

STATE OF CALIFORNIA
PRISON HEALTH CARE SERVICES
3701 North Freeway Blvd, Sacramento, CA 95834
P.O. Box 4038, Suite 3701, 95812-4038

J. Clark Kelso, Receiver



October 22, 2009

TO: PROSPECTIVE BIDDER

RE: REQUEST FOR PROPOSAL (RFP) 090341, ADDENDUM NUMBER 2

CPHCS has attached responses to a portion of the questions that have been brought forth by potential contractors. **Please note, there are additional questions pending a response, and they will be addressed in a subsequent addendum(s)**

If you have any questions or need assistance from this office, please do not hesitate to contact Debra Jones at (916) 648-8235 or debra.jones@cdcr.ca.gov.

Responses to Vendor Questions
Request for Proposals
For Temporary/Relief On-Site Nursing Services
(Registered Nurse, Licensed Vocational Nurse and Certified Nursing Assistant
California Adult Prison Facilities
RFP Number 09341

Addendum #2

Please note, there are additional questions pending a response, and they will be addressed in a subsequent addendum(s)

1. What is the purpose of the RFP's 975 hour per year limit on assignment of each registry employee?

The purpose of the 975-hour limit is to strengthen the state's ability to recruit and retain a civil service workforce. We believe building a strong civil service workforce will lead to greater continuity of care and high quality, cost effective service. However, allowing individuals to serve in long term contract positions, at rates or pay well above civil service salaries, weakens the State's ability to recruit and retain civil service employees. We recognize that registry staffing is a critical tool available to the State. But it is meant to supplement, and not supplant, the civil service workforce.

2. Is the RFP in effect requiring that all registries treat their temporary workers as "employees", and not "independent contractors"? Does the RFP mandate that the registries provide worker's compensation coverage, not just for their administrative personnel, but for their temporary/relief workers as well?

CDCR/CPHCS defers to the registry to determine its relationship with its nurses (e.g., staffing via independent contracts, direct employment of staff, or other arrangements). However, CDCR's contract is with the registry—not the individual providers. Thus, CDCR/CPHCS relies on and requires the registry to ensure that it and its nurses comply with all applicable laws and contractual obligations. This requirement includes that the registry ensure that it and its nurses comply with applicable worker's compensation laws, whatever they may be.

3. How will CDCR/CPHCS enforce the 975-hour limit?

The contract provisions require the successful contractor to comply with and enforce the limit. CDCR/CPHCS staff will monitor compliance through reports submitted by the contractor.

4. What will the penalty be for a violation of the 975-hour limit?

The registry is responsible for tracking the number of each staff person's hours worked for the state by staff, including any previously worked hours for another registry. If a registry staff person exceeds the hourly cap, the hours worked in excess of the hourly cap may not be reimbursed, as it would be a violation of the terms of the contract.

5. What will occur when nurses who have been withdrawn from service due to the 975-hour cap are eligible to return to service? Will they be given priority? Will they be subject to gate clearance requirements again? Will they be required to go through orientation if they have not worked in 6 months?

A. The staff of the registries are not employees or contractors of the State of California and are not entitled to any return rights. In addition, registry staff will have no priority when returning to service following year or years in which they reached the 975-hour cap. The registry—not the State of California—will make placement decisions for staff members that are eligible for placement.

B. The requirement for Gate Clearance is the policy of CDCR, which requires contract providers to be reevaluated and cleared on a yearly basis.

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C. Registry staff returning after a hiatus will be required to attend an orientation. New policy or procedures will likely to have been developed so it would be critical that any registry staff be brought up to date on any new or changed policies or procedures.

6. If a nurse makes an unemployment insurance claim, where will responsibility for defense of that claim rest?

A registry nurse or other provider is not an employee or contractor of the State of California. The registry—not the State of California—will maintain the legal relationship with the nurse or other provider, whatever that relationship may be. The defense of any unemployment insurance or similar claim would be the responsibility of the registry.

7. At the end of a worker's 975 hours, will the registry be able to replace the worker without "losing" the position?

If a registry employee exceeds the 975 hours and is no longer eligible to continue working at the CDCR/CPHCS institution there are no guarantees that the same registry company the employee works for is automatically awarded the right to fill the position if services are still needed. Therefore, the proper procedure would be for the CDCR/CPHCS Institution Staff to refer back to the hierarchy matrix and begin contacting the registries, following the matrix.

8. Do county jobs count toward the 975 limit? What about work done for a state agency where the worker worked in a different capacity than that to which he or she is assigned (i.e. an LVN who did clerical work for the California Department of Motor Vehicles)?

The 975-hour cap only applies to registry staffing who have performed services working for the CDCR or another State agency or entity during the same fiscal year that services are to be performed for CDCR/CPHCS. Any type of services performed, for any State agency or entity, within the same fiscal year would count toward the cap. Services performed for a county would not count toward the cap.

9. Will contractors be required to provide all of the information on the reporting forms, and how will this information be communicated?

The original form was a draft and all information requested on the reporting form will be based on type of service performed and modified to reflect that type of service reporting. All information being requested on the reporting form is information that a registry should be tracking. The form was originally based on Temp/Relief On-Site Physician Services, which included some reporting requirements they track that Nursing Services would not.

10. We typically search for and respond to CPHCS' RFPs using BidSynch, however the BidSynch system was not utilized for this request. Why?

The advertising and posting of the RFP was conducted using direct solicitation, posting on the CPHCS website and use of an alternate internet RFP clearinghouse. CPHCS has used this alternative contracting procedure in the past under federal court orders issued in *Plata v. Schwarzenegger*.

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11. Is it permissible to communicate directly with the Receiver regarding concerns involving the content of the RFP?

Under the RFP, the Receiver makes the final selection of registries. Therefore, communication between any registry and the Receiver during the procurement process would be inappropriate.