



ELIGIBILITY SUPPORT SERVICES DRAFT RFP NO. 529-08-0135

SEND COMMENTS TO: STEVE.BAILEY@HHSC.STATE.TX.US

Senior Policy Analyst Celia Hagert submitted comments on the Health and Human Services Commission’s draft Request for Proposal #529-08-0135 for Eligibility Support Services. The draft RFP requests proposals from vendors to operate a call center system to support eligibility determination for CHIP, Medicaid, Food Stamps, and TANF. The RFP describes a system substantively similar to the one developed and operated by Accenture under the TAA contract, which was terminated in March 2007. Comments on the draft RFP were due 12/31/07. HHSC has not yet set a date for the release of the final RFP.

At HHSC’s Council meeting on Monday, January 14, at 2:30 pm, HHSC staff will make a presentation on the status of the RFP and next steps for rollout of TIERS, the new computer system that is intended to support the call centers. The meeting will be held in the Brown Heatley building’s Public Hearing Room, 4900 N. Lamar Blvd., in Austin. All interested parties are encouraged to attend. The agenda is posted on HHSC’s web site at: www.hhsc.state.tx.us/news/meetings/past/2008/011408_Stakeholder_Austin.html.

	Page #	Section #	Paragraph #	Comment
1	General			Staffing and financing of HHSC oversight The draft RFP outlines an enormous undertaking that will require years to accomplish and require extraordinary time and resources from HHSC. A project of this magnitude will change the fundamental role of HHSC in providing these services. Despite how much of the eligibility and enrollment process HHSC chooses to include in the final RFP, it remains responsible for ensuring that eligible families receive timely and accurate benefits in accordance with federal law. This creates new responsibilities for HHSC. Where previously HHSC was required to administer the program, now it is responsible for developing requests for bids, negotiating contracts, monitoring performance, and enforcing compliance. HHSC needs to determine whether it has the capacity to play this role and include the costs of contract monitoring and enforcement when determining whether the bids that result from the final RFP are truly cost-effective.
2	General			TIERS/paperless system HHSC staff have informed us that <ul style="list-style-type: none"> • TIERS cases are taking 1.5-2 times as long as SAVERR to process by all but the most tenured workers (i.e., those with multiple years of experience); • TIERS cannot support basic reporting needs in Medicaid (e.g., reasons that cases are denied or

				<p>closed, which would be needed in legal proceedings); and</p> <ul style="list-style-type: none"> • TIERS timeliness is well below federal standards for Food Stamps and Medicaid. <p>We are alarmed about the continued rapid extension of TIERS despite these signs that neither timely processing nor reliable reporting is supported by the system at present. Though not the subject of this draft RFP, we strongly urge HHSC not to award any new contracts, or otherwise expand the call centers, until the timeliness, training, reporting, and staffing deficits plaguing TIERS are fixed and TIERS is rolled out statewide. As a second step prior to expanding the call centers, we urge you to implement a “paperless system” in which all scanning and imaging processes are functioning and capable of supporting the automated eligibility and enrollment processes that are envisioned in this draft RFP.</p>
3	2	1.5	2	<p>In addition to the goals outlined in this section, the final RFP should include the goals established for the enhanced eligibility system by the 80th Legislature in House Bill 3575, including:</p> <ul style="list-style-type: none"> • Increased quality of and client access to services; • More efficient business processes that will reduce processing times for applications staff workload; • Simplified application and enrollment processes in a manner that is consistent with goals established by the legislature; • Enhanced integrity of and reduced fraud; and • Compliance with applicable federal law and regulations.
4	multiple			<p>Delineating the role of vendor and state staff</p> <p>A major risk in outsourcing significant portions of Texas’ eligibility and enrollment system to a vendor is that it is that it is hard to measure performance, making it difficult to craft an effective contract. Research suggests that the key factor in predicting success in outsourcing is whether there is clear consensus about the desired results, clear accountability for achieving those results, clear performance measures, and clear public objectives. In this regard, a vendor is best suited to perform certain functions related to public benefits administration, but not others. For example, it is relatively easy to measure performance in the provision of straightforward services such as processing payments, data processing, or computer systems design. By contrast, functions that require the balancing of competing priorities have proven difficult to outsource successfully. Given this research and HHSC’s own experience with the TAA contract, we recommend that the final RFP limit the vendor’s role to functions that do not involve communication with applicants or clients, with the exception of upfront screening for eligibility, helping families fill out an initial application, and informing clients of their rights and responsibilities. After this initial step, clients should be forwarded to a skilled state worker for</p>

				<p>further processing of their case. Any subsequent communications about case status, missing information requests, eligibility decisions, hearing requests, etc. should be with a skilled state worker.</p>
5	Multiple			<p>HHSC’s responsibilities Throughout the draft, in the sections on HHSC’s responsibilities, many functions that should not be characterized as discretionary on HHSC’s part are characterized as discretionary. For example, in the section on call center requirements, the draft states that “At its discretion, HHSC may: monitor the Vendor’s compliance with policy, timeliness and accuracy standards, and requiring corrective action plans when standards are not met.” Clearly this is something that HHSC should be required to do on a regular basis. In another example, in the section on call monitoring and case accuracy, the draft states that “At its discretion, HHSC may: review, approve, or require modifications to the Vendor proposed call and case monitoring resolution.” (2.2.1.12). In this example, while HHSC’s decision about what to do with the results of its review may be discretionary, the review should be required <i>obligation</i>. We recommend that the final RFP, in each section that outlines HHSC’s responsibilities, specify which responsibilities are obligatory, and distinguish these functions from those that are truly discretionary.</p>
6	14	2.2.1.4	2 nd bullet	<p>VoIP The FCC has required providers of VoIP to comply with the disability access obligations of the ADA, for example by providing relay services for the hearing-impaired. The final RFP should mention the vendor’s obligation to select carriers that are ADA compliant.</p>
7	14-15	2.2.1.5	2	<p>Language access The final RFP should specify what HHSC’s performance standards are regarding language access. Additionally, the language access plan doesn’t specifically include that the vendor staff inform people of their rights to effective communication, or describe what such communication should entail. Is this something that HHSC staff will do? If not, the final RFP should include this as a language access plan requirement.</p>
8	17	2.2.1.7	Insert new	<p>Imaging services We recognize that the draft RFP contemplates a separate procurement process for document processing services. However, the final RFP should specify the performance standards for imaging services performed by the ESS vendor. There were serious problems with scanning and image association in the TAA contract; the final RFP should take extra precautions to mitigate the risk that similar problems will plague the ESS contract.</p>
9	22	2.2.1.10	general	<p>Complaint and dispute handling requirements Again, this was a very problematic area in the TAA contract and merits careful consideration to avoid the same poor outcomes in this contract. As drafted, this section is very</p>

				confusing and in several places assigns responsibilities to the vendor that clearly go beyond the scope of work outlined in Section 2.2.1, which states that the ESS solution should “[Allow] for processes and procedures for <i>skilled HHSC eligibility workers to continue performing</i> data collection, client interviews, including face-to-face interviews, and <i>review and analysis of the case information for final determination and certification or denial of eligibility</i> as required by state and federal laws or policies.” (emphasis added) This whole section needs to be redrafted to better delineate the roles of HHSC from the vendor. See specific comments below.
10	22	2.2.1.10	1	Despite the qualifier that “HHSC anticipates there will be a need to escalate complaints and disputes to the agency,” this section goes on to say that it is “HHSC’s expectation that the Vendor resolve client concerns and report such resolutions to HHSC.” As drafted, the RFP clearly contemplates a major role for the vendor in resolving client concerns, even in cases where it is inappropriate, such as when the complaint centers on the eligibility decision itself: “Disputes may include disagreements regarding eligibility determination or benefit amounts.” Despite a second qualifier, that the majority of such complaints will need to be escalated to HHSC, the draft RFP still inappropriately shares the responsibility for solving eligibility-related disputes with the vendor: “In disputes including disagreement of eligibility determination or benefit amounts, it is HHSC’s expectations that Vendor staff will review the case notes in TIERS and will provide a policy-based explanation to the caller.” This is not an appropriate role for the vendor, whose staff will not have the policy training to be able to provide such an explanation. The final RFP should clarify that while the vendor is responsible for responding to and researching client concerns, that all complaints or disputes over eligibility decisions should be immediately escalated to HHSC. The role of the vendor in complaint and dispute handling should be restricted to correcting processing errors and resolving only those complaints involving customer service, such as “perceptions of inappropriate service (e.g., rudeness, unprofessional demeanor, etc.)” The final RFP could also include a comprehensive list of examples for greater clarity.
11	22		1 and 4	It is confusing that this section both addresses the need to escalate complaints to HHSC, but also says “all civil rights complaints must be referred to HHSC for investigation and resolution.” Does this mean that the contractor gets a first crack at resolving such complaints? If this is the intention, the final RFP should specify that clients have the right to file civil rights complaints directly with the agency if they choose to do so, and the vendor should be required to tell clients about their right to file any complaints (including civil rights complaints) directly with state and federal agencies.
12	23	2.2.1.10	1	Appeals, requests for reviews and fair hearings

				<p>requirements</p> <p>The draft RFP states that the “Vendor must develop, support and maintain a process that protects a client’s right to appeal any eligibility determination action. This includes a process to receive requests for review of CHIP determinations of eligibility.” We believe that this sentence is drafted too broadly in order to encompass both a fair hearing process for CHIP (which does not require HHSC to make eligibility decisions) as well as for the other benefits (which do require HHSC to make these decisions). As drafted, the vendor appears to have a greater role than is appropriate in the fair hearing process for Food Stamps, Medicaid, and TANF. The final RFP should clarify the differences in the rules and approached for fair hearings for CHIP vs. the other benefits. Second, as drafted, it makes it seem like only eligibility determinations trigger a right to a fair hearing. The final RFP should spell out that “any eligibility determination action” includes denials, terminations, reductions of benefits, sanctions, or any adverse action.</p>
13	23	2.2.1.10	2	<p>The draft RFP requires the vendor to inform clients of their hearing rights, but doesn’t require that the vendor submit these materials to HHSC for review and approval. The final RFP should include this requirement. Also, as in the 1st paragraph, the final RFP should lay out two distinct processes for processing requests for review of CHIP decisions and other eligibility decisions. .</p>
14	23	2.2.1.10	3	<p>It is not clear in ESS 038 what “attempt remedial mitigation” entails. Is the vendor expected to resolve all appeal requests before they are filed? If so, what exactly id the vendor expected to do? We recognize as a worthy goal the desire to prevent unnecessary referrals for a fair hearing if a less time consuming and more appropriate fix is apparent, but how is the vendor to make this decision? The final RFP should clarify this process and the expectations of the vendor, and articulate the goal of maintaining a good balance between reducing extraneous fair hearing requests and ensuring that clients’ rights to a fair hearing are preserved.</p>
15	24	2.2.1.12	6	<p>Call monitoring and case data accuracy</p> <p>The final RFP should a new ESS requirement that the vendor submit the results of its monitoring to HHSC.</p>
16	28	2.2.2.4	1/insert new	<p>Facility and business structure transition plan</p> <p>The draft RFP requires the vendor to submit a transition plan that identifies its subcontractors. The final RFP should oblige HHSC to review and approve any subcontractors chosen to provide services that will be delivered to clients or involve communication with clients.</p>
17	40	2.2.5.1	New ESS/HHSC requirement	<p>Training</p> <p>The final RFP should require the vendor to submit its training plan with adequate time for HHSC to review and revise. HHSC should reserve the right to require revisions to the plan.</p>

				The draft RFP fails to address how vendor staff will be trained on policy and TIERS. The final RFP should address this and specify that this training will be the responsibility of HHSC staff.
18	44	2.2.5.1.10	1	Accessibility and diversity The draft RFP is too general. The final RFP should include guidelines or an appendix that specifies what topics must be covered in the training on serving clients with disabilities.
19	50	2.2.6.6	Add new	Reporting The draft RFP asks for reports from the vendor on virtually every component of the RFP. But HHSC fails to specify which reports it wants, or define its expectations about what kind of data it expects to receive from the vendor. This gives too much discretion the vendor to produce the reports it thinks important. For example, HHSC's expectations about the data needed to determine whether the vendor is meeting program access goals – such as timeliness or limits on procedural denials – may be very different from the vendor's idea about the data needed to evaluate its performance. The final RFP should specify the types of report and data that HHSX expects to receive from the vendor. It is also unclear how HHSC will determine whether a vendor's reporting systems and databases are reliable. Will the vendor's reports be based on its own data systems and record-keeping? If so, how will HHSC verify the validity of these data, the results of testing, and the ultimate reliability of the vendor's reports? Will HHSC do independent spot audits of the vendors systems and databases? Experience has shown that a major flaw with this kind of outsourcing is that the state often leaves itself totally reliant on internal vendor reporting systems or, worse yet, what the vendor is willing to share from those systems. The state too often has no independent window on what is going on. The final RFP needs to address how HHSC intends to subject the vendor's databases, record-keeping, and reporting system to the same kind of independent review and scrutiny that state systems and operations are currently subject to.
20	56	2.2.8.6	New ESS	Timeline The final RFP should ask the vendor to specify a detailed timeline for rolling out the new eligibility system. This timeline should propose a plan for slowly phasing in the new system with adequate time built in to test, evaluate and fix any problems while minimizing disruptions in services.
21	Draft RFP fails to address			Disability screening for work exemption determinations/domestic violence screening The final RFP should specify whether vendor or HHSC staff are responsible for screening applicants for disability or domestic violence.
22	Draft RFP fails to address			Notice of rights The final RFP should specify when and from whom (vendor or HHSC) clients will receive their general notice of ADA rights.

23	Draft RFP fails to address	Reasonable accommodation under the ADA The final RFP should specify: to whom requests for accommodations should be directed; how vendor staff will be informed of these requests; the process for helping applicants with special needs in gathering documents, understanding notices, meeting deadlines for submitting documents, etc.; and how vendor staff be trained on the types of accommodations to which clients are entitled under the ADA. The final RFP should also include a specific requirement that the vendor have a reasonable accommodation policy; the draft RFP only includes this as a training requirement.
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