



Oregon

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Memorandum



To: Senate Human Services Committee

From: Fariborz Pakseresht, ODHS Director *Fariborz Pakseresht*

Date: February 5, 2024

Subject: Responses to questions regarding Child Welfare contractors, temporary lodging and litigation

Dear Committee Members:

In recent months, Committee Chair Senator Gelser Blouin has submitted numerous questions related to Child Welfare contractors, temporary lodging and litigation. Many of these questions are complex and have required thorough research and data compilation. We are committed to transparency and providing timely information to the Legislature, although we also want to take the time needed to ensure the answers are accurate so that policy makers can confidently use the information to make decisions.

For context, a settled lawsuit (CASA v. Oregon Department of Human Services) had alleged constitutional and ADA and other disability-related claims arising from ODHS's alleged practice of temporarily lodging children in hotels, state offices, juvenile detention centers or hospitals when appropriate placement is not immediately available. The settlement became effective on February 27, 2018. Among other things, the settlement agreement imposes numeric limits on the number of days that ODHS may temporarily lodge children in hotels. The Settlement Agreement requires ODHS to provide preventative supports and services to avoid temporary lodging in amounts that reflect the cost of temporary lodging.

The questions and responses are organized by topic below. Please let us know if you have any questions or would like clarifying information about any of these topics.

Thank you.

Questions and Answers

Topic: Contracts

1. How many direct contracts/contracts without an RFP with a value of more than \$50,000 are currently in effect for Child Welfare?

160 contracts (\$50,000 up to \$250,000)

2. How many direct contracts without an RFP with a value more than \$250,000?

283 contracts

3. Who manages contracts for these amounts that do not have an RFP?

The contract administrators, who have completed education and training or have professional experience, per ORS 279A.159.

4. What is the total value of the contracts with values above 50k or 250K without an RFP?

More than 50k = \$22,968,873

More than 250K = \$550,056,387

5. Who has the authority to execute a contract without an RFP?

Any program that provides client services can request a contract to be issued/executed without doing a solicitation (RFP) for client services (OAR 125-247—0288(3)). They must submit the request to the Office of Contracts and Procurement (OC&P) – a Shared office between ODHS and OHA -- as they do not have procurement authority to act on their own. The Rule OAR 125-247-0288, does urge us to solicit for client services when there is known competition. It is important to understand that solicitation is not always the ideal solution to contracting. There may be times that a specific provider is known to a youth and a change in contract could result in the disruption of care.

6. Is there any limit to the dollar amount of such contracts that can be done without an RFP or that can be executed beyond the ODHS central office?

The OAR does not have a dollar threshold that would make a solicitation mandatory. “Client Placement and Client Health Care Settings” according to OAR 125-247-0288.

7. What exceptions are there for the RFP process?

OAR 125-247-0288 provides the ability to directly contract, without an RFP, for client services. Emergency contracts are an additional exception, and these are not limited to client services contracts.

8. How are contracts reviewed for legal sufficiency?

Since OC&P drafts and processes all contracts, OC&P sends to DOJ for legal sufficiency review any contracts exceeding \$150,000 before January 1, 2024, and after at \$250,000. OC&P sends

amendments for legal sufficiency review when the aggregate value increases by those same thresholds.

9. Who monitors the contracts for compliance?

The program's contract administrator.

10. What is the process for increasing the "not to exceed" amount in a contract?

The contract administrator submits a request to OC&P requesting an amendment for additional funds. OC&P checks to see if the original contract or solicitation limited the not-to-exceed or the term of the contract, usually 5 years. Otherwise, they move forward with the amendment.

11. Can funds be awarded retroactively? Or can a contract be executed, and funds paid for services provided before the contract was in place or updated?

Placement services or healthcare for a client can be contracted retroactively per OAR 125-247-0288(2). Those are the only instances where services can be retroactive. One caveat is if a retroactive service contract exceeds the legal sufficiency threshold, a ratification process through DOJ is required.

Services can be provided; however, payments cannot be made until a contract or amendment is executed.

12. In 2022 and 2023, what was the total amount actually paid to the following contracts?

- **Dynamic Life**
- **LC Beach House LLC**
- **HDE Home Care**
- **Greater New Hope**
- **Kids NW/Kids Development Corporation**

Expenditures by Provider for Temporary Lodging Enhanced Supervision			
TL Enhanced Supervision Provider	2022	2023	Total
Dynamic Life Inc	\$ 3,360.00	\$ 4,697,676.00	\$ 4,701,036.00
GREATER NEW HOPE FAMILY SVS LLC	\$ 1,410,555.00	\$ 2,357,380.50	\$ 3,767,935.50
HDE Home Care LLC		\$ 302,241.60	\$ 302,241.60
Kids Individual Development Services		\$ 26,625.10	\$ 26,625.10
LC Beach House LLC	\$ 762,354.00	\$ 26,916.00	\$ 789,270.00

Expenditures by Provider for Temporary Lodging Prevention			
TL Prevention Provider	2022	2023	Total
Dynamic Life Inc	\$ 82,488.00	\$ 3,917,166.50	\$ 3,999,654.50
GREATER NEW HOPE FAMILY SVS LLC	\$ 490,049.25	\$ 1,228,200.00	\$ 1,718,249.25
HDE Home Care LLC		\$ 135,165.00	\$ 135,165.00
Kids Individual Development Services	\$ -	\$ -	\$ -
LC Beach House LLC	\$ 79,650.00	\$ 1,716,000.00	\$ 1,795,650.00

13. Were these direct contracts or was an RFP issued for any of these contracts?

- **Dynamic Life**
- **LC Beach House LLC**
- **HDE Home Care**
- **Greater New Hope**
- **Kids NW/Kids Development Corporation**

These were direct contracts. No RFP process was conducted for the TL enhanced supervision and TL prevention contracts.

14. How many children were served in 2022 and 2023 on these contracts?

- **Dynamic Life**
- **LC Beach House LLC**
- **HDE Home Care**
- **Greater New Hope**
- **Kids NW/Kids Development Corporation**

Number of Unique Children Served by Provider with Temporary Lodging Enhanced Supervision		
TL Enhanced Supervision Provider	2022	2023
Dynamic Life Inc	2	23
GREATER NEW HOPE FAMILY SVS LLC	58	43
HDE Home Care LLC		12
Kids Individual Development Services		5
LC Beach House LLC	10	3

Number of Unique Children Served by Provider with Temporary Lodging Prevention		
TL Prevention Provider	2022	2023
Dynamic Life Inc	3	27
GREATER NEW HOPE FAMILY SVS LLC	52	29
HDE Home Care LLC		8
Kids Individual Development Services	-	-
LC Beach House LLC	5	16

15. Please provide the 2022 and 2023 dates and amounts of the invoices for these programs.

- **Dynamic Life**
- **LC Beach House LLC**
- **HDE Home Care**
- **Greater New Hope**
- **Kids NW/Kids Development Corporation**

Data listed in a separate attached Excel file: CY 22-23 TL Enhanced Supervision & TL Prevention and TL ORKIDS SFMAExpenditures ppvt CY2022-CY2023

*Final 2023 invoices are still being processed. This includes what has been processed so far.

16. How many unique children were served under each of these contracts in temporary lodging and in temporary lodging prevention?

- Dynamic Life
- LC Beach House LLC
- HDE Home Care
- Greater New Hope
- Kids NW/Kids Development Corporation

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17. Are there other contracts for the TL/TL prevention services similar to those provided by Dynamic Life that are not listed above?

Yes – Family Nurturing Center has a contract for TL enhanced supervision. It has been utilized on one occasion and it has a \$17,794 not-to-exceed amount.

Topic: Dynamic Life

1. How did ODHS come to be in a relationship with Dynamic Life for TL Services?

Nathan Webber worked for LC Beachhouse (a CW contracted provider). LC Beachhouse was referred to CW by a Community Developmental Disabilities Program (CDDP). LC Beachhouse made the introduction between CW and Mr. Webber given they knew that CW needed additional providers/services. Mr. Webber then created Dynamic Life and Child Welfare contracted with Dynamic Life.

2. Was there an RFP for Dynamic Life TL/TL prevention services?

No

3. Was an introduction made and if so by who and to who?

LC Beachhouse was referred to CW by the Lincoln County CDDP as a resource for a specific youth. LC Beachhouse then introduced Mr. Webber to CW.

4. Was the arrangement initiated by ODHS or by Dynamic Life?

The initial arrangement or introduction was initiated by LC Beachhouse and the Lincoln County CDDP.

5. Who at the Department was responsible for the initial discussions with the ODHS and how was the initial contact made?

CW district staff had the initial conversations with Webber when CW was connected to him by LC Beachhouse.

6. Why did ODHS execute a contract amendment raising the expenditure limitation for Dynamic Life from \$7M to \$12M in early December, just a week before cancelling the contract?

The contract extension was necessary to pay for services already rendered and those services that would be provided prior to the contract termination date, which followed the 30-day notice.

7. Why did this occur at the same time ODHS told legislators it was not going to expand services with DL or use them for new cases?

The contract extension was not for new services; the amendment was necessary to pay for services already rendered and services provided for children already being served prior to the contract termination date.

8. There are two contracts for Dynamic Life, including one that describes the services provided by DL as services provided by a Child Caring Agency. In both contract, Dynamic Life is providing around the clock care and supervision to CW kids, is responsible for developing service plans, is responsible for providing transportation and managing services, is responsible for medication administration and case planning and is responsible for informing ODHS about the new placement/transfer of kids at the end of the contract (see termination letter). How are these services distinguished from Child Caring Agency?

The language in the contract was intended to hold Dynamic Life accountable to comparable standards as a CCA. Dynamic Life was pursuing CCA licensure under a "mobile CCA" concept that was in development and Dynamic Life agreed to be held to the same standards as CCAs in their contract, even though they didn't meet this definition.

9. Please provide the written reports required by the contracts as well as the final package of resources produced by Dynamic Life related to the mobile child caring agency contract.

DL was not required to produce written reports pursuant to their contract. The District Manager met with the provider two times per month. The Mobile CCA License application was a contracted

deliverable and was produced by the provider. The Mobile CCA has not been mobilized or implemented. Additional records can be obtained through a public records request.

10. If these reports were not submitted and the final package was not delivered, were the payments for these services clawed back by the agency?

Please see the answer to #9. No funds were “clawed back”.

11. What was the expectation of the Department related to the use of physical restraints by Dynamic Life staff?

ODHS does not interpret the current statutes overseeing the licensing and regulations of CCAs to apply to contractors such as Dynamic Life. We intend to continue to partner with the legislature and other partners to clarify the intent of the legislation. Because Dynamic Life fell outside of the requirement in ORS 418.519 to 418.532, ODHS held Dynamic Life to the same standards of the law through the contracting process by requiring them to use SB 710-approved non-violent crisis intervention models.

12. How did this comport with statutory requirements around use of physical restraints for children?

ODHS does not interpret the current statutes overseeing the licensing and regulations of CCAs to apply to children and young adults experiencing Temporary lodging. We intend to continue to partner with the legislature and other partners to clarify the intent of the legislation.

13. Dynamic Life and other contractors for this service utilize physical force/physical restraints with children and the Department acknowledges this in the contracts. If Dynamic Life or another contractor is not a child caring agency, how are physical restraints permitted under ORS 161.205 which reads:

(1)(a) A parent or legal guardian of a minor child may use reasonable physical force upon the minor child when and to the extent the person reasonably believes the physical force is necessary to maintain discipline or promote the welfare of the minor child, unless the physical force constitutes abuse as defined in ORS 418.257 or 419B.005. ODHS’s intention is to hold TL providers who are not licensed as CCAs to the same high standards of the law through the contracting process by requiring them to use SB 710-approved non-violent crisis intervention models and adhere to training requirements and certification.

Yes, ODHS holds TL providers who are not licensed as CCAs to the same high standards of the law through the contracting process by requiring them to use SB 710-approved non-violent crisis intervention models and adhere to the same standards.

Topic: Secure Transport

1. “In the last several years, ODHS executed several contracts for Secure Transportation including a current contract with a Utah program that is worth \$1 million. The contract includes provisions that are violations of law and of licensure requirements. It also appears that the requirements for using an out of state Child Caring Agency have not been met.

This was a contract amendment that was missed in error. A contract amendment has been submitted to the Office of Contracts and Procurement to address this issue.

2. Who is responsible for monitoring this?

The contract administrator

3. How can a contract be executed that includes provisions that violate state law?

This was an oversight and is being corrected with an amendment. The amendment was submitted to OC&P on Jan. 8., with priority status.

4. Given that this occurred in 2019, came to the attention of media and the Legislature and ODHS said at that time it was an error that would not occur again—how were there four additional contracts after that date? (This is the same language that was in the prior contracts that violated statutes that have been in place since 2017.)

We need clarification on which four contracts are being referenced here and what information is being requested. We also need clarification on which 2017 statute the question is referencing.

5. Between 2021 and 2023, what was the total amount actually paid to the following contractors?

**Skezics Corporation (dba Right Direction)
Thora Enterprises (dba Mountain Retreat Secured Transport)
SAFE Transportation Training Services
SAFE Transportation Inc**

Data is provided in a separate and attached Excel file: CY22-23 Secure Transport Provider Costs

6. Were all of these direct contracts or was an RFP issued for any of them?

**Skezics Corporation (dba Right Direction)
Thora Enterprises (dba Mountain Retreat Secured Transport)
SAFE Transportation Training Services
SAFE Transportation Inc**

Skezics Corporation (dba Right Direction) was a direct award with no RFP.

Thora Enterprises (dba Mountain Retreat Secured Transport) was awarded from an RFP, solicitation 4001.

SAFE Transportation Training Services was awarded through an RFP, solicitation 4798.

SAFE Transportation Inc was awarded through an RFP, solicitation 4798.

7. Please provide the dates and amounts of the invoices (2021-2023)

Skezics Corporation (dba Right Direction)

Thora Enterprises (dba Mountain Retreat Secured Transport)

SAFE Transportation Training Services

SAFE Transportation Inc

Data is provided in separate and attached Excel file: CY 22-23 Secure Transport Provider Costs

8. For Right Direction/Skezics, please provide:

8a. Audited financial statements (ORS 418.255 (3)(a) and (b)) (According to publicly available documents, Right Direction has an estimated 500 employees and contracts with families, school districts and other government entities across the nation and easily grosses more than \$1 million each year)

ODHS does not require a financial audit upon the initial application process. This is required at renewal. The provider reported having 99 employees in 2023.

8b. Current list of every entity (regardless of state) for which Right Direction is providing services or has provided services, including the name and contact information for each entity and an individual associated with each entity. This should include all entities or individuals for whom Right Direction has contracted to provide services since applying for licensure in Oregon (ORS 418.321 (3)(b)(A) and (B))

While Child Caring Agencies that have children placed with them are required to provide this information to ODHS, this requirement does not apply to Right Direction. ODHS does not have access to this information.

8c. A list of the board members of Right Direction/Skezics

Brian Shepherd is the sole board member. ODHS issued an exception on the board requirement. Justification for the exception is that this agency is the only agency or provider of this type in Oregon.

8d. Tax compliance certificate (ORS 418.255 (3)(a) and (b))

ODHS does not require the tax compliance certificate upon the initial application process. This will be required at renewal which is upcoming.

8e. Confirmation that each child in the legal custody of ODHS was accompanied by a child welfare services employee for the duration of the secure transport (ORS 418.321 (5)(a))

ORS 418.321 (5)(a)) pertains to placement of a child in an out-of-state CCA. There have not been any out-of-state transports for children in child welfare custody by this provider.

8f. The number of children served AND the number of restraints reported by Skezics/Right Direction substantially increased once the contract with ODHS CW was executed.

The Department did not receive reports from Skezics/Right Direction on the number of restraints prior to contracting with the provider. This is not required. Therefore, ODHS does not have restraint data prior to contracting. We are unable to do this data comparison.

9. Has ODHS looked into this and have interviews been conducted with the children to determine whether they were subject to the use of mechanical restraints?

No

10. Has ODHS conducted interviews with non-DHS CW children transported by this company to ensure the accuracy of the reporting for non ODHS children?

No

Topic: Hotels and AirBnBs

1. How is contracting done for hotels and Airbnbs?

Airbnb rentals have been primarily purchased on their own webpages or through a page such as Expedia. At times a home may have been rented privately.

2. Who books them?

This has varied by circumstance. In some occurrences, District staff and at times a provider has booked the location and the agency has reimbursed the provider.

3. Where can the expenditures be found on Oregon Buys or the Oregon Transparency website?

Neither. Expenditures are tracked in OR-Kids (CW specific database).

4. Alternately, how can legislators or members of the public find them?

Public records request.

5. Has ODHS booked short term rentals outside the platforms of Airbnb or VRBO?

Yes, such as Expedia or direct rental sites.

6. How were the Dynamic Life rentals owned by Nathan Webber or other Dynamic Life associates rented?

Nathan Webber/Dynamic Life and LC Beach House are the only two known providers with whom we have contracted with that also owned a place that was rented for a nightly rate. They were rented directly through the provider.

What was the per night rental cost and what was the total amount paid to Nathan Webber/Dynamic Life/associated organizations for overnight lodging in 2022 and 2023?

Based on funds expended, we paid \$199 per night to Dynamic Life. Total expenditures paid is not able to be pulled with accuracy as districts did not always bill under consistent codes and

sometimes the cost of lodging is worked into the overall invoicing process. LC Beachhouse has been paid \$300 per night.

Topic: Misc. TL, TL Prevention and Child Specific Arrangements

1. There have been some reports that ODHS is contracting with individuals whose homes cannot be certified for foster care and are as a result renting homes for them. Are these short-term rentals or long-term rentals?

We need additional information to answer this question.

2. How does ODHS decide who is eligible to have their rent paid?

Required family supports are determined on a case-by-case basis and are focused on family preservation and child safety and stability.

3. What platform or agent is utilized to find the rental properties?

None. CW or an agent does not locate rental properties. Platforms are only utilized for Airbnb's or VRBO and other similar sites.

4. Are ODHS CW Caseworkers or Supervisors ever contracted as TL staff or resource parents while concurrently holding their roles within CW?

No, these dual roles are not contracted.

5. Has or is ODHS currently paying for housing for any ODHS caseworkers or supervisors—or paying TL fees or resource parent fees—to any ODHS caseworker or supervisor?

Child Welfare employees can be certified as resource parents. Prevention funds and supports apply to them in the same way as they would to other certified resource parents.

6. If so, how much was paid out in 2022?

The financial database was not designed with TL in mind. Reports cannot be created in this way.

7. How much in 2023?

The financial database was not designed with TL in mind. Reports cannot be created in this way.

8. What is the largest monthly housing allowance and the largest monthly TL or resource parent fee (beyond regular ODHS salary) paid to these individuals?

Financial reports are not able to be pulled in this manner to break down housing allowances vs. overall costs. Please request public records.

9. Is there a relationship between LC Beach House LLC and Dynamic Life?

Yes. The owner of LC Beachhouse is an acquaintance of Nathan Webber, and Webber from what we understand was an employee of LC Beachhouse prior to Dynamic Life's existence. We are not aware of a business relationship between LC Beachhouse and Dynamic Life.

Topic: Litigation

1. How much has been spent to date by the state on legal fees related to the Temporary Lodging lawsuit?

For the temporary lodging lawsuit, \$1,868,659.21 paid, of which \$234,721.32 expense, \$735,526.19 legal defense, and \$898,411.70 legal plaintiff attorney fees

2. How much has been spent to date by the state on legal fees related to the class action lawsuit?

For the class-action lawsuit, \$17,896,777 paid, of which \$13,990,253 is legal fees and \$3,906,524 is expenses.

3. How many tort claim notices for which suits have not yet been filed are currently pending related to child welfare?

There are 57 open or reopened tort claims not yet in litigation

4. How many tort claims related to child welfare are currently filed and in open litigation?

There are 51 tort claims in litigation.

5. In how many cases from 2017 to present has ODHS been required to make a payment as a result of judgement or settlement regarding child welfare?

There were 211 claims with payments for personal injury, bodily injury or plaintiff attorney fee data fields.

6. What is the total amount of the judgment or settlements paid out and is there an estimate of legal fees related?

Total amount of judgment or settlement is: \$73,241,427.

7. In how many cases from 2017 to present has ODHS been required to pay the legal fees of the other party in response to child welfare litigation?

Compiling this data would require a manual review of case files by DOJ and/or DAS Risk Management.