TITLE 206 BEHAVIORAL HEALTH SERVICES

CHAPTER 4-000 CONTRACTING REQUIREMENTS

4-001 CONTRACTING REQUIREMENTS FOR REGIONAL BEHAVIORAL HEALTH AUTHORITIES (RBHAs)

4-001.01 Administration and Management: The Nebraska Behavioral Health Services Act established six behavioral health regions.

4-001.01A Each Regional Behavioral Health Authority (RBHA) is governed by a Regional Governing Board. The Regional Governing Board consists of one county board member from each county in the Region.

4-001.01A1 Board members serve for staggered terms of three years and until their successors are appointed and qualified. Board members must serve without compensation but will be reimbursed for their actual and necessary expenses as provided in Neb. Rev. Stat. §§ 81-1174 to 81-1177.

4-001.01B The Regional Governing Board must appoint a Regional Administrator who is responsible for the administration and management of the regional behavioral health system.

4-001.01C The RBHA is responsible for the development and coordination of a network of publicly funded behavioral health services within the behavioral health Region, under the rules and regulations established within this title. Each RBHA must encourage and facilitate the involvement of consumers in all aspects of service planning and delivery within the Region. The RBHA must also coordinate these activities with the Office of Consumer Affairs within the Division.

4-001.01D Pursuant to the requirements of 6-005.03 of these regulations, the RBHA shall assure that its policy and schedule of fees and co-payments are applied uniformly by the providers in the region.

4-001.01E Each RBHA must establish and utilize a Regional Advisory Committee for the purpose of advising the RBHA on matters relating to community behavioral health services provided in the Region.

4-001.01E1 The Regional Advisory Committee must be culturally representative of the Region and must include consumers, providers, and other interested parties.

4-001.01E2 Procedures must be established to prevent a conflict of interest for members of the committee who may benefit financially or programmatically from their participation.

4-001.01E3 Each RBHA must submit an annual updated list of the names, addresses, and phone numbers of the officers and members of the advisory committee to the Division by July 1.

4-001.01E4 The Regional Advisory Committee must meet quarterly per year at a minimum.

4-001.01E5 The RBHA must develop procedures for soliciting advice from the Regional Advisory Committee, including procedures for input into the regional planning process, budget development and approval, contracting, evaluation, and other related areas.

4-001.01E6 The RBHA must document the input received from the Regional Advisory Committee.

4-001.01F The RBHA must certify in writing to the Division, in a manner specified by the Division, that the required matching funds have been allocated as required by Neb. Rev. Stat. § 71-808.

4-001.01F1 The RBHA must certify that required match funds in each Region have been appropriated for expenditure during the fiscal year for which the match has been allocated.

4-001.01F2 The match dollars must be expended for community behavioral health services and for the operation of the RBHA as reported in the Regional Budget Plan, or as amended, if applicable.

4-001.01F3 The amounts of match dollars certified to the Division by the RBHA and expended during the fiscal year must appear in the annual audit of the RBHA.

4-001.01G The RBHA must annually submit to the Division a report summarizing the actual expenditure of funds and revenues received from all sources, in a manner specified by the Division.

4-001.01H The RBHA must provide reports, evaluations, plans, and any other documents as deemed necessary by the Division for monitoring and accountability.

4-001.01J In making any grant application to the federal government, the RBHA must submit the proposal to the Division for review and comment before formal submission to the Federal agency.

4-001.01K The RBHA must permit inspection of all contracts, subcontracts, programmatic, and fiscal records and must allow access for on-site monitoring by authorized representatives of the Division.

4-001.01L The RBHA must facilitate the coordination of community behavioral health providers with other organizations and individuals to carry out the Regional Budget Plan (see 206 NAC 4-001.02).

4-001.01M The RBHA must maintain contract, subcontract, fiscal, and service records at least five years following the end of the contract period or until resolution of any audit questions, whichever is later.

4-001.02 Annual Regional Budget Plan: The RBHA must annually submit to the Division a Regional Budget Plan in a format specified by the Division that is consistent with the state plan. The Annual Regional Budget Plan must include, but is not limited to:

1. A proposed budget that projects expenses and the allocation of funds for the community-based services to be offered in the Region; and
2. A projection of all other revenues from all sources for each community behavioral health provider and the RBHA in a manner specified by the Division.

4-001.03 Contracting: The RBHA is responsible for contracting for the publicly funded behavioral health services for consumers within its designated Region, consistent with the approved regional budget and funding plan. Contracting must meet the following requirements.

4-001.03A The RBHA must contract all behavioral health services developed after July 1, 2004 through an open, public competitive bidding process. For services provided by the RBHA, the RBHA must comply with 206 NAC 4-001.03E.

4-001.03B The RBHA must publicize and distribute a “Request for Proposal” that has been approved by the Division. Approved Request for Proposals must be released with adequate public notice before notification of award to ensure an open and fair competitive process. Each RBHA is expected to make reasonable efforts to contact all potentially eligible bidders.

This provision may be waived only by following the procedures in 206 NAC 3-005.

4-001.03C Requests for Proposals for services must at a minimum contain:

1. A clear description of the process by which consumers are directly and actively involved in the development, implementation, and evaluation of the services to be provided;
2. A clear description of the service(s) to be provided;
3. A clear description of the minimum qualifications for prospective bidders;
4. Accurate data related to the service (as available);
5. The process to be used to determine the award; and
6. The process for appeal.

4-001.03D Determination of Award for contracts must meet the following minimum criteria:

1. Each proposal received must be recorded and evaluated according to the published criteria in the request; and
2. Upon notice of award to the successful bidder, all proposals must be open to public inspection.

4-001.03E As specified in Neb. Rev. Stat. § 71-809, except for services being provided by a RBHA on July 1, 2004, under applicable state law in effect prior to such date, no RBHA is allowed to provide behavioral health services funded in whole or part with revenue received and administered by the Division under the Nebraska Behavioral Health Services Act unless:

1. There has been a public competitive bidding process for the services as required in 206 NAC 4-001.03A;
2. The RBHA has determined, as a result of the bidding process, that there are no qualified and willing providers to provide the services; and
3. The RBHA receives written authorization from the Director of the Division and enters into a contract with the Division to provide the services.

4-001.03F If the RBHA contracts with the Division for the provision of the services, the RBHA must comply with all applicable rules of the Division relating to the provision of behavioral health services including rules that:

1. Establish definitions of conflicts of interest for the RBHAs and procedures if a conflict of interest arises; and
2. Require the RBHAs to establish and maintain a separate budget and separately account for all revenue and expenditures for the provision of the services.

4-001.03G The RBHA must receive approval from the Division before entering into contracts with any organization or individual providing behavioral health services funded in whole or in part by the Division. The Division's approval of the Annual Regional Budget Plan and funding allocation may serve as the written approval for the purposes of this requirement.

4-001.03H The contract between the RBHA and the organization or individual must stipulate that the provider must adhere to the regulations and contract requirements of the Division.

4-001.03J The RBHA is responsible for enrolling contracted providers in their network. The RBHA shall develop policies and procedures for determining eligibility for enrollment. At a minimum, the enrollment must include:

1. Demonstration of capacity to provide behavioral health services based upon verification of:

a. Compliance with all applicable state standards and licensure requirements for program, facilities, and staff members;
b. Professional licenses and endorsements;
c. All applicable insurance coverage including but not limited to: worker's compensation, motor vehicle liability, professional liability, directors/officers liability, and general liability coverage; and
d. Fiscal viability, including fiscal and budgetary systems that provide appropriate accounting for and spending of contracted funds;

2. Verified demonstration of compliance with state or national accreditation standards as specified in 206 NAC 5-001;
3. Documented completion of an on-site visit for all contracted providers and programs before enrollment and service provision to any consumer receiving services funded by the Division. This on-site visit must include the following minimum areas:
   a. Verification of compliance with 206 NAC 4-001.03J; and
   b. Verification that the clinical record keeping practices conform with the program plan submitted and meet the minimum standards as described in 206 NAC 6-007; and
4. Primary source verification of all information used to meet the criteria in items 1-3.

4-001.03J1 Contract retention is determined through a performance review that at a minimum includes the following:

1. Continued compliance with 206 NAC 4-001.03J, items 1 and 2;
2. A review of data demonstrating the operation of the service outlined in the current contract;
3. Consumer satisfaction;
4. Compliance with information reporting to the Division;
5. On-site visit consistent with 206 NAC 4-001.03J, item 3;
6. Completion of all provider enrollment forms and reports specified by the Division; and
7. Inclusion of consumers in development, implementation, and evaluation of services.

4-001.04 Conflict of Interest

4-001.04A The RBHA must have policies and procedures that guard against a conflict of interest between the RBHA, a current or prospective provider, or any individual member of either organization.

4-001.04A1 For the purposes of these regulations, a conflict of interest exists when an organizational matter to be acted upon confers a personal benefit, financial or otherwise, direct or indirect, to a member of the Regional Governing Board, an employee, a volunteer, a student, a consultant, or person related by kinship, or personal or professional association.

4-001.04B The RBHA must have policies and procedures that, at a minimum, ensure no person covered under 206 NAC 4-001.04A:

1. Is the recipient of gifts or gratuities, with financial value or otherwise, from individuals or organizations doing business with the RBHA or a provider;
2. Misuses confidential information;
3. Uses the organization's personnel, resources, property, or funds for personal financial gain;
4. Employs persons related by kinship or personal or professional association without prior written approval from the RBHA; or
5. Uses or attempts to use any official position to secure unwarranted privileges or exemptions for themselves or others.

4-001.04C The RBHA must have policies and procedures that detail the method to identify, report, and resolve potential conflicts of interest. All disclosures, reports, and resolutions must be in writing and be available for review by the Division.

4-001.04C1 The RBHA must have policies and procedures that address any conflict of interest between the RBHA in its role as administrator and any provider including the RBHA in its role as a provider and how the conflict is resolved.

4-001.05 Disaster Planning

4-001.05A The RBHA must have the capacity to respond to the psychosocial needs of people affected by a disaster within the Region's assigned geographic area, consistent with the state disaster plan.

4-001.05B The RBHA must have a written plan prepared to meet the disaster-generated psychosocial needs for the people residing within the Region.

4-001.05B1 The RBHA's disaster response plan must reflect coordination of its disaster preparations and response with the other emergency responders in the Region's assigned geographic area.

4-001.05B2 The RBHA must work in cooperation with the local emergency management organization and the Division to organize, recruit, and train qualified behavioral health staff to respond in times of disaster. The behavioral health personnel designated to serve as part of the disaster response team must have received training to develop skills for providing psychosocial support after disaster.

4-001.06 Accessibility: Each RBHA must be located in physically accessible offices and provide all materials in accessible formats as required by ADA and the ADA Accessibility Guidelines.

4-001.07 Inability to Pay: A program funded in whole or in part under a contract with the Division must not deny or suspend services to persons residing in Nebraska because of inability to pay scheduled fees, including preadmission deposits, co-payments, and/or other payments required from the consumer.

4-001.08 Publicity: Publications describing an organization/program funded by the Division must disclose within such publications that the organization/program is partially funded by the Department.

4-001.09 Setting: The RBHA must ensure that community-based behavioral health services are provided in the most integrated setting appropriate for each consumer's needs.

4-001.10 Equal Opportunity/Affirmative Action

4-001.10A All Regional Governing Boards and contracting providers agree to abide by all of the applicable federal, state, and local laws and regulations as they relate to equal employment opportunities and affirmative action. This includes equal opportunity for persons with mental illness.

4-001.10B The RBHA/provider must prepare an affirmative action plan or related policy statements if such is required by the Division.

4-001.10C The RBHA/provider must comply with all affirmative action compliance review procedures deemed necessary by the Division.

4-001.10D All individuals who have a complaint with the RBHA/provider under the Americans with Disabilities Act must have access to the RBHA's/provider's grievance procedures. All individuals referred to under this section include:

1. Any eligible person who is referred to receive services offered by the RBHA's/provider's program;
2. The people considered by the RBHA's/provider's program to be active consumers;
3. Applicants for employment by the RBHA/provider; and
4. Employees of the RBHA/provider. Programs referred to under this section means all services receiving community behavioral health funds administered by the Division.

4-001.11 Changes in Program Administration: The RBHA/provider must report in writing to the Division within 20 days of its occurrence any of the following changes:

1. Changes regarding programs offered by the Regional Governing Board and/or a provider which are different from the approved Regional Plan of Expenditure;
2. Changes in ownership, the governing body's responsibilities or structure, or control of program(s); and

3. Any changes in the capacity and/or type(s) of services.

The Division may immediately terminate and/or amend the contract containing funds administered by the Division, or any portion thereof, based on the changes reported by the RBHA/provider.

4-002 CONTRACTING REQUIREMENTS FOR NON-RBHA CONTRACTORS: The Division may contract directly with other entities for community-based and other behavioral health services in Regions including but not limited to services for Native American Tribes.