

MUSKEGON COUNTY

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December 28, 2009

FISCAL INTERMEDIARY SERVICES REQUEST FOR PROPOSALS RFP 10-1683

Vendor _____

The Muskegon County Board of Commissioners invites your proposal on Fiscal Intermediary Services for Community Mental Health of Muskegon County. A set of conditions and specifications/requirements are enclosed.

A Pre-Bid Meeting is scheduled for Tuesday, January 5, 2010 at 1:00 P.M. in Board Rooms A and B at Community Mental Health of Muskegon County, John Halmond Building, 376 E. Apple Avenue, Muskegon, MI 49442. Please meet in the Lobby.

Proposals are due in the Muskegon County Purchasing Office, Central Services Building, 141 E. Apple Avenue, 1st Floor, East Entrance, Muskegon, MI 49442, no later than 3:00 P.M., prevailing time, Wednesday, January 20, 2010.

The time of receipt shall be determined by the time clock stamp in the Purchasing Office. Bidders are responsible for insuring that their proposals are stamped by Purchasing Office personnel by the deadline indicated.

No late proposals will be accepted.



Joseph W. Siedenstrang
Accounting Manager

DEPARTMENT OF FINANCE AND MANAGEMENT - PURCHASING • 141 E. APPLE AVENUE • MUSKEGON, MI 49442-3404
231.724.6281 • FAX 231.724.6593 • purchasing@co.muskegon.mi.us • www.co.muskegon.mi.us

An EEO / ADA Employer

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FISCAL INTERMEDIARY SERVICES
REQUEST FOR PROPOSALS
RFP 10-1683

The Muskegon County Board of Commissioners invites your proposal on Fiscal Intermediary Services.

A Pre-Bid Meeting is scheduled for Tuesday, January 5, 2010 at 1:00 P.M. in Board Rooms A and B at Community Mental Health of Muskegon County, John Halmond Building, 376 E. Apple Avenue, Muskegon, MI 49442. Please meet in the Lobby.

Proposal request forms are available in the Muskegon County Purchasing Office, Central Services Building, 141 E. Apple Avenue, 1st Floor, East Entrance, Muskegon, MI 49442 or the Muskegon County Purchasing website at www.co.muskegon.mi.us/financeandmgt/pur_cs.htm. Proposals are due in the Purchasing Office, no later than 3:00 P.M., prevailing time, Wednesday, January 20, 2010.

No late proposals will be accepted. The Board reserves the right to accept or reject any or all proposals, reserves the right to waive formalities and to take such action as it deems necessary in the best interest of the County of Muskegon. The County of Muskegon operates on an equal opportunity basis in its bidding policy (Title VII of Civil Rights Act of 1964, Equal Opportunity Clause, Executive Order 11246, Chapter 60, Subpart A, 60-I.4, Revised Order No. 4). Bidding is open to all interested parties, in compliance with national, state and local laws.

Joseph W. Siedenstrang
Accounting Manager

PROPOSAL CERTIFICATION / NON-COLLUSION AFFIDAVIT

I certify that this proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies, equipment or service, that it meets or exceeds all the specifications contained herein and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences and civil damage awards. I agree to abide by all conditions of this proposal, all specifications as stated, all bid prices and certify that I am authorized to sign for the bidder.

Vendor: _____

Street Address: _____

City/State/Zip Code: _____

Phone No.: _____

Fax No.: _____

E-mail: _____

Web Site: _____

Signature: _____

Signer's Name Printed: _____

Title: _____

Date Certified: _____

PROPOSAL SUMMARY

All costs (~~including shipping, handling and all other costs~~) must be included in the total proposal price.

Bidders are to submit prices on the lines (spaces) provided below. Every line (space) must contain a figure, zero (0) or line (-). Failure to complete the Proposal Summary as stated above shall be cause for rejection of proposal. (Remember to double check your addition, subtraction and multiplication.)

FISCAL INTERMEDIARY SERVICES RATES:

Non-Taxed Respite Services Rate \$_____

Taxed Respite Services Rate \$_____

Community Living Supports (CLS) Services Rate \$_____

TOTAL PROPOSAL PRICE \$_____

ADDENDA SUMMARY

Please initial below acknowledging receipt of any addenda (give number and date of each).
If none were received, please indicate this as well.

Addendum Number	Addendum Date	Initials
_____	_____	_____
_____	_____	_____
_____	_____	_____

Company Name: _____

Signature: _____

Printed Name: _____

PROPOSAL CONDITIONS/INSTRUCTIONS TO BIDDERS

These conditions are an integral part of this proposal and the Vendor must comply with them.

1. Proposal Submittals

Vendor must bid on this form and as requested. **Vendor must submit six (6) copies of Proposal; One (1) copy marked “Original” and five (5) copies marked “Copy”.** Vendor should make copy of proposal for his or her file. The Vendor’s name and address must appear on the outside of the envelope. The proposal must be sealed. If the proposal was downloaded from the internet, the Vendor must clearly write the proposal name and number on the outside of the envelope along with the Vendor’s business name.

2. All costs (~~including shipping, handling and all other costs~~) must be included in the total proposal price as stated on the Proposal Summary page.

Bidders are to submit prices on the lines (spaces) provided on the Proposal Summary page(s). Every line (space) must contain a numeric figure, zero (0) or line (-). Failure to complete the Proposal Summary as stated above shall be cause for rejection of proposal. (Remember to double check your addition, subtraction and multiplication.)

3. Delivery Date

The delivery time or completion date, as stated in the proposal form, shall be the time required to deliver and complete item(s) after the receipt of the order or award of the contract. Where multiple items appear on a proposal request, the bidder/offeror shall, unless otherwise stated by the County, show the delivery time for each item separately.

State anticipated ~~delivery~~ start date _____

~~All prices must be FOB Destination, unloaded inside and assembled unless otherwise indicated.~~

4. Invoices and Payment Terms

Invoices are to be mailed to the County department on the resulting purchase order. All invoices must include the purchase order number. Failure to comply may result in delayed payments. The County payment terms are Net 30 days unless a cash discount is allowed for payments within not less than ten (10) days. The payment term shall begin on the date the merchandise is inspected, delivered and accepted by the County and the correct invoice is received in the office specified on the purchase order.

State terms of sale _____

5. State the maximum time this proposal will be in force _____ (Minimum 60 Days)

6. Specification Inquiries

If there are any questions concerning the specifications contained in this Proposal Request, please contact Judith E. Cohen, Network Manager, at cohen@cmhs.co.muskegon.mi.us Any questions received by Monday, January 11, 2009 at 5:00 P.M. will be answered and communicated via an Addendum by Friday, January 15, 2009 at 5:00 P.M. The Addendum will be emailed to known email addresses and also posted on the websites.

7. Proposal Procedure Inquiries
If there are any questions regarding proposal procedures, please contact the Purchasing Office at (231) 724-6281.
8. ~~State manufacturer name and number where requested.~~
9. Brochures and Literature
Enclose brochure(s) with proposal.
10. Vendor Samples
Samples of items when required, must be furnished free of expense to the County and upon request, be returned to the Vendor at the Vendor's expense. Samples of selected items may be retained for comparison purposes.
11. Insurance Requirements
The Vendor should enclose with his or her proposal an insurance certificate indicating the insurance coverage stated under "County of Muskegon Insurance Requirements" section of this proposal. This must be furnished before the awarding of the proposal and before the signing of any County/Contractor agreements and/or work performed by the Vendor.
12. Commission Privilege
The Board of Commissioners reserves the right to accept or reject any or all proposals, reserves all rights granted to it by law, reserves the right to waive formalities and to take such action as it deems necessary in the best interest of the County of Muskegon.
13. Legal Requirements
Federal, State, County and local ordinances, rules and regulations and policies shall govern development, submittal and evaluation of proposal and disputes about proposals. Lack of knowledge by a Vendor about applicable law is not a defense.
14. Bidder/Offeror Representation
Each bidder/offeror must sign the proposal with his/her usual signature and shall give his/her full business address on the form provided in this proposal.

Proposals by partnership shall be signed with the partnership name by one of the members or by an authorized representative. Proposals by corporations shall be signed with the name of the corporation followed by the signature and designation of the president, secretary or other person authorized to bind it in the matter.
15. Subcontracting
No portion of this proposal may be subcontracted without the prior written approval by the County. It may be in the best interest of the awardee to subcontract some parts of any given job; however, the Contractor will be held responsible by the County for the quality, delivery and all terms and conditions of this proposal.

16. Assignment
Any purchase order awarded shall not be assignable by the Vendor without the express written approval of the County and shall not become an asset in any bankruptcy, receivership or guardianship proceedings.

17. Civil Rights
A. The Vendor assures that in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title IX of the Education Amendment of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), the Regulations issued thereunder by the U.S. Department of Health and Human Services (45 CFR Parts 80, 84, 86, and 91), the Michigan Handicapper's Civil Rights Act (1976, P.A. 220) and the Michigan Civil Rights Act (1976, P.A. 453), no individual shall, on the ground of race, creed, age, color, national origin or ancestry, religion, sex, marital status or handicap be excluded from participation, be denied the benefit of or be otherwise subjected to discrimination under any program or activity provided by this Vendor.

Assurance is given to the County that good faith efforts will be made to identify and encourage the participation of minority, women and handicapper owned businesses in contract solicitations. The Vendor shall incorporate language in all contracts awarded: (1) prohibiting discrimination against minority, women and handicapper owned business in subcontracting; and (2) making discrimination a material breach of contract.

B. The Vendor assures that it meets the requirements of the Americans with Disabilities Act, Public Law 101-336, enacted July 26, 1990.

C. The Vendor assures that it meets the requirements of the Drug Free Workplace Act of 1988, 34 CFR Part 85, Subpart F.

18. Alternates & Deviations
Specifications referred to herein are used to indicate the desired type, and/or construction, and/or operation. An alternate may be offered if deviations from specifications are minor and if all deviations are properly outlined on a separate sheet. Failure to outline all deviations may be grounds for rejection of your proposal.

Alternates must be placed on a separate sheet.

The decision of the County of Muskegon, acting through the Accounting Manager or his authorized representative, shall be final as to what constitutes acceptable deviations from specifications.

19. Rejection of Proposal
Proposals may be considered irregular and may be rejected if they show omissions, alterations of form, additions not called for, conditions, limitations or other irregularities of any kind. The County reserves the right to waive minor technicalities or irregularities of Proposal.

20. Proposal Evaluation and Award
The evaluation and award of this proposal shall be based on a combination of factors, including, but not limited to the following: cost, quality of product, references, completion date.
21. Bidder/Offeror Qualifications
No proposal shall be accepted from and no contract will be awarded to any person, firm or corporation that is in arrears to the County upon debt or contract that is a defaulter, as surety or otherwise, upon any obligation to the County, or that is deemed irresponsible or unreliable by the County. If requested, bidders/offers shall be required to submit satisfactory evidence that they have a practical knowledge of the particular supply/service bid and that they have the necessary financial resources to provide the proposed supply/service as described in the specifications.
22. Vendor/Bidder Complaints or Protests
The County of Muskegon has established administrative procedures for handling Vendor's complaints in a fair and timely manner. Vendors should observe the following steps in order to file complaints:
- Step 1
The Vendor must contact the Accounting Manager within seven (7) days of the incident about which he or she has a complaint. The Accounting Manager may request the Vendor to present the complaint in writing if it is serious and/or the Vendor is requesting a delay of the purchase award.
- The Accounting Manager will investigate the complaint and review all findings with the County Administrator. The Accounting Manager will reply verbally or in writing to the Vendor after discussion with the County Administrator.
- Step 2
If the Vendor is dissatisfied with the Accounting Manager's reply, an appeal must be made in writing within seven (7) days to the County Administrator or the Muskegon County Board of Commissioners.
23. Material Safety Data Sheet
Each Vendor shall provide the County of Muskegon with a complete copy of the U.S. Department of Occupational Safety and Health Administration, Material Safety Data Sheet, (Form OSHA-20) for each product you are using on this project, if hazardous materials are being used.
24. Errors/Omissions/Discrepancies
Any errors, omissions or discrepancies in the specifications discovered by a prospective Contractor and/or service provider shall be brought to the attention of the Accounting Manager as soon after discovery as possible. Further, the Contractor and/or services provider shall not be allowed to take advantage of errors, omissions or discrepancies in the specifications.
25. Proposal Opening
Proposals will be opened and read publicly in the Muskegon County Purchasing Office, Central Services Building, 141 E. Apple Avenue, 1st Floor, East Entrance, Muskegon, MI at 3:00 P.M., prevailing time, Wednesday, January 20, 2010.
- No bid award will be made at the time of the opening.

26. Telegraphic/Electronic Proposal Submittal
Telegraphic and/or proposal offers sent by electronic devices (e.g. facsimile machines or electronic mail) are **NOT** acceptable and will be rejected upon receipt. Proposing firms will be expected to allow adequate time for delivery of their bid either by airfreight, postal service or other means.
27. Proposal Changes
No late proposals will be accepted.
Proposals, amendments thereto or withdrawal requests received after the time advertised for proposal opening will be void regardless of when they were mailed.
28. Purchase Order
A purchase order will be issued to the successful Vendor after the proposal has been awarded by the Board. The County of Muskegon shall not be responsible for any goods delivered or services performed without a purchase order issued and signed by the Accounting Manager or an authorized representative.
29. Accelerated Pay Discounts
Accelerated discounts should be so stated on the proposal form. If quick pay discounts are offered, the County reserves the right to include that discount as part of the award criteria. Prices bid must, however, be based upon payment in thirty (30) days after receipt, inspection and acceptance. In all cases, quick pay discounts will be calculated from the date of the invoice or the date of acceptance, whichever is later.
30. Proposal Results
Vendors submitting proposals who wish to know the results before the award is made, may visit the website at <http://www.co.muskegon.mi.us/financeandmgt/bidtabulations.cfm> , call the Muskegon County Purchasing Office at (231) 724-6281 or visit the office. After the award is made, the proposal results will be posted on the Muskegon County Purchasing website.
31. Taxes
Sales Tax: For purchases made directly by the County of Muskegon, the County is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for County Sales Tax will be furnished upon request.

Federal Excise Tax: The County of Muskegon may be exempt from Federal Excise Tax or such taxes may be reimbursable, if articles purchased under this contract are used for the County's exclusive use. Certificates exclusive use is for the purposes of substantiating a tax-free or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Codes, prices shall not include the Federal Excise Tax.

The County's Tax Exempt Certification is available for bidder viewing upon request.
http://www.co.muskegon.mi.us/financeandmgt/pur_forms.htm
The County's Federal ID # is 38-6006063.
32. For the benefit of brevity, when the pronouns "he" or "his" / "she" or "her" are used, it is not intended to denote the gender of any person.

33. Exceptions
The bidder shall furnish a statement on company letterhead giving a complete description of all exceptions to the terms, conditions and specifications. Failure to furnish the statement will mean that the bidder agrees to meet all requirements of the terms, conditions and specifications.
34. Brand Names
~~Unless otherwise specified, manufacturer's names, trade names, information and/or catalog numbers listed in the specifications are intended only to identify the quality and characteristics desired. They are not intended to limit competition. The Vendor may offer any equivalent product which meets or exceeds the specifications. If proposals are based on equivalent products, the proposal must: a) Indicate the alternate manufacturer's name and catalog number; b) Include complete descriptive literature and/or specifications; c) Include proof that the proposed equivalent will meet the specifications. The County reserves the right to be the sole judge of what is equal and acceptable to meet its needs in all respects. If the bidder fails to name a substitute, goods identical to the specified standard must be furnished.~~
35. Ownership and Use of Documents
- a. All documents prepared in connection with this agreement will become the property of the County whether any project related to this agreement is executed or not.
 - b. The Vendor will retain all of its records and supporting documentation relating to this agreement and not delivered to the County, for a period of three years, except that in the event the Vendor goes out of business during that period, it will turn over to the County all of its records relating to the project for retention by the County.
36. Termination for Convenience
Muskegon County may terminate a contract, in whole or in part, whenever the County determines that such termination is in the best interest of the County, without showing cause, upon giving notice to the Vendor. Muskegon County shall pay all reasonable costs incurred by the Vendor up to the date of termination. However, in no event shall the Vendor be paid any amount which exceeds the price bid for the work performed. The Vendor will not be reimbursed for any profits which may have been earned up to the date of termination.
37. Termination for Default
When the Vendor has not performed or has unsatisfactorily performed the contract or in the event any of the provisions of the purchase order are violated, the County may serve written notice of its intention to terminate the contract and/or purchase order for default. Upon termination for default, payment will be withheld at the discretion of Muskegon County. Failure on the part of a Vendor to fulfill the contractual obligations shall be considered just cause for termination of the contract. The Vendor will be paid for work satisfactorily performed prior to termination less any excess costs incurred by the County in procuring and completing the work.
38. Termination Due to Unavailability of Funds in Succeeding Fiscal Years
When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled and the Vendor shall be reimbursed for a reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

39. Rights and Remedies of County for Default
If any item furnished by the Vendor fails to conform to specifications or to the sample submitted by the Vendor, the County may reject it. Upon rejection, the Vendor must promptly reclaim and remove such item without expense to the County and shall immediately replace all such rejected items with others conforming to such specification and samples. If the Vendor fails to do so, the County has the right to purchase in the open market a corresponding quantity of any such items and to deduct from any monies due the Vendor the difference between the prices named in the purchase order and the actual cost to the County. If the Vendor fails to make prompt delivery of any item, the County has the right to purchase such item in the open market and to deduct from any monies due the Vendor the difference between the prices named in the purchase order and the actual replacement cost to the County. The rights and remedies of the County identified above are in addition to any other rights and remedies provided by law or under the purchase order.
40. Avoidance of Conflict of Interest and Confidentiality
The Contractor may provide consultation services to other government organizations in Michigan and elsewhere. In order to preserve the trust and confidence of their client, the Contractor adheres to a set of principles that enables them to perform their work in a manner that is free of real or perceived conflicts of interests. These principles are as follows:
- a. Contractor will not discuss, distribute or use in any way the data or information acquired in the course of providing services to Muskegon County without prior approval by the County.
 - b. Contractor will not undertake a specific activity which may be viewed as adverse to the interests of another client without obtaining the agreement of both parties.
 - c. Vendor states that no County officer or employee nor any business entity in which they have an interest: a) Has an interest in the contract awarded; b) Has been employed or retained to solicit or aid in the procuring of the resulting contract; c) Will be employed in the performance of such contract without immediate disclosure of such fact to the County.
41. Proposal conditions/instructions to bidders, specifications/requirements may become part of a contract for this product/service.
42. Freedom of Information Act
Proposals will be available for public inspection after the award announcement, except to the extent that a bidder designates trade secrets or other proprietary data to be confidential. Material designated as confidential must be readily separable from the remainder of the proposal to facilitate public inspection of the non-confidential portion of the proposal. A bidder's designation of material as confidential will not necessarily be conclusive and the bidder may be required to provide justification why such material should not be disclosed, on request, under the Michigan Freedom of Information Act.

43. Debarment
If a bidder is presently debarred, suspended, proposed for debarment, declared ineligible or otherwise excluded from doing business with any government agency which prohibits your firm from participating in any procurement, the bidder must provide the County with that information as part of its response to this solicitation. Failure to fully and truthfully provide the information required, may result in the disqualification of your proposal from consideration or termination of the purchase order, once awarded.
44. Bidder Registration
If the successful bidder is not registered with the County of Muskegon as a Vendor, the bidder will be required to complete a Vendor registration in order to be awarded the proposal. If the awarded bidder does not submit the completed registration to the Purchasing Office within 48 hours of its being notified of the award, the County may determine that the bidder shall be deemed not responsive and not be considered for an award.
- If the Vendor is a DBE (Disadvantaged Business Enterprise), the Vendor is encouraged to complete the Unified Certification Application and become a certified Vendor with the County of Muskegon.
45. Mandatory Pre-Proposal Meetings
A representative from the bidder's company is required to attend the mandatory pre-proposal meeting. The representative must be in attendance of the meeting before the meeting is officially adjourned by the moderator in attendance. Failure to attend the mandatory pre-proposal meeting will result in the bidder being disqualified from bidding.
46. Cooperative Bidding
~~Various municipalities (consisting of the county, cities, townships and villages) along with other non-profit organizations located within the boundaries of Muskegon County, Michigan, have formed a cooperative purchasing group for the purpose of combining procurement of like commodities. It is requested that the Vendor awarded the proposal extend to members of the group the same prices quoted in this proposal. Each individual participating member will place their own orders and be responsible for paying their own invoices.~~
47. Contract Renewal Option
~~The contract is for one year with the option to renew for two subsequent years, one year at a time, based on mutual agreement between both parties.~~

PROPOSAL SPECIFICATIONS

If there are any questions regarding the following specifications, please contact:

Judith E. Cohen, Network Manager, at cohen@cmhs.co.muskegon.mi.us

Any questions received by Monday, January 11, 2009 at 5:00 P.M. will be answered and communicated via an Addendum by Friday, January 15, 2009 at 5:00 P.M. The Addendum will be emailed to known email addresses and also posted on the web sites.

INTRODUCTION AND OVERVIEW

Community Mental Health Services of Muskegon County is looking for an organization that will meet the Self-Determination needs of consumers by becoming the consumer's and/or family's Fiscal Intermediary. The qualified organization will support family-controlled service arrangements for minors and Self-Determination arrangements for consumers of mental health services in ways that assure accountability for funds and which provide support for self-directed services.

Community Mental Health Services of Muskegon County manages mental health care service delivery through evaluation and monitoring and expect service providers to be solely responsible for managing their operations consistent with the terms of the accepted contract. Consequently, the submitter should be aware that the provider from whom Community Mental Health Services of Muskegon County purchase Mental Health Services is expected to operate in the marketplace and be able to effectively meet all requirements for establishing and maintaining the contractual relationship.

BIDDER RESPONSIBILITIES

It is the responsibility of the bidder to understand all details of the RFP. The bidder, by submitting a response indicates a full understanding of details and specifications of the RFP. Bidders are expected to present narrative statements/summaries in a clear, concise and organized manner for review.

AWARD OF CONTRACT

It is the intent of Community Mental Health Services of Muskegon County to enter into a contract with a provider that will emphasize administrative efficiencies and possess the capacity, infrastructure and organizational competence to perform required functions necessary for Managed Care under this proposal. Award recommendations are contingent upon an evaluation of the organization's qualifications to determine if a bidder is a qualified service provider.

All bidders who meet the quality standards will be evaluated to determine the lowest bid. Community Mental Health Services of Muskegon County reserve the right to award contract(s) to bidders whose rates may not be the lowest. This decision will be based on enhanced quality of specialty services.

CONSIDERATIONS

The selected contractor will be solely responsible for managing their operations consistent with the terms of the contract. The contractor will be required to maintain compliance with the CMH network performance standards contained in the contract and referenced documents. CMH and/or the County of Muskegon reserve

the right to accept, reject or negotiate and amend any proposal reviewed if it is in the best interest of CMH, and to waive any irregularities and/or information in the proposal process.

MINIMUM REQUIREMENTS

1. The qualifying organization will be one who treats consumers with dignity and respect and believes in the importance of integration into our community. The organization must seek to maximize self-sufficiency and self-reliance in persons whose functioning is impaired by developmental disabilities or mental/emotional disorders.
2. The Fiscal Intermediary will possess a positive track record of managing and accounting for money and financial transactions.
3. It is beneficial for organizations to have experience working with individuals and families with disabilities or be willing to learn, which includes developmental disabilities and mental/emotional disorders.
4. The Fiscal Intermediary must purchase insurance to protect the interests and obligations being delegated to the Intermediary.
5. Performance bonding is required of the Fiscal Intermediary to safeguard against losses that could occur should there be problems associated with intentional or inadvertent errors of Fiscal Intermediary employees.
6. The Fiscal Intermediary will provide proof of all required registrations including: an Individual Federal Identification Number, State Tax Department Registrations and a Michigan Employment Security Commission (MESC) account number.
7. An entity acting as a Fiscal Intermediary shall be free from other relationships involving the Community Mental Health Services Program or the consumer that would have the effect of creating a conflict of interest for the Fiscal Intermediary in relationship to its role of supporting consumer-determined services/supports transactions, such as acting as a direct service provider to the consumer. (However, a subsidiary of a service provider entity may serve in the role of a Fiscal Intermediary.)
8. Please see the MDCH Technical Advisory on Choice Voucher System found on MDCH's website.

PROGRAM DESCRIPTION

Working with the Fiscal Intermediary, the consumer and/or family choose, train, employ and direct Community Living Support or Respite workers, selecting them through a contractual process. The Fiscal Intermediary assists the consumer and/or responsible parent with the complexities associated with tax withholdings and unemployment. It is important that the Fiscal Intermediary be in a position to be trusted by the consumer and family.

The Fiscal Intermediary will have the following specific responsibilities:

1. Meets with the consumer/family and the chosen CLS/Respite worker for an initial meeting within ten (10) business days of the referral from CMH.
2. Pays for services and supports upon authorization by Community Mental Health and pays household bills when necessary.
3. Works with CMH to ensure payments are made to workers who maintain education and training.
4. Acts as a business agent and advocates for the individual.
5. Submits all monthly, quarterly and annual filings, including state withholding and reporting, unemployment insurance and preparation of employee W-2 forms.
6. Reports to the consumer/family as well as to CMH all expenditures and encounter-based service data, safeguarding the funds provided by CMH for each person's individual budget.
7. Makes required payments to the IRS and other government entities on behalf of the individual or family.
8. When necessary, obtains worker's compensation and disability insurance policies and health and dental insurance (if funded).
9. Develops trust and maintains the confidence of the family.
10. Will comply with HIPAA and corporate compliance requirements.
11. Will comply with the MDCH Guidelines on Self-Determination and the Choice Voucher System (Attached).
12. Maintains complete records of Fiscal Intermediary Services and makes them available for review by CMH.

SUBMISSIONS REQUIRED OF BIDDER

Send in a written proposal with the following description:

1. Brief overview of your organization/agency.
2. Experience with individuals with developmental disabilities and mental/emotional disorders.
3. Experience with receiving funds, making payments for services and supports, handling accounting, withholdings and fee payments, providing status reports to responsible parent and host agency.
4. Submit three (3) rates for Fiscal Intermediary Services.
 - a. Rate for Non-taxed Respite Services.
 - b. Rate for Taxed Respite Services.
 - c. Rate for Community Living Supports (CLS) Services.
5. Discuss your ability to submit information electronically.
6. Discuss your organization's bonding and insurance coverages.
7. Discuss your plan for responding to referrals in a timely manner.
8. Copy of your most current financial audit.

SUBMITTAL

Provider must complete and submit their proposals to the Muskegon County Purchasing Office, Central Services Building, 141 E. Apple Avenue, 1st Floor, East Entrance, Muskegon, MI at 3:00 P.M., prevailing time, Wednesday, January 20, 2010. Submit the original proposal marked "Original" plus five (5) copies marked "Copy".

A Pre-Bid Meeting is scheduled for Tuesday, January 5, 2010 at 1:00 P.M. in Board Rooms A and B at Community Mental Health of Muskegon County, John Halmond Building, 376 E. Apple Avenue, Muskegon, MI 49442. Please meet in the Lobby.

If you have any questions regarding this Request for Proposal, please contact Judith E. Cohen, Network Manager, at cohen@cmhs.co.muskegon.mi.us Any questions received by Monday, January 11, 2009 at 5:00 P.M. will be answered and communicated via an Addendum by Friday, January 15, 2009 at 5:00 P.M.

Upon receipt of all proposals, CMHSMC will evaluate and notice will go out to all bidders in the form of a Bid Summary, which will be found on the Purchasing website. The organization selected will be contacted for contract finalization.

REFERENCES

The Vendor must furnish at least three (3) references from persons who can attest to the quality of similar prior work performed on similar projects:

1. Company Name: _____
- Street Address: _____
- City/State/Zip Code: _____
- Contact Person: _____
- Phone No.: _____

2. Company Name: _____
- Street Address: _____
- City/State/Zip Code: _____
- Contact Person: _____
- Phone No.: _____

3. Company Name: _____
- Street Address: _____
- City/State/Zip Code: _____
- Contact Person: _____
- Phone No.: _____

COUNTY OF MUSKEGON
PROFESSIONAL SERVICE VENDOR'S INSURANCE REQUIREMENTS
(MONETARY)

A. PROOF OF INSURANCE

The Vendor shall furnish the County with satisfactory proof of insurance (e.g. certificate of insurance, binder, copy of policy declaration page) prior to signing the County-Vendor agreements..

B. REQUIRED COVERAGES

Liability policies, except for professional liability policies, shall include the County and its subsidiaries, departments and agencies and their respective officials, officers, directors, employees and agents named as Additional Insured's.

WORKERS' COMPENSATION

Coverage for its employees with statutory limits and Employers Liability coverage with limits of:

Coverage A - Compensation as required by Statute	
Coverage B - Employer's Liability to	\$500,000

COMMERCIAL GENERAL LIABILITY

Coverage on the standard ISO 1993 Form, which includes contractual liability, personal injury, broad form property damage, extended liability and where applicable, products liability coverage, with coverage limits of:

Per occurrence	\$1,000,000
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COMPREHENSIVE AUTOMOBILE LIABILITY

Coverage on the standard ISO 1990 Form, which includes contractual liability coverage and coverage for all owned, hired and non-owned vehicles with limits of:

Bodily Injury and Property Damage, Any One Accident or Loss	\$1,000,000
--	-------------

PROFESSIONAL LIABILITY

Includes contractual liability for each twelve month period:

Each Wrongful Act/Omission	\$1,000,000
Aggregate	\$3,000,000

FIDELITY COVERAGE

Coverage for its employees. County needs to be named loss payee.

Fidelity	\$1,000,000
Third Party Liability	\$1,000,000

1. The foregoing policies shall be evidenced by a certificate of insurance acceptable to the County. Such certificate shall be issued by an insurance carrier with an A.M. Best rating of "A-" or better and delivered to the County prior to the performance of any services hereunder. Such insurance certificate shall provide that the coverages evidenced thereby shall not be substantially modified or canceled without thirty (30) days' prior written notice to the County. Additional certificates, evidencing renewal of such policies during the time period they are required to be kept in effect, shall be delivered to the County no less than thirty (30) days prior to the expiration of the term of any required coverage.
2. Upon the request of the County, the Vendor shall deliver to the County copies of all policies listed in the foregoing paragraphs once a year, upon renewal or upon procurement in the case of new or additional coverage, whichever occurs first. Claims-made policies shall not be acceptable to the County for any of the insurance coverages required herein, except for Professional Liability. Claims-made Professional Liability insurance coverage shall be kept in force for a period of six (6) years after the date of final completion of the project which is the subject of this Agreement and a copy of such policy shall be delivered to the County at least once a year during the said six-year period. If the Professional Liability policy is canceled or not renewed, the substitute policy shall have a commencement date retroactive to the date upon which the Vendor commenced performing its services under this Agreement.
3. The Vendor's indemnity obligation specified in Paragraph C of this agreement shall not be negated or reduced by virtue of the denial of insurance coverage or refusal to defend the County for any occurrence or event which is subject to the said indemnity obligation.
4. Compliance by the Vendor with the requirements of this Article shall not relieve the Vendor from its indemnity obligation and liability pursuant to Paragraph C of this Agreement or any other liability to the County, whether specified in this Agreement or otherwise.
5. The Vendor agrees that the County shall have no responsibility to verify the Vendor's compliance with any insurance requirements contained in this Agreement or otherwise.
6. All notices, certificates, and policies referred to in this (Article, Section, Division, etc.) shall be sent to:
The County of Muskegon
Attn: Purchasing
141 East Apple Avenue
Muskegon, MI 49442

C. HOLD HARMLESS AGREEMENT

All contracts must contain the following Hold Harmless Agreement:

To the fullest extent permitted by law, the Vendor shall defend, indemnify and hold harmless the County, its subsidiaries, departments, divisions and agencies and their respective officials, officers, directors, employees, and agents from and against any and all liability, litigation, causes of action and claims, by whomsoever brought or alleged and regardless of the legal theories upon which based and from and against all losses, costs, expenses, and fees and expenses of attorneys and expert witnesses resulting therefrom on account of, relating to or arising out of bodily injury to or death of any person or on account of damage to property, including loss of use thereof, arising or allegedly arising out of or resulting from the work. The foregoing indemnity of the County shall include, but is not limited to, claims alleging or involving the negligence of the Vendor, its subcontractors or the joint negligence of the Vendor, its subcontractors, and/or the County, but shall not extend to liability found by way of final judgment to have resulted from the sole negligence of the County.

D. SUBCONTRACTOR REQUIREMENTS

Vendor agrees to contractually obligate its subcontractors to indemnify the County in precise conformance to the terms of Vendor's obligation to indemnify the County pursuant to this Agreement.

The Vendor further agrees to contractually obligate its subcontractors to provide insurance with the insurance coverages and limits of liability required to be provided by the Vendor pursuant to the terms and conditions of this Agreement.

E. CANCELLATION OR REDUCTION IN COVERAGE

Notice: In the event of a lapse or reduction in the required coverages, the contractor shall cease operations and shall not resume operations until new insurance is in force.

NO BID RESPONSE FORM

**Muskegon County Purchasing
Central Services Building, 1st Floor
141 E. Apple Avenue
Muskegon, MI 49442
Fax Number: 231.724.6593**

Complete this form if you do not intend to respond to this request. Failure to do this may result in your firm being removed from our bid list for this commodity.

Bid Number: _____ **Opening Date:** _____

Name of Bid: _____

- 1. Specifications are too tight, i.e., geared toward one (1) brand or manufacturer only (Explain below). _____
- 2. Specifications are unclear (Explain below). _____
- 3. We are unable to meet specifications. _____
- 4. Insufficient time to respond. _____
- 5. Our schedule would not permit us to perform within the required time. _____
- 6. We are unable to meet bond requirements. _____
- 7. We are unable to meet insurance requirements. _____
- 8. We do not offer this product or service. _____
- 9. Remove us from your bidder's list for this particular commodity or service. _____
- 10. Keep our name on your bidder's list for future reference. _____
- 11. Other (Specify below). _____

REMARKS:

Company Name: _____ **Date:** _____

Signature: _____ **Printed Name & Title:** _____

CHOICE VOUCHER SYSTEM

INTRODUCTION

The Choice Voucher System is central to implementing Michigan's Self-Determination Policy and Practice Guideline in the public mental health system. It provides individuals with mental illness and/or developmental disabilities with a method to control and direct how their individual plan of services and supports is implemented. The individuals (described in this document as participants), with their allies,⁴ work with their PIHP/ CMHSP⁵ to determine the funding to be allocated in their individual budget, based on the individual plan of services and supports.

Participants directly employ workers or directly contract with chosen providers by utilizing the methods of the Choice Voucher System. The individual budget authorized by the PIHP/CMHSP provides a defined amount of resources sufficient to implement the person's plan, which may be directed by the participant to pursue his or her plan's goals and outcomes. Service and support arrangements directly controlled by the participant may range from one specific service to all services in the person's plan. Participants may choose whether to manage some or all of their services.

In the Choice Voucher System, participants control the allocated resources and directly enter into agreements with qualified providers (both individuals and organizations) they choose. When individuals realize and are supported to make their own choices, they are better able to self-determine the course of their lives. Allotted resources are used to address health and welfare needs, engage and connect with people in their community, participate in personally meaningful and productive activities and take on a valued role in the community.

To accomplish the shift to self-determination, PIHPs/CMHSPs must ensure that individual and organizational self-interests do not compete with the opportunity and right of participants to responsibly define, direct and control the course of their lives.

⁴An individual's allies are chosen by the individual and may include: family members, paid staff, professionals, community members, etc.

⁵A PIHP/CMHSP may contract with a Host Agency to administer the Choice Voucher System in any given area. In this document, the term PIHP/CMHSP designates both PIHP/CMHSPs and Host Agencies.

Conflicts of interest between priorities of a PIHP/CMHSP, its staff and provider agencies, and the priorities of a participant tend to be reduced through use of the Choice Voucher System. The participant, not the PIHP/CMHSP or providers, controls the selection of providers, as well as direct specific details about how, when and for how long those services are utilized. The participant has the authority to terminate or replace a worker, when in his or her judgment, doing so is necessary. When an independent qualified entity performs the fiscal intermediary role, the processing of payments and support and assistance with using the individual budget meets the needs of the participants.

An adult participant may choose to have his or her family members involved in creating arrangements that support self-determination, but absent legal authorization,⁶ the family member of an adult does not have the right to be involved without the participant's consent.

Successful use of the Choice Voucher System requires that all parties understand their rights and responsibilities. Once an individual plan of services and supports and an individual budget have been developed and agreed to, the participant signs a Self-Determination Agreement with the PIHP/CMHSP. The funds allocated to support the individual budget are transferred to a fiscal intermediary and the participant works with the fiscal intermediary to implement the plan. The fiscal intermediary provides payment for services and supports and serves as employer agent. The fiscal intermediary has a contract with the PIHP/CMHSP; in some areas, the participant may have a choice of fiscal intermediaries. Participants must have an Employment Agreement with each worker and a Purchase of Services Agreement with every other provider of services or supports. To ensure that Medicaid requirements are met, each provider must sign a Medicaid Provider Agreement with the PIHP/CMHSP. Each of these components is described in detail in this technical advisory. The prototype agreements provided herein should not be used "as is." They are presented as technical guidance only for the PIHP/CMHSPs and participants to use as starting points for the parties, with their local counsel, to develop individualized and locally viable agreements.

IMPLEMENTING CHOICE VOUCHER SYSTEM ARRANGEMENTS

The SELF-DETERMINATION AGREEMENT is a contractual arrangement between the PIHP/CMHSP and the participant. It is an essential component in arrangements that support self-determination. The agreement outlines the relationship between the participant and the PIHP/CMHSP and describes the obligations and responsibilities of each party involved in the Choice Voucher System. It confirms that the individual is participating in the Choice Voucher System voluntarily and provides his or her informed consent to such participation. The participant agrees to directly manage workers providing services and handle the other responsibilities of participation.

It also confirms that the PIHP/CMHSP affirmatively agrees to the participation, delegates to the participant the authority to manage the funds in the budget, and agrees to support successful use by the participant of the methods making up the Choice Voucher System. The participant's individual plan of services and supports and individual budget are referenced within, attached to the agreement and updated

⁶ A participant may authorize a family member or trusted friend to handle matters for him or her; some participants may have a legal guardian whose responsibility is to act in place of the participant in certain matters.

as the plan changes. The plan must address health and welfare issues, such as the need for an emergency back-up plan to provide support in the event that regular support workers have scheduled or unscheduled absences; the agreement specifically references the parties' obligations regarding this plan. The participant agrees to follow specific requirements outlined by the PIHP/CMHSP including assuring that selected providers meet applicable provider requirements.⁷ If a participant chooses, the fiscal intermediary or another agency may assist the participant in carrying out this task. It is incumbent upon the PIHP/CMHSP to assure that chosen providers meet Medicaid provider requirements.

RETAINING CHOSEN WORKERS AND PROVIDERS

The participant (with support and consultation from allies) selects and contracts with providers of the services or supports identified in his or her individual plan. The participant has the choice to directly hire needed workers or contract with an agency to provide services and supports. The participant must enter into an EMPLOYMENT AGREEMENT with each person he or she directly employs. This agreement outlines the terms and conditions of employment and clearly states that the participant is the sole employer. Similarly, a participant must directly enter into a PURCHASE OF SERVICES AGREEMENT with an agency providing services and supports or a qualified individual professional practitioner providing services and supports. Both types of agreements stipulate that the participant or his or her designated representative has authority to continue or terminate the contract. Neither the PIHP/CMHSP nor the fiscal intermediary is a party to these agreements.

FISCAL INTERMEDIARY

A fiscal intermediary is an independent legal entity that acts as the fiscal agent of the PIHP/CMHSP for the purpose of assuring financial accountability for the funds in the participants' individual budgets. The fiscal intermediary receives the funds comprising the person's individual budget; makes payments as authorized by the participant to providers of services, supports or equipment; acts as an employer agent when the individual directly employs workers; and minimizes and eliminates conflicts of interest.

While the essential roles of a fiscal intermediary are financial and administrative, the fiscal intermediary may also provide a variety of supportive services that assist the participant in using the Choice Voucher System including assistance in locating and selecting qualified workers and training on how to manage workers.

An essential role of the fiscal intermediary is to provide on-going individualized assistance to each participant as he or she arranges needed supports. The fiscal intermediary cannot be a direct provider of services.

⁷ Provider requirements are to be delineated by the PIHP/CMHSP to the participant and are derived from such sources as the Medicaid Provider Manual.

USE OF MEDICAID FUNDS

Medicaid is the primary financing source for most services and supports through the public mental health system in Michigan. In Michigan, local PIHPs/CMHSPs are Medicaid specialty Prepaid Inpatient Health Plans and function as managed care organizations. The use of Medicaid funds places special accountability requirements specifically related to providing services and supports to assure accounting for the use of funds. When Medicaid funds are used, each service provider must execute a separate agreement, called the MEDICAID PROVIDER AGREEMENT, with the PIHP/CMHSP. In this agreement, the provider stipulates that the provider will:

- 1) Keep required records regarding service delivery and make those records available for review upon the request;
- 2) Disclose financial ownership interest in Medicaid-financed provider entities; and
- 3) Determine if a participant has an advanced directive to refuse life-sustaining medical treatment and inform the participant whether or not the provider is unable to carry out that advance directive so that the participant can make an informed choice in the hiring process.⁸

These requirements are described in federal regulations at 42 CFR 431.107 and other sections of the Code of Federal Regulations referenced therein. The Medicaid Provider Agreement complements the Self-Determination Agreement and Employment or Purchase of Services Agreements described above. The Medicaid Provider Agreement neither addresses the obligations that exist between the individual and his or her providers of services, nor makes the PIHP/CMHSP or the fiscal intermediary a party to the agreements between the participant and the providers of services and supports.

⁸ This requirement applies to home health agencies and providers of home health care and personal care services as well as health care institutions. However, under Michigan law, certain health professionals cannot refuse to honor a Do Not Resuscitate order (MCL 333.1051 et. seq.).

IMPLEMENTATION

PIHPs/CMHSPs are responsible for implementing the Choice Voucher System as an option under the Self-Determination Policy and Practice Guidelines. If this responsibility is delegated through a subcontract to a "Host Agency", the PIHP/CMHSP must assure sufficient guidance and direction to assist that Host Agency in correctly putting the required components into place. Implementation procedures and monitoring mechanisms must be sufficient to assure proper use of the Choice Voucher System.

Each PIHP/CMHSP must assure that the proper written agreements described above are in place and meet the purposes of each individual agreement. The prototypes in this technical advisory are provided only for training and guidance purposes. They are not intended to be used "as is," but should be adapted to meet the needs of the local PIHPs/CMHSPs in consultation with their local legal counsel.

The Choice Voucher System is a partnership between the PIHP/CMHSP and the participants. Participants and their allies shall inform the PIHP/CMHSP of issues that affect the ability of participants to successfully understand, interpret and implement the Choice Voucher System. Issues might include completion of the required agreements and finding, selecting and managing workers. The PIHP/CMHSP shall address these issues as they arise and is encouraged to schedule regular forums in which participants and their allies may gather to discuss and resolve common concerns and issues in implementing the Choice Voucher System. The PIHP/CMHSP is expected to develop and implement the Choice Voucher System in a participant-friendly manner, making the methods as easy to use as possible.

The involvement of participants as well as their allies and advocates is critical throughout the process of implementing the Choice Voucher System. These stakeholders must be involved in the development and use of fiscal intermediaries. Once the Choice Voucher System is implemented, the PIHP/CMHSP must test the integrity of the system and develop both an individual and organizational approach to monitor its use. This may be done using a simple audit of at least ten percent of the system, which identifies the existence and sufficiency of the critical components. As the system may be new to all parties, a defined and regularly scheduled forum involving all of the stakeholders can serve as a useful approach to assure success and avoid potential problems.

In addition, participants must be given a mechanism to provide feedback concerning fiscal intermediary performance to ensure that:

- Participants are supported in the direction and control of chosen providers of services;
- Each individual budget is presented in a way that the participant can easily understand the budget and allocation of resources;
- PIHP/CMHSP funds are handled correctly;
- Reporting requirements can be easily followed by all parties;
- Participants and advocates are involved in the process of assessing and monitoring quality; and
- Information gathered is used to make positive change to the system.

The success of the Choice Voucher System is dependent on the partnership between the PIHP, the fiscal intermediary and the participant. The PIHP/CMHSP is expected to assure that its policies and practices empower the participants to make meaningful choices about how the individual budget is spent, consistent with the individual plan of services and supports. Similarly, the fiscal intermediary must assist the participants to create arrangements that support self-determination. The participants and their allies are expected to give input on how the system is working and how the agencies and individuals involved could better facilitate self-determination by participants. As a result, individuals with disabilities will be able to make decisions about their own lives and become full participants in their communities.

SUPPORTING PARTICIPANT SUCCESS IN USING THE METHODS OF THE CHOICE VOUCHER SYSTEM

People who successfully use the methods of the Choice Voucher System to select, direct and control their providers do not do it alone. Often, they use informal support from others to assist them to implement arrangements that best meet their needs. There are a number of ways for a person to obtain and facilitate the informal support of the others in this process.

The involvement of informal supports starts in the person-centered planning process. Through this process, the individual plan of services and supports, individual budgets and the methods for their implementation are developed. The person (referred to in this document as the participant) chooses which of his or her allies⁹ to involve in the person-centered planning process. These individuals provide input and support to the planning process and the plans that result.

When the methods of the Choice Voucher System are considered, the person-centered planning process must address the participant's need for information, guidance and support regarding:

- Control of the individual budget;
- Directly contracting with chosen providers;
- Directly employing staff;
- The requirements and responsibilities of the employer role;
- Opportunities to learn how to direct and supervise support workers; and
- Ways that allies can provide informal support to assist the participant with the tasks involved.

⁹ An individual's allies are chosen by the individual and may include: family members, friends, paid staff, other professionals and community members, etc.

The goals of arrangements that support self-determination are to provide the means and methods to enable people to have meaningful lives in their communities. Most people living in their community already have the involvement of family members, friends, fellow students (if in school), co-workers (if employed) and these individuals constitute their informal support network. They may also have important relationships with paid support workers or other professionals. Each person's situation and relationships are unique; some people may have more support than others. Very few people will have no informal support at all.

THE ROLE OF INFORMAL SUPPORTS

A discussion of possibilities for informal support must start with this legal fact: All individuals, regardless of their abilities and disabilities, are presumed competent under state law unless there is a legal determination otherwise. That legal determination may be in the form of a guardian under the Mental Health Code for a person with a developmental disability or a guardian or conservator under the Estates and Protected Individuals Act for a person with a mental illness. In cases where the person has a legal guardian with authority over contracts, the guardian must be the employer of record.

While some people have guardians, many participants in arrangements that support self-determination successfully use informal supports and representatives to assist them in managing their services and supports.

In its guidance on personal care options in the State Medicaid Manual, the federal Centers for Medicare and Medicaid Services endorses arrangements that support self-determination when the individual expresses the desire and has the ability to do so. It recognizes the role of informal supports and representatives: "Where an individual does not have the ability or desire to manage their own care, the State may either provide personal care services without participant direction or may permit family members or other individuals to direct the provider on behalf of the individual receiving the services."¹⁰ This guidance is applicable to all arrangements that support self-determination.

The general directive--that the person has the desire and the ability to be the employer--must be considered in context of the life situation of each person. Some individuals may possess legal right under common law to be an employer but cannot perform those functions without assistance or support. For some of these individuals, there may be one or more involved family and friends or even trusted staff that is able and willing to assist by providing needed support and guidance. For others without this or comparable support, it will not be realistic or prudent for the PIHP/CMHSP to authorize use of its funds for the participant him/herself to directly control methods associated with the Choice Voucher System until the participant and supports coordinator have worked together to cultivate friends, family and community members to serve as informal supports.

¹⁰Section 4480 State Medicaid Manual, Center for Medicare and Medicaid Services.

CHOOSING A REPRESENTATIVE

A participant who does not have a guardian may designate another person to help him or her with the arrangements either formally, by executing a power of attorney, or informally, by asking them. Through the person-centered planning process, the participant and his or her allies may determine the best person to serve as representative. A representative must be able and willing to honor the choices and preferences of the participant and support him or her to take as active role in the process as possible.

The PIHP/CMHSP has input in this process through the involvement of the supports coordinator and must concur in the use of a representative relating to arrangements authorized and funded by the PIHP/CMHSP. Appropriate documentation of the issues discussed and the resulting agreements and decisions are expected to be found in the participant's record and the individual plan of services and supports.

Regardless of whether the participant is the employer of record or has a representative performing that function, the PIHP/CMHSP is expected to support the participant to take the lead in responsibly expressing preferences and goals and directing support workers. When the participant appoints a representative to handle some functions, both the participant and representative sign the relevant agreement (e.g., the Self-Determination Agreement or the agreements with providers or employers).

FACTORS TO CONSIDER IN SELF-DETERMINATION

As the forum for developing arrangements that support self-determination, the person-centered planning process is also the forum for determining whether an individual desires and possesses the abilities--with or without support--to participate in the methods of the Choice Voucher System. The person-centered planning process must produce a consensus regarding the appropriateness of particular arrangements.

In determining which sorts of arrangements are to be used, the person and others involved in the person-centered planning process should consider:

- The participant's preference;
- The participant's ability to manage the desired arrangement. Ability is gauged by considering the support available from chosen family and friends to assist with managing the preferred arrangement. Some individuals with very significant disabilities have the support to enable them to directly control provider arrangements, even though they would be unable to do so themselves;
- Evidence that a particular arrangement would pose a significant risk to the participant that cannot be balanced with available support;
- Other related factors that appear to impinge on or enhance the potential success of a given approach.

There is a distinction between the legal right any individual may have to enter into a contract (including an employment contract) and his or her authority to direct funds under the stewardship of the PIHP/CMHSP to pay for that arrangement. While the individual's right to enter into agreements under common law cannot be abrogated, the use of the PIHP's/CMHSP's funds to directly arrange for and control providers of services must be authorized by the CMHSP/PIHP for the sole purpose of accomplishing the individual plan of services and supports.

If use of the Choice Voucher System is beyond the ability of the participant, even with the provision of available support, authorizing such arrangements is inappropriate. This is especially true where there is a significant potential for harm to the individual. When the methods of the Choice Voucher System are deemed to be inappropriate for an individual, given his or her current circumstances, the PIHP/CMHSP must document the basis for the decision and work with the individual and his or her allies to determine how needed informal supports can be cultivated.

It is unacceptable for the PIHP/CMHSP to arbitrarily determine which methods a person may access and use simply for the convenience of the PIHP/CMHSP. For example, a PIHP/CMHSP may not deny individual participants the right to select, employ and manage their own qualified providers because PIHP/CMHSP directly operates similar services and programs.

Clear information and guidance must be provided by the PIHP/CMHSP to the participant and/or their representative so that they understand the nature of the arrangements and the responsibilities involved with controlling public funds and employing workers. It must be made clear that these responsibilities are accompanied by problems, if they are not handled properly. The PIHP/CMHSP should provide for support mechanisms (e.g., use of a properly defined, constructed and oriented fiscal intermediary) to ensure that tasks the participant will not directly handle are properly performed.

CONCLUSION

An individual's allies can play an informal, but critical role supporting the individual. Some people with very significant support needs can participate in arrangements that support self-determination because they have a high level of informal support. Sometimes, these informal supports are developed and fostered through meaningful participation in the community. The extent to which a person may be able to successfully use arrangements that support self-determination may depend on the extent of his or her informal supports.

FISCAL INTERMEDIARIES IN THE CHOICE VOUCHER SYSTEM

A fiscal intermediary is a central component of the Choice Voucher System. The fiscal intermediary performs a number of essential tasks that support self-determined arrangements for individuals with mental illness and/or developmental disabilities while assuring accountability for the public funds allotted to support those arrangements.

A fiscal intermediary is a neutral and independent entity that acts as a fiscal agent of the PIHP/CMHSP for the purpose of assuring fiduciary accountability for the funds comprising a participant's individual budget developed through the person-centered planning process. The fiscal intermediary makes payments to providers when authorized by the participant. A fiscal intermediary may also provide a variety of supportive services that assist participants in using the Choice Voucher System and managing their own supports.

The LIST OF FISCAL INTERMEDIARY FUNCTIONS (Appendix A) provides technical guidance regarding the functions of the fiscal intermediary in the Choice Voucher System. It describes in detail the functions of the fiscal intermediary, the PIHP/CMHSP and participants and the allocation of responsibilities among these parties. The FISCAL INTERMEDIARY READINESS REVIEW (Appendix B)¹¹ provides a detailed inventory of responsibilities performed by the fiscal intermediary. PIHPs/CMHSPs are encouraged to use the Readiness Review Process and to assess the readiness of an agency to serve as a fiscal intermediary and can use these prototype documents to construct fiscal intermediary arrangements that meet the needs of participants. A fiscal intermediary shall perform the duties specified in its Fiscal Intermediary Agreement with the PIHP/CMHSP.

The fiscal intermediary has four basic areas of performance:

- Offer supportive services to enable participants to self-determine and direct the services and supports they need;
- Ensure compliance with requirements related to management of public funds and the direct employment of workers by participants;
- Provide employer agent services for participants directly employing workers; and
- Facilitate a smooth relationship between the parties and meet the needs of the PIHP/CMHSP and participants.

¹¹ A more comprehensive prototype Readiness Review protocol with an overview, internal protocol, and detailed Appendix will be available on the MDCH MH&SAA web page.

FISCAL INTERMEDIARY ROLES AND RESPONSIBILITIES

A primary role of the fiscal intermediary is its fiduciary responsibility to the PIHP/CMHSP to handle, manage and account for the funds in the individual budgets of participants in the Choice Voucher System. The PIHP/CMHSP may contract with the fiscal intermediary to handle other tasks such as reporting service utilization, providing employee verification functions and offering information and guidance to ensure successful use of the Choice Voucher System.

The fiscal intermediary neither contracts directly for services and supports on behalf of the participant, nor acts as the employer of workers. If a participant chooses to hire workers directly, the participant is the employer and is responsible for hiring and managing the workers. The fiscal intermediary is not a party to Employer Agreements or Purchase of Services Agreements between the participant (or his/her chosen legal representative¹²) and each provider.

However, the fiscal intermediary does support the participant in carrying out his or her self-determined arrangements. The fiscal intermediary processes payments for services and supports upon participant authorization. The intermediary accounts for all expenditures and provides monthly reports of expenditures to the participant and PIHP/CMHSP. It also has an obligation to ensure that all required agreements between participants and providers are in place before making payment. When the participant directly employs workers, the fiscal intermediary provides employer agent services for the participant. An employer agent is a term developed by the Internal Revenue Service (IRS) to describe entities that provide the service of handling all of the employer-related duties for an individual or organization. These tasks include those required by the IRS,¹³ state and local income tax jurisdictions and unemployment insurance regulators. (For a list of functions, refer to LIST OF FISCAL INTERMEDIARY FUNCTIONS in Appendix A.) In this role, the fiscal intermediary is providing a service to participants and not serving as their agent as that term is traditionally defined in law.

The fiscal intermediary may also perform functions that enable the participant to direct needed services and supports. These functions include employee verification to check provider qualifications and conducting reference and background checks. The fiscal intermediary also may be expected to perform other functions such as collecting and reporting data related to service delivery to the PIHP/CMHSP on behalf of participants.

In addition to its administrative functions, a fiscal intermediary performs a critical role in supporting participants to ensure successful use of the Choice Voucher System. The fiscal intermediary may directly support participants in hiring and managing their own workers. If requested to do so, the fiscal intermediary may provide participants with the information and guidance they need to direct their services and supports and work with them to develop creative approaches and arrangements that best meet their needs.

¹² The participant may authorize a family member or trusted friend to handle the employment of workers. Some participants may have a legal guardian whose responsibility is to act in place of the participant includes functioning as the employer.

¹³ See Section 3504 of the Internal Revenue Code, IRS Revenue Procedure 70-6 and 80-4 and IRS Notice 2003-70. These documents deal explicitly with employer agents who handle required IRS tasks for employers.

The information and guidance functions include advice on how to recruit potential workers, sample job interview formats and job descriptions, work formats, discussion groups on being a successful employer, and locating or arranging for training on first aid or bloodborne pathogens. These functions may also range from assistance with identifying and locating specific provider organizations in a given area to guidance in constructing contracts and agreements and support in finding and selecting other options for arrangements that successfully support participants as members of their communities. The range of roles of an intermediary is more fully explored in a publication describing the various roles of an intermediary services organization, available from the federal government.¹⁴

KEY ELEMENTS OF THE RELATIONSHIP BETWEEN THE PIHP/CMHSP AND THE FISCAL INTERMEDIARY

The PIHP/CMHSP is responsible for selecting at least two fiscal intermediaries to serve the participants in the Choice Voucher System in its area. It is suggested that selection be done using the Fiscal Intermediary Readiness Review Process. In some areas, PIHPs/CMHSPs have built relationships with local accounting firms or non-profit organizations to serve as fiscal intermediaries.

The PIHP/CMHSP must construct its contractual arrangements with the fiscal intermediary in terms that clearly define the fiscal intermediary and PIHP/CMHSP roles, responsibilities and reporting requirements through a Fiscal Intermediary Agreement. The FISCAL INTERMEDIARY READINESS REVIEW is a comprehensive list of tasks that the fiscal intermediary must perform. This document provides a mechanism for the fiscal intermediary to measure its capacity to handle all necessary functions; similarly, the PIHP/CMHSP can use it as an instrument for assessing readiness to provide fiscal intermediary services and monitoring performance. When implementing the Choice Voucher System, the PIHP/CMHSP has great flexibility to construct a unique relationship with the fiscal intermediary provided that all technical requirements are met. The administrative functions and the employer agent functions are required of all fiscal intermediaries. Each PIHP/CMHSP may contract for other specific services that meet its or the participants' needs, such as employee verification and information and guidance functions. The LIST OF FISCAL INTERMEDIARY FUNCTIONS (Appendix A) provides a framework that describes these functions more fully and provides a list of criteria for the PIHP/CMHSP to use in developing and implementing its fiscal intermediary arrangements. The PIHP/CMHSP must involve participants and their allies in the development and implementation of the fiscal intermediary arrangement.

The fiscal intermediary must be able to fulfill all functions identified in the selection process and included in the Fiscal Intermediary Agreement. The intermediary must have a positive track record for managing funds and accounting. It also must be oriented to provide an individualized support and response to each participant. The PIHP/CMHSP has a responsibility to provide clear guidance to the fiscal intermediary on the accounting requirements, reporting formats, and timelines to ensure that the fiscal intermediary properly accounts for public funds, particularly Medicaid funds.

¹⁴ "Consumer-Directed Personal Assistance Services: Key Operational Issues for State CD-PAS Programs Using Intermediary Service Organizations" by Susan A. Flanagan and Pamela S. Green, October 24, 1997, Developed for the US Department of Health & Human Services, Assistant Secretary for Planning and Evaluation. This report can be downloaded from: <http://aspe.hhs.gov/daltcp/reports/cdpases.htm> Please note that you must click on each section of the report separately to read that section.

In order to avoid conflicts of interest, the fiscal intermediary cannot be a direct provider of mental health or developmental disability services and cannot have any compensated fiduciary relationship with the participant (such as guardian or trust holder). The PIHP/CMHSP must implement monitoring and safeguards to minimize and avoid conflicts of interest by the fiscal intermediary especially when the intermediary serves as representative payee for a participant. It is important that one individual or entity not manage all of a participant's funds (both personal funds and funding in the individual budget). Having multiple individuals or entities provides cross-checking support that ensures that an individual is able to control his or her services and supports and individual budget and make changes in providers as they deem necessary.

The PIHP/CMHSP derives many benefits from the fiscal intermediary arrangement. It shifts the responsibility for handling the administration and employer agent role to the fiscal intermediary. The fiscal intermediary provides a guarantee that it will properly handle and account for public funds, particularly Medicaid funds. If properly constructed, the arrangement provides a buffer for the PIHP/CMHSP and insulates the PIHP/CMHSP from liability for all of the functions that are handled by the fiscal intermediary.¹⁵ As the potential for PIHP/CMHSP liability is directly related to the specific contractual arrangement with the fiscal intermediary, local counsel should be actively involved in developing this arrangement.

Fiscal intermediaries must be carefully selected to ensure they have the capacity to perform the required functions and maintain accountability for the allocated funds. The PIHP/CMHSP must develop and implement a plan for assessing and monitoring fiscal intermediary performance to ensure that the fiscal intermediary is properly performing its functions. (For a list of plan elements, please refer to the LIST OF FISCAL INTERMEDIARY FUNCTIONS in Appendix A.)

To best monitor the fiscal intermediary, the PIHP/CMHSP must actively involve participants and their allies in its assessment plan that includes focus groups, performance loops and satisfaction surveys (dissemination of surveys by mail is insufficient). The elements of this plan must minimally include:

- 1) Fulfillment of the requirements of Fiscal Intermediary Agreement and indemnification of the PIHP/CMHSP;
- 2) Demonstrated competency in the safeguarding, management, and disbursement of funds;
- 3) Evaluation of participant feedback and satisfaction data; and
- 4) Performance of an audit of a sample of budgets to verify provision of and payment for services that were identified in the individual plan of services.

¹⁵ While the use and proper functioning of the fiscal intermediary insulates the PIHP/CMHSP from liability for those functions, the PIHP/CMHSP has potential employer liability if it fails to separate itself from the participant's role in directly contracting with workers and providers. The participants are the sole employer in charge of hiring and managing their employees. As such, participants, with their allies, must fully and independently select, orient and direct chosen workers. In general, the perspective needs to be that PIHP/CMHSP provides support as well as information and guidance to participants directly employing workers rather than performing the selection and management duties itself. While the design of the Choice Voucher System is intended to limit the potential for liability, the particular realities of a relationship between a participant, service provider, fiscal intermediary and PIHP/CMHSP may result in liability. For more information, consult "Addressing Liability Issues in Consumer-directed Personal Assistance Services" by Charles J. Sabatino and Sandra L. Hughes, January 2004, developed for the U.S. Dept. of Health and Human Services, Office of Disability, Aging and Long-Term Care Policy. This report can be downloaded from <http://aspe.hhs.gov/daltcp/reports/cdiab.htm> Please note that you must click on each section of the report separately to read that section.

If a fiscal intermediary fails to fulfill its functions properly (especially the functions of accounting for Medicaid funds and handling the employer agent duties) and the PIHP/CMHSP does not discover the situation through its monitoring process and take corrective action, the PIHP/CMHSP may be held responsible and exposed to liability and potential financial penalties. The PIHP/CMHSP must require the fiscal intermediary to carry adequate insurance and obtain performance bonding to safeguard against losses that could result from intentional or inadvertent errors of fiscal intermediary employees.

The fiscal intermediary is compensated separately from the individual budgets it manages. Compensation for its services on a flat fee or case-mix rate basis is recommended. The PIHP/CMHSP and the fiscal intermediary may negotiate a volume-based rate structure, but they cannot use factoring¹⁶ or base compensation on a percentage of individual budgets.

THE VALUE OF USING AN INDEPENDENT INTERMEDIARY

In order for the Choice Voucher System to be successful, participants who have arrangements that support self-determination must see the fiscal intermediary as an independent entity that works in partnership with them as they consider and try out creative, non-standard approaches to obtaining support and making meaningful community connections. To facilitate successful outcomes for participants, a fiscal intermediary should work to develop a relationship based on trust, respect and partnership with each participant and be oriented to individually respond to each person's needs.

The fiscal intermediary has the unique role of administering the individual budget with the individual plan of services and supports directed by the participant. In this role, the fiscal intermediary cannot deny or terminate services. Because it is not a provider of services, it does not have any interests or investments in particular programs, services or providers that may conflict with participant choices. Free from such conflicts of interest, the fiscal intermediary can provide each participant with an individualized response supportive of individual choice in implementing the arrangements chosen and developed through the person-centered planning process. As a result, participants perceive the fiscal intermediary as a partner in implementing their supports in a way that meets their needs and preferences.

The fiscal intermediary arrangement eliminates other barriers associated with the PIHP/CMHSP. Some barriers that have been reported include burdensome administrative requirements for the participant, attitudinal and procedural barriers that may hinder the ability of participants to voice their needs and preferences and simple delays in processing payments. As an independent agent, the fiscal intermediary fosters trusting relationships with participants and thus, creates an environment where true self-direction can occur. To best facilitate this partnership, the PIHP/CMHSP should offer a choice of intermediaries located in the participant's community.

¹⁶ Section §1902(a)(32) of Title XIX of the Social Security Act and 42 CFR 447.10 explicitly forbid the use of "factoring". Factoring occurs when an administrative entity handling billing and payment adds a charge that is a percentage of amounts due to the provider as the rate charged for its work. The statute stipulates that the amount paid to a Medicaid billing agent cannot be based directly or indirectly on the dollar volume of claims processed (a practice that would be tantamount to "factoring"). While, strictly speaking, the "factoring" prohibition does not apply within a prepaid health plan arrangement or an Organized Health Care Delivery System, allowing compensation based on the percentage of the costs of services creates incentives that may run counter to the interests of both the PIHP/CMHSP and the participants.

PUTTING IT ALL TOGETHER

The fiscal intermediary is a central component to use of the Choice Voucher System in promoting the opportunity for self-determination arrangements for individuals receiving services from the public mental health system. Putting the fiscal intermediary arrangement into place requires planning at the administrative level by the PIHP/CMHSP. The PIHP/CMHSP must map out the specifics of the model it will use to support implementation of the Choice Voucher System. Local professional legal and accounting consultation should be sought to verify that the proposed administrative arrangements between the PIHP/CMHSP and the fiscal intermediary are properly constructed. The PIHP/CMHSP must consider whether to contract with the fiscal intermediary to handle employment support functions. Issues concerning potential conflicts of interest need to be identified and managed.

As a central matter, the PIHP/CMHSP must enlist the involvement of participants and their allies when it begins planning to establish arrangements with a fiscal intermediary. As systems are defined and developed, the PIHP/CMHSP should walk through them with representative participants and their allies to assure that they can be used easily. The best fiscal intermediaries properly handle the administrative management tasks required by the PIHP/CMHSP, while making their complexities invisible to the participant. Once the fiscal intermediary arrangement is implemented, the PIHP/CMHSP should use survey methods, focus groups, and/or an ongoing participant oversight process to obtain feedback on how the system is working.