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ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

June 10, 2011

Michael W. Sillyman
Kutak Rock LLP
8601 North Scottsdale Road
Scottsdale, Arizona 85253-2742

Re: Decision of Procurement Officer: SCAN Long Term Care Protest of Award for
ALTCS – Maricopa County, Solicitation Number YH12-0001

Dear Mr. Sillyman:

Pursuant to Arizona Administrative Code (“A.A.C.”) section R9-22-604 (G), this letter serves as the Decision of the Procurement Officer in response to the protest of Request for Proposal (“RFP”) Number YH12-0001 filed by SCAN Long Term Care (“SCAN”) which was received by the Arizona Health Care Cost Containment System (AHCCCS) on May 31, 2011. After careful review of SCAN’s protest, AHCCCS has determined that the protest is untimely. Therefore, the protest is denied. In the remainder of this letter, AHCCCS provides an explanation of the basis for the denial of SCAN’s protest.

On May 31, 2011 SCAN filed a formal protest contesting AHCCCS’ failure to award an uncapped ALTCS contract in Maricopa County to SCAN for the Elderly and Physically Disabled ALTCS population. The proposal submitted by SCAN was limited to ALTCS services in Geographic Service Area 52, Maricopa County. AHCCCS awarded uncapped contracts for Maricopa County to Mercy Care Plan, Bridgeway Health Solutions, and Evercare Select. However, SCAN requested and received a capped contract in Maricopa County.

As SCAN makes clear, the protest challenges the Agency’s evaluation of SCAN’s submission and the resulting unweighted score, alleging that AHCCCS committed numerous scoring errors when reviewing the proposal in the categories of Organization and Program. SCAN asserts that its unweighted total score would have increased by twenty-six (26) points had AHCCCS correctly scored the submission. According to the protest, SCAN “expects” that its final score would be improved such that SCAN would have been awarded an uncapped contract in Maricopa County.

SCAN’s protest is untimely because it was not filed on or before May 27, 2011. The protest was filed electronically and by hand delivery on May 31, 2011. AHCCCS Rule R9-22-604 (D) (3) specifies that a protester must “file a protest within 10 days after the protester knows or should have known the basis of the protest.”

The alleged scoring errors, which are the basis of SCAN’s protest, are contained in the Scoring Binders and other Offerors’ proposals which were obtained by SCAN on May

17, 2011. However, these materials were available for public inspection at the offices of the AHCCCS Administration on May 6, 2011. It is significant to note that copies of both the scoring binders and CD's of the Offerors' proposals were available from AHCCCS on May 13, 2011. Also significant is that other Offerors obtained this information from AHCCCS on May 13, 2011.

Using the date most favorable to SCAN for calculating timeliness of the protest, SCAN knew or should have known the basis for its protest no later than May 17. Scan was thus required to file the protest no later than May 27, 2011. SCAN failed to comply with the protest filing timeframe set forth in the above-referenced provision. Therefore, SCAN's protest filed on May 31, 2011 must be denied for untimeliness.

Regarding additional materials received by SCAN subsequent to May 17, 2011, AHCCCS provided SCAN with CD audio recordings of the oral presentations as well as the weighting criteria for the oral presentations on May 20, 2011. On May 24, 2011 AHCCCS provided another copy of the first CD (initially provided on May 20) because SCAN informed AHCCCS that the CD was incomplete. Two days later on May 26, 2011, AHCCCS furnished SCAN with the 2010 audited financial statements for Evercare Select and Bridgeway Health Solutions. The completed capitation bid templates for Evercare Select, Mercy Care Plan, Bridgeway Health Solutions, and SCAN were also provided to SCAN on May 26, 2011.

None of the information received by SCAN after May 17 forms the basis of SCAN's protest, and, therefore, dates subsequent to May 17, 2011 cannot be used to determine the protest filing timeframe specified in rule. Moreover, this protest is unrelated to the weighting criteria as evidenced by SCAN's statement that it "reserves the right to further protest the calculation of points and scoring criteria upon receipt of the weighting criteria from AHCCCS." Therefore, SCAN's protest cannot be considered timely by using the weighting criteria as a basis for this protest.

For the above reasons, SCAN's protest is denied, and the decision not to award SCAN an uncapped contract in Maricopa County is affirmed. In accordance with A.A.C. R9-22-604 (I), SCAN may file an appeal of the Procurement Officer's Decision within five (5) days from the date the Decision is received.

Sincerely,



Michael Veit
Chief Procurement Officer
AHCCCS Administration