

# **Community Based Care (CBC) Subcontracting Guidelines**

*Approved 9/12/05*

## **Issue Background**

The State has only recently transitioned to CBC Lead Agencies from what was historically a State run dependency system. That historical system included a variety of State employees and expenses as well as subcontracted services. The subcontracted services included a variety of cost and payment structures, including cost reimbursement, unit cost and fixed price. DCF Contract Managers oversaw those contracts.

State and Federal funding is managed by a network of guidelines and documentation requirements that is complex and comprehensive. These guidelines include multiple State and Federal requirements, including those testing expenditures as allowable and reasonable.

## **Current Status**

Now CBC Lead Agencies have assumed the lion share of the responsibility to manage the dependency system and CBC employees and expenses have replaced the State's. The process of establishing assurance that CBC's have expenditure and contract systems that effectively replaces the historic State system is rapidly evolving. The primary focus is to ensure compliance with State and Federal expenditure guidelines. In reality, the CBC Lead Agencies are utilizing many of the same contract methodologies utilized by the State. The primary difference is where subcontracts have replaced State employees, primarily case management. While this will require a shift in thinking, and perhaps reporting and documentation, within the State, it merely shifts those services to be more similar to those that have been historically purchased through subcontracts. CBC Lead Agencies have encouraged a realignment of incentives and practice that promotes permanency and well-being.

CBC Lead Agencies utilize procurement guidelines, cost/budget reviews, market conditions and expenditure analysis, among other mechanisms, to help ensure compliance with State and Federal requirements.

## **CBC Position**

The CBC Lead Agencies will continue to actively work to continually improve the contracting and accountability of their respective systems of care. The CBC Lead Agencies do not believe that there is any statewide non-compliance with State or Federal requirements around contracting, including the OMB Circulars. The CBC Lead Agencies propose a subcontracting framework to outline and guide subcontract negotiations. This framework establishes consistent review criteria before, during and after executing subcontracts. A strong CBC subcontracting framework must promote creativity and flexibility, while maintaining fiduciary responsibility. Budget items such as salaries, benefits, operating costs and indirect are included in the contracting framework. Critical tests for compliance with State and Federal requirements are included. Financial and administrative reviews will be part of the CBC Lead Agency monitoring. Expenditure review will occur, with regular reviews during the contract and financial audits following the contract cycle. The clear intention of the development of a CBC Lead Agency subcontracting framework is to increase the effectiveness, efficiency, creativity and outcomes of the child welfare system of care. CBC Lead Agencies are responsible for the implementation and management of the State of Florida's dependency system, and subcontracts success are integral in that system. Ultimately, it will be critical for strong performance

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expectations and measures be included in CBC Lead Agency subcontracts, to solidify a CBC subcontracting strategy.

In an effort to minimize the risk of potential Federal paybacks, CBC Lead Agencies will hire an outside national consultant to validate the CBC subcontracting practices. This review will include tests for reasonable and allowable costing, from the Federal guidelines.

### **CBC Subcontracting Framework**

1. **Procurement** – Each CBC Lead Agency developed, in conjunction with DCF, a plan to procure subcontracts and services, as part of the readiness assessment. Procurement solicitations should include a well defined need for services to be delivered. The timeline and parameters for procurement must be reviewed, and updated if necessary, and followed. As those procurement procedures change, they should be updated and submitted to the State.
  
2. **Cost Analysis** – Prior to initiating a subcontract the CBC Lead Agency must analyze the costs proposed in the services to be provided. This analysis is designed to ensure the appropriate costs in the proposal/budget, but also to validate that those costs are allowable, reasonable and necessary. This accountability will include the method of payment, as well as provisions for service delivery such as staffing patterns, service activities, hours and so on. Each CBC Lead Agency must determine a minimum dollar threshold for conducting a cost analysis. The subcontract cost analysis will include, at a minimum:
  - Review of each major expense category\*
    - Salaries, Benefits, Operating, and Indirect
  - Review of the ratios/percentage of the budget/cost dedicated to each category
  - Review of the costs as reasonable and necessary\*\*
  - Review of the costs as allowable\*\*\*
  - Compatibility of expenses to fund source(s) to be utilized
  - Review of previous costs (prior year or current year) for similar services (where possible)
  - Review of market conditions for similar services (where possible)

This cost analysis will be conducted prior to the execution of a new subcontract and/or when a subcontract substantially changes. The nature of the analysis may differ depending on the nature of the services to be delivered and/or fund source(s) to be used.

3. **Contract Requirements** – Method of Payment/Staffing Requirements
  - a. **Method of Payment** - The establishment of a method of payment for a subcontract will take into account the mechanism that best ensures the delivery of services, promotes efficiencies and effectiveness and provides value. Methods that promote creativity and performance are encouraged, as long as, fiduciary responsibility is maintained. Conditions outlined in the Cost Analysis and the market influence the appropriate method of payment for a prospective subcontract. Attention should always be paid to ensure a connection between expenditures and activities to the payment.

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**b. Scope of Work/Deliverables** – Prior to execution, a clear delineation of the services and expectations will be determined. The scope of work, service delivery expectations and measurement and performance will be defined in each CBC Lead Agency subcontract. The expected volume and type of services to be delivered will be outlined in the subcontract. Minimum thresholds for services to be delivered, clients to be served, and so on, will be determined in subcontracts. The scope of work should be well defined to ensure that service delivery directly relates to payment(s).

**c. Staffing Levels and Qualifications** - The CBC Lead Agency will establish standards for subcontract maintenance of adequate administrative organizational structure and support staff sufficient to its contractual responsibilities and in compliance with all applicable administrative rules and statutes.

The CBC Lead Agency standards should ensure that all subcontractor's staff meet applicable state and federal licensing or certification requirements, as well as the level two background screening requirements established in § 435.04, Florida Statutes.

Staffing levels may be established in subcontract language, including provisions for variations from these established levels.

**d. Staffing Changes**

The CBC Lead Agency subcontract language may include provisions for any requirements to notify the Lead Agency contract manager in writing of staff changes or excessive vacancies that have an impact on the performance of the subcontract. Impact should increase with an increased percentage of vacant positions.

**4. Expenditure Analysis** – Review of expenditures associated with service(s) is needed as part of ongoing subcontract management. Various reviews of expenditures are used for various specific purposes, all designed to: identify expenses as reasonable, necessary and allowable, develop spending projections for under/over expenditures, develop/validate market conditions for current and future year(s) and monitor subcontract requirements. Various expenditure reviews should be employed, based on the type and amount of a respective subcontract. Typical reviews could include (from least to most restrictive):

- Review of the Independent and/or Single Audit\_ typically used for subcontractor financial condition review and review of connection between financial statements and audit
- Un-Audited Year End Financial Statements - typically used to ensure appropriate expenditure of funds, and future subcontract commitments
- 9 Month Expenditure Report\_ typically used to plan future year subcontract amounts, and end of year planning
- Quarterly Expenditure Report – typically used for tracking of subcontract and fund progress, and mid-year subcontract adjustments
- Expenditure Report as Necessary – typically requested for specific purposes

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Expenditure analysis should, at a minimum, review agency/program expenses as reasonable and necessary\*\*, as allowable\*\*\* under the subcontract conditions, compare with budget/cost analysis and compare to total subcontract expenditures. Expenditures should be made in accordance with applicable State and Federal Rules and Laws and be directly related to the subcontract. Expenditure reviews may cause a CBC Lead Agency to increase/decrease a subcontract amount in current or future contract year(s).

Expenditure reviews should take the timing and intent of the review into account, with variances handled appropriately. Variances may result in current and/or future year contract changes, up to and including financial and service adjustments.

### **Definitions:**

1. **Expense Category** – The major expense categories for a typical service contract include salaries, benefits, operating, and indirect. Each of these categories should be identified in a budget or expense report.

Salary information should clearly indicate the number and level of positions included, as well as, in a budget, the individual salaries associated with each position level or type.

Benefit expense should be a reasonable percentage of the total salary cost.

Operating expenses should outline, at a minimum, major expense categories such as rent, travel, insurance, phone, computer and/or communications, supplies, equipment, recruitment and training. Operating expenses should be a reasonable percentage of total costs, for the services proposed.

Indirect costs should be less than 15% of the total costs, and include a detail analysis when higher than 10%. Typical indirect costs include (but are not limited to) general administration, salary and expenses of executives or accounting, human resources, quality assurance/improvement, and information and technology.

2. **Reasonable and Necessary Costs** – A cost is considered reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision is/was made to incur the costs (OMB Circular No. A-122). In determining reasonableness of a budgeted or expended cost a CBC Lead Agency should consider if the cost is ordinary and/or necessary for the organization's operation, are/were restraints and prudence followed, and are/were there deviations from normal and/or established practices followed.
3. **Allowable Costs** – A cost is allowable if it is in accordance to the benefit received, treated consistently with other costs proposed/incurred for the same purpose if: it is incurred for the associated award and is a benefits the award, and/or is necessary to the overall operation of the organization (OMB Circular No. A-122). The CBC Lead Agency should take great care in the review of budgets/expenditures to align costs to the allowability of the specific fund source.

CBC Subcontracting document direct references:

OMB Circular No. A-87

OMB Circular No. A-110

OMB Circular No. A-122

OMB Circular No. A-133

Getting What You Pay For, Best Practices for Contract and Grant Management, Department of Financial Services, Division of Accounting and Auditing