



State of Florida
Department of Children and Families

Ron DeSantis
Governor

Taylor N. Hatch
Secretary

DATE: June 9, 2026

TO: Community Directors
Community-Based Care Lead Agency CEOs

FROM: Brooke Bass, Assistant Secretary for Child & Family Well-Being *BB*

SUBJECT: Revisions to CFOP 170-16, Chapter 9, Community-Based Care Lead Agency Direct Services Exemption Process

PURPOSE: The purpose of this memorandum is to provide notification of revisions to CFOP 170-16, Chapter 9, Community-Based Care Lead Agency Direct Services Exemption Process. The revised chapter updates and expands Department procedures governing requests for exemptions from the statutory limitation on direct provision of child welfare services by Community-Based Care Lead Agencies, strengthens procurement and accountability requirements, and establishes additional oversight and emergency response procedures consistent with s. 409.988, Florida Statutes (F.S.).

BACKGROUND: Section 409.988(1)(j), F.S., limits a Lead Agency from directly providing more than 35 percent of all child welfare services within its geographic service area unless the Department approves an exemption based on demonstrated need and lack of qualified providers. The revised CFOP updates the exemption process to align with current statutory requirements, clarifies procurement expectations, establishes monitoring and reporting requirements, and provides operational guidance for emergency and continuity-of-care situations.

The revised chapter also incorporates requirements related to operational audits when approved exemptions result in a Lead Agency directly providing more than 40 percent of child welfare services, as required by statute.

SUMMARY OF KEY REVISIONS: Key updates included in the revised Chapter 9 include:

- Establishment of formal procurement and competitive solicitation requirements consistent with s. 287.057, F.S.
- Clarification of documentation and market outreach requirements supporting procurement activities and exemption requests.
- New early identification and notification requirements when a Lead Agency anticipates approaching the 35 percent threshold.
- Expanded exemption request requirements, including:
 - Procurement documentation,
 - Provider recruitment efforts,
 - Cost and cost-effectiveness analysis,
 - Timelines for returning below threshold, and
 - Stakeholder feedback documentation.
- Clarification that approved exemptions may not exceed two years.
- Creation of quarterly reporting and annual Department validation requirements during an approved exemption period.

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Mission: Work in Partnership with Local Communities to Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

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- Addition of emergency and continuity-of-care procedures, including temporary authorization processes, notification timelines, procurement expectations, and requirements for transitioning back to compliance.
- Establishment of procedures for operational audit notification and follow-up when direct services exceed 40 percent.
- Creation of renewal requirements for approved exemptions, including demonstration of measurable progress toward restoring provider capacity.
- Inclusion of a standardized exemption request template and updated references to the Child Welfare Services Calculation Template (CF-FSP 5457).

ACTION REQUIRED: Please share this memorandum with all Lead Agency leadership and Department contract management staff responsible for oversight of Lead Agency procurement, contract management, and direct services exemption activities. Lead Agencies should review the revised Chapter 9 and ensure procurement, monitoring, and exemption request processes are updated accordingly.

CONTACT INFORMATION: if you have questions regarding these revisions or implementation requirements, please contact Tami Gonyea, Deputy Assistant Secretary, at Tami.Gonyea@myflfamilies.com or (850) 294-6100.

Chapter 9

COMMUNITY-BASED CARE LEAD AGENCY DIRECT SERVICES EXEMPTION PROCESS

9-1. Purpose. Statute provides that “the lead agency shall directly provide no more than 35 percent of all child welfare services provided unless it can demonstrate a need, within the lead agency’s geographic service area, where there is a lack of qualified providers available to perform necessary services, to exceed this threshold” (section 409.988(1)(j)2., Florida Statutes (F.S.)). This operating procedure chapter provides the formalized process the Department will use to approve or deny a request for an exemption from the 35 percent threshold and to establish procedures for initiating procurement, validating emergency need, and ensuring compliance with performance accountability standards under s. 409.997 F.S. Pursuant to Florida Statutes, the approval period for an exemption to exceed the 35 percent threshold is limited to two years. This operating procedure chapter also outlines the process for initiating an operational audit of any Lead Agency who receives such an exemption and provides more than 40 percent of all child welfare services, as required under s. 409.988(1)(j)(3), F.S.

9-2. Legal Authority. Section [409.988](#), Florida Statutes (F.S.).

9-3. Procurement and Competitive Solicitation Requirements.

a. General Procurement Obligation: Each Lead Agency shall engage in their documented and Department-approved procurement process consistent with its internal procurement policies and the requirements of Chapter 287, F.S. Procurement activities must ensure fair, open, and competitive access for qualified providers within the Lead Agency’s geographic service area.

b. Competitive Solicitation Requirements in Accordance with Section 287.057, F.S.

(1) Each Lead Agency shall conduct all competitive procurements for child welfare services in a manner consistent with s. 287.057, F.S., including the selection and execution of an appropriate competitive solicitation method based on the nature of the services and the best interests of the state.

(2) At a minimum, Lead Agencies must:

(a) Select the appropriate procurement method, including:

1. Invitation to Bid (ITB) for commodities or contractual services where price is the primary determining factor;
2. Request for Proposals (RFP) for contractual services where qualifications, experience, and approach are evaluated in addition to cost; or
3. Invitation to Negotiate (ITN) when negotiations are necessary to determine the best value to the state.

(b) Ensure full and open competitions by:

1. Publicly posting solicitations in a manner consistent with its Department-approved procurement policies and sufficient to provide fair and open access to qualified providers.;

2. Providing reasonable timeframes for vendor response;

3. Avoiding restrictive specifications that limit competition.

(c) Conduct a documented evaluation process, including:

1. Review of responsiveness and responsibility of vendors;

2. Scoring based on published evaluation criteria;

3. Documentation of evaluation results and decision rationale.

(d) Complete negotiations, if applicable, in accordance with the selected procurement method, ensuring that final terms reflect best value and are consistent with solicitation requirements.

(e) Document the final selection and award decision, including justification for vendor selection and any determinations of non-responsiveness or non-responsibility.

(f) Maintain all procurement records sufficient to demonstrate compliance with s. 287.057, F.S., and to support audit or review.

(3) Failure to adhere to these requirements may result in findings of non-compliance

c. Documentation Requirements. Lead Agencies shall maintain complete and accurate documentation of the following, and provide to the Department upon request:

(1) Solicitation efforts as outlined in section 9-3.b. of this operating procedure and market outreach

(2) Evaluation criteria and results

(3) Bidder responsiveness

(4) Determinations of provider capability, cost-effectiveness, and capacity.

d. Limitations on Self-Performance. A Lead Agency may self-perform child-welfare services only to the extent that total direct services remain at or below 35 percent of all child-welfare services within its service area.

(1) Direct services shall be monitored by the Lead Agency at least quarterly.

(2) All calculations must use the Department's Child Welfare Service Calculation Template, CF-FSP 5457 (available in DCF Forms), incorporated by reference in Attachment 1.

(3) Supporting documentation must be retained and provided to the Department upon request and with any submissions for requests to exceed the 35 percent threshold.

e. Early Identification and Notification. When a Lead Agency anticipates approaching or exceeding the 35 percent threshold due to provider withdrawal, insolvency, failed procurement, or other capacity loss, the Lead Agency shall:

(1) Initiate procurement planning immediately, and no later than 10 business days after identifying the risk.

(2) Notify the Department's Contract Manager in writing within 10 business days of identifying the risk.

(3) Include projected impact, procurement method, and anticipated completion timeline.

9-4. Determining When an Exemption is Required.

a. Assessment Following Procurement. If, as a result of a competitive solicitation conducted in accordance with s. 287.057, F.S., and outlined above in section 9-3 of this operating procedure, no responsive and responsible vendor is identified, or the agency determines in writing that the contractual services cannot be purchased at or below fair market value, the Lead Agency may determine whether temporary direct service provision is necessary to ensure continuity of care. Such determinations shall be documented in writing and maintained in the procurement file and provided to the Department upon request.

(1) Procurement activities referenced in this subsection must be conducted in accordance with the competitive solicitation requirements outlined in s. 287.057, F.S., and as detailed in section 9-3 of this operating procedure.

(2) Documentation demonstrating that, as a result of a competitive solicitation conducted in accordance with s. 287.057, F.S., no responsive and responsible vendor is identified, or the commodities or contractual services cannot be purchased at or below fair market value.

b. Threshold Impact Analysis. If actual or projected self-performance will cause the Lead Agency's direct services percentage to approach or exceed 35 percent, the Lead Agency shall:

(1) Document procurement results demonstrating lack of qualified providers;

(2) Prepare written justification explaining why self-performance is the only practicable and cost-effective option;

(3) Initiate the exemption request process prior to exceeding the statutory threshold.

9-5. Requesting an Exemption to Exceed 35 Percent. Both initial requests and requests to renew a current exemption must comply with the following:

a. Required Contents of Exemption Request. The exemption request shall include:

(1) A detailed description of services proposed for self-performance and justification for why this approach is in the best interest of the system of care;

(2) A summary and documentation of all procurement efforts demonstrating that, as a result of a competitive solicitation conducted in accordance with s. 287.057, F.S., no responsive and responsible vendor is identified, or the commodities or contractual services cannot be purchased at or below fair market value, including solicitations issued, responses received, and written determinations.

(3) A summary and documentation of all procurement and provider recruitment efforts, including solicitations issued, responses received, and barriers to competition;

(4) Current and projected direct services percentages calculated using the Department's Child Welfare Services Calculation Template (CF-FSP 5457).

(5) An accounting of costs incurred and cost-effectiveness comparisons between subcontracted and direct services provided;

(6) An attestation that all feasible alternatives to exceeding the threshold have been exhausted;

(7) A plan and timeline for recruiting, developing, or re-engaging qualified subcontracts;

(8) Any relevant stakeholder feedback or collateral information.

(9) **Optional Use of Department Template.** To assist Lead Agencies in submitting a complete and compliant exemption request, the Department has developed a standardized Direct Services Exemption Request template (Attachment 2 to this operating procedure). Use of this template is not required; however, Lead Agencies shall ensure that all information identified within the template is fully addressed in their submission. Requests that do not include all required documentation will be deemed incomplete and returned for revision.

b. Submission Requirements.

(1) Prior to commencing or expanding direct services beyond the 35 percent threshold, the Lead Agency shall submit a Community-Based Care Lead Agency Direct Services Exemption Request, incorporating all elements outlined in section 9-5.b. or this operating procedure to:

(a) Each applicable local Community Alliance within the Lead Agency's geographic service area; or

(b) If no Community Alliance exists, the authorized local stakeholder body identified in s. 409.988(1)(j)2., F.S.

(2) The exemption request may be submitted using the Department's standardized template found in Attachment 2, or an alternative format that includes all required information.

c. Restriction on Self Performance. A Lead Agency may not commence or expand direct services beyond the 35 percent threshold unless and until written approval is issued by the Department.

9-6. Community Alliance and Department Review.

a. Community Alliance Review

(1) The Community Alliance or designated stakeholder committee shall review the complete exemption request and submit a written recommendation for approval or denial to the Department within 20 business days.

(2) If additional information is requested, the Lead Agency shall respond within five business days, after which the review period restarts.

b. Department Review and Decision

(1) Upon receipt of the recommendation, the Department's Contract Manager, Community Director, and Assistant Secretary for Child and Family Well-Being (or designee) shall review the request for statutory and procedural compliance.

(2) The Department shall issue a written approval or denial within 15 business days of completing its review and maintain a copy of all information reviewed, facts considered, and determination made.

(3) Approved exemptions shall not exceed two years from the date of Department approval and shall specify reporting, monitoring, and any corrective action requirements.

c. Monitoring and Validation

(1) Lead Agencies shall submit quarterly direct services reports to the Department's Contract Manager during the exemption period. Each report shall include, at a minimum, the Lead Agency's direct-services percentage, a summary of services self-performed, costs incurred, procurement and provider recruitment activities, identified barriers to securing qualified providers, and a timeline for returning below the 35 percent threshold.

(2) The Department shall conduct at least one annual direct services validation no later than 12 months from the date of approval and at least annually thereafter during the exemption period.

9-7. Emergency and Continuity of Care Exemptions

a. Emergency Circumstances. When an immediate service gap threatens the health, safety, or stability of children and families and competitive procurement cannot be completed in time, the Lead Agency may temporarily exceed the 35 percent threshold.

b. Notice and Documentation.

(1) The Lead Agency shall notify the Department's Contract Manager within 24 hours of initiating emergency self-performance.

(2) Written notification shall describe the emergency, services assumed, estimated duration, and plan to restore subcontracted services.

(3) A formal exemption justification, with the required components outlined in section 9-7.b.(2) of this operating procedure shall be submitted within 15 business days of the emergency to the Department's Contract Manager.

c. Department Authorization.

(1) The Department shall validate the emergency and may authorize a temporary direct services provision for up to 90 days. During the temporary authorization period, the Lead Agency shall concurrently initiate procurement and provider recruitment efforts and coordinate with each applicable Community Alliance or authorized stakeholder body regarding any formal exemption request that may be required pursuant to section 9-5 of this operating procedure.

(2) The Lead Agency shall provide initial notification to the Department's Contract Manager within 24 hours of initiating emergency self-performance.

(3) Within 15 business days of the initial notification, the Lead Agency shall submit a written emergency justification describing the circumstances, services assumed, estimated duration, and actions taken to stabilize service delivery.

(4) Within 20 business days of the initial notification, the Lead Agency shall provide a procurement and provider recruitment plan outlining steps to restore the subcontracted services.

(5) If the Lead Agency anticipates that emergency direct service provision will exceed 90 days or require continued performance beyond the temporary authorization, a complete exemption request in accordance with section 9-5 of this operating procedure must be submitted prior to expiration of the temporary authorization period. The Department may extend temporary authorization pending review and determination of a timely submitted exemption request.

d. Procurement During Emergency. The Lead Agency shall concurrently initiate:

- (1) An emergency procurement under s. 287.057(3)(a), F.S.; or
- (2) An expedited competitive procurement.

e. Return to Compliance. Emergency exemptions may not extend beyond 90 days without formal Department approval.

9-8. Operational and Fiscal Oversight.

a. Audit Requirements. If an approved exemption results in a Lead Agency directly providing more than 40 percent of all child welfare services, an operational audit by the Auditor General is required pursuant to s. 409.988(1)(j)3., F.S.

b. Notification and Follow-Up.

(1) The Department, through the Assistant Secretary for Child and Family Well-Being or designee, shall notify the Auditor General within 10 business days of exemption approval for a Lead Agency directly providing more than 40 percent direct child welfare services.

(2) Audit results shall inform any additional fiscal contracts, corrective actions, or re-procurement requirements.

9-9. Renewal of an Exemption.

All requirements set forth in section 9-5 of this operating procedure shall be adhered to. Renewal requests shall also adhere to the following:

a. Timing of Renewal Request. A Lead Agency may request a renewal no later than 60 calendar days prior to the expiration of an approved exemption.

b. Renewal Submission Requirements. Renewal requests shall include:

- (1) Prior approval documentation and conditions.
- (2) Actions taken to recruit or re-engage providers.
- (3) Evidence of measurable progress toward reducing direct services percentages or explanation of persistent market barriers.
- (4) Updated expenditure calculations
- (5) Results of audits or reviews and status of corrective actions.
- (6) A forward-looking plan with timelines to achieve compliance.

c. Department Determination. The Department may deny renewal if the Lead Agency fails to demonstrate good-faith effort or measurable progress toward restoring competitive provider capacity. For purposes of this section, good-faith effort means documented compliance with the procurement, provider recruitment, reporting, and return-to-compliance requirements in this chapter of this operating procedure.

Child Welfare Services Calculation Template
Form CF-FSP 5457 Instructions
(Form is available in DCF Forms at: <https://myflfamilies.com/forms>)

Instructions and Definitions

Calculation of Child Welfare Service Provision

409.988(1)(j), F.S.

Expenditures excluded from child welfare service provision calculation:

A. Lead Agency Administrative and Networks Support Functions

- 1) Executive leadership
- 2) Information Technology (could include IT spending on behalf of provider network)
- 3) Quality Assurance/program/service area oversight (Broad Category)
- 4) Human Resources
- 5) Training
- 6) Utilization Management
- 7) Finance
- 8) Contract Management
- 9) Communication & Marketing
- 10) Revenue Maximization/Eligibility
- 11) Data Management at lead agency
- 12) Licensing (administrative function of license approval and oversight)

B. Pass Through Funding

- 1) Maintenance Adoption Subsidy Payments (MAS)
- 2) Foster Parent Board Payments (including Level I Foster Home Payments)
- 3) Independent Living Stipends
- 4) Guardianship Assistance Payments (GAP)

Expenditure categories and definitions included in calculating child welfare service provision:

A. Child Welfare Services

- 1) Group Care - includes the amounts paid to any facility licensed to provide group care.
- 2) Case Management - includes costs incurred by all positions performing direct case management tasks: Case Managers, Family Support Workers, Case Management Supervisors, Program Directors, etc.; excludes lead agency support functions of case management such as quality management, utilization management, training, eligibility, etc.
- 3) Independent Living - includes the costs incurred by all positions performing direct Independent Living tasks; excludes stipends paid to IL clients, room and board payments for EFC caregivers, and lead agency support functions.
- 4) Placement - includes costs incurred by all positions directly involved in the process of selecting and arranging appropriate child placements.
- 5) Licensing - includes costs incurred by all positions directly involved in the recruitment and licensing of foster homes; excludes lead agency function of reviewing and approving license applications.
- 6) Dependency Services - includes services to families with assigned case managers and in the formal dependency system such as specialized parenting programs, counseling, treatment, etc.
- 7) Prevention/Diversion Programs - includes preventive programs designed to engage at risk families in order to keep them from entering the formal dependency system such as kinship programs and specialized parenting programs; could include prevention initiatives that are provided to the general community such as neighborhood projects, summer programs, etc.
- 8) Post Adoption Support - includes costs incurred by all positions directly supporting families after adoptions are finalized.

Subcontracted vs Directly Provided Clarification

Any contracts between lead agencies and entities they may control should be considered directly provided when determining the 35% threshold. For further clarity, CBCs should clearly identify the amount for direct services provided by a subsidiary or affiliate of the CBC and the name of the subsidiary/affiliate.

State of Florida
 Florida Department of Children and Families (DCF)
 % of Directly Provided Child Welfare Services Calculation

Name of Community Based Care Lead
 Agency (CBC): DCF Contract #:
 State Fiscal Year:

Child Welfare Services				Supplementary Information		
	Category	Subcontracted	Directly Provided	Total		
1	Group Care			\$ -		
2	Case Management			\$ -		
3	Independent Living excluding stipends			\$ -		
4	Placement			\$ -		
5	Licensing			\$ -		
6	Post Adoption Support			\$ -		
7	Dependency Services			\$ -		
8	Prevention/Diversion Programs			\$ -		
	Total	\$ -	\$ -	\$ -		

Percentage of Child Welfare Services 0% 0% 0% 0% 0%

Child Welfare Services	\$ -
Adoption Subsidies	
Guardianship Assistance Payments	
Foster Home Payments incl Level I	
IL Stipends	
Network Support	
Total	\$ -

Total of July 1st Schedule of Funds	
Difference	\$ -

CF-FSP 5457, Oct 2021

CF-FSP 5457, Oct 2021

COMMUNITY-BASED CARE LEAD AGENCY DIRECT SERVICES EXEMPTION REQUEST

INSTRUCTIONS: In accordance with section 409.988, Florida Statutes, and CFOP 170-16, Chapter 9, provide the information contained in each section below to request an exemption from the statutorily required 35 percent threshold for direct provision of child welfare services.

- Initial Waiver Request Renewal Waiver Request

SECTION A: Narrative Description of Reasons for Requesting an Exemption

- 1) List of Services the Lead Agency proposes to provide directly.
- 2) List of current sub-contracted services and the entities who perform these services for the Lead Agency.

Description of attempts the Lead Agency has made to avoid or reduce the need to exceed the 35 percent threshold

SECTION B: Current Percentage of Child Welfare Services Provided by the Lead Agency

The current percentage of child welfare services provided by the Lead Agency as calculated by the Child Welfare Services Calculation Template (form CF-FSP 5457, available in DCF Forms). *Attach completed CF-FSP Form 5457 to this document.*

SECTION C: Proposed Percentage of Child Welfare Services Provided by the Lead Agency

The proposed percentage of child welfare services provided by the Lead Agency as calculated by the Child Welfare Services Calculation Template (form CF-FSP 5457, available in DCF Forms). *Attach completed CF-FSP Form 5457 to this document.*

SECTION D: Efforts to Recruit a Qualified Provider

A detailed narrative, with supporting documentation, detailing the efforts the Lead Agency took to recruit a qualified provider to provide the services needed. The narrative must describe any mitigating circumstances or barriers to competition and include a description of the efforts the Lead Agency implemented to address those mitigating circumstances or barriers.

SECTION E: Costs Incurred and Payments Made by the Lead Agency

A detailed accounting of the costs incurred, and any payments made by the Lead Agency to itself for services directly provided by the Lead Agency compared to any procurement solicitations by the Lead Agency.

SECTION F: Adequacy of Efforts to Obtain Services

A narrative outlining the timeline and all efforts undertaken by the Lead Agency to demonstrate the adequacy of the efforts to obtain services through a qualified subcontractor.

SECTION G: Cost and Cost-Effectiveness

A detailed accounting of the resulting cost and cost-effectiveness of the services provided directly by the Lead Agency.

SECTION H: Community Stakeholder Feedback

Any feedback or responses from community stakeholders the Lead Agency has already gathered.

SECTION I: Collateral Information