

(was MCCMH Policy 5-05-030)

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Chapter: **PROVIDER NETWORK MANAGEMENT**  
Title: **PROCUREMENT OF SPECIALIZED RESIDENTIAL FACILITIES**

Prior Approval Date: 10/12/06  
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Approved by: BOARD ACTION

  
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Executive Director

  
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Date

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**I. Abstract**

This policy establishes the standards and procedures of the Macomb County Community Mental Health (MCCMH) Board (the "Board") regarding the procurement and development of specialized residential facilities.

**II. Application**

This policy shall apply to all current and prospective residential developers of the MCCMH Board who wish to submit a proposal to provide residential development for the MCCMH Board.

**III. Policy**

It is the policy of the MCCMH Board that the development of specialized residential facilities shall be procured through a formal competitive bid and Request For Proposal (RFP) process that assures full and open competition.

**IV. Definitions**

- A. Competitive Bid. The formal process of soliciting proposals/quotations for development of a specialized residential facility or facilities through public advertisements pursuant to the issuance of a Request For Proposal (RFP), MCCMH #199 (Exhibit A), by the MCCMH Board.
- B. Request for Proposal, MCCMH #199 (Exhibit A). The general specifications required for submission of a proposal/quotation for the development of a specific specialized residential facility or facilities as delineated by the MCCMH Board pursuant to

applicable statute, rules, regulations, licensing requirements and the needs of the population to be served.

- C. Delegated Function. Any function covered by the provisions of the federal Balanced Budget Act which the MCCMH, as a PIHP/MCO, is required to provide under contract with the Michigan Department of Mental Health that is assigned to a third party via contract between the PIHP and the third party.

## **V. Standards**

- A. Specialized residential facilities to be developed may include homes of new construction or existing homes with renovations in compliance with specifications of the RFP at the discretion of the MCCMH Board. Generally, specialized residential facilities to be developed shall be no larger than six beds. Exceptions may be approved by the MCCMH Board.
- B. Selection of an entity to develop a specialized residential facility or facilities shall be accomplished through the process of competitive bids and RFP, unless those limited circumstances described in Section V.I. exist warranting procurement by noncompetitive proposals.
- C. After the publication and release of the RFP is made, there will be no alteration, addition or deletion from the RFP packet without written notification of such to all bidders.
- D. The MCCMH Board reserves the right to reject or to waive any defect(s) in any or all proposals/quotations.
- E. Decisions regarding final approval of any or all proposals/quotations submitted through the process of competitive bids and RFPs shall be made solely by the MCCMH Board, with reasonable promptness, to the responsible entity whose proposal is most advantageous to the program, with price and other factors considered.
- F. Prior to submission to the Board, entities proposed for selection to develop a specialized residential facility or facilities will be reviewed by the appropriate MCCMH consumer advisory council:
1. The process for behavioral health services shall include review by the MCCMH Citizens Advisory Council.
  2. The process for substance abuse services shall include review by the Substance Abuse Disorder Oversight Policy Board.
- G. All contracts for the procurement of specialized residential facilities shall be submitted to the Board for approval. Prior to the issuance of purchase orders or

execution of a contract, the Corporation Counsel and the Chief Financial Officer or designee shall review and approve the terms of the proposed contract.

H. Cost Reimbursement Contracts: MCCMH will not enter into any cost-reimbursement/ time-and-materials contract for the development of specialized residential facilities unless:

1. A detailed proposed operating budget, including the management fee, has been submitted and evaluated by the Board and a determination is made in writing that, under the circumstances, the contract arrangement is likely to be less costly to MCCMH than any other type;
2. A maximum contract price is identified and agreed upon by all parties to the contract, which the contractor exceeds at its own risk; and
3. The MCCMH Director of the Business Management Division certifies to the Board that it intends to exercise a high degree of oversight, which will be documented in detail, in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

I. Procurement by Noncompetitive Proposals:

1. Procurement through solicitation of a proposal from only one source may be used when the MCCMH Deputy Director determines that one or more of the following limited circumstances exist, wherein competition is deemed inadequate or when the uniqueness of the services or other considerations limits competitive procurement possibilities:
  - a. The service is available from only a single source;
  - b. There is a public exigency or emergency, and the urgency for obtaining the service does not permit a delay resulting from competitive solicitation;
  - c. After solicitation of a number of sources, competition is determined inadequate; or
  - d. Existing residential service systems, where continuity of care arrangements are of paramount concern.
2. Qualifying Exigent Circumstances: The MCCMH Deputy Director may determine that an exigency exists warranting procurement by noncompetitive proposals in the following circumstances:
  - a. Death, disability, or resignation of key personnel;

- b. Bankruptcy, fire, or any other incapacitation of a current service provider;
    - c. Reasonably unforeseeable changes in service demand for essential services;
    - d. Delays in processing which are beyond the reasonable foresight or control of office or departmental administrators and which may jeopardize the receipt of grant or other funds. This subsection shall not, however, be used to avert the lapse of unexpended MCCMH funds at the end of a fiscal year;
    - e. Availability of grant or other funding with less than 30 days' notice of an application deadline;
    - f. An unforeseeable and fleeting opportunity arises to purchase greatly needed supplies, services, or construction at a price or on terms which are exceptionally favorable to MCCMH;
    - g. A reasonably unforeseeable need arises to initiate a prompt legal action or to make a timely response to a significant legal challenge to an MCCMH initiative or enterprise or to protect or preserve a significant MCCMH right, interest, or asset; or
    - h. A prompt change in contract specifications is needed to maintain timely and cost-efficient construction or performance schedules because of reasonably unforeseeable or uncontrollable changes or variations in site conditions, or labor or materials availability.
  3. In any case where the MCCMH Deputy Director deems procurement by noncompetitive proposal and negotiation appropriate pursuant to the guidelines described in this policy, the Deputy Director must submit a written analysis of the circumstances warranting such action to the Board along with the proposed contract. In such cases, the contract will not be entered into on MCCMH's behalf unless the Board approves both the contract and the noncompetitive means of procurement.
- J. The MCCMH Business Manager, after consultation with the Corporation Counsel, shall establish standard contract clauses for use in MCCMH contracts for specialized residential facilities, which will, minimally, include those contract clauses required under state and federal procurement law, and the State Medicaid Manual.
- K. Ethics:
  1. All processes for the procurement of specialized residential facilities shall be conducted in compliance with the Macomb County Ethics Ordinance, ENROLLED ORDINANCE NO. 2016- 03.

2. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest, including but not limited to when such individual or his/her immediate family member has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
  3. Officers, employees, and agents of MCCMH may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, except to the extent that any unsolicited item has a nominal value and acceptance is otherwise consistent with the Macomb County Ethics Ordinance.
  4. The MCCMH Business Manager shall establish a system to preclude the opportunity for a conflict of interest to arise between businesses and MCCMH employees, including Board members, who regularly exercise significant discretion over the award and management of MCCMH procurements.
- L. MCCMH will not knowingly select an individual or entity to develop a specialized residential facility or facilities where the individual is debarred, suspended, or otherwise excluded from participation in procurement activities under the Federal Acquisition Regulation or from participating in nonprocurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549, or with an affiliate of any such individual or entity, or in any case where doing so would amount to a "Prohibited Affiliation" under 42 CFR 438.610.
- M. Procurement processes shall be compliant with state and federal procurement standards, including but not limited to those Procurement Standards defined in §§ 200.317 - 200.326, and those defined in the State Medicaid Manual Part 2 (Sections 2083 – 2087).
- N. Procurement transactions will be conducted in a manner providing full and open competition. If any person suspects collusion or other anti-competitive practices among bidders or offerors, that person shall transmit the relevant facts first to the Board prior to reporting the matter to the Michigan Attorney General and to the Macomb County Prosecuting Attorney.
- O. Consistent with applicable state and federal law, discrimination in the procurement, selection and/or contracting process on any prohibited basis, including but not limited to on the basis of the race, color, gender or national origin of the ownership of any such business, against entities responding to RFPs, is prohibited.
- P. The MCCMH Business Manager shall ensure that records sufficient to detail the history of procurement of residential facilities are kept, including but not limited to records concerning the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

## **VI. Procedures**

### **A. Proposals/Quotations Development**

1. Upon determination of need for a specialized residential facility or facilities, the MCCMH Business Manager or designee shall post an advertisement in locations likely to reasonably assure an optimal level of competition, including but not limited to, the MCCMH web site, professional and trade bulletins, and/ the Public Notice section of the major newspapers serving Macomb and its surrounding Counties. The purpose of the advertisement shall be to notify interested entities of the planned specialized residential development and to invite them to contact the MCCMH Business Management Director's Office to secure a RFP package within thirty (30) business days from the date of the advertisement.
2. The MCCMH Business Management Director or designee shall prepare a list of all entities requesting RFP packages, whether solicited via advertisement or other means, with identification of those who have previously developed residential facilities for MCCMH, other CMHSPs, or the Michigan Department of Community Health (MDCH). The MCCMH Business Management Director or designee shall forward an RFP package to all listed entities.
3. The RFP package(s) shall include, as applicable:
  - a. Announcement of the date, time, and location of a bidder's meeting for entities interested in submission of proposals/quotations to MCCMH for specialized residential development;
  - b. A copy of this policy;
  - c. A description of specific criteria to be met for the specialized residential facility or facilities to be developed, as well as the relative importance of each criteria;
  - d. Copy of MCCMH's standard/proposed lease for the residential facility or facilities;
  - e. Identification of the residential population to be served along with any special factors to be considered in facility development;
  - f. Designation of the applicable statutes, rules, regulations, licensing requirements to be satisfied;
  - g. Identification of PIHP/MCO delegated functions to be included in the contract;
  - h. The deadline date for submission of proposals/quotations which shall not be less than thirty (30) business days from the printed public

announcement. Proposals received after the deadline date will not be considered; and

- i. A Network Provider Qualification Statement, MCCMH #200 (Exhibit B).
4. Proposals/quotations submitted for MCCMH Board consideration shall contain, at a minimum, the information listed below, with appropriate documentation. Proposals/quotations not including the information shall be subject to rejection.

a. New Development Site(s) Related Information:

- 1) location of proposed site(s)
- 2) cost of proposed site(s)
- 3) site improvements needed with estimate of costs(s)
- 4) local zoning authority approval(s) for intended use
- 5) availability of utilities (water, sewer, electricity, fuel, telephone)
- 6) land accommodation for new or replacement septic system/drainage field, with County Health Department approval for site septic system, if applicable
- 7) land control documents (deeds, land contracts)
- 8) certified site surveys (two copies) with identification of existing structures, easements, appurtenances on the land
- 9) site plan for new construction (2 copies) including soil content, contours, elevations, utilities, set-backs, monuments, plantings, etc.
- 10) confirmation that the structure will at all times adhere to the then current state and local building code requirements, as they may change from time to time
- 11) certification that the site will at all times meet the then current state of Michigan defined Licensing Rules for Adult Foster Care Large Homes (12 or Less), as they may change from time to time. The current licensing rules as of the effective date of this policy can be found at:

[http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/640\\_10611\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/640_10611_AdminCode.pdf)

b. Pre-Existing Structure Site Related Information:

- 1) Location of proposed site(s)
- 2) Cost of proposed site(s)
- 3) local zoning authority approval(s) for intended use
- 4) availability of utilities (water, sewer, electricity, fuel, telephone)
- 5) land control documents (deeds, land contracts)
- 6) identification of existing structures, easements, appurtenances on the land (final approval will be subject to later submission of a certified site survey)
- 7) confirmation that the structure does and will at all times adhere to the then current state and local building code requirements, as they may change from time to time
- 8) certification that the site meets and will at all times continue to meet the then current state of Michigan defined Licensing Rules for Adult Foster Care Large Homes (12 or Less), as they may change from time to time. The current licensing rules as of the effective date of this policy can be found at [http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/640\\_10611\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/640_10611_AdminCode.pdf)

c. Facility(s):

- 1) As applicable, a copy of the plans for new construction or renovation plans for existing building(s) in accordance with local building codes, statutes, rules, regulations, licensing requirements and MCCMH specific criteria;
- 2) As applicable, costs of construction or renovation including all related costs, e.g., taxes, necessary permits, fees, mortgage payments (principal, interest, taxes, and insurance), etc.;
- 3) Proposed lease terms including, but not limited to, length of lease, annual rent, taxes, insurances, special conditions, etc.; and
- 4) Credit and financial statements, including business and personal references

B. Proposal/Quotation Selection



1. Proposal Evaluation Team

- a. Proposal Evaluation Teams shall include appropriate staff and individual consumers and/or consumer interest groups.
- b. The Proposal Evaluation Team shall examine, evaluate and score all submitted proposals/quotations for potential selection utilizing the Evaluation Criteria as stated in the RFP and the Network Application/Profiling information.
- c. Team members shall receive reimbursement, **based upon hardship or need**, for travel or other expenses directly related to procurement reviews with approval of the MCCMH Executive Director.
- d. The Team will submit a summary of the proposals/quotations, evaluation results and selection recommendations to the MCCMH Executive Director.
- e. MCCMH Executive Director or designee(s) shall submit a recommendation to the MCCMH Board for final approval, along with information relative to other submissions and the rationale upon which recommendations are made.

2. Evaluation of proposals/quotations for potential selection of a RFP bidder shall include, as applicable:

- a. Assessment of costs of the proposal/quotation relative to submissions by other residential developers and the availability of public funds.
- b. Prior history of the residential developer, from the Network Provider Qualification Statement (Exhibit B), as a satisfactory supplier of residential services provided to MCCMH, other Community Mental Health Service Programs (CMHSPs), or the Michigan Department of Community Health (MDCH).
- c. Assessment of the soundness of the submitting residential developer as an organization or corporation to develop residential services.
- d. Evaluation of prior contractual performance of the bidder under contract with MCCMH Board, if available.
- e. Satisfaction of the submission requirements and criteria contained in the RFP and this policy.
- f. Satisfaction of the following general specifications:

- 1) the adequacy of space for the number and impairment considerations of persons who will be residing in the facility (see MCCMH MCO Policy 9-670, "Services for Consumers Affected by Physical Barriers", Reference D);
  - 2) the availability of an inter-connected multi-station smoke detection system powered by household electrical current which, when activated, initiates an alarm which is audible in all areas of the facility; is installed on all levels of the structure including unfinished levels; with additional strobe detectors in common activity areas; and with battery back-up to assure operation of the system in the event of power failure;
  - 3) the availability of at least one bathroom which is barrier-free and includes a walk-in/roll-in shower with grab-bars;
  - 4) installation of ramps, if needed, which are five feet wide and have no more than one inch fall per running foot.
3. If the proposal includes the procurement of any PIHP/MCO delegated functions, MCCMH will evaluate the prospective provider's ability to perform the activities to be delegated, based on the documentation submitted. MCCMH reserves the right to request further documentation to determine the prospective provider's ability to perform the specific function, prior to delegation.

#### C. Post-Approval Process

1. The MCCMH Business Management Director shall send written notice to those entities whose proposals/quotations were not approved for selection that their submissions were not selected and the reason for the decision, i.e. their relative score is insufficient.
2. The MCCMH Director of the Business Management Division shall send written notice (a facsimile or e-mail transmission is acceptable) to the entity which submitted the accepted proposal/quotation informing it of the selection and approval of its proposal/quotation for the provision of residential services for MCCMH.
3. Following notification of MCCMH Board approval, the residential developer shall have thirty (30) days to finalize financing and obtain building permits for the project.
4. The MCCMH Business Management Division Director or designee shall schedule a preconstruction meeting with the residential developer to develop a construction timeline and review the terms and conditions of the proposed lease.

5. Copy of the land control document (deed or land contract) in the lessor's name shall be submitted to the MCCMH Administrative Office.
6. Copy of the County Health Department's approval of the water volume and quality and the septic system (if applicable) shall be submitted to the MCCMH Administrative Office.
7. Copy of the final Certificate of Occupancy shall be obtained and submitted to the MCCMH Administrative Office.
8. All leases with associated funding information shall be submitted to the MCCMH Board for review and approval following review and approval by:
  - a. County Corporation Counsel;
  - b. County Finance Department; and
  - c. County Office of Risk Management and Safety
9. All documents submitted to MCCMH relevant to the proposals, evaluation forms and recommendations will be maintained by MCCMH as back-up documentation of the RFP process.

D. Agreement Approval: All contracts/leases require approval by the MCCMH Board.

E. Rescission of the Approved Proposal/Quotation

1. An approved proposal/quotation shall be subject to rescission if the MCCMH Board and the residential developer fail to agree upon acceptable contractual terms.
2. Inability of the MCCMH Board and the residential developer to agree upon an acceptable lease shall subject the project to cancellation.
3. Failure of the residential developer to construct or renovate the residential facility in accordance with the specifications and within the agreed upon costs pursuant to those approved by the MCCMH Board shall subject the project to cancellation.
4. Failure of the residential developer to fulfill the agreed upon construction timeline for any reason (except weather) shall subject the residential developer to possible cancellation of approval for the project.
5. Any bidder may withdraw its submitted proposal at any time during the Procurement Process. The decision to withdraw a proposal must be submitted in writing to the MCCMH Board.

**VII. References / Legal Authority**

- A. 2 CFR 318 - 326
- B. 42 CFR 438.230
- C. MCL 330.1228; MSA 14.800(228)
- D. State Medicaid Manual Part 2 (Sections 2083 – 2087)
- E. MDCH/CMHSP Specialty Supports and Services Managed Care Contract
- F. County of Macomb Purchasing Policy and Guideline, as adopted May/1994 by the Macomb County Board of Commissioners
- G. Macomb County Ethics Ordinance, ENROLLED ORDINANCE NO. 2016- 03
- H. MCCMH MCO Policy 9-670, “Services for Consumers Affected by Physical Barriers”

**VIII. Exhibits**

- A. Request for Proposal
- B. Network Provider Qualification Statement