

**Center for Public Policy Priorities**

June 18, 2004

Comments to the Health and Human Services Commission on the Draft Integrated Eligibility and Enrollment Services Request For Proposal

The Center for Public Policy Priorities offers the following comments on the Draft Integrated Eligibility and Enrollment Services Request For Proposal (draft RFP) released on June 8, 2004:

GENERAL

The Center for Public Policy Priorities believes that the Health and Human Services Commission is taking an inappropriate, premature, and risky approach to integrating eligibility and enrollment services with the proposed draft RFP, for several reasons: 1) HHSC has not yet proven that the state could run an eligibility determination system based on call centers cost-effectively and therefore has no baseline against which to evaluate private bids; 2) the scope of work in the RFP goes far beyond that outlined in the business case analysis, which will make it difficult for HHSC to conduct a fair and transparent evaluation of whether private bids offer savings in these additional areas; and 3) the RFP would result in the privatization of eligibility decisions, which is prohibited under federal food stamp and Medicaid law. Texas should operate within federal law and limit outsourcing to clearly identifiable, standardized tasks, such as data processing and scanning or computer systems design.

HHSC has not yet proven that the state could operate call centers cost-effectively and therefore has no baseline against which to evaluate private bids

HB 2292 explicitly required HHSC to determine first whether call centers offer a more cost-effective means for the state to run its eligibility system and second, based on that determination, evaluate whether a private company could run the system even more cost-effectively. The business case analysis conducted by HHSC to satisfy the first requirement offered an interesting new model for eligibility determination and identified some potential for savings, but fell far short of satisfying the requirement that HHSC determine whether call centers would be more cost-effective than the current system.

HHSC already has publicly backed off some of its assumptions about savings, at the same time insisting that the business case still proves that call centers will be cost-effective. To clear up this discrepancy, each of the assumptions in the business case that purport to achieve cost-savings need to be tested to determine their accuracy. In addition to the estimated savings, the benefits to clients proposed in the integrated eligibility model also are dependent on the accuracy of each of the business case's assumptions. Determining "cost-effectiveness" means more than simply showing that the state will spend less money—it also requires that HHSC show that they will leverage the most federal dollars possible for every state dollar spent. Flaws in the business case's assumptions could reduce client access, with even a slight decline in the benefits wiping out all of the \$389 million in administrative savings that are estimated to accrue by 2008. For example, if 57% of local offices are shut down, but community-based organizations (CBO) are not available to assist clients as the business case expects them to be, or fewer than 15% of clients apply over the Internet, then clients will have less access to the system than they do now.

Until these assumptions are tested and determined to be valid, then HHSC has no baseline against which to compare offers from private vendors and determine whether an outsourced model would be more cost-effective than a state-run system. The only way to establish a reliable baseline against which to compare

private bids is for HHSC to begin to implement aspects of the proposed integrated eligibility model, prove their cost-effectiveness, and then explore outsourcing for certain components of the model.

The draft RFP goes far beyond the scope of work outlined in the business case

Even if HHSC proves that call centers are more cost-effective for the state, the draft RFP goes far beyond the scope of work outlined in the business case. The business case did not include eligibility determination for CHIP, the services of enrollment brokers for CHIP and Medicaid, or the maintenance and operation of TIERS. There are already several contracts for these functions, which will make it difficult to evaluate a broad proposal offered by one vendor in response to several components in the RFP. HHSC should establish and make public a baseline cost for each of the components in the draft RFP before accepting any bids.

General Recommendations

There is an appropriate alternative that should be considered. HHSC should begin to test the assumptions in its business case before proceeding with any large-scale outsourcing of call centers, TIERS, or other component of the new model. HHSC has already suggested that the first widespread use of TIERS will be for recertifying benefits and services for existing clients. HHSC should move forward with this plan and set up a state-run call center with appropriate private technical partners, as needed. This will allow the state to test TIERS in a call center environment that is initially reserved for processing application renewals and rectifications, and then add additional features if TIERS is proven to be reliable. As part of this effort HHSC could contract with private vendors for the discrete tools needed to implement these changes, for example: the development and maintenance of an Internet application. Instead of the large scale RFP being considered currently, this would require several smaller RFPs; for example, to 1) take TIERS to the next stage; 2) assist the state in setting up a call center; 3) develop the new phone and Internet tools; 4) manage partnerships with CBOs and others; 5) conduct outreach and PR about the new methods of accessing assistance, 6) build 211 capacity, etc. This approach would allow the state to both test its assumptions and control the risk of such major changes to the eligibility system. If the new model proves both to save the state money and create a more accessible system for clients, then HHSC will have the information needed to compare the state-run system to a potentially outsourced one.

RECOMMENDATIONS FOR SPECIFIC CHANGES TO THE RFP

Access to services by persons with disabilities

The RFP should not have one set of standards in the integrated eligibility scope of work for serving individuals with disabilities and limited English proficiency, and another, stricter set of standards for individuals enrolling in CHIP or Medicaid managed care. As drafted, the RFP outlines a lesser standard in these areas in the integrated eligibility scope of work (outlined in section 6.1) than it does in the enrollment services scope of work (outlined in section 6.3). In a number of areas, the RFP contains more specific requirements, and less flexibility to vendors, in the Medicaid and CHIP enrollment process.

For example, the RFP is far more specific about the steps a vendor must take to meet its obligation to provide meaningful access to people with hearing impairments in the CHIP and Medicaid managed care enrollment than it is about the steps it must take to serve people with hearing impairments applying for benefits.

The RFP also contains specific numerical thresholds that trigger the vendor’s obligation to develop written materials in a language other than English in section 6.3 that are not included in section 6.1. This is unjustifiable. Wherever the RFP requires vendors to do more to protect the rights of individuals with disabilities and limited English proficiency in the Medicaid managed care and CHIP programs, the RFP should be revised to require the same standards for the call centers.

In the integrated eligibility scope of work the RFP should require bidders to describe in detail how they will ensure that individuals with disabilities, including those with visual, speech, hearing, cognitive, mobility and other impairments will have a meaningful opportunity to obtain and retain benefits through every facet of the call centers, describe in detail how it will train staff on ADA and Section 504 compliance, and how it will monitor its own compliance, and that of subcontractors, (with the ADA and Section 504) in every facet of the call center operation.

The RFP should require bidders to submit with their bids copies of reasonable modification policies, consumer documentation informing individuals of their rights under the ADA and Section 504 and other materials relevant to compliance with the ADA and Section 504.

The RFP should require contract bidders to describe in detail how they will inform the public about all of the points of access to the application process so that individuals with disabilities who cannot use one point of access will be aware of alternative points of access. The RFP should require, at a minimum, that these outreach campaign include radio and television announcements, posters, outreach to service providers (such as hospitals, mental clinics, shelters) community organizations, and organizations operated by or for people with disabilities.

The RFP should indicate that vendors and subcontractors will be required to document various steps related to compliance with the ADA, including outreach efforts, and requests for and provision of reasonable modifications, grievances filed about disability access issues, and other issues. It should require bidders to describe in detail how their systems will collect this data.

The RFP should require bidders to make other types of reasonable modifications for individuals with disabilities who are not exempt from face-to-face interviews and who need other types of accommodations in those interviews. The RFO should clarify who will arrange these interviews, state workers at the BICs, or call center agents.

The RFP should make clear that home visits must be provided to individuals with disabilities who are unable, for disability-related reasons, to travel to and attend appointments at BICs, and should specify whether it is the state's, vendor's or subcontractor's responsibility for arranging for and providing these visits. If it is the vendor's or subcontractor's responsibility for arranging for or providing these visits (or both), the RFP should require bidders to describe in detail how home visits will be arranged and provided in a manner that ensures an equal and meaningful opportunity to obtain and maintain benefits, and how the vendor will monitor to ensure compliance with this requirement.

The RFP should make clear whose responsibility it will be to assist individuals with disabilities who need assistance with the benefits application process, including individuals who cannot travel to community-based organizations, libraries and other sites that will serve as points of access for those wishing to apply for benefits for disability or other reasons. If it is the vendor's or subcontractors' responsibility, the RFP should require bidders to describe in detail how they will fulfill this obligation (or ensure that it is fulfilled), and how they will monitor to ensure that it is fulfilled.

The RFP should make clear whose responsibility it will be to screen applicants and recipients for benefits to determine whether they are likely to have disabilities, health conditions or other barriers that limit the ability to work or comply with other program requirements (such as attending appointments). If it is a vendor's or subcontractor's responsibility, the RFP should ask vendors to describe in detail how this screening process

will occur and submit a protocol describing how and when information obtained from this screening will be shared with state agency staff so the state can follow up on it during the face-to-face interview.

The RFP should clearly state that vendors and subcontractors operating web sites through which individuals can obtain information about benefits programs and begin the application process must be operated in a manner that enables individuals with vision impairments to have equal and meaningful opportunity to obtain information and start the application process through the web sites. It should state that these web sites should comply with Section 8 of the Rehabilitation Act, Texas Government Code §531.0162, and other applicable laws and requirements, and require vendors to describe in detail how they will satisfy this legal obligation.

The RFP should indicate that the contract will contain a technology access clause requiring all technology purchased by the vendor or subcontractor under the contract to meet access requirements for individuals with vision impairments.

The RFP should state that it is the vendor's obligation to ensure that individuals applying for benefits have an equal and meaningful opportunity to obtain information and apply for benefits using the hardware and software technology available at these other sites. The RFP should require the vendor to describe in detail how it will do so.

The RFP should give the vendor less flexibility to decide the degree to which it will use TDDs and the degree to which it will use relay service in its call-in centers, and should require each call center to have and use a TDD, and for all new and incoming staff to be trained on use of the TDD. The RFP should also require the vendor to monitor call center access to people with speech and hearing impairments.

Access to services by persons with limited English proficiency

In the integrated eligibility scope of work outlined in section 6.1, the RFP should require bidders to describe in detail how they will comply with federal requirements under Title VI of the Civil Rights Act and Food Stamp statute and regulations [7 USC 2020 (c), (e); and provisions in 7 CFR 272.4 (b), 272.5] to ensure access for those with limited English proficiency.

According to guidance issued by the US Dept. of Health and Human Services in 2003 (Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons), elements of an effective language access plan, generally include: 1) identification of those who need language assistance; 2) language assistance measures (e.g., types of language services available, including translation of forms into languages other than English, bilingual staff, provision of interpreters; how staff can obtain these services; how they respond to LEP callers; how to deal with written documents from LEP persons; how to ensure competency of interpreters and translator services); 3) Training staff on LEP policies and effective communication with LEP individuals and interpreters; 4) Notice to LEP persons of services available and how to obtain them; and 5) monitoring and ongoing updating of the plan.

The RFP should require bidders to describe the qualifications for bilingual staff and set standards for use of outside interpreters and translators.

With respect to monitoring the RFP should specify the data collection requirements with respect to language access that will allow adequate monitoring of compliance with elements of the language access plan, and bidders should describe how this data will be collected. Vendors should be required to keep data on the number of LEP individuals served, by type of language assistance required, and primary language; the

number of bilingual staff and interpreter staff employed by the agency, according to language translated or interpreted; whether proper language determinations are made; and whether required services are provided.

Process for informing applicants/clients about face-to-face interviews and granting these interviews

It is unclear in section 6.1 whether vendor staff or state staff will decide which applicants require face-to-face interviews or what the process will be for making this determination. This needs to be clarified for bidders in the RFP, and vendors should be required to explain how they will implement the procedures for determining who is required to have a face-to-face interview. In addition, it is unclear what the process will be for granting a face-to-face interview for an applicant/client who requests one. This also needs to be clarified. Food stamp regulations require the state to grant a face-to-face interview if a client requests one. The RFP should ask vendors to explain what their process will be for informing applicants/clients about their right to a face-to-face interview.

Process for changes, renewals/reviews/recertifications

It is unclear in the RFP (section 6.1) whether vendor or state staff will make decisions regarding changes to a client's benefits (reductions or increases), terminations, and sanctions. The RFP needs to be far clearer about which of these functions will be retained by state workers and which will be assumed by vendor staff. It is also unclear what the process will be for recertification/reviews and what the involvement of BIC/state staff will be in these activities.

CBO and outside agency recruitment and training

Pages 124-125 describes the state's and the vendor's responsibilities to recruit CBOs and train their staff and volunteers. The RFP should require the vendor to formally subcontract with these entities and explain in their proposals how they will secure the services of these CBOs, how they will be compensated, and how they will be monitored by the vendor to ensure they are fulfilling contract requirements (which must be designed to comply with federal regulations related to a person's right to apply without delay, etc.). The process and rules governing subcontracting with these entities should be the same as is outlined in the RFP for other subcontractors. The RFP should establish a target number of CBOs to be recruited and require the vendor to demonstrate how they will secure the services of CBOs in every region of the state. The vendor should be required to have contracts in place with these CBOs within 60 days of the signing of the contract. The vendor should be required to submit to HHSC a list of the CBOs it has subcontracted with, and the state should reserve the right to require the vendor to enter into additional subcontracts if the number of CBOs the vendor has recruited is deemed to be inadequate.

Complaint processing and monitoring, fair hearings

In section, 6.1 the RFP should require bidders to explain how they will publicize to clients/applicants, service providers, or others the process for lodging a complaint.

The RFP needs to do a better job of outlining how the complaint monitoring process will work. It appears that there will be little active communication between the vendor and the state about complaints. There need to be clearer channels for troubleshooting and resolving complaints as they occur.

On pages 121-122 the RFP should be clearer about where the vendor's role ends and the state's begins, e.g., what entity will conduct the fair hearings. There should be more precise directives (e.g., in an appendix) to potential vendors about the legal standards that must be met for properly informing clients of their rights, etc.

Inappropriate references to personal responsibility and self-sufficiency

On page 107 the RFP states that the vendor's solution must "promote client/applicant personal responsibility and self-sufficiency." This is not appropriate language for elderly clients and clients with disabilities who are either not subject to personal responsibility requirements or who are not expected to be "self-sufficient." The RFP should be amended to reflect this distinction.

Again, on page 122, the RFP asks the vendor to develop marketing materials that promote "personal responsibility and self-sufficiency." This is not appropriate for all clients, many of whom are not subject to personal responsibility requirements or expected to be self-sufficient. The RFP should be amended to reflect this.

Enrollment broker scope of work

Section 6.3.2.1, page 237. The final sentence on this page seems to be a typo, or else needs to be re-drafted for clarity.

Section 6.3.7.4, page 253. EB-067 seems to be old language about co-location near eligibility offices. It is hard to make sense out of this in a call center environment with 164 BICs actually determining eligibility. Must the EB vendor be co-located with all the BICs?

Section 6.3.8.2, page 255. The cost sharing process function needs to be clarified to indicate whether this includes only POS cost sharing or also premiums (consistent with EB-093 on page 257).

Section 6.3.9.4, pages 259-260. HHSC should add requirements to establish MOUs and operating agreements with other help desks and help lines within the HHSC enterprise.

Section 6.3.11.4, page 265. At EB-154, it is unclear how this responsibility is different from that outlined in 6.3.10.

Section 6.3.11.4, page 268. EB-181: The meaning is unclear; clarification is needed.

Miscellaneous

The RFP does not address what will happen to the 800 number hotlines that are currently in use to help clients and potential clients with questions about programs. If these are being abolished the RFO should require vendors to explain how they will make up for this resource in their proposed "solution."

Stakeholders and advocates rely on caseload and administrative data from the state to understand what is happening in these programs. The RFP should assure that the same kind of data will be collected by the vendor as frequently as they are now, and that these data will be as easily accessible by outside parties as they are now. The RFP should require vendors to explain how they will make caseload and administrative data available in a timely and accessible manner.

Section 6.1.9.2, page 137. We presume there WILL be information on CHIP metrics in the final RFP.

Section 6.1.9.6, page 139. The vendor is assumed here to have a very active role in promoting TANF caretakers' compliance with PRA requirements. TWC workers are now responsible for the CHOICES (work) side of the PRA; will the vendor really have the staff resources to effect PRA compliance? This is not fleshed out in the business case and must be addressed in more detail in the RFP.

Section 6.1.10.2, pages 146-148. There are some important standards for Medicaid eligibility systems set out in the Human Resources Code At § 32.0251, Eligibility Notification and Review for Certain Children,

§ 32.026, Certification of Eligibility and Need for Medical Assistance, and § 32.0262, Eligibility Transition which should be reflected in these performance standards.

Thank you for the opportunity to submit these comments.