

FY 2008 DFPS Residential Contract January 2008

EXECUTIVE OVERVIEW

The Fiscal Year 2008 (FY08) Contract for Residential Child Care Services (Contract) with the Texas Department of Family and Protective Services (DFPS or Department) reflects the Department's efforts to conform to the directives of the Texas Health and Human Services Commission (HHSC) and the Texas Legislature.

DFPS must ensure that contracts for residential services include provisions that reflect the direction of the Texas Legislature to develop a new healthcare delivery system for children in foster care. Several requirements in this Contract, such as the implementation of foster healthcare, reflect the move toward better accountability for outcomes and tracking the healthcare needs of children.

The format of the Contract has changed and some sections have been moved or combined for the purposes of clarity or to ensure that similar requirements were grouped together. The most prominent example of this is the movement of the Therapy, Medical, Dental and Psychotropic Medications into Section 10.

To assist with clarifying significant changes to the FY08 Contract, an executive summary has been provided in the list below. Please note that the list does not contain all of the Contract changes for FY08, so ensure that the Contract is reviewed thoroughly prior to signature.

- **Section 3. Governing Law**

This Contract shall be governed by and construed in accordance with the laws of the State of Texas. Unless otherwise mutually agreed, venue will be in state District Court, Travis County, Texas, and resulting payments shall be due and payable in Travis County, Texas.

- **Section 7. C) Contracted Service Levels – Retroactive Payment**

CPAs requesting an initial service level authorization within the first forty-five (45) days of admitting a child may be paid the new authorized initial service level rate up to sixty (60) days in the past when the following conditions are met:

- i. The retroactive initial service level must be submitted for authorization to the Service Level Monitor within forty-five (45) days of admitting a child who does not have an initial authorized service level;
- ii. The child must have remained in the same foster home while placed with the child placing agency or have been in Intermittent Alternate Care within the same child placing agency; and
- iii. The child's current placement is the child's first placement into DFPS conservatorship.

- **Section 7. D) Contracted Service Levels Treatment Services**

CPAs serving children at Specialized and Intense Levels must ensure the CPA is approved by Residential Child Care Licensing to provide treatment services to these children.

- **Section 9. B) iii. d. Service Planning and Coordination**

The Contractor shall ensure that the service plan incorporates and is consistent with components of the CPS Transition Plan for children ages 16-22.

- **Section 10. Behavioral Health and Healthcare Services**

STAR Health is the healthcare program for children in state conservatorship and children who remain in foster care after they age out, and is anticipated to begin on April 1, 2008.

Upon implementation of STAR Health, the Contractor will be required to:

- Access Medicaid through STAR Health for covered Medical, Dental, Vision, and Behavioral Health services.
- Ensure that Behavioral Health services are available and provided by a STAR Health Network Provider employed by or under subcontract with, the Contractor.
- Provide access to:
 - THSteps Medical services within 21 days of a child's entry into DFPS conservatorship;
 - THSteps Medical services within 14 days of initial placement of a newborn child into DFPS conservatorship;
 - THSteps Dental services within 60 days of a child's entry into DFPS conservatorship; and
 - THSteps annual medical exam, which includes a well child exam, to each child, each year.
- Ensure that all Behavioral Health services provided to children are properly documented within the Health Passport's Behavioral Health Module as required in the STAR Health Network Provider Agreement.
- Ensure that behavioral health services are consistent with the following:
 - A. Child's Plan of Service;
 - B. Contractor's Service Plan for the child;
 - C. Permanency Goal for the child;
 - D. CPS Transition Plan;
 - E. Psychological evaluation and/or psychiatric evaluation; and
 - F. Desired outcomes, including, but not limited to: improvement in self-regulation and functioning.
- If a child is prescribed psychotropic medications, ensure that a physician in the STAR Health Network evaluates the need for continued treatment with the medication at a minimum of every three (3) months.

- **Section 11. A) Food**

The Contractor is required to ensure that children have input into meal planning.

- **Section 11. B) Clothing and Personal Items**

The Contractor shall maintain an inventory of the child's clothing and personal items that are of substantial value and/or sentimental value by providing the Department with the clothing and personal item inventory within 30 days after an unplanned discharge.

- **Section 17. A) Contractor Participation**

The Contractor shall participate in conferences required by the Department which include but are not limited to, CPS transition planning, Departmental and Preparation for Adult Living (PAL) activities, consistent with the youth's CPS Transition Plan.

- **Section 25. H) Removal and Discharge of Children**

The requirements related to information provided at discharge have changed for planned versus unplanned discharges as described below:

- i. Upon the effective date of any type of discharge of a child, the Contractor shall make available to the Department a discharge summary and the following:
 - a. Service Plan;
 - b. Medications;
 - c. Most recent clinical records such as psychological evaluations and psychological testing; and
 - d. Education Portfolio.

- ii. Upon the effective date of a planned discharge of a child, the Contractor shall, in addition to the items identified in (H)(i), above, make available to the Department the following:
 - a. Gift/personal possession inventory including books, toys, and money; and
 - b. Clothing inventory.

- iii. Within thirty (30) days after an unplanned discharge, the Contractor shall provide the Department with the following:
 - a. Gift/personal possession inventory including books, toys, and money;
 - b. Clothing inventory; and
 - c. Updates to the Education Portfolio.

- **Section 26. G) CPS Transition Plan**

DFPS is requiring that the Contractor coordinate with CPS regarding Transition Planning for youth 16 years of age and older by assisting in the development of the Form 2500, Transition Plan, which can be accessed at:

http://www.dfps.state.tx.us/Child_Protection/Transitional_Living/forms.asp and providing information available at

http://www.dfps.state.tx.us/Child_Protection/Transitional_Living/default.asp related to:

- a. Aftercare services, benefits and provider contacts;
 - b. Education supports, services and benefits;
 - c. Extended Care and Return to Care information;
 - d. Preparation for Adult Living (PAL) services;
 - e. Texas Foster Care Handbook for Youth;
 - f. Transitional Medicaid and STAR Health; and
 - g. Other region-specific services available.
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- **Section 29. C) viii b. Disaster and Emergency Response Plan**
- The Contractor's disaster and emergency response plan and procedures must address communication with DFPS and CPS, including contacting CPS to provide information on the location and condition of children in care who have been evacuated through one of the following methods:
- 1) During times when mass evacuation of part of Texas is anticipated, DFPS will enable an online reporting feature on the DFPS public website at www.dfps.state.tx.us.

- 2) In situations when DFPS has enabled this online reporting feature and the Contractor has access to the internet, the Contractor should use this method to make the evacuation notification.
- 3) In situations where the online reporting feature is not enabled or if the Contractor does not have access to the internet, the evacuation notification can be made by calling the DFPS abuse/neglect hotline at 1-800-252-5400.

- **Section 31. C) Outcome and Output Measures**

- i. Outcome Measures. Children are safe in care as defined in Attachment F.
- ii. Output Measures. Output measures are defined in Attachment F and include:
 - a. Output Measure #1. The Contractor makes daily updates to the CPS Child Placement Vacancy database.
 - b. Output Measure #2. Each child's Education Portfolio is up-to-date.

- **Section 33. G) Conditions of Payment**

Contractors must seek payment or adjustment to payments in accordance with the time limit specified in 45CFR95.1. This subpart establishes a two-year (eight quarter) time limit for a State to claim Federal financial participation in expenditures under State plans approved under Title IV-E and TANF. Any bill or amended bill which is submitted to DFPS later than seven quarters after the end of the quarter of the expense will not be processed unless it is determined, in the sole discretion of DFPS, that submission for payment of the bill to the federal government can be executed in a proper and timely fashion.

- **Section 39. C) Applicable Statutes, Regulations, Policies and Procedures**

Clarification that the Contractor shall comply with all applicable state and federal statutes, including:

- ii. State and federal anti-discrimination laws, including without limitation:
 - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
 - b. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - c. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
 - d. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 - e. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 - f. Food Stamp Act of 1977 (7 U.S.C. §200 *et seq.*); and
 - g. The HHS agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.
 - 1) Contractor agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
 - 2) Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. Applicable

state and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Contractor agrees to ensure that its policies do not have the effect of excluding or limiting the participation of persons in its programs, benefits, and activities on the basis of national origin. Contractor also agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

- 3) Contractor agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- 4) Upon request, Contractor will provide HHSC Civil Rights Office with copies of all of the Contractor's civil rights policies and procedures.
- 5) Contractor must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free (888) 388-6332
Phone: (512) 438-4313
TTY Toll Free: (877) 432-7232
Fax: (512) 438-5885

- **Section 39. F) - H) Applicable Statutes, Regulations, Policies and Procedures**

- F) Contractor shall comply with the Fair Labor Standards Act (FLSA) (29 U.S.C. §201 *et seq.*) regarding minimum wages, overtime pay, recordkeeping, and child labor.
- G) The Contractor shall not use any funding under this Contract to influence the outcome of elections or the passage or defeat of any legislative measures.
- H) Foster care maintenance payments must be expended for items that are provided by foster parents and facilities in accordance with 42 USC 675(4).

- **Section 41. D) Retention, Access and Confidentiality of Records**

Contractor shall provide the HHSC-contracted STAR Health provider (Superior) with service plans for specific children upon written request by Superior under one or more of the following situations:

- i. If a child has had two or more psychiatric hospitalizations within the past twelve (12) months.
- ii. If a child has had four or more placements within the past twelve (12) months.
- iii. If a child has had one or more suicide attempts within the past twelve (12) months.

- iv. If a child has had an incident of sexually acting out on another child within the past twelve (12) months.
- v. If a child had four or more triggered reviews within the last 90 days as a result of the use of emergency behavior interventions.

In the event the Contractor receives a written request for a service plan from Superior that does not involve one of the above-mentioned situations, the Contractor shall notify the Department caseworker for the child whose service plan is being requested.

- **Section 41. G) Retention, Access and Confidentiality of Records**

The Contractor shall ensure that any staff designated by the Contractor and approved by DFPS for access to the Health Passport must comply with all operative restrictions of the Health Passport user agreement as it exists now or may later be amended, including the following:

- i. Not to share information from the Health Passport with anyone without a direct need to know the information for purposes of providing health care, including behavioral health care, services to the child;
- ii. To share only the minimum amount of information from the Health Passport as is necessary to aid in the provision of health care, including behavioral health care, services to the child;
- iii. To be responsible for maintaining the physical security and confidentiality of Health Passport information that the user may view on a computer, print to paper, or copy or download to other formats. People who do not need the information should not have physical access to it;
- iv. To limit access in the those Health Passport records to the records of those children who are served by the Contractor or with whom the user has a relationship for which Health Passport access is authorized; and
- v. Not to share passwords. If the Contractor becomes aware that a password has been shared, he or she is required to notify Superior HealthPlan Network within 24 hours so that a new password can be assigned.

- **Section 43. A) Notifications**

The Contractor shall:

- vii. Within ten (10) calendar days, notify the Residential Contract Manager of any significant change affecting the Contractor, including, without limitation: the addition, replacement, or termination of the Administrator or Board President; any change in ownership of the facility; a change in the Contractor's status as a for-profit or non-profit entity; any change to the Contractor's admissions policy, and significant changes to the scope and coverage of the services to be provided by the Contractor and/or subcontractor under this Contract, including the program description and other necessary components;

- **Section 43. A) Notifications**

The Contractor shall:

- ix. Within forty-eight (48) hours of an identified breach of confidentiality of children's information, notify the Residential Contract Manager;

- **Section 44. Reporting**

The Contractor shall accurately complete cost reports, time studies, Internal Control Structure Questionnaires (ICSQs), contract monitoring surveys, and any other reports required and requested by the Department and provide a copy to the Department within time frames specified by the Department. The Contractor must submit annual cost reports as required by Title 1, §355.7101 of the Texas Administrative Code.

- **Attachment A**

The attachment contains the payment rates approved by HHSC for the 24-Hour Residential Child Care (Foster Care) program. HHSC authorized DFPS to implement these recommended payment rates effective September 1, 2007.

- **Attachment B**

The attachment contains the glossary for terms referenced in the contract. Words referenced in the glossary are capitalized in the various sections of the Contract and provide additional definition to contractor requirements. The glossary has been expanded to include new language referenced in the body of the FY 2008 Contract.

- **Attachment C**

The attachment contains the characteristics and definitions of the Service Levels as well as the Service Level Indicators. There has been no significant change to Attachment C.

- **Attachment D**

The attachment contains the Intermittent Alternate Care guidelines. There has been little significant change to the Intermittent Alternative Care guidelines.

- **Attachment E**

The attachment contains special terms and conditions pertaining to contracts issued for a provisional period. This term contains the specific remedies to Contract performance issues. Not all contractors will have requirements specified in this Attachment.

- **Attachment F**

The attachment contains the Outcome Measure and Output Measures, as well as the Performance Period, Target, Purpose, Data Source, and Methodology.