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**DATE:** December 3, 2018

**TO:** County Human Service, Social Service and Community Program Agencies

**FROM:** Julie Anstett, Director of DHS Area Administration

**RE:** 2019 Purchase of Service Contracts, Audit Requirements and Waivers

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The Department of Health Services (DHS), through Area Administration, publishes this memo annually to assist county departments of human services, social services, and community programs plan for contracts, audits, and contract or audit waivers for the upcoming calendar year.

The DHS [Financial Management Manual \(FMM\)](#) contains guidance regarding purchase of service (POS) contract language between counties and providers. The synopsis of contract and audit requirements outlined in this memo is intended to serve as a quick reference and includes information about legislative changes enacted in 2017 that affect contracts, audits, and waivers related to providers.

### **Contract Requirements**

Counties are encouraged to have their legal counsel review all POS contracts to assure compliance with requirements found in Wis. Stat. § 46.036.

### **Contract Exceptions**

DHS considers the contracting process a sound business practice that, when properly executed, protects both the county and the provider. It is the intent of DHS to encourage the development of contracts; however, DHS recognizes in some instances the imposition of rigid contracting procedures may be a deterrent to the delivery of services. The following sections discuss exceptions to the contracting requirements.

### **Blanket Contract Waiver**

Through this memo, Area Administration and its regional offices grant an automatic blanket waiver for required contracts in the following circumstances:

- Purchases total \$10,000 or less in a calendar year.
- Emergency or one-time unanticipated, client-specific services that total less than \$10,000 in a calendar year.

### **No Contracts Required**

There are limited instances when a contract is not required at all. These include:

- A provider under contract with a county agency obtains services from another vendor (ancillary services).
- Placement is in a community-based residential facility (CBRF) that is owned or operated by the county making the placement.
- A payment is made directly to a client from a county agency. (**Note:** Individual client vouchers cannot be used in lieu of formal contracts for CBRF services.)

Contracts are required in all other circumstances. It is the county's responsibility to assure that the specific situations in which you do not seek contracts fit into either the "Blanket Contract Waiver" or "No Contracts Required" categories outlined above.

### **Audit Requirements and Audit Waivers**

Wisconsin Stat. § 46.036(4)(c) requires providers who receive more than \$100,000 from DHS or from a county to provide an audit to the purchaser. This audit threshold was increased in 2017 from \$25,000 and was effective for any contract period beginning January 1, 2018, or later. If you have not already done so, this change in threshold should be incorporated into 2019 contracts so that providers do not incur unnecessary audit fees. Audit fees are only allowable costs if the audits are required.

The \$100,000 threshold applies to the cumulative total of all DHS funding received, not funding by contract or county. Counties should ask providers about relationships with programs in other counties and the amount of DHS funding that these providers receive from other sources for providing care and services.

### **State Mandate Relief Waivers**

Wisconsin Stat. § 66.0143 authorizes a waiver of state mandates, which many counties have historically used to increase the audit threshold to \$75,000 or \$100,000. The increase in the audit threshold to \$100,000 for contracts with effective dates beginning January 1, 2018 or later will eliminate the need for mandate relief waivers, unless a county requests a threshold in excess of \$100,000. DHS has the final approval authority for mandate relief waivers and is not likely to approve a waiver in excess of the new audit threshold at this time.

Instructions for requesting mandate relief waivers under Wis. Stat. § 66.0143 are on the Wisconsin Department of Revenue's (DOR) website at [Instructions for Request for Exemption from State Mandates](#). Mandate relief waiver requests are routed to DOR for processing. Do not send these requests directly to DHS.

Those counties that currently have mandate relief waivers are not required to take any action at this time. The waivers will automatically expire at the end of the waiver period.

### **Purchase of Service Audit Waivers**

The DHS regional offices may waive audits on an individual provider basis. Audit waivers may be appropriate for low-risk providers where adequate fiscal and program monitoring exists. Audit waiver requests should be completed in conjunction with the contracting process and

before signing the contract. Requests for audit waivers subsequent to contract signing are considered only in exceptional circumstances.

DHS cannot waive audits that are required under the Single Audit Act Amendments of 1996. This law is implemented through 2 C.F.R., Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” and requires nonprofits and local governments that expend more than \$750,000 in federal funds to have audits in accordance with 2 C.F.R., Part 200, Subpart F. Many providers that contract with counties do not meet these federal requirements, but must comply with state audit requirements discussed in this memo.

The county submits purchase of service audit waiver requests to the [regional office area administrator](#) for final approval by completing the [Purchase of Service Audit Waiver Request](#), F-00945. This form provides information on the provider and includes a risk assessment. Instructions for completing the form and guidelines for determining the appropriate risk level can be found in [Purchase of Service Audit Waiver Request Instructions](#), F-00945i.

Waiver of the DHS audit requirement is possible only if the provider is not required to have an audit according to federal audit requirements. If the provider does not fall under the federal audit requirements, the regional office may then approve the purchase of service audit waiver request when:

- The county has assessed a low risk level, as documented by the “Risk Identification and Assessment Worksheet.”
- The county has increased other monitoring efforts to reduce the level of risk to low.
- The county describes the alternate method of financial and program compliance monitoring implemented, in lieu of an audit, on the [Purchase of Service Audit Waiver Request](#) form.
- The DHS funding is a very small part of the provider’s overall business.
- An audit would be a hardship on the provider.
- The audited information is not needed.

### **Audit Waivers That the County May Approve**

For contracts with small residential care providers, such as family group homes and adult family homes, the county (rather than the state) has the authority to grant a waiver to the audit requirement. For contracts under \$100,000, an audit is not required so no waiver is necessary. For contracts over \$100,000, the county can provide a waiver by using the same audit waiver criteria that DHS uses, including the Risk Identification and Assessment Worksheet.

- If the provider agency is determined to be a low risk by the Risk Identification and Assessment Worksheet and the cost of an audit exceeds 5 percent of the total contract (as verified by written bid), an alternate year audit schedule that covers both years may be approved.
- If it is determined that an audit would not be cost effective and may place an undue burden on the provider, the audit requirement may be waived. Specific circumstances that support granting the audit waiver and the alternate form of financial monitoring and program compliance in lieu of an audit, must be documented.

If you have questions, please contact your [area administrator](#).