

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 4/23/19 **Approximate Start Time:** 11:00 AM **Approximate Length:** 15 min

Presentation Title: New Class Special Procurement Third Party Administration of 340B Claims Management of Pharmacy Services

Department: Procurement and Contract Services, Health, Housing and Human Services

Presenters: George Marlton, Procurement & Contract Services Division Director; Ed Johnson, Administrative and Financial Services Manager

Other Invitees:

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff is seeking direction on whether to pursue a new class special procurement exemption for third party administration of 340B claims management of pharmacy services.

EXECUTIVE SUMMARY (why and why now):

ORS 279B.085 and Clackamas County Local Contract Review Board rule C-047-0286 allow the County to declare a class special procurement exemption so that it may conduct an alternative procurement process for entering into a series of contracts over time or for multiple projects. A class special procurement exemption may be authorized for construction projects if: 1) it is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and 2) is reasonably expected to result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with standard procurement requirements.

The Health Centers Division of Health, Housing and Human Services (“Department”) manages the Program that is funded through 340B savings as a covered entity through the designation as a Federally Qualified Health Center (“FQHC”) recognized under Health Resources and Services Administration. The Program provides eligible health care providers, such as FQHCs, the ability to purchase outpatient drugs for its patients at significantly reduced costs. By purchasing medications at a much lower cost, FQHCs are able to pass the savings on to their patients through reduced drug prices, and can use any additional savings in support of the Department’s mission to expand access and improve health outcomes among medically underserved populations. The discounts provided in the Program are financed by the drug manufacturers, not the government.

The goal of the Department is to give County clients maximum access to pharmacies throughout the County. The complication is that many pharmacies only work with their established TPA, so if the Department wants to establish services through these pharmacies, it also has to contract with the pharmacy’s TPA. To provide maximum access to pharmacy services for County clients, the Department would like to be able to directly contract with all pharmacies and their respective required TPAs within the County that service a minimum threshold of County clients.

A class special procurement is appropriate for these contracts because the alternative approach will not encourage favoritism as it will not exclude any required TPAs for pharmacies that provide minimum threshold services to County clients. Approval of a class special procurement will result in significant program savings by avoiding a lengthy and costly procurement process that would end in the same result as a formal procurement. In addition, approval of a class special procurement substantially promotes the public interest by giving maximum access to County clients in a timely and efficient manner.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? \$N/A

What is the funding source? N/A

Creation of a class special procurement does not have any fiscal impacts.

STRATEGIC PLAN ALIGNMENT:

Aligns with the Department and County goal of building public trust through good government.

LEGAL/POLICY REQUIREMENTS:

Under ORS 279B a class special procurement exemption may be authorized if: 1) it is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and 2) is reasonably expected to result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with standard procurement requirements. The Board will be required to hold a hearing and adopt findings that show the requirements above are satisfied.

PUBLIC/GOVERNMENTAL PARTICIPATION: A public notice will be published to provide the public an opportunity to be heard on the issue.

OPTIONS:

1. Move forward with the class special procurement exemption process, including scheduling a hearing and presenting a class definition and findings to the Board for adoption at a future business meeting.
2. Move forward with the class special procurement exemption process as laid out in Option 1, with any modifications or additional considerations required by the Board.
3. Do not move forward with the exemption process.

RECOMMENDATION:

Staff respectfully requests the Board move forward with Option 1 above and allow the class exemption process to move forward, including scheduling a hearing and presenting findings to the Board for adoption at a future business meeting.

ATTACHMENTS:

See draft public notice for additional background.

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____



GEORGE MARLTON, JD
PROCUREMENT DIVISION DIRECTOR

PROCUREMENT DIVISION
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

Notice of Class Special Procurement
Third Party Administration (TPA) of 340B Claims Management of Pharmacy Services
April XX, 2019

In accordance with ORS 279B.085 and Local Contract Review Board Rule (“LCRB”) C-047-0286, the County intends to establish a class special procurement for Third Party Administration (“TPA”) Claims Management Services of Pharmacy Services (“Program”).

LCRB C-047-0286 allows the County to declare a class special procurement so that it may conduct an alternative procurement process for entering into a series of contracts over time or for multiple projects. A class special procurement may be authorized if: 1) it is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and 2) is reasonably expected to result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with standard procurement requirements.

The Health Centers Division of Health, Housing and Human Services (“Department”) manages the Program that is funded through 340B savings as a covered entity through the designation as a Federally Qualified Health Center (“FQHC”) recognized under Health Resources and Services Administration. The Program provides eligible health care providers, such as FQHCs, the ability to purchase outpatient drugs for its patients at significantly reduced costs. By purchasing medications at a much lower cost, FQHCs are able to pass the savings on to their patients through reduced drug prices, and can use any additional savings in support of the Department’s mission to expand access and improve health outcomes among medically underserved populations. The discounts provided in the Program are financed by the drug manufacturers, not the government.

The goal of the Department is to give County clients maximum access to pharmacies throughout the County. The complication is that many pharmacies only work with their established TPA, so if the Department wants to establish services through these pharmacies, it also has to contract with the pharmacy’s TPA. To provide maximum access to pharmacy services for County clients, the Department would like to be able to directly contract with all pharmacies and their respective required TPAs within the County that service a minimum threshold of County clients.

A class special procurement is appropriate for these contracts because the alternative approach will not encourage favoritism as it will not exclude any required TPAs for pharmacies that provide minimum threshold services to County clients. Approval of a class special procurement will result in significant program savings by avoiding a lengthy and costly procurement process that would end in the same result as a formal procurement. In addition, approval of a class special procurement substantially promotes the public interest by giving maximum access to County clients in a timely and efficient manner.

If approved, the County will enter into multi-year contracts with TPA firms to provide these services.

In accordance with ORS 279B.400 and LCRB C-047-0700, a person may protest this class special procurement by submitting a protest to George Marlton, Procurement Division Director, at the above referenced address within seven (7) calendar days of the date of this Notice.