

Case Study:

Nurse Staffing for Franklin County Sheriff's Correctional Facilities

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Introduction

The Franklin County Sheriff's Office (FCSO) operates and manages two jails with a maximum combined capacity of 2,361 beds.¹ FCSO provides direct medical care for all inmates within these facilities in compliance with accreditation standards and state minimum standards. The Health Care Program includes direct nursing care, as well as contracted physicians and dentists.

In February 2009, FCSO released an RFP for nurse staffing services for all nursing services provided within Franklin County's two jails. The decision to contract was made under the direction of Sheriff Jim Karnes and was motivated by the potential cost-savings from outsourcing. The contracting process began smoothly but was significantly delayed by political resistance. In December 2010, Maxim Health Systems, Inc., was contracted to provide nurse staffing for a fixed annual fee. The initial contract ran for a period of three years, with a two-year extension option.²

Background

The decision to contract out for nursing staffing had been tried before in Franklin County. From 1994 until 2004, FCSO contracted with The Ohio State University for all medical staffing, including nursing and physicians. That contractual arrangement was unsuccessful as the terms of that contract forced the county to pay for any cost overruns. From 2001 to 2004, the county was billed for \$22,400,000 despite the initial contracted amount of \$11,700,000.³

In 2004, Franklin County hired a staff of 54 in-house unionized nurses with salary and benefits. The nurses in the jails consist of both Registered Nurses (RNs) and Licensed Practical Nurses (LPNs), and RNs were responsible for supervising the work of the LPNs. Although the in-house provision of nurses was intended to be more cost effective, the Sheriff's office faced new challenges with retaining full staffing and handling increasing costs related to time-off, overtime pay, and other fringe benefits. The Medical Administrator also suggested that service quality may have been impacted, as staffing fluctuations impacted the ability to provide timely medical screenings to inmates. FCSO may have encountered difficulties in their re-accreditation process in 2005 and 2009 as a result of these quality impacts.⁴

Staffing shortages increased reliance on overtime pay which in-turn increased the cost of in-house provision. During the period from 2004 to 2009, the Sheriff's office often utilized temporary nursing staff to maintain sufficient staffing levels.⁵ These nurses were obtained via a statewide contract with Maxim for temporary correctional nursing. Different sources presented conflicting information on the degree of reliance on these supplemental nursing staff. Whatever the level of

¹ (Management Partners, Inc., 2010)

² (Franklin County Ohio, 2010)

³ (Carmen, County to Use Private Nurses at Jail, 2009)

⁴ (Administrator, 2014)

⁵ (Administrator, 2014)

temporary staffing, the Sheriff's office clearly faced problems in retaining a full nursing staff while controlling for costs.

Request for Proposals

On February 6th, 2009, the Franklin County Purchasing Department released a RFP for vendors to provide nurse staffing in the county's jails. Interested vendors submitted bids to provide nursing services 24 hours per day, 365 days per year with a negotiated hourly cost for RN and LPN nursing services. Bidders were invited to attend a pre-proposal conference and submit questions for clarification in advance of submitting any bids. The county received thirteen bids, opened on March 24th, 2009.

From the pool of thirteen proposals, the county identified Maxim Health Systems, Inc. as the lowest and best offeror. Maxim provides medical staffing services in correctional facilities nationally and had a track record for providing nurse staffing in facilities both in Franklin County and across Ohio. There was a bid protest from another vendor, but it was resolved prior to the final award of the contract.⁶

In contrast to the 2001-2004 contract with The Ohio State University, the RFP called for a firm fixed-price contract. With this contract design, FCSO could place a hard cap on staffing costs and would not be responsible for cost overruns by the selected vendor. The Sheriff's office initially projected that this change could save nearly \$750,000 annually over the life of the contract.⁷

Staff Displacement and Political Involvement

Karl Kuespert, Director of Purchasing for Franklin County, believes that contracts are not meant to set policy. Rather, they should be apolitical and focus on the best use of taxpayer dollars.⁸ However, the decision to privatize nursing services quickly became political and fierce opposition arose among the nurses who would be displaced. A core of nearly fifty full-time, unionized nursing staff could lose their jobs, and they would not go down without a fight.

Union representatives and their lawyers appealed to the Franklin County Commissioners to save their jobs. The story caught on with the local newspaper, *The Columbus Dispatch*, and many nurses spoke in protest during public meetings with the commissioners⁹. After substantial delays, the Commissioners hired an independent consultant to study the risks and benefits of contracting for nursing services. The June 2010 study by Cincinnati-based Management Partners estimated that the three-year cost savings of the Maxim contract would be \$3.4 million. The five-year savings with the

⁶ (Kuespert, 2014)

⁷ (Carmen, County to Use Private Nurses at Jail, 2009)

⁸ (Kuespert, 2014)

⁹ (Carmen, County Hesitant to Layoff Jail Nurses to Save Money, 2010)

contract extended were approximated at \$6.5 million.¹⁰ These cost-based findings provided the Franklin County Commissioners with sufficient justification to approve the outsourcing arrangement, but they still had concerns about the displaced nurses. Although FCSO runs the jails, the commissioners must approve all budgets and contractual arrangements.

Interviews and media sources stated that Maxim took several steps to provide some protections to the county's nurses. This author was unable to find any language in either the initial RFP or the final contractual documents that specified those protections. The closest reference to any protections was Question 20 in the RFP Questionnaire that asked bidders, "Would you provide employment for the people who may be displaced by this contract?"¹¹

Despite this omission, several parties at the county stated that displaced nurses who matched all contractual qualifications would be given hiring priority with Maxim.¹² The opportunity to be considered for a job is not the same thing as being a promised a position, however, and many nurses chose to leave the county during the period between the RFP release and the start of the contract in December 2010.

The Maxim contract offered lower wages to its nursing staff than the nurses had been making previous, and with fewer benefits. FCSO's Medical Administrator stated in an interview that several nurses who had been employed by the county were immediately employed under the new contract. As of December 2013, approximately a dozen nurses who had worked for the county were working in the jails via the Maxim contract.¹³ The county also utilized existing nursing administration personnel to oversee service delivery under contracted provision. The previous Director of Nursing was given a new role as Clinical Liaison to monitor the performance of contract nurses and provide quality controls on behalf of the Sheriff's office.

Transitional Issues

The county faced several challenges in transitioning from internal provision to contracting out for nurse staffing services. While some of these challenges may have been unavoidable, delays with finalizing the contract appear to have made the transition significantly more difficult. The contract timeline in the RFP listed the tentative effective date for a new contract as June 1st, 2009.¹⁴ That date was pushed back several times, as the county commissioners were not initially in favor of contracting and refused to put the contract on the agenda until staff displacement issues were better addressed.¹⁵

¹⁰ (Management Partners, Inc., 2010)

¹¹ (Franklin County Ohio, 2009)

¹² (Kuespert, 2014)

¹³ (Administrator, 2014)

¹⁴ (Franklin County Ohio, 2009)

¹⁵ (Brown, 2014)

The final contract with Maxim had a start date of December 14, 2010, a year and a half behind the proposed schedule.¹⁶

Many county nurses chose to leave once it became clear that their jobs were in jeopardy. During this deliberation period, FCSO decided not to hire for those vacancies, as any newly hired nurses would also be terminated once the contract took effect.¹⁷ In order to maintain nursing care during this period, the county increasingly relied on temporary nurses through the statewide contract with Maxim. Supplemental appropriations were necessary to support the increase in temporary staffing. This was a tense arrangement, particularly for those nurses who were still employed by the county.

During 2009 and 2010, Maxim provided a number of both RNs and LPNs in the jails. In several instances, Maxim RNs were tasked with supervising LPNs who were employed by the county. FCSO's Medical Administrator reported that tensions from this arrangement had to be closely monitored, and that she had to separate certain nurses to keep the peace.¹⁸ While there is no documentation of service interruptions, news reports from late 2010 indicated that morale suffered as a result of these tensions.¹⁹

On a positive note, the growing proportion of Maxim-staffed nurses may have smoothed the eventual transition to contract delivery. Privatized staffing arrangements often have transitional challenges with knowledge transfer as experienced staff members are all replaced. In this case, many of the nurses already worked on-site with Maxim, reducing potential disruptions when the contract went live. The Sheriff's Office also retained several key administrators to ensure program continuity and that the incoming Maxim staff were properly trained to work in the jails.

Quality and Contract Performance

One of the strengths of this contract is its approach to quality performance standards. Given the complexity of medical care and the legal risks of subpar performance, one would expect that the contract with Maxim would have extensive provisions outlining quality standards and performance expectations. Section 7.03 is titled "Quality Assurance" and is the only section that explicitly addresses performance within the contract. Beyond calling for a written quality assurance plan, the section of the contract simply states,

"The Sheriff's office shall ensure that the Contractor's nurse staffing performance is within the parameters of the contract and in accordance with any and all accreditation standards, minimum standards for jails in Ohio, and the policies and procedures of the Sheriff's Office.²⁰"

¹⁶ (Franklin County Ohio, 2010)

¹⁷ (Carmen, Private Nursing Care to be Studied for Jail Inmates, 2010)

¹⁸ (Administrator, 2014)

¹⁹ (Carmen, Temp Jail Nurses Criticized, 2010)

²⁰ (Franklin County Ohio, 2010)

Had the county decided to write in quality measures, the contract could potentially deviate from state regulations, thereby making the county responsible for any lapses resulting from those discrepancies. By simply referring to existing state regulations, policies, and minimum standards, the Sheriff's office protected themselves from responsibility for performance issues by Maxim's nursing staff. The expectation is that Maxim is responsible for knowing and upholding all standards of care, and the county is better protected from performance failures on the part of the contractor. The jail's administration knows these standards and keeps the vendor complaint via inspections and monitoring.²¹

Interviewed parties were in consensus that the county is largely satisfied with Maxim's performance on this contract. The Sheriff's Medical Administrator reported few problems in working with Maxim. As a staffing agency, Maxim has at times been too quick to rotate nurses out of the jails for minor mistakes. FCSO has worked with Maxim to develop systems that support quality improvements and retain experienced nurses for greater consistency of staff.²² In December 2013, FCSO and Maxim agreed to extend the contract for two additional years until 2015, as stipulated by the terms of the initial contract.²³

Outcomes

The information reviewed in this case study suggests that the contracting engagement between FCSO and Maxim has been successful. The Franklin County Sheriff's Office has been able to secure reliable staffing for correctional nursing services while capturing significant cost savings year-over-year. The 2013 contract extension confirms that the county is satisfied enough with the current service arrangement and pricing to continue it for another two years. Furthermore, neither the FCSO Medical Administrator nor the county Purchasing Director anticipates that the county would return to internal provision of jail nursing in the foreseeable future.^{24,25}

Despite these successes, some parties are still troubled by the nurses who were displaced by outsourcing their jobs. County Commissioner Marilyn Brown was quoted in 2010 that the change was "very painful"²⁶ and she is still disconcerted by the county employees who lost their livelihoods in the process.²⁷ This case study highlights the difficulties that governments face when cost-savings come at the expense of layoffs that they cannot avoid.

²¹ (Kuespert, 2014)

²² (Administrator, 2014)

²³ (Franklin County Ohio, 2013)

²⁴ (Administrator, 2014)

²⁵ (Kuespert, 2014)

²⁶ (Gibson, 2010)

²⁷ (Brown, 2014)

Lessons Learned

The experiences of the Franklin County Sheriff's Office provide several takeaways for other contracting engagements:

- **Contracts that are structured to reduce employee displacement may face less opposition.**

The county's biggest challenge in completing this contracting arrangement was coping with the impact of displacing full-time, unionized staff. The potential for displacement led to significant delays in the contracting process, complicating service delivery and likely costing the county significant sums in unrealized savings during 2010.

If the county had been more proactive in addressing the displacement risks of its current staff, many of those problems could have been avoided. The RFP should have specified what protections were expected for currently employed nurses, such as hiring consideration and wage impacts.

- **When employees will be displaced, extended transitional periods can be disruptive.**

The county should be commended for their due diligence in considering the costs and benefits of this particular contract. However, the subsequent delays came at a cost. Nearly two years elapsed between the RFP advertisement and the finalized contract with Maxim. During that time, a sizeable share of the county's nursing staff resigned and those who stayed found conflict with the temporary staff who were hired. When staff displacement cannot be avoided, the contracting entity takes on additional risks from a prolonged transitional period.

- **Firm fixed-price contracts eliminate the risks of cost overruns for the contracting entity.**

In comparison to the 2001-2004 contract with Ohio State, the Maxim contract was successful due to its firm fixed-price design.²⁸ Interested vendors submitted bids with a set hourly cost for nursing services. Maxim is held responsible for any cost overruns that they incur. In this way, FCSO was able to accurately predict and control the cost of the program over the life of the contract.

- **Fixed staffing costs garner increasing savings over time.**

The study by Management Partners estimated that the cost savings to the county actually increased for each successive year of the contract. The estimated savings in year 5 (\$1,663,485) were nearly double those of year 1 (\$845,863).²⁹ By locking in fixed hourly rates for the lifetime of the contract, the county did not have to pay annual increases in salary and benefits that would occur with county-employed nurses. When examining the potential cost-savings of contracting for staffing, public entities should fully consider these cumulative savings.

²⁸ (Management Partners, Inc., 2010)

²⁹ (Management Partners, Inc., 2010)

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