

Maine Center for Disease Control and Prevention

WIC Nutrition Program

Effective: October 1, 2011

Policy No. OM-2

Revised: August 1, 2015

Selection of Local Agencies

Authority

7 CFR §246.4(a)(5); §246.5; and §246.18

22 MRSA §255 and §1951

22-A MRSA §214 (Performance-Based Contracts)

10-144 CMR Chapter 24 (Purchase of Service Rule)

10-144 CMR Chapter 286, § III.A-C

State of Maine Executive Order March 16, 2010

Policy

1. The State Agency shall ensure that all agreements to purchase direct services are performance-based contracts.
2. The State Agency must select Local Agencies through a competitive request for proposal (RFP) process.
3. All agencies which seek approval as a local agency (both new agencies and currently approved local agencies) are required to submit proposals in response to the RFP in the format prescribed by the State Agency.
4. The State Agency enters into a one-year formal written contract with each selected local agency.
5. This contract may be renewed for up to three subsequent years.
6. Renewal of a purchase of services agreement shall be at the sole discretion of the Maine CDC WIC Nutrition Program.
 - 6.1. Each agreement shall be defined in the agreement and cannot be extended. All agreements must be renewed through a written agreement.
7. The State Agency may conduct periodic reviews of the qualifications of authorized local agencies under its jurisdiction. Ongoing monitoring and evaluation of local agencies shall follow the criteria and schedule outlined in Policy MA-2 Monitoring.

- 7.1. Based upon the result of such reviews, the State Agency may make appropriate adjustments among participating local agencies, including disqualification of a local agency when the State Agency determines that another local agency can operate the program more effectively and efficiently (see Policy OM-3 Disqualification of Local Agencies).
8. Purchases of service agreements shall be legally binding contractual documents enforceable under the laws of Maine.
9. The State Agency shall fund one local agency in each of the Maine CDC Public Health districts:
 - 9.1. District 1—York (York County)
 - 9.2. District 2—Cumberland (Cumberland County)
 - 9.3. District 3—Western (Androscoggin, Franklin and Oxford Counties)
 - 9.4. District 4—Midcoast (Waldo, Lincoln, Knox and Sagadahoc Counties)
 - 9.5. District 5—Central (Kennebec and Somerset Counties)
 - 9.6. District 6—Penquis (Penobscot and Piscataquis Counties)
 - 9.7. District 7—Downeast (Hancock and Washington Counties)
 - 9.8. District 8—Aroostook (Aroostook County)

Procedures

1. The State Agency shall maintain a listing of clinic sites that includes the following information:
 - 1.1. Location
 - 1.2. Type of site (hospital, health department or community action program)
 - 1.3. Service area
 - 1.4. Hours of operation
 - 1.5. Days of operation
 - 1.6. Health services provided on-site
 - 1.7. Social services provided on-site
 - 1.8. Number of participants served
2. To compete in the RFP process, the Local Agency must fit one of the following categories:

- 2.1. First consideration shall be given to a public or private nonprofit health agency that shall provide ongoing, routine pediatric and obstetric care and administrative services.
- 2.2. Second consideration shall be given to a public or private nonprofit health or human service agency that shall enter into an agreement with another agency for either ongoing, routine, pediatric and obstetric care or administrative services.
- 2.3. Third consideration shall be given to a public or private nonprofit health agency that shall enter into a written agreement with private physicians, licensed by the State, in order to provide ongoing, routine pediatric and obstetric care to a specific category of participants (women, infants and children).
- 2.4. Fourth consideration shall be given to a public or private nonprofit human service agency that shall enter into a written agreement with private physicians, licensed by the State, to provide ongoing, routine pediatric and obstetric care.
- 2.5. Fifth consideration shall be given to a public or private nonprofit health or human services agency that shall provide ongoing, routine pediatric and obstetric care through referral to a health provider.
3. The State Agency shall establish selection criteria to create a Local Agency Priority System to be used for the selection of new Local Agencies. The selection criteria cited below shall be used to compare applications within each geographic area:
 - 3.1. Access criteria:
 - 3.1.1. Location/participant accessibility
 - 3.1.2. Ability to serve projected caseload
 - 3.2. Service quality:
 - 3.2.1. Range and quality of services
 - 3.2.2. History and performance in other program
 - 3.2.3. Coordination with other health care providers
 - 3.3. Financial criteria:
 - 3.3.1. Projected cost of operations/ability to operate with available funds
 - 3.3.2. Financial integrity/solvency
4. The State Agency shall provide a written justification to FNS for not funding the Local Agency program serving the highest priority area or special population. Justification may include State or Local Agency inability to administer the program, no agency expressed interest in operating the program, or for those areas or special populations which are under consideration for expansion of an existing operation, a determination by the State Agency

that there is a greater need for funding in an agency serving an area or special population not operating the program. The State Agency shall use the Participant Priority System to compare need in such a determination. See Policy CE-3, Nutritional Risk Determination, Documentation, and Priority Assignment for more information.

5. All contracts issued under the review of the Contract Review Committee that do not qualify as sole source or emergency procurements must be competitively bid using an RFP.

- 5.1. The RFP must contain at a minimum:

- 5.1.1. A clear definition (scope) of the project

- 5.1.2. The evaluation criteria and relative scoring weights to be applied

- 5.1.3. The proposal opening date and time

- 5.1.4. An agency contact person

- 5.2. Cost of the contract must be included among the evaluation criteria and must be given a weight of at least 25% of the total.

- 5.3. Draft RFPs must be submitted to the Contract Review Committee for review prior to release. Review includes, but is not limited to, appropriateness of scope and clearly defined evaluation criteria with cost at a minimum of 25%.

- 5.4. All proposals shall be opened publicly at the Division of Purchases main office. Proposals received at the Division of Purchases main office after the advertised opening time shall be rejected, unless the advertised opening date and time have been extended by the State Purchasing Agency due to circumstances requiring such an extension time.

- 5.5. Local agencies submitting winning bids shall be notified of approval by the Contract Review Committee.

- 5.6. If the State Agency does not receive an application from a local public or nonprofit private health agency that can provide adequate services, it must seek a new Local Agency.

6. When seeking new local agencies, request for proposals (RFPs) must be advertised for a minimum of three (3) consecutive days in the Kennebec Journal of Augusta, allowing a minimum of fifteen (15) calendar days from the final day of advertising to the proposal opening date. This section does not limit advertising in any other publication, trade publication or other media.

- 6.1. The notice shall include a brief explanation of the Maine CDC WIC Nutrition Program, a description of the local agency priority system and a request that potential local agencies notify the State Agency of their interest.

- 6.2. Advertisements must include, at a minimum:

- 6.2.1. A brief description of the service requirements of the state
 - 6.2.2. The name of the department and division issuing the RFP
 - 6.2.3. The name of the contact person and address where copies of the RFP can be obtained
 - 6.2.4. The bid opening date and the opening time
 - 6.2.5. The opening location: Division of Purchases, Burton M. Cross Building, 4th Floor, 111 Sewall Street, 9 State House Station, Augusta, ME 04333-0009.
7. Any prospective bidder shall be required to submit a notice of intent to bid at least thirty (30) days before the date bids shall be accepted as a precondition to submitting a formal bid. The notice of intent must meet the minimal requirement that it demonstrates a prospective bidder's competence and ability to comply with the requirements of the contract.
 - 7.1. One informational meeting shall be held at least thirty (30) days before the due date for submission of the notice of intent to bid.
 - 7.2. Pre-bidders conferences shall be allowed, but are not required. These conferences shall be used to be certain that all bidders have an equal understanding of the state requirements.
 - 7.2.1. Pre-bidders conferences must be advertised within the RFP advertisement, including location, day and time. Conferences must be scheduled a minimum of seven (7) calendar days from the final day of advertising and a minimum of two (2) weeks prior to proposal opening date. The State Purchasing Agent may authorize a pre-bidders conference on shorter notice than what has been advertised in the RFP.
 - 7.2.2. The contracting agency shall notify all prospective bidders who requested the RFP of the date and time of the pre-bidders conference under these circumstances.
 - 7.2.3. Conferences must be open to the public. Questions raised must be documented in writing and responses must be written and forwarded to each prospective bidder who received an RFP, whether in attendance or not.
 8. No alterations or changes to any requirement or specification within the original RFP can be made without notifying all bidders in writing a minimum of seven (7) calendar days before opening date.
 9. Proposals received at the Division of Purchases later than the date and time specified shall not be accepted and shall be returned unopened or held at the Division of Purchases to be picked up by the respondent.
 - 9.1. Late proposals not picked up within seven (7) calendar days shall be destroyed.

10. All opened proposals shall be turned over to the contracting agency's representative after the opening. A written record of the vendor name, date and time received, cost/price and agency representative shall be kept at the Division of Purchases.
11. The State Agency shall be responsible for reviewing all RFPs based on the criteria established within the original RFP document. The State Agency shall document the scoring, substantive information that supports the scoring, and make the award decision. State Agency decision is subject to Contract Review Committee approval.
 - 11.1. Interviews and/or presentations may be considered within the review for information and scoring, if that provision was included within the original RFP documentation.
 - 11.2. Pricing changes, alterations or negotiations are not allowed prior to the award decision and must not be used in scoring. Minor negotiations after notice of award are allowed. If agreement cannot be reached, the proposal may be rejected and the award made to the next highest rated bidder who was in compliance with all terms, conditions and requirements.
 - 11.3. Written records must be kept by each person reviewing or ranking proposals. These records must be made available upon request.
12. The Award must be made to the highest rated proposal which conforms to the requirements of the state as contained in the RFP, including:
 - 12.1. CFDA number
 - 12.2. Federal Award Number
13. The State Agency must notify all bidders responding to an RFP of the award decision in writing, postmarked or delivered at least fourteen (14) calendar days prior to contract effective date. This notice must include a statement that the award is conditional pending Contract Review Committee approval.
14. The award decision, a copy of the award notification to bidders, supporting justification of award, individual and summarized scoring and a minimum of four (4) copies of the contract with the State Agency Head and vendor authorized original signatures must be sent to the Contract Review Committee for final review and approval a minimum of fourteen (14) calendar days prior to contract effective date.
15. Upon final approval by the Contract Review Committee, the Chairman shall affix an original signature to the contracts, keep one copy, and forward the other copies to Accounts and Control for final approval of encumbrance, terms and account coding. The Controller shall keep one copy and the remaining copies shall be returned to the contracting agency for distribution to vendor.
16. Contracts shall not be considered fully executed and valid before final approval of encumbrance. No contract shall be approved based on an RFP which has an effective date less than fourteen (14) calendar days after award notification to bidders.

17. Attorney General approval shall not be required unless changes have been made to existing boilerplate or at the request of the Contract Review Committee, unless the total value of the contract is over \$3,000,000. Nothing within this paragraph prevents agency requests for Attorney General Review of any contract.