

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: November 20, 2015

Findings Date: November 20, 2015

Project Analyst: Bernetta Thorne-Williams

Team Leader: Fatimah Wilson

Project ID #: F-11091-15

Facility: Carolinas Medical Center-Mercy

FID #: 923352

County: Mecklenburg

Applicant: The Charlotte-Mecklenburg Hospital Authority

Project: Cost overrun for Project I.D. # F-10215-13 (add 34 acute care beds)

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

NA

The applicant, The Charlotte-Mecklenburg Hospital Authority d/b/a CMC-Mercy, proposes a cost overrun for Project I.D. # F-10215-13 which authorized the hospital to add 34 acute care beds at its acute care hospital located at 2001 Vail Avenue, Charlotte, for a total of 196 acute care beds upon project completion. The certificate of need (CON) for Project I.D. # F-10215-13 authorized a capital cost of \$1,999,775. The proposed cost overrun application will also affect the completion date of the project. In Project I.D. # F-10215-13, the applicant projected occupancy and offering of services by January 1, 2015. In the cost overrun application, the applicant projects occupancy and offering of services by October 1, 2016. There is no material change in scope from the originally approved project in this application.

Need Determination

The applicant does not propose to increase the number of licensed beds in any category, add any new health services or acquire equipment for which there is a need determination in the 2015 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations in the 2015 SMFP that are applicable to this review.

Policies

Policy GEN-3: BASIC PRINCIPLES, page 38, of the 2015 is not applicable to this review. In Project I.D. # J-10339-14, the application was consistent with Policy GEN-3. The applicant proposes no changes in the current application that would affect that determination. In addition, there are no other policies in the 2015 SMFP that are applicable to this review.

Conclusion

In summary, the applicant was previously approved to add 34 additional acute care beds for a total of 196 acute care beds upon project completion. In Project I.D. # F-10215-13, the applicant was conforming to this Criterion. The applicant proposes no changes in the current application that would affect that determination. Therefore, this criterion is not applicable to this review.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

Effective October 1, 2014, The Charlotte-Mecklenburg Hospital Authority d/b/a CMC-Mercy was issued a certificate of need (CON) for Project I.D. # F-10215-13 which authorized the hospital to add 34 acute care beds to be used as medical/surgical beds at its acute care hospital for a total of 196 acute care beds upon project completion. The original project was approved for a total capital cost of \$1,999,775. The additional acute care beds were projected to be operational by January 1, 2015.

The current CON application is for a cost overrun. The total capital cost is now expected to be \$3,820,989 an increase of \$1,821,214 [$\$3,820,989 - \$1,999,175 = \$1,821,814$] or 91% [$\$1,821,814 / \$1,999,175 = 91\%$] of the approved capital cost. See Section VI.2, page 36.

Analysis of Need

The following table compares the previously approved capital cost and the proposed capital cost in this application, as reported on pages 39-40.

CMC-Mercy PREVIOUSLY APPROVED AND PROPOSED CAPITAL COSTS			
	Previously Approved Cost	Proposed Cost	Difference
Construction Costs	\$1,011,000	\$2,041,495	\$1,030,495
Miscellaneous Costs			
Fixed Equipment Purchase/Lease	\$14,525	\$14,525	\$0
Movable Equipment Purchase/Lease	\$666,750	\$745,978	\$79,228
Furniture	\$86,000	\$170,270	\$84,270
Subtotal Miscellaneous Costs	\$767,275	\$930,773	\$163,498
Consultant Fees			
Architect/Engineering Fees	\$50,000	\$161,500	\$111,500
Legal and CON Fees	\$50,000	\$310,000	\$260,000
Other (Admin, Material Testing, Moving)	\$15,000	\$15,000	\$0
Subtotal Consultant Fees	\$115,000	\$486,500	\$371,500
Subtotal Capital Costs	\$1,893,275	\$3,458,768	\$1,565,493
Contingency	\$106,500	\$362,221	\$255,721
Total Capital Costs	\$1,999,775	\$3,820,989	\$1,821,214

The applicant seeks approval for an increased capital cost due to unanticipated increased construction costs to correct plumbing deficiencies, upgrade the air handling unit and replace the nurse call system. In Section II.3, pages 11-13, the applicant discusses the reason for the increase in construction costs. The original project scope will not change nor will the population to be served; including access by underserved groups.

Conclusion

In the original application, the applicant adequately identified the population to be served, demonstrated the need for 34 additional acute care beds and the extent to which all residents of the service area, including underserved groups, are likely to have access to its services. However, the applicant underestimated the capital cost necessary to complete the project. In this application, the applicant adequately demonstrates the need for the proposed cost overrun. Consequently, the cost overrun application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

The applicant discusses the need for the cost overrun application in Section II, pages 10-16. In Section II.5, page 15, the applicant states, “*As demonstrated in the previously approved project, there is clearly a need to develop the additional 34 acute care beds and thereby create necessary additional capacity. ... CMC-Mercy maintains that despite the cost increase, the resulting benefit of the proposed project justified the expenditure ...*”

In Section II.5, pages 14-15, the applicant discusses the three alternatives considered:

1. Ceasing the Project – This was not considered an effective alternative as additional acute care beds are still needed in Mecklenburg County.
2. Not Addressing the Identified Deficiencies – CMC-Mercy could have proceeded with the project without addressing the deficiencies. However, not addressing the plumbing, air handling issues and the nurse call system is not an effective alternative. Specifically, the plumbing issues resulted in a leak to the ICU floor. This resulted in a need to replace the waterproof membrane below the floors in each of the 34 patient bathrooms. The upgrade to the air handling system will improve the environment as well as energy efficiencies. The nurse call system is outdated and was designed for a rehabilitation unit.
3. Develop the Project as Proposed – The applicant concluded that the most effective way to address the issues facing CMC-Mercy was to file a cost overrun application.

The applicant adequately demonstrates that the proposed alternative is the most effective and least costly alternative to meet the *previously* identified need for 34 additional acute care beds in Mecklenburg County.

Furthermore, the application is conforming to all other statutory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that its proposal is the least costly or most effective alternative to meet the identified need. Therefore, the cost overrun application is conforming to this criterion and approved subject to the following conditions:

1. **The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Mercy shall materially comply with all conditions of approval on the certificate of need for Project I.D. # F-10215-13 except as specifically modified by the conditions of approval for this application, F-11091-15.**

- 2. The total approved capital expenditure for Project I.D. # F-10215-13 and Project I.D. # F-11091-15 is \$3,820,989.**
 - 3. The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Mercy shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in Section VI of the application that would otherwise require a certificate of need.**
 - 4. Prior to issuance of the certificate of need, The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center-Mercy shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The proposed project is for a cost overrun for Project I.D. # F-10215-13. The total capital cost is now expected to be \$3,820,989, an increase of \$1,821,214 [$\$3,820,989 - \$1,999,775 = \$1,821,214$] or 91% [$\$1,821,214 / \$1,999,775 = 91\%$] of the approved capital cost. See Section VI.4, pages 39-40.

Availability of Funds

In Section VI.5, page 40, the applicant states the total capital cost of the project will be funded with accumulated reserves. In Exhibit 10, the applicant provides a September 15, 2015 letter signed by the Executive Vice President and Chief Financial Officer, Carolinas HealthCare System (CHS), which states:

"I have been asked to document the availability of funds for the cost overrun of the previously approved addition of 34 acute care beds at Carolinas Medical Center-Mercy.

As the Chief Financial Officer ... I am responsible for the financial operations of Carolinas Medical Center-Mercy. As such, I am very familiar with the organization's financial position. The total capital expenditure amount associated with this cost overrun is estimated to be \$1,821,214. ...

Carolinas HealthCare System will fund the capital cost from existing accumulated cash reserves."

In Exhibit 11, the applicant provides the audited financial statements for The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System for the years ending December 31, 2013 and December 31, 2014. As of December 31, 2014, Carolinas HealthCare System had cash and cash equivalents totaling \$96,101,000 with \$7,213,587,000 in total assets and \$4,029,263,000 in net assets (total assets less total liabilities).

Financial Feasibility

In the original application, Project I.D. # F-10215-13, the applicant projected that operating expenses would exceed revenues in each of the first three years of the project, as illustrated in the table below.

	PY 1 CY 2015	PY 2 CY 2016	PY 3 CY 2017
Gross Patient Revenue	\$54,280,839	\$63,129,514	\$72,766,058
Deductions from Gross Patient Revenue	\$40,913,268	\$47,837,042	\$55,425,737
Net Patient Revenue	\$13,367,571	\$15,292,472	\$17,340,321
Total Expenses	\$20,768,329	\$22,624,833	\$24,636,090
Net Income	(\$7,400,758)	(\$7,332,361)	(\$7,295,769)

However, in Form B of the original application, the applicant projected that revenues would exceed operating expenses in each of the first three full fiscal years for the entire hospital. The applicant also projected a positive net income for The Charlotte-Mecklenburg Hospital Authority in each of the first three full fiscal years of the project.

In Form C of the current application, the applicant also projects that operating expenses will exceed revenues in each of the first three years of the project, as illustrated in the table below.

	PY 1 CY 2017	PY 2 CY 2018	PY 3 CY 2019
Gross Patient Revenue	\$87,079,826	\$91,285,222	\$95,704,382
Deductions from Gross Patient Revenue	\$65,515,260	\$69,037,849	\$72,747,126
Net Patient Revenue	\$21,564,566	\$22,247,373	\$22,957,256
Total Expenses	\$24,941,729	\$25,767,206	\$26,607,878
Net Income	(\$3,377,162)	(\$3,519,834)	(\$3,650,622)

However, in Form B of the current application, the applicant projects that revenues will once again exceed operating expenses in each of the first three full fiscal years for the entire hospital, as illustrated in the table below.

	PY 1 CY 2017	PY 2 CY 2018	PY 3 CY 2019
Gross Patient Revenue	\$1,021,964	\$1,111,406	\$1,207,605
Deductions from Gross Patient Revenue	\$757,049	\$841,324	\$932,473
Net Patient Revenue	\$264,915	\$270,082	\$275,132
Total Expenses	\$220,983	\$223,271	\$224,977
Net Income	\$49,000	\$52,021	\$55,513

The original application was determined to be conforming to this criterion with regard to the financial feasibility of the addition of 34 new acute care beds. In the current application, the applicant does not propose any changes that would affect that determination.

Conclusion

In summary, the applicant adequately demonstrates the availability of funds for the increased capital needs of the project. Therefore, the cost overrun application is conforming to this criterion.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

In Project I.D. # F-10215-13, the applicant was approved to develop 34 acute care beds in Mecklenburg County pursuant to the need determination in the 2013 SMFP. In Project I.D. # F-10215-13, the application was conforming to this criterion and no changes are proposed in this application that affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

In Project I.D. # F-10215-13, the applicant proposed an increase of 38.25 FTE positions for a total of 143.03 FTE positions at CMC-Mercy in the second full operating year of the proposed project. The applicant does not propose any additional staff in this application. In Project I.D. # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and

support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

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In Project I.D. # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
 - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
 - (iii) would cost no more than if the services were provided by the HMO; and
 - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced

difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

In Project I.D. # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

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In Project I.D. # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Project I.D. # # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Project I.D. # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

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In Project I.D. # F-10215-13, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

Project I.D. # F-10215-13, was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

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In Section II.6, page 36 of Project I.D. # F-10215-13 and referenced Exhibits the applicant states that it currently owns, leases, or manages 26 facilities in North Carolina. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, no incidents occurred within the eighteen months immediately preceding submission of the application through the date of this decision, for which any sanctions or penalties related to quality of care were imposed by the State on any facility owned and operated by Carolinas

HealthCare System (CHS) in North Carolina. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at all CHS facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

(21) Repealed effective July 1, 1987.

(b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

Project I.D. # F-10215-13 was conforming to the Criteria and Standards for Acute Care Beds, promulgated in 10A NCAC 14C .3800, and the applicant proposes no changes in the current application that would affect that determination. Consequently, the cost overrun application is conforming to this criterion.