates and times, instructions where and to whom bids are to be submitted, the number of bids to be submitted, cost/pricing instructions, signature requirements and contact information.
4. Terms and conditions that will be incorporated into the purchase order or contract including, but not limited to, CalMHSA's right to reject all bids, amend, or cancel the ITB at any time for any reason before the contract is executed, to accept all or a portion of any bid, and to waive any minor irregularities or informalities in any bid and to request clarification from any bidder.

After the bids are opened, they shall be evaluated by the individual, committee or panel to whom the Board has delegated authority for that purpose. Bids are to be evaluated based on the requirements set forth in the ITB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, or suitability for a particular purpose. The evaluation shall be based on the face value of the bid and shall consider the following cost factors: the total bid price including discounts, the unit or extended price and the administrative costs, hour rates for specified personnel, CalMHSA's administrative costs, maintenance costs and warranty provisions, life cycle cost, repurchase value or residual value of goods after a specified number of years in cases where the residual value can be objectively ascertained, the cost and rate of consumables, freight shipping and handling, assembly and start up.

The evaluation shall also include consideration of the following responsibility and responsiveness factors: general reputation and experience of the bidder, the bidder's ability to service CalMHSA, financial ability to meet the requirements, prior knowledge of and experience with the bidder based on past performance, nature and extent of company data furnished by bidder upon request, size and location of bidder's warehouse, bidder's ability to meet delivery and stocking requirements, bidder's experience with commodities or systems, length of time the commodities or systems have been on the market, adherence to the requirements and condition of the ITB, quality and quantity of merchandise offered, compatibility with existing commodities or systems, overall completeness of the commodity line offered and delivery or completion date. After the panel evaluates the bids, the award shall be made to the lowest responsible responsive bidder that meets the ITB requirements.

SECTION 7: COMPETITIVE SELECTION PROCESS EXCEPTIONS

All goods or services over \$5,000 shall be procured by a competitive selection process unless the Board determines one of the circumstances below is satisfied. The selection process or the exception must be documented.

1. Sole Source. If the goods or services are obtained from a sole source without a competitive selection process, a written justification is required, and the written justification must be distributed with the agenda materials in advance of the meeting at which the contract is approved. The written justification shall be reviewed by CalMHSA's counsel, and shall indicate whether in counsel's opinion the justification offered complies with this Section. One or more of the following factors may justify use of a sole source contract.
 - a. The uniqueness of a vendor's capabilities or goods offered to meet the needs of CalMHSA as compared to other contractors.
 - b. There is only one viable provider of the required service in the geographic area.
 - c. The prior experience of the proposed vendor is vital to the goods or services.
 - d. The facilities, staff or equipment the proposed vendor has that are specialized and vital to the services required.
 - e. Whether the contractor has a substantial investment that would have to be duplicated at the expense of CalMHSA if another vendor provided services.
 - f. The vendor's ability to provide goods or services in the required time frame.
 - g. Retaining professional services, such as but not limited to, an attorney, auditor, manager or administrator, to maintain expertise, continuity, consistency and knowledge of CalMHSA.
 - h. After a solicitation of a number of sources, competition is determined to be inadequate.
 - i. Patent rights or copyrights or secret processes the contractor possesses, compatibility with existing CalMHSA goods.
 - j. Existing equipment maintenance programs or contracts.
 - k. All relevant providers of a particular service in the geographic area will receive funding.
 - l. CalMHSA is contemplating a Program unlike any previously conducted and therefore has insufficient information to develop an RFP process or identify potential competitive providers.
 - m. The contemplated services are similar to those already being provided by an existing contract provider selected through a competitive selection process, the existing provider is willing to provide the additional services on terms substantially similar to existing terms, and the time or cost necessary to engage in a new selection process make a new process unlikely to provide significant benefit to CalMHSA.
2. Emergency. When goods or services are necessary to further the purpose of CalMHSA or for the protection of CalMHSA personnel or property and time is of the essence.
3. State, County, or Federal Vendor. CalMHSA may use a vendor under contract with the State, a County, or Federal government without a competitive selection process if the State, County or Federal contract was procured by a competitive selection and the vendor accepts the same terms of the contract.

SECTION 8: DEFINITIONS

1. "Conflict of interest." A person has a conflict of interest if the person, the person's spouse, the person's dependent child, or the person's resident relative has an "economic interest" in or "disqualifying relationship" with a "Provider;" and
 - a. It is foreseeable that the decision will have a material effect on the "economic interest" of the person (or the person's spouse or dependent child or resident relative) which is distinguishable from its effect on the public generally, or
 - b. It is foreseeable that the decision will have a material effect on the "economic interest" of a "Proposer" with whom the person (or the person's spouse or dependent child or resident relative) has a significant relationship.
2. "Disqualifying relationship" means the position of officer, director, employee or volunteer, regardless of whether the position is compensated.
3. "Economic interest" means any fee, money, or financial gain, or other valuable benefit received directly or indirectly from or by reason of any dealings with or service for CalMHSA. "Economic interest" includes, but is not limited to, investments, business positions, interests in real property, services, and reportable sources of income.
5. "Provider" means a person or organization that provides goods or services to CalMHSA, and includes but is not limited to Proposers and Sub-Contractors.
6. "Proposer" means a person or organization responding to a Request for Proposals or Invitation to Bid.
7. "Sub-Contractor" means a current sub-contractor of the Proposer, or a sub-contractor under a proposed agreement with the Proposer.

Date Adopted: October 3, 2012

Date of Last Revision: October 5, 2010

Replaces Resolution No: 10-01

Ayes: 5 Noes: N/A Abstains: N/A Absent: 4

NAME: Wayne Clark, PhD TITLE: President, CalMHSA DATE: 10-3-2012

SIGNATURE: _____