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DATE: November 15, 2010
TO: COUNTY DSS, DHS, DCP & DHHS AGENCIES
FROM: John Tuohy, Director, Bureau of Regional Operations
RE: **2011 POS CONTRACT, AUDIT PROCEDURES, AND WAIVERS**

This memo is to notify county agencies receiving child welfare funds from the Department of Children and Families (DCF) of the procedures for DCF approval of purchase of service (POS) contracts, service provider audits, and waivers of audit requirements. Agencies should contact their DCF Regional Office for approvals. Agencies should contact their DHS Regional Office for approvals involving DHS funds.

DCF still follows the Department of Health Services (DHS) Financial Management Manual (FMM) until replaced by a DCF FMM. Chapter B7 of the DHS FMM contains policy regarding POS agreements along with the POS Model Contract Language and Instructions. This memo provides a synopsis of contract and audit requirements as a quick reference and agencies should refer to the DHS FMM for complete information.

<http://dhs.wisconsin.gov/Grants/Administration/FMM/FMMTOC.htm>

CONTRACT REQUIREMENTS/CONTRACT WAIVERS

Agencies are required to use a contract with service provider that meets the POS contracting requirements for children and family services under s.49.34 Wis. Stats. The model POS contract in the DHS FMM meets the statutory requirements or county agencies may use local POS agreements that meet the statutory requirements. Agencies are encouraged to have their legal counsel review all contracts utilized (either the model contract or an adaptation of the model contract) to assure compliance with state statute and the agency's specific contracting needs.

When Contracts Are Not Required

Contracts are not required for the following circumstances; therefore, it is not necessary to have a contract waiver for these services:

- ◆ Care provided by foster homes and treatment foster homes licensed under s. 48.62. (Note: Contracts **ARE** required for group homes licensed under s. 48.625.)
- ◆ When a provider under contract with a county agency obtains services from another vendor (ancillary services).

- ◆ When day care is provided via a voucher directly to a client.
- ◆ When a payment is made directly to a client from a county agency. (Note: Individual client vouchers cannot be used in lieu of formal contracts for services.)

Contracts are required in all other circumstances. There are some instances listed below in which the DCF Regional Office waives the requirement for a contract.

Contracts Which Are Required But Are Automatically Waived By The Regional Office

The DCF consider the contracting process a good business practice that, if properly executed, protects both the purchaser and the provider. It is the intent of DCF to encourage the development of contracts with service providers. However, DCF recognizes that in some instances the imposition of rigid contracting procedures is a deterrent to the delivery of services.

Through this memo, the DCF Bureau of Regional Operations is granting an automatic blanket waiver for required contracts in the following three circumstances:

- ◆ For purchases of \$10,000 or less in a calendar year.
- ◆ When a child is placed in a group home when another county DSS/DHS/DHHS/DCP is the sponsoring agency. The sponsoring agency must have a contract with a group home (less than \$10,000 in a calendar year).
- ◆ For emergency or one-time unanticipated client-specific services (less than \$10,000 in a calendar year).

It is the county agency's responsibility to assure that the specific situations in which contracts are not used fit into either the "not required" or "waived" criteria outlined above. The agency is responsible for contracting for all other purchased services.

AUDIT REQUIREMENTS/AUDIT WAIVERS

Section 49.34(4)(c) Wis. Stats. requires an audit from providers that receive more than \$25,000 from the DCF or from another county. The statute allows the DCF to waive audits on a case-by-case basis.

Section 66.0143 Wis. Stats. authorizes waiver of state mandates and counties may apply to increase the threshold for provider audits. Section 66.0143 requires the request for a waiver of the \$25,000 threshold be filed with the Wisconsin Department of Revenue. The requester is required to specify the reason for seeking the waiver. The Department of Revenue is required by statute to forward the request to the Department administering the funds for approval of the waiver request. The waiver is effective for four years. Additional information on obtaining waivers under Section 66.0143 is on the Department of Revenue website at

<http://www.dor.state.wi.us/forms/govcty/instruct.html#criteria>

The audit waiver criteria **do not** apply to group homes and residential care facilities that provide out of home residential care for children. Audit reports from these facilities are required to support the DCF claims to the federal government for Title IV-E funding for the care of children at these facilities.

In addition, DCF **does not** waive audits that are required under the Single Audit Act Amendments of 1996. This law is implemented through OMB Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations,” and requires non-profits and local governments that expend more than \$500,000 in federal funds to have audits in accordance with Circular A-133.

When Audits Are Not Required (therefore no audit waiver is necessary)

- ◆ For contracts under \$25,000, or;
- ◆ For contracts under a higher threshold amount approved through a Section 66.0143 waiver.

Audits Which Are Required But May Be Waived By The Regional Office

All references in this section are to the *State Single Audit Guidelines (SSAG)* that includes guidance on matching audit requirements to the assessed level of risk that an agency will have problems administering department programs. The 2010 SSAG is online at

<http://www.doa.state.wi.us/category.asp?linkcatid=946&linkid=81&locid=167>

The SSAG includes the DHS Audit Guide which will remain in effect until replaced by the forthcoming DCF Audit Guide. Counties shall be notified when the DCF Audit Guide is available.

The provider must furnish the purchaser with an annual audit for purchases exceeding \$25,000, or the higher threshold amount if a Section 66.0143 waiver is received, unless the purchaser obtains a waiver for the audit from the DCF Regional Office. Waiver of the audit is appropriate only if the agency does not need to have an audit according to federal audit requirements. If the provider does not need to have a federal audit, the DCF Regional Office may decide to approve waiving the audit when:

- ◆ The granting agency assessed the level of risk at low as documented by the “Risk Identification and Assessment Worksheet.” (Illustration 2.1).
- ◆ The granting agency increased other monitoring efforts to reduce risk to a low level.
- ◆ The contract is funded solely with federal funds.
- ◆ The department funding is a very small part of the provider’s overall business.
- ◆ An audit would be a hardship on the provider.
- ◆ Audited information is not needed.
- ◆ The agency does not operate a group home or child caring institution facility.

Requests for a waiver are to be submitted to the DCF Regional Office on the attached **CY 2011** Purchase of Service Waiver of Audit Request form, during contract negotiation before the contract is signed. The Waiver Request Form and the Risk Identification and Assessment Worksheet can be submitted to the Regional Office either by email or by regular mail. These forms have been converted into an electronic fillable format.

Purchasers must also complete the following items to request a waiver:

1. A “Risk Identification and Assessment Worksheet” showing the purchaser’s assessment of risk for the provider (Illustration 2.1).

2. A description of the alternate form of financial and program compliance monitoring the purchaser will implement in lieu of an audit (see DCF SSAG Appendix Section 2.4 for examples of monitoring efforts). Include this information in Item #6 of the CY 2011 Purchase of Service Waiver of Audit Request form.

Requests for audit waivers after the contract is signed will be considered in exceptional situations only.

Audit waiver requests for providers that receive any other sources of DCF children and families funding must be sent to the Area Administrator in the DCF Regional Office using the waiver form and the Risk Identification and Assessment Worksheet.

Audits Which Are Required But May Be Waived By The County

For contracts with small residential care providers such as family group homes and adult family homes, the county, rather than the state has the authority to grant a waiver to the audit requirement. For contracts under \$25,000, an audit is not required so no waiver is necessary. For contracts over \$25,000, the county can provide a waiver by using the same audit waiver criteria the DCF Regional Offices uses, including the Risk Identification and Assessment Worksheet.

1. If the provider agency is at low risk as determined by the Risk Identification and Assessment Worksheet and the cost of an audit exceeds five percent of the total contract (as verified by written bid), an alternate year audit schedule that covers both years may be approved.
2. If it is determined that an audit would not be cost effective or would otherwise place an undue burden upon the vendor, the audit requirement may be waived. You must document the specific circumstances that support the granting of a waiver and indicate an alternate form of financial monitoring and program compliance, which will be substituted for an audit.