

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 10/22/03
Department Name: Social Services
Department No.: 044
Agenda Date: 11/25/03
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Kathy Gallagher, Director
Social Services Department

STAFF

CONTACT: Adelaide Mostachetti, x4490

SUBJECT: AMENDMENT TO THE CONTRACT WITH ADDUS HEALTHCARE FOR THE
PROVISION OF IN-HOME SUPPORTIVE SERVICES

Recommendation(s):

That the Board of Supervisors:

Approve and authorize the Chair to execute the First Amendment to the contract with Addus Health Care, not a local vendor, for the continued provision of In-Home Supportive Services at a reduced rate of \$14.24/hour for the period of November 1, 2003 through June 30, 2004 for a total contract not to exceed amount of \$4,825,903.33.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No.5. Maintain and Enhance the Quality of Life for all Residents.

Executive Summary and Discussion:

On 8/20/02 your Board authorized the Department of Social Services to enter into a contract with Addus HealthCare, Inc. to provide IHSS services to qualified dependent and elder adults within Santa Barbara County for the period of 10/01/02 through 6/30/04 in an amount not to exceed \$4,889,070. This cost is attributed to an hourly rate of \$14.74. The state has been considering the impact of in-home supportive services contractors pulling out of California counties due to rising Workers' Compensation costs. AB 632 was passed with urgency to address this issue. The State will now pay directly the Workers' Compensation premiums in exchange for the contractors reducing their existing hourly contract rates by \$0.50 beginning November 1, 2003.

This amendment also incorporates State-required Workers' Compensation quarterly reporting language and Health Insurance Portability and Accountability Act (HIPAA) language.

Mandates and Service Levels:

IHSS is mandated by CDSS MPP Sections 23-614 and 23-615; Federal Social Security Act, Title XIX and Title XX; California State Welfare and Institutions Code Sections 10553, 10554, 12300 et seq., and 14132 et seq.; CDSS MPP Division 10,19,21,22,23,30 and 46 et seq.; California Department of Health Regulations Sections 50000 et seq.; and OMB Circulars A-87 et seq., A-110 et seq., A-128 Public Law 98-502, and A-133 as applicable. AB 632 mandates the hourly rate reduction.

This amended contract will not change the level of service.

Fiscal and Facilities Impacts:

There will be no fiscal impact to the County. The General Fund Contribution associated with the reduction of this contract will be used to pay the State of California for our portion of the Workers' Compensation premiums paid directly by them. Appropriations for this contract as well as the funds needed to pay the State of California are located in the 2003/2004 budget under the In-Home Supportive Services sub-division, located within the Social Services Division, Page D218.

Special Instructions:

After execution by the Chair, please return one (1) originally-signed contract amendment, the Department's copy of the contract amendment, and a copy of the minute order to the Social Services Department, attention: Hilary Yost.

Concurrence:

Auditor-Controller
County Counsel
Risk Management

Contract Summary Form: Contract Number : - BC - 03084 - -

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (>\$100,000). If less than (<\$100,000) submit a Purchasing Requisition to the Purchasing Division of General Services. See "online purchasing manual" under General Services, Purchasing, Policies and Procedures. Form not applicable to revenue contracts.

D1. Fiscal Year : FY03/04
D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) :
D3. Requisition Number..... :
D4. Department Name..... : Social Services
D5. Contact Person : Adelaide Mostchetti
D6. Phone..... : 681-4490

K1. Contract Type (check one): [] Personal Service [] Capital Project/Construction
K2. Brief Summary of Contract Description/Purpose : In-Home Supportive Services
K3. Original Contract Amount..... : \$4,889,070
K4. Contract Begin Date : 10/01/02
K5. Original Contract End Date : 6/30/04
K6. Amendment History (leave blank if no prior amendments):
Seq#EffectiveDate ThisAmndtAmtCumAmndtToDateNewTotalAmtNewEndDate Purpose (2-4 words)
1 11/01/03 .50/hr. reduction State mandated Workers Comp. Reduction
K7. Department Project Number

B1. Is this a Board Contract? (Yes/No)..... : yes
B2. Number of Workers Displaced (if any) :
B3. Number of Competitive Bids (if any) : 1
B4. Lowest Bid Amount (if bid)..... : \$14.74/hr.
B5. If Board waived bids, show Agenda Date :
B6. ... and Agenda Item Number : #
B7. Boilerplate Contract Text Unaffected? (Yes / or cite ¶¶) : 4., 5., Exhibit B

F1. Encumbrance Transaction Code : 1701
F2. Current Year Encumbrance Amount : \$
F3. Fund Number..... : 0055
F4. Department Number..... : 044
F5. Division Number (if applicable)..... : 3051
F6. Account Number : 7662
F7. Cost Center number (if applicable)..... : 5325
F8. Payment Terms..... : Net 30

V1. Vendor Numbers (A=uditor; P=urchasing) :
V2. Payee/Contractor Name : Addus HealthCare, Inc.
V3. Mailing Address : 2401 S. Plum Grove Rd.
V4. City State (two-letter) Zip (include +4 if known)..... : Palatine, IL 60067
V5. Telephone Number..... : 847-303-8330
V6. Contractor's Federal Tax ID Number (EIN or SSN)..... : 42-1014070
V7. Contact Person..... : Michael Burke
V8. Workers Comp Insurance Expiration Date..... : 06/01/04
V9. Liability Insurance Expiration Date[s] (G=enl; P=rofl) : 06/01/04
V10. Professional License Number : #
V11. Verified by (name of County staff) : Maria Gardner
V12. Company Type (Check one): [] Individual [] Sole Proprietorship [] Partnership [X] Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature.....

CONTRACT TO PROVIDE IN-HOME SUPPORTIVE SERVICES

Santa Barbara County
Department of Social Services

**First Amendment
Effective 11/01/03**

This is an amendment to the contract by and between the County of Santa Barbara (COUNTY) and Addus HealthCare, Inc. (CONTRACTOR), for the continued provision of In-Home Supportive Services (IHSS) from the existing contractor for the same contract period at a reduced hourly rate. This amendment reduces the contract amount in order to accommodate legislative changes pursuant to AB 632 which mandates a \$0.50 per hour reduction due to the state assuming workers' compensation costs for the IHSS contract mode.

The COUNTY has approved this contract to maximize options and ensure alternatives to out-of-home care for eligible aged, blind and disabled individuals. This Contract is let in accordance with Title XIX and Title XX, of the Social Security Act; California State Welfare and Institutions Code (WIC), Sections 12300 et seq.; California State Department of Social Services (CDSS) Manual of Policy and Procedures (MPP), Divisions 10, 19, 21, 22, 23, 25, 30 and 46, et seq., Office of Management and Budget (OMB) Circulars. CONTRACTOR shall comply with all provisions specified in this Contract.

This amended contract incorporates the terms and conditions set forth in the existing contract numbered BC#03-084, approved by the County Board of Supervisors on August 20, 2002 with the following exceptions:

Add the following section to AGREEMENT, Page 5

30. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**. The parties shall comply with the Health Insurance Portability and Accountability Act (HIPAA) as set forth in Exhibit E.

Replace the following sections in EXHIBIT A, STATEMENT OF WORK

4. GENERAL CONTRACTOR REQUIREMENTS

4.4 Reporting Requirements The Contractor shall maintain records, collect data, and provide reports mandated by Federal and State governments, and as may be requested by County. These reports will act as monitoring tools for County oversight of the selected Contractor's performance. Data elements may include, but are not limited to, the following:

- A monthly project activity that details statistics including but not limited to: the number of clients served and the total service hours billed.
- An accounting report that tracks project related expenditures. This provides for a transparent usage of funds.
- Caseload information, supervision and provider staff information, employee evaluation information, training information.
- Pursuant to AB 632, provide the county with a quarterly report (*Contractor Employed IHSS/PCSP Provider Report*) listing all of the providers employed by the contractor who delivered services under the IHSS or PCSP during each calendar quarter. In accordance with the requirement of the SCIF the required '*Contractor Employed IHSS/PCSP Provider Report*' must be submitted on microfiche and contain the following information for each contractor-employed IHSS or PCSP provider:

- Name, Social Security Number, "Beginning" date of employment and "End" date of employment (when applicable), Hours worked during the report period, Gross wage during the report period, and IHSS recipient(s) served during the report period identified by IHSS case number.

The first quarterly report must be submitted for the quarter ending September 30, 2003. All quarterly reports are to be submitted to the Adult Services Program Analyst.

5. FISCAL PROVISIONS

5.1 Rate The hourly rate for each service hour for the period 11/1/03 through 6/30/04 shall be \$14.24.

The rate is supported by the Required Contract Budget, Attachment B-1, which is attached and incorporated herein by this reference.

CONTRACTOR agrees that the hourly rate to be charged to the COUNTY for contracted services and the total cost of furnishing these services for the term of this contract includes all allowable CONTRACTOR costs, both indirect and direct, relative to this contract.

Replace the following section in EXHIBIT B, PAYMENT ARRANGEMENTS

- A. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount including cost reimbursements, not to exceed **\$4,825,903.33**.

Add EXHIBIT E, Health Insurance Portability and Accountability Act (HIPAA) Privacy Business Associate Language

- A. The County of Santa Barbara ("Hybrid Entity") has entered into an agreement with your organization in a manner in which your organization is considered a "Business Associate." *"Business Associate" is defined as a person or organization that performs a function or activity involving the use or disclosure of individually identifiable health information on behalf of the County, but is not part of the County workforce.*
- B. The parties acknowledge that the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d et seq., and its implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, ("Privacy Rule"), mandate them to enter into a business associate agreement in order to safeguard protected health information that may be accessed during the performance of the Agreement.
- C. The following business associate terms are incorporated into the Agreement.

1. Use and Disclosure of Protected Health Information

Except as otherwise provided in this Amendment, the Business Associate may use or disclose protected health information ("PHI") to perform functions, activities or services for or on behalf of the Hybrid Entity, as specified in this agreement, provided that such use or disclosure does not violate the Privacy Rule. The uses and disclosures of PHI may not exceed the limitations applicable to the Hybrid Entity under the regulations except as authorized for management, administrative or legal responsibilities of the Business Associate. [45 Code of Federal Regulations sections 164.502(e), 164.504(e)(2)(i)(A) and (B), 164.506, 164.508, 164.510, 164.512 and 164.514]

2. Further Disclosure of PHI

The Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement, or as required by law. [45 Code of Federal Regulations sections 164.502, 164.504(e)(2)(i) and (e)(2)(ii)(A), 164.506, 164.508, 164.510, 164.512 and 164.514]

3. Safeguarding PHI

The Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. [45 Code of Federal Regulations sections 164.504(e)(2)(ii)(B), 164.530(c)(2)]

4. Unauthorized Use or Disclosure of PHI

The Business Associate shall report to the Hybrid Entity any use or disclosure of the PHI not provided for by this Agreement or otherwise in violation of the Privacy Rule. [45 Code of Federal Regulations sections 164.504(e)(2)(ii)(C)]

5. Agents and Subcontractors of the Business Associate

The Business Associate shall ensure that any agent, including a subcontractor, to which the Business Associate provides PHI received from, or created or received by the Business Associate on behalf of the Hybrid Entity, shall comply with the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information. [45 Code of Federal Regulations sections 164.504(e)(2)(ii)(D)]

6. Access to PHI

At the request of the Hybrid Entity, and in the time and manner designated by the Hybrid Entity, the Business Associate shall provide access to PHI in a Designated Record Set to an Individual or the Hybrid Entity to meet the requirements of 45 Code of Federal Regulations section 164.524.

7. Amendments to Designated Record Sets

The Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the Hybrid Entity directs or at the request of the Individual, and in the time and manner designated by the Hybrid Entity in accordance with 45 Code of Federal Regulations section 164.526.

8. Documentation of Uses and Disclosures

The Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for the Hybrid Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations section 164.528. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six years prior to the request, but not before the compliance date of the Privacy Rule.

9. Accounting of Disclosure

The Business Associate shall provide to the Hybrid Entity or an Individual, in the time and manner designated by the Hybrid Entity, information collected in accordance with 45 Code of Federal Regulations section 164.528, to permit the Hybrid Entity to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations section 164.528.

10. Records Available to Covered Entity and Secretary

The Business Associate shall make available records related to the use, disclosure, and privacy protection of PHI received from the Hybrid Entity, or created or received by the Business Associate on behalf of the Hybrid Entity, to the Hybrid Entity or to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the Hybrid Entity's compliance with the privacy requirements, in the time and manner designated by the Hybrid Entity or the Secretary.

11. Destruction of PHI

a. Upon termination of this Agreement for any reason, the Business Associate shall:

- (1) Return all PHI received from the Hybrid Entity, or created or received by the Business Associate on behalf of the Hybrid Entity required to be retained by the Privacy Rule; or
- (2) Return or destroy all other PHI received from the Hybrid Entity, or created or received by the Business Associate on behalf of the Hybrid Entity.

This provision also shall apply to PHI in possession of subcontractors or agents of the Business Associate. The Business Associate, its agents or subcontractors shall retain no copies of the PHI. However, Business Associate, its agents or subcontractors shall retain all protected information throughout the term of the Agreement and shall continue to maintain the information required under Section 8 of this Amendment for a period of six years after termination of the Agreement.

b. In the event the Business Associate determines that returning or destroying the PHI is not feasible, the Business Associate shall provide the Hybrid Entity notification of the conditions that make return or destruction not feasible. If the Hybrid Entity agrees that the return of the PHI is not feasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further use and disclosures of such PHI for so long as the Business Associate, or any of its agents or subcontractors, maintains such PHI. [45 Code of Federal Regulations sections 164.504(e)(2)(ii)(I)]

12. Amendments to Agreement

The Parties agree to take such action as is necessary to amend this Agreement as necessary for the Hybrid Entity to comply with the requirements of the Privacy Rule and its implementing regulations.

13. Mitigation of Disallowed Uses and Disclosures

The Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement or the Privacy Rule. [45 Code of Federal Regulations sections 164.530(f)]

14. Termination of Contracts

The Hybrid Entity shall terminate this contract upon knowledge of a material breach by the Business Associate of which the Business Associate fails to cure. [45 Code of Federal Regulations sections 164.504(e)(2)(iii)]

15. Definitions

Terms used, but not otherwise defined, in this amendment shall have the same meaning as those in the Privacy Rule.

16. Interpretation

Any ambiguity in the amendment shall be resolved to permit Hybrid Entity to comply with the Privacy Rule.

Unless specifically listed in this first amendment to the agreement, all other terms and provisions of the existing contract shall remain in full force and effect throughout the term of the amended contract.

IN WITNESS WHEREOF, this First Amendment to the Contract has been executed by parties hereto upon this date first above written.

CONTRACTOR:

By _____ Date _____
Mark S. Heaney, Vice President/ COO
Addus HealthCare, Inc.

Taxpayer ID Number: **42-1014070**

COUNTY OF SANTA BARBARA:

ATTEST:

MICHAEL F. BROWN
Clerk of the Board

By _____
Chair, Board of Supervisors

By _____
Deputy

Date _____

APPROVED AS TO FORM:

APPROVED AS TO INSURANCE:

STEPHEN SHANE STARK
County Counsel

JOHN FORNER
General Services/Risk Manager

By _____

By _____

APPROVED AS TO ACCOUNTING FORM:

ROBERT W. GEIS
Auditor-Controller

By _____