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Owner: *Dennis Buesing: Contract Administrator, DHHS*  
Policy Area: *Mental Health Board*  
References:

## BHD Purchasing and Procurement

Approved by the Mental Health Board on 8/24/17

### Purpose:

The Milwaukee County Behavioral Health Division (BHD) is required to purchase various materials, services, and equipment to fulfill its mission of enhancing the quality of life for individuals who need support living healthy, independent and safe lives within our community.

### Scope:

This Policy applies to all MCBHD Managers, directors, officers, administrators and purchasing coordinators..

### Policy:

This procurement policy will ensure:

- that procurement transactions obtain in a cost-effective, responsible and responsive manner the acquisition of quality materials, services, and equipment required by the BHD;
- the prudent use of resources; BHD will avoid acquisition of unnecessary or duplicative items;
- that before a service is purchased or outsourced, an evaluation is made of in-house capabilities, and if it is determined that services need to be procured from outside, this policy will be used to guide such procurements;
- compliance with applicable federal law, OMB Uniform Guidance Standards, and any state regulations governing procurement;
- that contracts are only awarded to responsible contractors possessing the ability to perform successfully. Consideration will be given to contractor integrity, compliance with public policy, past performance and financial and technical resources;
- that the policy delineate guidelines for source selection, purchasing methodology, and approval of purchases and contracts at BHD;
- that quality and affordability are to be balanced during the decision making process. Quality will have a higher percentage weight with all procurement efforts.

### Definitions:

**Bid bond** is issued as part of a supply bidding process by the contractor to the project owner, to attempt to guarantee that the winning bidder will undertake the contract under the terms at which they bid.

**Conflict of Interest:** A conflict of interest would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for an award of contract.

**BHD Directors:** Are any staff member that is responsible for a program area, section or service area of MCBHD.

**Fee for Service (FFS) Network:** A network or group of preapproved providers providing services to certain populations of clients or program. Examples: Wraparound Milwaukee, Community Access to Recovery Services (CARS).

**Ineligible Vendor or Contractor:** is a vendor on the federal, state or county barred list.

**Officer:** A staff member in an executive level position within MCBHD, (Chief Clinical Officer, Chief Nursing Officer, Chief Financial Officer, etc)

**Performance bond**, also known as a contract bond, is a surety bond issued by an insurance company or a bank to guarantee satisfactory completion of a project by a contractor.

**The Director:** The Director of the Milwaukee County Department of Health and Human Services.

## **Procurement by noncompetitive proposal:**

**Sole Source Purchases:** A sole source purchase is one wherein a needed item can only be purchased from a single source because there is only one source available. This situation makes it impossible to obtain competitive bids.

**Single Source:** Even though two or more suppliers can provide the required goods or services, the Administrator, or designee awards the contract to one supplier over the other(s) when public exigency or emergency will not permit a delay required for competition, or the Milwaukee County Mental Health Board (MHB) has expressly authorized a noncompetitive process, or after solicitation of a number of sources competition is deemed inadequate.

**Group Purchasing Organizations (GPO):** A group purchasing organization (GPO) is an entity that helps healthcare providers-such as hospitals, nursing homes and home health agencies-realize savings and efficiencies by aggregating purchasing volume and using that leverage to negotiate discounts with manufacturers, distributors and other vendors.

**Micro-purchases:** \$3,000 or less, do not require competition or a cost/price analysis, but must be distributed equitably among qualified suppliers to the extent practicable). \$2,000 for construction awards subject to the Davis-Bacon Act.

**Small purchase:** \$3000-149,999, price and rate quotes must be obtained from an adequate number of qualified sources. Note: no cost/price analysis is required.

## **Formal Procurements may include the following:**

**Sealed bids;** Using firm fixed price contract, require formal advertising, two or more bidders are willing and able to respond, and there is public opening of the bids.

**Request for Information (RFI):** An RFI process may be used to obtain information from potential suppliers or service providers to aid in the development of a request for bid/proposal. The document should be clearly

marked "Request for Information"/ A request for information is used to obtain information only. It is not a substitute for the request for bid/proposal process, but responsiveness to an RFI may be a condition to being allowed to bid, renew an existing contract, or submit a proposal when an RFP is released.

**Competitive Proposals - Request for Proposal (RFP):** Is used when sealed bids are not appropriate. A request for proposal is used to submit a solicitation in the form of a proposal for some type of commodity, service, asset, or property. It is typically used to get information about the proposed asset or service. This can include a history of the asset's ownership, financial information, information about the seller, or the product's availability. Request for proposals will follow the process rules set forth in the 2000 American Bar Association (ABA) Model Procurement Code and the August 2002 Regulations for State and Local Governments as approved by the MCMHB in 2014 and the Standards found in § 2 CFR 200.317-326, Uniform Guidance Procurement Standards. The RFP process will be used when: the total costs of services will exceed \$150,000 on an annual basis, the need for the service is anticipated four to six months in advance, there are federal mandates requiring a RFP process (e.g., § 2 CFR 200), or there is a need for a new service to be provided which MCBHD had not offered previously. The solicitation must include a clear and accurate description of the technical requirements for material, product or services, identify all of the requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals. Standard terms and conditions will be developed and attached to every RFP to include compliance with relevant federal, state and county procurement laws.

## **Ethics and Conflict of Interest:**

**Policy:** It is declared that high moral and ethical standards among county public officials and county employees are essential to the conduct of free government; that the county believes that a code of ethics for the guidance of county public officials and county employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people on this county in their county public officials and county employees. It is the intent of the county that in its operations the board shall protect to the fullest extent possible the rights of individuals affected. §9.01, Milwaukee County Code of General Ordinances (MCCGO)

### **Conflict of Interest:**

Persons authorized to make purchases on behalf of MCBHD will be required to disclose any conflict of interests annually via the Statement of Economic Interest Form and Affidavit submitted to the Milwaukee county Ethics board pursuant to provisions of Chapter 9, Code of Ethics, MCCGO.

A conflict of interest would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for an award of contract.

### **Contractual Personnel Services:**

An exception would be retired of former BHD employees under contract for services related to their former job duties. When deemed in the best interest of BHD, it may contract with former employees immediately upon their separation from employment.

Additionally, pursuant to the provisions of Wis Stat. §59.79(8), the director may enter into a contract for a period not to exceed 2 years for the services of retired county employees, provided such services shall not replace or duplicate an existing office or position in the classified or unclassified service nor be considered an office or position under § 63.03 Wis. Stats. Former Milwaukee County employees may be hired as contractual employees by BHD subject to the requirements of said statute. If payment under the term of the contract will

equal or exceed \$100,000, MC MHB approval is required.

**Prohibited Practices:**

BHD may not enter into a contract with vendors or contractors that are on a federal, state or county list of ineligible entities.

In order to improve transparency and ensure objective contractor performance and eliminate unfair competitive advantage, providers/contractors who help draft or develop a grant application, contract specifications, requirement, statements of work, invitation for bids and/or requests for proposals, shall be excluded from competing for such procurement unless written reasoning is provided for allowing them to compete.

Gratuities: Officers, employees, and agents of BHD must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, However, Milwaukee County may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of BHD.

**Authority:**

- A. Authority to make or approve purchases is granted to specific managerial or officer level staff only.
  - 1. This authority is determined by the MCBHD Administrator and the Milwaukee County Mental Health Board.
  - 2. An Authorized Signature Card (Attachment) will remain on file in the MCBHD Fiscal Department and forwarded to the Office of the Milwaukee County Comptroller
  - 3. No person is authorized to obligate MCBHD without verifying, in advance, sufficient funds to meet the purchase obligation.
- B. Before a contract or agreement may be executed:
  - 1. The department may not approve contracts for amounts in excess of available revenues.
  - 2. Funding must be verified by BHD Chief Financial Officer or designee, or encumbered through the Milwaukee County Comptroller's Office.
  - 3. Actual expenditure of BHD funds shall be reported in compliance with procedures developed by the department, and shall comply with standards guaranteeing quality of care.
  - 4. All approvals must be granted either electronically or in writing.
  - 5. Should BHD reimbursement from state or federal sources not be obtained or continued at a level sufficient to allow for payment for the quantity of services under contract, the obligations of each party shall be terminated. Reduction in reimbursement or payment from state or federal sources shall be sufficient basis for BHD to reduce the amount of payment to contractor.
- C. The Milwaukee County Board of Supervisors may not exercise approval or disapproval power over any contract relating to mental health or mental health institutions, programs, or services. This paragraph does not preclude The County Board of Supervisors from creating a central purchasing department for all county purchases that are not related to mental health.
- D. Pursuant to §52.42(10) Wis. Stats., any contract related to mental health with a value of at least \$100,000, to which Milwaukee County is a party may take effect only if the Milwaukee County Mental Health Board votes to approve, or does not vote to reject, the contract within 28 days after the contract is

signed or countersigned by The County Executive.

- E. The Milwaukee County Mental Health Board may exercise approval or disapproval power over contracts and purchases of the director that are for \$100,000 or more, except that the Milwaukee County Mental Health Board will not exercise approval or disapproval power over any contract or purchase of The Director that relates to community living arrangements, adult family homes, or foster homes and that was entered into pursuant to a contract under §46.031 (2g) Wis. Stats. However, any contract or agreement for community living arrangements with expenditures of \$100,000 or more will be brought before the Mental Health Board within ninety (90) days as an informational report only.
- F. Contracts that exceed the originally approved amount or fee-for-service agreements that exceed the originally estimated expenditure by twenty-five (25) percent or more will be brought before the Mental Health Board within ninety (90) days as informational reports only.
- G. The Milwaukee County Mental Health Board may appoint the BHD Administrator or his/her designee as agent to approve addenda or amendments to any contract after the contract's initial approval.
- H. Oversight of procurement for clinical services such as pharmaceuticals, diagnostics, treatment and procedures occurs by the Milwaukee County BHD Chief Medical Officer. Clinical based contracts; pharmacy food services, laboratory, and radiology must also receive approval from the MCBHD Medical Executive Committee.
- I. The table below outlines who may approve requisitions or purchases and sign contracts, legally binding agreements, business ventures and other agreements with external parties that obligate MCBHD. (including Memoranda of Understanding)
- J. Oversight of procurement for clinical services such as pharmaceuticals, diagnostics and procedures occurs by MCBHD Chief Medical Officer. Clinical based contracts; pharmacy, food services, laboratory, and radiology must also receive approval from the MCBHD Medical Executive Committee.

**BHD Contract Spending Authority**

Title level of Purchase Initiator	Spending Authority (budgeted)	County Approvals *
Manager	Not to exceed \$5000	x
BHD Directors	Not to exceed \$10,000	x
Officers	Not to exceed \$100,000	x
Administrator	Not to exceed \$100,000	x
BHD Mental Health Board	Over \$100,000	x

\* Required County approvals include: BHD Administrator, Director of DHHS, Risk Manager, Corporation Counsel, Office of MC Comptroller, Community Business Development Program, and Milwaukee County Executive.

**Purchasing Methods:**

- A. Purchasing of products and services is accomplished through a variety of processes, which are designed to address the differences in complexity, value, risk and transaction volumes associated with MCBHD

purchasing needs.

1. **Milwaukee County Procurement Division:** This method is used for purchases where a County wide contract exists or when a standard bidding process is desired. This includes:
  - a. Price agreements for a set cost for a specific time-frame
  - b. Purchase Orders for one time purchases under \$2000
  - c. Purchase Requisitions for one time purchases greater than \$2000
    - i. Follow Milwaukee County Procurement Department process for competitive bidding
    - ii. Require an additional electronic approval from the Office of the MCComptroller
2. **Purchasing Card:** Used for non contract, local and online spending.
  - a. Includes travel
  - b. Maximum transaction value of \$2000 to \$3000 depending on BHD department
  - c. Transaction limits vary by department and individual card holder.
  - d. Purchases are reviewed and approved monthly by the manager of the department and Purchasing Card Coordinator.
3. **Milwaukee County Time and Materials (T & M) Contractors**
  - a. Milwaukee County Facilities Management (MCFM) vets and authorizes specific companies to be used for construction and repair projects by category without an additional formal RFP or Bidding process. MCBHD may utilize these companies as long as the quality and cost meets MCBHD standards. MCBHD may request Bids and formal RFP for construction and repair projects when MCBHD funds are used to finance these projects.
  - b. Contract periods are determined by MCFM.
  - c. BHD can purchase services from any authorized T & M contractor if the project price is less than \$25,000.
  - d. BHD obtains price quotes from multiple authorized T & M contractors for projects above \$25,000.
  - e. If there are no authorized T & M Contractors for the type of work needed, or when MCBHD will finance the project directly a competitive sourcing process using a minimum of 3 bids/quotes will be utilized when practical.
    - i. Any contractor may participate in this process, irrespective of current T & M status.
    - ii. Proposals submitted by contractors who have lost T & M status prior to the end of the contract period for cause may be rejected at MCBHD's discretion.

## Competitive Sourcing

- A. **Informal Proposals or Quotes - Small Purchase:** A competitive Small Purchase Sourcing Process process may be used where the value and or nature of the product or service is between \$3,000 - \$149,999, and the product or service can be obtained from more than one source.
  1. MCBHD encourages participation in the competitive sourcing process by as many qualified suppliers as possible.
  2. Efforts are made to obtain a minimum of three (3) proposals or price quotes verbally, by email or by

letter.

3. Less than three proposals may be acceptable given the following limitations:
    - a. time constraints,
    - b. availability of qualified suppliers able to meet the specifications and
    - c. the opportunity for significant cost savings.
  4. All proposals or quotations received will be evaluated on the basis of quality, service, compliance to specifications and price.
  5. Awards will be made in the best interest of MCBHD.
  6. Any or all proposals or quotations received may be rejected at MCBHD's discretion.
- B. Formal Sealed Bids** are used where the value of the product or service is equal to, or greater than, \$150,000.
1. MCBHD will request three (3) written bids when practical.
  2. All proposals and quotations will be evaluated on the basis of quality, service, compliance to specifications and price.
  3. Awards will be made in the best interest of MCBHD.
  4. Approval by the Mental Health Board is required.
- C. Formal written Requests For Proposal (RFP)** are used when sealed bids are not appropriate for sourcing projects over \$150,000 where a value determination is necessary and clear specifications are available for comparative products or services.
1. Each RFP clearly defines a set of criteria to be used to evaluate the proposals.
    - a. The form and function of what will be provided is an essential part of the evaluation.
    - b. A weighted value is assigned to each criteria.
  2. Proposals must be submitted in such form and content as required by the RFP.
    - a. Items identified as proprietary information will be considered confidential. Pricing will remain confidential during the evaluation period and will become a matter of public record once an award recommendation is made;
    - b. MCBHD does reserve the right to benchmark all pricing through contracted 3rd party resources
    - c. Pricing may be used for analysis of specific endpoints.
  3. After proposals are received and evaluated, the contract(s) is/are awarded to the supplier(s) presenting the best combination of quality of service, price, delivery, compliance to specifications, capacity to perform.
  4. The Evaluation Panel will consist of a minimum of 3 members if more than one proposal is received.
    - a. Panel members can be employees of MCBHD
    - b. Outside panel members may be selected from various sources such as
      - i. Community or Professional expert in the field or subject of the RFP
      - ii. Representatives of community councils and/or advocacy organizations.
    - c. Identification of the panel members will be kept confidential throughout the RFP process.

- d. Results of the evaluation may be disclosed in aggregate and will not identify the specific scoring by any panel member.
- D. **Group Purchasing Organizations (GPO) - and Purchasing Consortia**-BHD uses GPO pricing and supplies when deemed appropriate.
- E. **Municipal Contracts and Purchases** - BHD may utilize existing municipal and/or state contracts on the [State of Wisconsin VendorNet](#) list without any additional competitive process. Contracts negotiated or entered into by other county departments on behalf of BHD, (e.g., Procurement Division purchases under Chapter 32, MCCMO, Information Management Services Division, etc.) will be presented to the MC MHB as informational only reports.

## Exceptions to Competitive Sourcing

There are circumstances when competitive sourcing is not required or practical. Examples of these situations are;

- A. Emergency situations endangering the health and safety of patients, staff and/or visitors
- B. Purchases that meet Non-Competitive- Sole Source requirements
- C. Requisitions for products or services less than \$3,000
- D. Fee for Service Provider Networks: FFS networks have been successfully deployed within BHD and DHHS overall for many years. Networks were created to address the need to allow for client choice in the selection of providers by employing service agreements that cover multiple years to maintain continuity of treatment. A service delivery model called Provider Services Networks evolved and matured within the healthcare industry which balance service demand, adequate client choice and optimal network size. Expansion of such networks may occur at any time to accommodate service demand increases, address the need for new services, or accommodate changes in client choice and allows new service providers to be brought in quickly to respond to shifting needs. Other benefits are the ability to leverage network volume to negotiate competitive service rates and implement a prior authorization framework which provides better control of projected spending by networks. In some cases, providers are state licensed residential service providers for whom demand can change quickly and capacity needs to remain flexible due to court ordered placements and other external forces. Because of fluctuating demand, the need to respond quickly to changing conditions and the inability to guaranty referrals, fixed amount contracts are not practical and a competitive RFP process is not normally used. FFS agreements as opposed to fixed-amount contracts work best when there exists large amounts of historical data on which to base service rates per unit of service. New providers are added when service demand necessitates additional capacity. Some services may be let for competitive proposal when a large population of providers exists, but total volume of service authorizations may limit the number of providers to be included in a network. When networks are opened to new providers, additions to networks are based on eligibility criteria set forth by the program administering the network and open and transparent outreach efforts are made to solicit applications from prospective providers for a particular service based on the capacity needs of the respective BHD programs.

## Non-Competitive (Sole Source or Single Source) Procurement:

- A. Instances when Sole Source or Single Source purchasing may be applicable include the following:
  - 1. Property or services can be obtained only from a specific supplier (ie., real estate; one of a kind items, warranties or support agreements, etc)

2. Competitive sourcing is precluded because of the existence of patents, copyrights, secret processes, control of raw materials by suppliers or similar circumstances
3. Procurement of electric power or energy, gas, water or other utility services where it would not be practical or feasible to allow other suppliers to provide such services
4. Procurement of support services in connection with the assembly, installation or servicing of equipment or software of a highly technical or specialized nature.
5. Procurement of parts or components to be used as replacements in support of equipment manufactured by a particular supplier
6. Procurement involving construction where a contractor is already at work on the site and it would not be practical to engage another contractor.
7. Procurement where only a single supplier in a market is licensed or authorized to service or sell a specific product line.
8. Procurement of compatible additions to existing equipment where a different manufacturer's equipment would be impractical for the specific need.
9. The supplier or products are specified and required by a funding agency of a grant, or State/Federal contract.
10. Sole Source agreements with Physicians, Prescribers, Psychiatrists, Affiliation and Residency agreement and contracts for temporary medical providers and nurses in connection with the Behavioral Health Hospital.

**B. Documentation;**

1. Justification explaining the exceptional circumstances of the purchase must show that an equitable evaluation has been made and that rejection of alternative suppliers or solutions is based on objective and relevant criteria.
2. Special Review and Signature approvals are required for all Sole Source and Single Source purchases. If a purchase contract is in excess of \$99,999, justification of the sole source procurement must be presented to the MCMHB for review and approval.

## **Contracting Process:**

- A. The MCBHD Contract Management Department is responsible for the contracting process, which includes contract execution, compliance monitoring, coordination of sourcing, payment, retention and closeout of all contracts. Contract rates will be determined in collaboration with the fiscal department.
- B. In coordination with Contract Management, program directors under the direction of the MCBHD Administrator and its Chief Medical Officer is responsible for network development.
- C. All contractors, vendors and providers will be encouraged to hire minorities, individuals with disabilities and use Disadvantage Business Enterprises (DBE) or other Targeted Business Enterprises (TBE).
- D. Standardized RFP templates and processes are utilized where possible.
- E. Standardized contract templates approved by MC Corporation Counsel and standardized contracting processes and approvals are utilized for all contracts where possible.

## **Protest Resolution process**

Refer to Procurement Procedure, Milwaukee County BHD, Article No. 1, BHD Legal and Contractual

## **Emergency Purchases:**

- A. In case of an emergency due to an accident or other unforeseen incident or condition which affects property or other interests of MCBHD, or threatens the life, health or safety of persons and requires immediate action.
  - 1. The Administrator or his or her designee may authorize the procurement on other than a competitive basis.
  - 2. Known suppliers and/or MOU's in place will be considered.
- B. The basis for concluding that there was an emergency and the methods used to identify the selected contractor will be documented.

## **Court Ordered or Emergency Placements:**

In case of an emergency or court ordered placement due to an urgent or unforeseen condition which affects the health, safety or wellbeing of service recipients or youth that requires immediate action.

- A. The administrator or his or her designee may authorize the procurement on other than a competitive basis.
- B. Known providers or court ordered placements, or MOU's in lieu of contracts will be considered.

## **Document Retention**

- A. Purchasing documentation will be kept on file for 7 years after the contract ends or last payment, whichever is later.

## **Bonds Insurance Guarantees**

- A. Bonding Requirements: Bonding may be required for construction/facility improvement contracts/ subcontracts exceeding the Simplified Acquisition Threshold or other contracts where appropriate to ensure that the funding agency's interest in the procurement is adequately protected.
- B. Insurance requirements for each contract will be determined by Milwaukee County Risk Management

## **Modification of Contracts**

- A. Contracts that are modified or expanded to greater than the next highest value level listed in the MCBHD Spending Authority Table will be evaluated to determine if an additional competitive process is warranted.
- B. MCBHD purchasing agents will not create a contract at a lower level, with the intent of expanding at a later point to avoid compliance with the required competitive process for the aggregate value of the contract.

## **Authority to Resolve Disputes, Grievances and Breach of Contract:**

Disputes between the MCBHD and a contractor/Provider which arise under or by virtue of a contract between

them for example; breach of contract, mistake, misrepresentation, poor quality, or other cause for contract modification or rescission.

- A. **Authority to Resolve Disputes.-** The BHD Contract Management Section in collaboration with operations and Quality Services have the authority to work to resolve Disputes.
- B. The processes for resolution of Disputes are outlined in the Compliance Audit, Performance Measures and Grievance procedures attached to all MCBHD Provider contracts.
- C. **Decision-** If the Disputes or grievance is not resolved by mutual agreement between Contract Management and provider, the provider can submit an appeal to the MCBHD Administrator who will follow the grievance procedure process and time line
- D. **Finality of Decision-** The decision rendered shall be final and conclusive, unless fraudulent, or the contractor commences to an action in court.
- E. **If Breach of Contract** results in termination of contract, appeal process as outlined in Article No. 1 BHD Legal and Contractual Remedies, will be followed by Contractor/Provider.

## References:

- 1. The 2000 American Bar Association *Model Procurement Code for State and Local Governments*.
- 2. 2002 *Model Procurement Regulations by State and Local Governments*
- 3. 2 Code of Federal Regulations (CFR) 200, *Uniform Guidance Procurement Standards*, § 200.317-326
- 4. Procurement Procedure, Milwaukee County BHD, Article No. 1, *BHD Legal and Contractual Remedies*
- 5. Chapter 9, Code of Ethics, Milwaukee County Code of General Ordinances.

## Monitors:

Purchases are reviewed prior to approval by those listed in the MCBHD Contract Spending Authority Table. Additional reviews and/or audits may be conducted by BHD Contract Management as deemed appropriate. Annual independent audit reports by CPA firms licensed in the State of Wisconsin must be submitted to DHHS Contract Administration if mandated by federal or state regulations.

## Attachments:

[Authorized Signature Card](#)

### Approval Signatures

Step Description	Approver	Date
Mental Health Board	Michael Lappen: 11008000-BHD Administrator	11/13/2017
	Michael Lappen: 11008000-BHD Administrator	11/13/2017
	Dennis Buesing: Contract Administrator, DHHS	11/13/2017