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AGENDA COVER MEMO

AGENDA DATE: September 10, 2003
TO: Board of County Commissioners
DEPARTMENT: Health & Human Services
PRESENTED BY: Rob Rockstroh



- AGENDA TITLE:**
- (1) IN THE MATTER OF THE REQUEST OF LANE COUNTY FOR AN EXEMPTION PER ORS 279.015 TO EXTEND THE CURRENT LANECARE PROVIDER PANEL CONTRACTS FOR THE PERIOD OCTOBER 1, 2003 THROUGH JANUARY 01, 2004, PER EXHIBIT B, ATTACHED.
 - (2) IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE CONTRACT AMENDMENTS WITH LANECARE PROVIDER PANEL AGENCIES, PER EXHIBIT B, ATTACHED.

I. MOTION

FIRST ORDER:

An exemption is granted to Lane County per ORS 279.015 to extend LaneCare provider panel contracts for the period October 1, 2003 through January 31, 2004 per Exhibit B, attached. This exemption is subject to the condition that the selection process for contractors for the period January 1, 2004 through September 30, 2004 is completed by December 31, 2003. On the basis of the record of the materials submitted, the evidence and testimony, the Board adopts as findings in support of the exemption the findings and conclusions described above.

This exemption shall remain in effect until January 31, 2004.

SECOND ORDER:

The County Administrator is granted authority to execute contract amendments as outlined in Exhibit B, attached.

II. ISSUE OR PROBLEM

The Oregon Health Plan (OHP) has gone through a number of changes in the past nine months. At the time this agenda memo is being written, the legislature has not

approved a budget for the State of Oregon for FY03/04. Various incarnations of the OHP have been discussed as budget possibilities for FY03/04. Due to this uncertainty, Lane County Health & Human Services (HHS) has not begun the Request for Proposals (RFP) process for LaneCare services for the LaneCare year beginning October 1, 2003. Current LaneCare provider panel contracts end September 30, 2003. HHS would like to extend the current LaneCare contracts through December 31, 2003 (January 31, 2004 for providers not selected to be on the LaneCare provider panel). This will allow the RFP process to begin in September, when funding amounts, eligibility and required services should be known.

Extending the current contracts through December 31, 2003 (January 31, 2004 for those providers not selected to be on the provider panel beginning January 1, 2004) will exceed the 20 percent allowable increase per Lane Manual 20.110 and will also exceed the three-year limitation on competitive selection.

III. DISCUSSION

A. Background

Lane County was selected by the State to provide managed mental health services to Lane County residents who are covered by the Oregon Health Plan.

An RFP to provide managed mental health provider panel services was published in the Register Guard on April 13, 2000 for services for the period October 1, 2000 through September 30, 2001. The RFP allowed HHS to extend the contracts for two additional years, through September 30, 2003.

Due to the significant reductions in state funded mental health services, the increased requirements for OHP eligibility and the statewide discussions of capitation decreases in order to balance the budget, HHS is planning for changes in the mental health care system as a whole, including managed mental health care. These changes will influence how Lane County contracts for managed mental health care provider panel services.

Criteria to Consider for Findings -The findings which the Board must approve in order to grant an exemption include:

1. It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.
2. The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency. In making such findings, the Board may consider the type, cost, amount of the contract, number of persons available to bid and such other factors as may be deemed appropriate.

3. "Findings" are defined to include information regarding:
 - a. Operational, budget and financial data;
 - b. Public benefits;
 - c. Value engineering
 - d. Specialized expertise required;
 - e. Public safety;
 - f. Market conditions;
 - g. Technical complexity; and
 - h. Funding sources.

4. In granting an exemption, the Board shall:
 - a. Where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods which are also consistent with the public policy of encouraging competition.

 - b. Require and approve or disapprove written findings that support the awarding of a particular public contract without the requirements of competitive bidding. The findings must show that the exemption complies with numbers 1 and 2 above.

B. Analysis

The county must decide how to proceed with the provision of managed care provider panel services while the competitive selection and contracting process are being completed. A competitive selection process was used in the implementation of services for the October 1, 2000 through September 30, 2003 contract period. Although an exemption is being requested to extend contracts through January 31, 2004, HHS intends to begin provider panel contracts resulting from the RFP process January 1, 2004. All providers will have their contracts extended through December 31, 2003. Current providers, not selected through the RFP process to provide managed mental health services for the period January 1, 2004 through September 30, 2004, will have their contracts extended a second time, through January 31, 2004, to allow for client transition to provider panel agencies. The RFP for January 1, 2004 through September 30, 2004 services will be run in September, 2003, giving adequate time for contracts to be in place by January 1, 2004.

The current contractors were selected through an RFP released in April 2000. Should the county decide that it is in the best interest of the citizens of Lane County to extend the contracts for an additional three months (four months for those agencies not selected to be on the provider panel beginning January 1, 2004), a special exemption will be required, as the amendment will exceed the three-year selection limitation and the 20 percent allowable for amendment

under public contract law. ORS 279.015 allows exceptions and exemptions to the competitive bidding process provided: (1) it is unlikely that such exemption will encourage favoritism in the awarding of public contracts; (2) it is unlikely to substantially diminish competition for public contracts; and (3) the awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency.

Amending and extending the current contracts for a three-month period (four months for those not selected to be on the provider panel for 2004) is unlikely to encourage favoritism or substantially diminish competition for public contracts in that the extension is for a limited period, during which time a competitive process will be conducted. The awarding of the extension will result in substantial cost savings in that continued management of the mental health needs of consumers will reduce the number of individuals in crisis and needing costly interventions to manage their mental health needs. It will also eliminate the need for an additional contracting process that would require the time and involvement of staff time in HHS, Legal Counsel, Risk Management and Budget. More detailed information about the recommendation to grant an exemption to contract law is included in Exhibit A of the attached Board Order.

C. Alternatives / Options

1. To allow the county to extend provider panel contracts through January 31, 2004.
2. To delegate authority to the County Administrator to execute contract extensions as detailed in Exhibit B.
3. To require the county to run a competitive process for provider panel services beginning October 1, 2003.
4. Not to delegate authority to the County Administrator to execute contract extensions as detailed in Exhibit B.

D. Recommendation

To approve numbers one and two above.

E. Timing

Upon approval by the Board, the contract amendments will be processed.

IV. IMPLEMENTATION

Contract amendments will be processed, per Exhibit B, prior to October 1, 2003.

V. ATTACHMENTS

Board Order – Sitting as Local Contract Review Board, Exempting from Competitive Selection, with Exhibit A

Contract List – Exhibit B

Board Order – Delegating Execution Authority for Contract Amendments

**THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON
SITTING AS THE LOCAL CONTRACT REVIEW BOARD**

RESOLUTION AND ORDER:) IN THE MATTER OF THE REQUEST OF LANE COUNTY FOR AN
) EXEMPTION PER ORS 279.015 TO EXTEND THE CURRENT
) LANECARE PROVIDER PANEL CONTRACTS FOR THE PERIOD
) OCTOBER 1, 2003 THROUGH JANUARY 01, 2004, PER EXHIBIT
) B, ATTACHED.

WHEREAS, the Lane County Board of Commissioners has adopted Lane Manual 20.100 which governs exemption requests for public contracting; and

WHEREAS, the granting of such a request requires the Board, sitting as the local contract review body, to examine Findings of Fact that justify the granting of such exemptions; and

WHEREAS, the applicant, Lane County has submitted the following findings, attached as Exhibit A;

NOW, THEREFORE, sitting as the local contract review board, the Board hereby orders that:

1. An exemption from competitive selection is granted for Lane County to extend the contracts detailed in Exhibit B. This exemption is subject to the conditions that the process for selection of a contractor for the period January 1, 2004 through September 30, 2004 is completed by December 31, 2003.
2. The Department of Health & Human Services shall conduct and complete a competitive selection process by December 31, 2003 concerning further funding for these services.
3. On the basis of the record of the materials submitted, the evidence and testimony, the Board adopts as findings in support of the exemption the findings and conclusions described above.

This exemption shall remain in effect through January, 31, 2004.

DATED this _____ day of September, 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 8/29/03 lane county
Shaid Law
OFFICE OF LEGAL COUNSEL

EXHIBIT A

LANE COUNTY'S FINDINGS ON EXEMPTION FROM COMPETITIVE BIDDING

A. Nature of Project

Lane County has an Intergovernmental Agreement with the Oregon Department of Human Services that provides funding for managed mental health care services. The current contract for funding for those services ends on September 30, 2003. The capitation rate and covered services beginning October 1, 2003 are still not known due to the lack of a state budget. Due to the significant changes being made to mental health funding as a whole on the state level, HHS staff has not begun the Request for Proposals (RFP) process for provider panel services beginning October 1, 2003. A process will not be completed prior to the current contracts ending September 30, 2003.

In April 2000, Lane County ran a competitive selection process to identify providers for the LaneCare mental health managed care provider panel. The Center for Family Development, Child Center, Direction Service, Laurel Hill, Looking Glass, Options, OSLC, Relief Nursery, SCAR, ShelterCare, South Lane Mental Health and White Bird were selected to serve on the provider panel for the period October 1, 2000 through September 30, 2003.

In order to continue to provide managed mental health care services, it will be necessary to extend the current contracts for the period from October 1, 2003 through December 31, 2003. Providers not selected to be on the provider panel beginning January 1, 2004 will have their contracts extended a second time, through January 31, 2004, to allow for client transition to selected agencies. This will allow development and completion of a competitive selection process and implementation of new contracts. Extending the contracts for an additional three months (four months for providers not selected to be on the provider panel beginning January 1, 2004) will bring the amount of the additional funding outside the competitive process to an amount above the 20 percent allowable increase and three or four months beyond the three-year period. Therefore, the department requests a competitive selection exemption from public contracting law in order to maintain these essential services.

B. Financial Budget Information

The total amount of funding that will be contracted in this process is \$1,802,358. These dollars will be a portion of the capitation funding forwarded from the state in support of managed mental health care for the period October 1, 2003 through January 31, 2004.

C. Narrative Description of Anticipated Cost Savings

It is not possible for Lane County to competitively bid these services in time to have contracts in place by October 1, 2003. The timeline developed for the RFP process

begins on August 18, 2003 with the RFP being submitted for legal review and ends on December 3, 2003 with the Board awarding contracts. Lane County is required to provide managed mental health services during this period through their contract with the State of Oregon. The inability of Lane County to provide managed mental health services will negatively impact the County in two ways: 1) increased costs to serve mental health clients in crisis; and 2) the potential loss of over \$10,000,000 in annual capitation payments if the State cancels the contract with Lane County for managed mental health care services.

D. Proposed Alternative Contracting and Purchasing Practices

The county wishes to extend current provider panel contracts for the period October 1, 2003 through December 31, 2003 (January 1, 2004 for contractors not selected to remain on the LaneCare provider panel) per Exhibit B, attached. The amount contracted through January 31, 2004 will not exceed \$1,802,358. The original contracts for services were competitively bid for the period from October 1, 2000 through September 30, 2003, and a new competitive process will be initiated and completed prior to December 31, 2003.

E. It is Unlikely that such Exemption will Encourage Favoritism in the Awarding of a Public Contract or Substantially Diminish Competition for Public Contracts.

This extension will comply with the tests of Oregon Public Contracts Statute ORS 279.015 exemption from public contracting requirements. A competitive process was held to determine provider panel members for the period October 1, 2000 through September 30, 2003. All of the providers listed in Exhibit B were selected as providers through that process.

A competitive process to determine the future provider panel members will be initiated in August 2003. All interested parties will have an equal opportunity to respond for the services for the January 1, 2004 through September 30, 2004 period with the selection being made based on the most qualified bidders.

The requested extension is only for a three-month period (four months for programs not selected to be part of the new provider panel). It is unlikely that a service provider will have an interest in becoming a provider panel member for that three month time period. By asking for the exemption to be extended through January 31, 2004, for providers not selected to be part of the new provider panel, Lane County is demonstrating planning for current provider panel agencies not being selected to serve on the panel beginning January 1, 2004.

It will be operationally impossible to complete a new selection and contracting process prior to October 1, 2003, when the current provider panel contracts expire. Thus, using any other method for extending the current contract would result in cessation of services for the three-month period.

- F. The Awarding of Public Contracts Pursuant to the Exemption will Result in Substantial Cost Savings to the Public Contracting Agency. In Making Such Findings, the Board May Consider the Type, Cost, Amount of Contract, Number of Persons Available to Bid and Other Such Factors as May Be Deemed Appropriate.

This method will result in substantial cost savings. There are on-going cost savings for the county mental health system. Mental health clients will remain involved with their current care providers which will lessen the possibility of them going into crisis requiring more costly mental health treatment and perhaps impacting public safety.

THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

RESOLUTION AND ORDER:) IN THE MATTER OF DELEGATING AUTHORITY TO THE
) COUNTY ADMINISTRATOR TO EXECUTE CONTRACT
) AMENDMENTS WITH LANECARE PROVIDER PANEL AGENCIES
) PER EXHIBIT B, ATTACHED.

WHEREAS, on this date, the Lane County Board of Commissioners sitting as the local Contract Review Board, has approved an exemption for Lane County to extend a current contracts for the provision of Lane Care provider panel services through January 31, 2004, subject to the condition that the selection process for contractors for the period January 1, 2004 through September 30, 2004 is completed by December 31, 2003; and

WHEREAS, the Board of Commissioners agrees that it is in the best interest of Lane County to proceed with the LaneCare provider panel contract amendments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED that the County Administrator is hereby delegated authority to execute contract amendments for the period October 1, 2003 through January 31, 2004 per Exhibit B, attached.

DATED this _____ day of September, 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 8/29/03 lane county
J. Haidlaw
OFFICE OF LEGAL COUNSEL

**Exhibit B
Lane Care Provider Panel Contracts**

CONTRACTOR	Target for 10/01/03 – 01/31/04
Center for Family Development	\$ 236,416
Child Center	\$ 125,611
Direction Service	\$ 88,466
Laurel Hill	\$ 258,638
Looking Glass	\$ 331,078
Options	\$ 257,455
OSLC	\$ 118,033
PeaceHealth Counseling	\$ 27,383
Relief Nursery	\$ 16,066
SCAR/Jasper Mountain	\$ 20,083
ShelterCare	\$ 163,925
South Lane Mental Health	\$ 144,655
White Bird Clinic	\$ 13,750

LaneCare Provider Panel Carveout Services

Contractor	Contract	Amount (10/01/03 – 01/31/04)
SCAR	SAFE Center	\$126,147
White Bird.	Crisis Phone	\$ 54,377

