

July 6, 2020

VIA EMAIL (with permission)

Ms. Meggan LaPorte
Chief Procurement Officer
Arizona Health Care Cost Containment System
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procurement@azahcccs.gov

RE: Protest of Solicitation No. YH20-0001 (Health-e Arizona Plus Maintenance and Operations Services)

Dear Ms. LaPorte:

This firm represents The Center to Promote Healthcare Access dba Alluma (“Alluma”). On March 23, 2020, Alluma timely submitted a proposal in response to the Arizona Health Care Cost Containment System’s (“AHCCCS”) Request for Proposal, Solicitation No. YH20-0001 Health-e Arizona Plus Maintenance and Operations Services (“RFP”). On June 26, 2020, AHCCCS notified Alluma that it had not been selected for award. See Notice of RFP YH20-0001 Results & Procurement Determination, attached as **Exhibit A**.¹

As part of AHCCCS’ June 26, 2020 Notice, the Chief Procurement Officer (“CPO”) included a March 27, 2020 Procurement Determination, wherein the CPO found that Alluma’s proposal was “not susceptible for award” because its “proposal is unreasonably high in comparison to other proposals received” and because “as the incumbent contractor, Alluma’s offer proposes an increase of more than 35% for Maintenance and Operations costs compared to current contract expenditures for Maintenance and Operations.” See *id.* ¶ 1. As a result of the

¹ The “procurement file” as posted on June 26, 2020 did not contain a number of public records required for Alluma to perform a full and fair analysis of the factual and legal bases for its protest. For example, Accenture’s proposal in the procurement file was heavily redacted. Alluma made a public records request for relevant records on June 26, 2020. See June 26, 2020 Public Records Request, attached as **Exhibit B**. To date, the requested records – which are required to be produced promptly in accordance with the Arizona Public Records Law, A.R.S. § 39-121, *et seq* – have not been produced. Although the CPO can and should affirm this protest on the bases articulated below, given the truncated timeframe available to protesters and the need for additional information from AHCCCS to fully prepare its protest, Alluma expressly reserves the right to supplement and/or amend this protest upon receipt and review of those public records.

Procurement Determination, the CPO excluded Alluma from evaluation of its technical proposal. The CPO did not notify Alluma of the Procurement Determination immediately (that is, at a time when Alluma could have challenged the susceptibility determination and before it was materially prejudiced by its elimination from consideration), because the CPO found, without further justification, that “prompt notification of Alluma would compromise the State’s ability to negotiate with other offerors.” *Id.* ¶ 2.

This letter constitutes Alluma’s timely protest of the CPO’s Procurement Determination and the State’s contract award.² See A.R.S. § 36-2906;³ Arizona Administrative Code (“A.A.C.”) R9-22-604; see also R2-7-A901(A). Pursuant to A.A.C. R9-22-604(C)(2) & R2-7-A901(B), the interested party submitting this protest, along with its pertinent contact information, is as follows:

The Center to Promote HealthCare Access dba Alluma (“Alluma”)

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For all the reasons discussed below, including that Alluma was improperly excluded from evaluation and that Alluma’s offer presents the proposal most advantageous to the State, we respectfully request that AHCCCS: (a) sustain the protest; (b) award Alluma the contract; or (c) issue a new solicitation consistent with the applicable procurement code and regulations. See A.A.C. R9-22-604(H)(3) & R2-7-A904(A) & (B).

As set forth more fully below, Alluma further requests that AHCCCS stay implementation of the contract pending resolution of this protest. See R9-22-604(E) & R2-7-A902.

I. BACKGROUND

Alluma offered unparalleled credentials in meeting and exceeding the RFP’s mandatory requirements and stated purpose. Over the course of more than eighteen years, Alluma has served as a strong and enduring partner for the State of Arizona. It is this sense of partnership, a commitment to doing the right thing for Arizonans, and Alluma’s long-term successful delivery experience for Arizona that compel Alluma to stand up and challenge this procurement process.

There is simply no other organization that knows HEAplus as acutely; understands the Arizona cross-integration programs more deeply; offers a wider integration array of verifications

² Alluma incorporates its proposal and the procurement file posted on June 26, 2020 by this reference.

³ As discussed further below, the RFP purports to have been issued pursuant to A.R.S. § 36-2906 (“Qualified health plan health services contracts”). It appears, however, that this procurement may be subject to, and not exempt from, the Arizona Procurement Code and its implementing regulations. See A.R.S. § 41-2501 (listing the specific AHCCCS contracts exempt from the procurement code and providing that “[a]ll other procurement . . . shall be as prescribed by this chapter”); see also R9-22-601 (limiting the Article’s applicability to contracts awarded under A.R.S. §§ 36-2904 (pre-paid capitation coverage), -2906 (qualified health plan health services contracts), & -2907 (covered health and medical services)). As such, and in an abundance of caution, Alluma cites procurement regulations from both AHCCCS and the Arizona Department of Administration (“ADOA”).

that affords Arizonans and State workers to automatically adjudicate Eligibility & Enrollment (“E&E”) for HEAplus programs; knows the CMS and FFM guidelines, rules, and requirements more intimately; operates as robust an automated adjudication program (that has saved Arizona millions of dollars); has as strong a MARS-E security program (made more complex in Arizona’s integration array that requires additional oversight and management); or has served as strong a partner to Arizona to expand Kidscare, incorporate ALTCS, process millions of automated renewals, and more.

And yet, Alluma was improperly eliminated from consideration to provide HEAplus Maintenance and Operations (“M&O”) services for Arizona because the CPO determined at the outset of this procurement process, and without even considering Alluma’s technical proposal, that Alluma’s price (the *least* important evaluation criterion) was too high relative to others’. Of course, other offerors had the opportunity to explain their proposals *and* to adjust their cost proposals through presentations and the Best and Final Offer (“BAFO”) process, an opportunity arbitrarily and unfairly denied to Alluma in violation of applicable procurement law and regulations.

Had Alluma been provided the opportunity to participate fully in the procurement process, Alluma is confident that its experience, methods, and contributions, fully aligned with its mission and the RFP’s purpose, made Alluma unique among offerors responding to the RFP and, ultimately, made Alluma the offeror most advantageous to the State of Arizona.

A. The RFP.

The RFP’s stated purpose was clear: to “solicit proposals from Offerors experienced in maintaining, operating, and enhancing highly-integrated (multiple eligibility programs) Affordable Care Act (ACA)/Medicaid Eligibility and Enrollment systems.” To that end, contractors were required to have:

- “a minimum of (5) years of recent experience in maintaining, operating, and enhancing a highly-integrated ACA/Medicaid Eligibility and Enrollment (E&E) systems;” and
- an “adequate understanding and background in maintaining and operating FFM E&E systems at the State-level and as such will not require any training and minimal time to familiarize themselves with the applicable Federal policies and procedures related to E&E systems.”

See RFP, Scope of Work ¶ 5. Offerors’ proposals were to be evaluated based upon four evaluation criteria, listed in their relative order of importance. Those criteria, including their respective point values out of 1,000 available points, were as follows:

- **Adherence to Mandatory Requirements - Pass/Fail:** “If the Offeror clearly [sic] does not meet minimum mandatory requirements pursuant to the solicitation, as determined by the Chief Procurement Office, the proposal will be determined to be non susceptible for award and will not be scored.” See Scoring Methodology, attached as **Exhibit C.**
- **Experience/Expertise (475 Points):** “Submission requirements considered in this category include the Offerors’ narrative of their experience and expertise including the company history and background, key staff and information presented and discussed during the Offeror’s demonstration of its solution.” *Id.*

- **Methodology (275 Points):** “Submission requirements considered in this category include the Offeror’s narrative of its proposed methodology to carry out the scope, ability to agree to the technical requirements listed in the solicitation and additional scope of work and information presented and discussed during the offeror’s demonstration of its solution.” *Id.*
- **Cost (250 Points):** “The RFP requires the Offerors to submit a total proposed solution price for the entire 5 year contract period. The total 5 year cost for the purposes of evaluation in this category will be a combined total of the price proposed [sic] for Maintenance, Operations and Transition Activities (excluding disengagement costs). This price will be compared by a relative scaled score. (Lowest Price/Price Offered) * Max Points = Awarded Points.”⁴ *Id.*

See also RFP, Special Instructions to Offerors ¶ 3; Executive Summary, attached as **Exhibit D**.

There is no company better aligned with the RFP’s mandatory requirements and purpose than Alluma. The breadth and depth of Alluma’s experience with “ACA/Medicaid Eligibility and Enrollment (E&E) systems” and its more than “adequate understanding and background in maintaining and operating FFM E&E systems at the State-level” are unequalled. Alluma’s proposal in response to the RFP presented the best, most comprehensive solution to meet the State’s mandatory requirements and its stated purpose. At a very minimum, the architect of HEAplus should have been fully and fairly considered and scored by the evaluation committee.

B. Alluma’s Experience & Partnership with the State of Arizona is Unmatched.

Alluma is a non-profit organization whose mission is to improve access to benefits that support people in need. Indeed, Alluma has supported the State of Arizona with its E&E systems since 2002. That support has resulted in a highly integrated breadth of programs, including Medicaid, SNAP, TANF, CRS, ALTCS, Kidscare, local health programs, and more. In addition to providing systems and other supports via this cross-program integration, Alluma has also helped Arizona develop an extensive array of electronic integrations, including data exchanges with:

Federal Exchange Partners:

- US Department of Health and Human Services, Center for Medicaid and Medicare Services (DHHS, CMS) operated Federally Facilitated Marketplace (FFM)
- Verify Current Income
- Verify Lawful Presence
- SSA Composite
- Minimum Essential Coverage Check
- Periodic Medical Coverage Verification
- Renewal and Redetermination Verification Service
- US Social Security Administration

⁴ Offerors were asked to submit proposals on certain cost elements that would not be assigned a point value, but that would be “discussed.” Those elements include: Disengagement Costs, Online Management System Costs, Reporting Region Costs, and Automated Testing Tool Costs. See **Exhibit C**, Scoring Methodology.

- US Department of Homeland Security
- US Food and Nutrition Services Electronic Disqualified Recipient System

State Exchange Partners:

- Arizona Health Care Cost Containment System
 - PMMIS
 - Input Processor
 - Postback
 - Duplicate Check
 - ALTCS files (10)
 - On-line lookups (16 methods)
 - Premium Billing
 - WAVES
- Arizona State Retirement System
- Arizona Division of Employment and Rehabilitative Services (DERS)
 - Base Wage System
 - Unemployment System
- Arizona Division of Developmental Disabilities
- Arizona Division of Benefits and Medical Eligibility
 - AZTECS
 - TIPS
 - CIFS
 - Onbase
- Department of Child Safety
- Arizona Department of Motor Vehicles
- Arizona Voter Registration
- Arizona Vital Records

Private and Public Partnership

- Equifax (also known as The WorkNumber or TALX) Income Verification System
- Public Assistance Reporting Information System (PARIS)
- Arizona Local Health Care Systems
- UPS Address Verification Services
- Electronic Asset Verification Services

These well-established HEAplus integrations are just a few examples of the complex integration array of real-time and batch processes that serve as the backbone of HEAplus, and which have led CMS to use HEAplus as a best practice in the area of integrations.

Alluma's role in shaping and driving the Affordable Care Act ("ACA") was extensive. Alluma helped draft the ACA, Section 1561, Health Information Technology Enrollment Standards and Protocols. Once the law was passed, Alluma was asked to work for the Office of the National Coordinator (US DHHS ONC) to coordinate the policy and implementation statements guiding the system development for ACA E&E systems. This work became the foundation for the CMS published document, "Guidance for Exchange and Medicaid Information Technology (IT) Systems." This document was first published by CMS in November 2010 and has served as the

basis for all state E&E systems across the United States who have received CMS financial assistance, as well as the Federal Data Services Hub operated by CMS FFM.

Subsequent to this ground-breaking work, the Arizona Governor's Office asked Alluma to assist the State with its ACA response and to enhance Health-e-Arizona to meet the ACA requirements. The resultant solution became known as HEAplus. Alluma has successfully provided M&O services for HEAplus since. In addition to these base services, at the State's request and direction, Alluma has continuously enhanced HEAplus to respond to the State's requirements, expand program and service needs, and provide improved E&E support to Arizonans. The Alluma team has proudly served Arizona since Health-e-Arizona's (HEA) launch in 2002, stepped up to many daunting challenges and achieved milestone after milestone, including the successful implementation of HEAplus in 2013 when many other states saw their ACA projects fail. CMS has continued to recognize the Arizona operation as exemplary and one to which other states should look for guidance.

Alluma's work with the State over the years has been unquestionably successful, as evidenced by AHCCCS' own recent touting of HEAplus:

HEAplus provides an online system for consumers, eligibility workers, and community assistors. The system supports eligibility determinations and ongoing case management for State programs, including: Medicaid, Children's Health Insurance Program (CHIP) (known as KidsCare in Arizona), Medicare Savings Program (MSP), Arizona Long-Term Care System (ALTCS), Supplemental Nutrition Assistance Programs (SNAP), Temporary Assistance for Needy Families (TANF), and Arizona's MyFamilyBenefits (Electronic Benefits Transfer [EBT] Portal).

Since its launch in October 2013, the Health-e-Arizona Plus (HEAplus) online eligibility system, jointly developed by the Arizona Health Care Cost Containment System (AHCCCS) and Arizona Department of Economic Security (DES), has undergone several system and user experience improvements. Combined, these improvements have eliminated manual staff processing time, increased the timeliness of eligibility determinations, and improved customer satisfaction.

- System automation has reduced the number of manual communication documents by 1.3 million between 2016 and 2018, creating an estimated savings of more than 110,000 hours of state employee time.
- More than 69 percent of HEAplus applications are submitted by the applicants themselves, community assistors, or other non-state employees.
- In 2019, 88 percent of eligibility renewals were entirely automated.
- More than 83 percent of users say HEAplus is "very easy or easy" to use.
- The Centers for Medicare and Medicaid Services (CMS) rated HEAplus in the top 3 percent of Medicaid eligibility systems in the nation.

See July 1, 2020 Press Release, "AHCCCS Awards 5-Year Contract for HEAplus Eligibility System Maintenance and Operations," attached as **Exhibit E**. AHCCCS' and DES' success was accomplished in direct partnership with Alluma. Alluma brought its breadth and depth of experience to its RFP proposal, meeting and exceeding the RFP's mandatory requirements and objectives.

No offeror is better positioned than Alluma to partner with the State going forward to maintain and operate the exceedingly complex HEAplus system. The effectiveness and proven nature of Alluma's M&O approaches and methodologies is supported by a rock-solid foundation in:

- Arizona's policies and programs
- CMS and FFM's policies and programs
- Goals for automated Medicaid, SNAP and TANF eligibility
- The fundamentals and nuances of how HEAplus fits within Arizona's entire benefits operations
- A privacy and security program that fully embraces MARS-E
- Tried and true project management principles informed by history
- A DevOps culture to introduce automation wherever feasible

In addition, Alluma is helping Arizona drive HEAplus to the cloud to take advantage of the cloud offerings and reduce reliance on premise infrastructures. This cloud transition is underway and is expected to be fully transitioned as an IAAS implementation by the end of 2020. While conducting the HEAplus cloud proof of concept ("POC") project in the fall of 2019, Alluma cultivated a partnership with the Microsoft Technology for Social Impact group who, like Alluma, are committed to the digital transformation for maximum positive impact on social issues, such as access to benefits that improve life quality. This partnership is only available to non-profits like Alluma and has reinforced Alluma's recommended plan and approach to the HEAplus cloud migration, as well as the path toward what Alluma already believed possible: the continued advancement of HEAplus once in the cloud.

For the transition to the cloud and this HEAplus M&O project, Alluma planned to leverage partnerships with Microsoft, which provides direct access to technical support, skilled specialized resources, and consulting assistance; and Cognosante, who has delivered governance, planning, migration, operations, and evolution to Azure-hosted complex workloads. Alluma's proposed approach also took into account the expanding nature of skills and expertise required to continue to support the HEAplus solution well into the future.

Alluma's local presence demonstrates a firm commitment to Arizona and is tantamount to the M&O approach. Alluma maintains an office in downtown Phoenix, where Alluma houses its Arizona Onsite Team. Alluma's onsite team of implementation specialists is the touchpoint for the State's SMEs and analysts. This team is dedicated and 100% committed to the HEAplus operation and its success, and is the glue that bonds Alluma's analysts, architects, technical managers, and developers in Sacramento to the State's HEAplus goals and objectives.

Though this is an M&O contract, because of our non-profit mission, the Alluma Team is now and will continue to charge forward to:

- Put more power in the hands of Arizona consumers (*i.e.* customers) by applying more human centered design ("HCD") principles and responsive design to the application
- Expand automated verification capabilities while navigating the intricacies of eligibility
- Add more capabilities that enable consumers and workers to do more with less time and effort

- Collaborate with the State to expand and accelerate automated test capabilities to better leverage expert resources
- Seek every opportunity to automate
- Seize moments like this unprecedented COVID-19 situation to add even greater configurability enabling the State to act quickly.

Alluma offered strong and proven capabilities to Arizona. Alluma has supported the State in various roles over more than eighteen years and has a deep understanding of HEAplus, FFM, E&E and the population it serves. Alluma has appreciated the State's partnership and was looking forward to continuing this relationship during the next phase of HEAplus.

II. LEGAL & FACTUAL BASIS OF ALLUMA'S PROTEST

But for the CPO's decision to exclude Alluma from consideration as "not susceptible for award," Alluma is confident it would have been awarded the contract in accordance with the RFP's evaluation criteria. Because the CPO's decision ran afoul of the applicable procurement regulations, the RFP, and AHCCCS' own past practices, Alluma respectfully requests that the CPO reverse the "not susceptible" determination, affirm the protest, and award the contract to Alluma; alternatively, Alluma requests that the CPO affirm the protest and reissue the solicitation.

A. Lack of Transparency in the Procurement File.

After receiving notice that it was not selected for award, Alluma reviewed the posted procurement file and immediately made a request for public records. See Public Records Request, at **Exhibit B**. The procurement file did not include a host of materials relevant to Alluma's evaluation of the legal and factual bases of its protest. For example, Accenture's proposal was so heavily redacted, without explanation, that Alluma was unable to evaluate the propriety of the State's evaluation and award decision. For any interested party protesting a contract award, the successful contract awardee's proposal – unredacted – is a critical piece of information, necessary to evaluate and develop the factual and legal bases of a protest. To date, AHCCCS has not provided Accenture's unredacted proposal, or any records beyond the limited procurement file.

Further, the Procurement Determination excluding Alluma from consideration may have relied improperly on records outside the scope of the submitted procurement materials. Indeed, the CPO appears to have penalized Alluma as the incumbent by accessing historical records from outside the RFP, the evaluation criteria, and Alluma's submitted proposal: "as the incumbent contractor, Alluma's offer proposes an increase of more than 35% for Maintenance and Operations costs compared to current contract expenditures for Maintenance and Operations." See Notice, attached as **Exhibit A**. As part of its public records request, Alluma sought all records upon which the CPO relied in making the determination that Alluma's proposed price was higher than its current M&O expenses.

Additionally, AHCCCS' July 1, 2020 Press Release provides that "[t]he contract award is \$39 million over five years for maintenance and operations of the system, *and \$82 million over five years for new development and infrastructure that may occur over the term of the contract*, for a total award of \$121 million." See Press Release, at **Exhibit E** (emphasis added). Based on the press release, it appears that at least a portion of the ultimate contract award to Accenture was not subject to a public procurement process in accordance with Arizona law. Neither the procurement file nor the RFP contain information supporting an additional \$82 million award to Accenture, beyond the \$39 million awarded for M&O services. Other than a vague reference in

the Scoring Methodology to “additional scope of work and information presented and discussed during the offeror’s demonstration of its solution,” there is no apparent request in the RFP itself for “new development and infrastructure that may occur” over the contract’s term, nor were offerors’ asked to provide a cost proposal for new development and infrastructure. Alluma has requested public records related to the contract award for “new development and infrastructure” and will supplement this protest as appropriate. If the additional \$82 million awarded under the contract was not identified in the RFP, not publicly bid in accordance with the Arizona Procurement Code, or was based on an evaluation of factors outside the RFP, the contract award cannot be permitted to stand.

Alluma’s public records request identifies several categories of records that must be provided under Arizona’s Public Records Law, A.R.S. § 39-121, *et seq*, and that are critical to Alluma’s ability meaningfully to develop its protest. Because Alluma has not received any response or records to-date, Alluma reserves the right to supplement this protest as those records are made available.

B. The RFP Appears to Rely on the Incorrect Procurement Authority.

The RFP provides that it is issued “[i]n accordance with A.R.S. § 36-2906,” RFP at p.1, and that protests are to be resolved pursuant to the same statute, *see id.* at Uniform Instructions to Offerors ¶ 7, at p. 40. Section 36-2906 applies to “qualified health plan health services contracts,” and not to the M&O services for E&E systems procured under the instant RFP. It appears, therefore, that AHCCCS did not have authority to issue this RFP pursuant to § 36-2906. Instead, this procurement is subject to, and not exempt from, the Arizona Procurement Code and its implementing regulations. *See* A.R.S. § 41-2501(H). That section provides:

The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to § 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 33 and contracts with regional behavioral health authorities pursuant to title 36, chapter 34. All other procurement, including contracts for the statewide administrator of the program pursuant to § 36-2903, subsection B, shall be as prescribed by this chapter [the Arizona Procurement Code].

See id. (emphasis added). The RFP does not fall under any of the statute’s enumerated exemptions, and thus falls within “[a]ll other procurement,” subject to the Arizona Procurement Code. *Id.* AHCCCS’ own implementing regulations are in accord. Namely, A.A.C. R9-22-601 expressly limits the Article’s applicability⁵ to contracts awarded under A.R.S. §§ 36-2904 (pre-paid capitation coverage), -2906 (qualified health plan health services contracts), and -2907 (covered health and medical services). The RFP for M&O of HEAplus does not fall into any of those enumerated categories; thus, the AHCCCS procurement and protest regulations in A.A.C. Title 9 do not apply.

⁵ Although R9-22-601(C) purports to exempt the Administration from the procurement code, that exemption extends only as far as A.R.S. § 41-2501, which specifically includes any non-enumerated procurements under the Arizona Procurement Code. The Arizona Procurement Code applies to “every expenditure of public monies” by the State. A.R.S. § 41-2501(B).

AHCCCS' reliance on the incorrect statutory authority in issuing the RFP, and the CPO's reliance (in the Procurement Determination and elsewhere) on inapplicable procurement regulations in A.A.C. Title 9, would alone be sufficient to sustain the protest and reissue the RFP. In any event, and in an abundance of caution, Alluma will cite procurement regulations from both AHCCCS and ADOA to ensure its protest is fully considered and is consistent with Arizona law.

C. The Procurement Determination that Alluma Was "Not Susceptible for Award" Violates Applicable Law.

Whether Alluma's protest is more properly considered under AHCCCS' procurement regulations or under the Arizona Procurement Code and regulations, the Procurement Determination excluding Alluma from evaluation violated applicable law.

1. *The Procurement Determination Violated AHCCCS' Procurement Regulations.*

AHCCCS' procurement regulations permit rejection of a proposal in only two circumstances: (1) "The Administration may reject an offeror's proposal if the offeror fails to supply the information requested by the Administration," A.A.C. R9-22-602(C)(1); and (2) "If the Administration determines that it is in the best interest of the state," *id.* R9-22-602(C)(4). The AHCCCS procurement regulations do not permit rejection of a proposal because the CPO determines it is "not susceptible" for award or because a proposal's cost is "unreasonably high" compared to other proposals received.

There is no suggestion in the procurement file that Alluma failed to supply information requested by AHCCCS. Further, the CPO did not make a determination that rejecting Alluma's proposal prior to evaluation was "in the best interest of the state." The only reason set forth in the Procurement Determination for rejecting Alluma's proposal was the CPO's determination that "the proposal is not susceptible for award," not that rejecting the proposal was in the best interest of the State. And, in fact, excluding Alluma from consideration prior to evaluation based on the *least important evaluation criterion* was not in the best interest of the State. By stripping the evaluation committee of the ability to evaluate the technical aspects of Alluma's proposal – the parts of the proposal that were, by definition, most important to the State – the CPO's Procurement Determination ran afoul of R9-22-602(C)(4). Because the CPO did not make a "determination" that rejection of Alluma's proposal was in the State's best interest, the CPO had no authority under R9-22-604 to reject Alluma's proposal and Alluma's protest must be sustained.

Further, AHCCCS' regulations require that, for responsive and responsible offerors (of which Alluma was unquestionably one), "[t]he Administration shall provide an offeror fair treatment with respect to discussion and revision of a proposal." R9-22-602(B)(3). Here, the CPO initiated discussions and negotiations with all offerors *except* Alluma. The CPO's Procurement Determination, rejecting Alluma's proposal prior to evaluation and excluding Alluma (a responsive and responsible offeror) from any discussion or negotiation, failed to provide Alluma the requisite fair treatment in violation of R9-22-602(B)(3).

AHCCCS' own "Scoring Methodology," developed in advance of AHCCCS' receipt of proposals, supports that a pre-evaluation susceptibility determination based on cost was not within the evaluators' or the CPO's contemplation, and arose as an improper, additional requirement to the RFP only *after* proposals were submitted. See Scoring Methodology, attached as **Exhibit C.** Specifically, the Scoring Methodology provided that a susceptibility determination would be made – but *only* based on each offeror's ability to meet the RFP's pass/fail mandatory requirements. There was no provision in the Scoring Methodology for an initial susceptibility

determination at the pre-evaluation stage based on cost. There were no parameters surrounding cost in the RFP (no maximum costs or disclosure that cost would be a pre-qualification factor), other than the fact that price was the least important evaluation criterion. The decision to exclude Alluma based on cost was an after-the-fact, unilateral decision by the CPO, without consultation from the evaluation committee's technical experts.

2. The Procurement Determination Violated the Arizona Procurement Code & ADOA's Procurement Regulations.

ADOA's procurement regulations contain a presumption in favor of including proposals in the full evaluation, and permit a determination that a proposal is not susceptible for award in only three limited circumstances: (1) if the proposal fails to meet a mandatory solicitation requirement; (2) if the offer fails to comply with susceptibility criteria identified in the RFP; or (3) if "the offer is not susceptible for award in comparison to other offers based on the criteria set forth in the solicitation. When there is doubt as to whether an offer is susceptible for award, the offer should be included for further consideration." R2-7-C311 (emphasis added). Any specific susceptibility criteria must have been included in the RFP itself. R2-7-C301(f).

As to the first two bases, Alluma agreed to each and every one of the RFP's mandatory requirements. Other than the RFP's pass/fail component, there were no additional susceptibility requirements (e.g., cost) identified in the RFP. Critically, even the third basis on which a procurement officer can exclude an offer from further consideration requires that the determination be made "based on the criteria set forth in the solicitation." Here, Alluma was determined to be "not susceptible" for award based *not* on the "criteria" in the solicitation, but on a single criterion that carried the lowest point total (just 250 points, or 25% of the total points available).

There is no mathematical way the CPO could have determined that Alluma would not be susceptible for award in comparison to others based on the least important criterion, when the evaluation of the most important evaluation criteria (750 points, or 75% of the total points available) had not yet been determined. Even if the CPO believed Alluma *might* not be susceptible for award (a decision that would have been at most speculative given the posture of the procurement process at the time the Procurement Determination was made) the procurement regulations require that Alluma's offer should have been included for further consideration. By eliminating Alluma at the earliest stages of this procurement process, the CPO failed to make a determination based on the evaluation criteria and failed to abide by the regulation's strong presumption in favor of the proposal's further consideration.

The Arizona Procurement Manual ("Manual") further highlights the substantial error in the CPO's Procurement Determination without first scoring Alluma's cost and evaluating its technical proposal. The Manual provides guidance regarding the appropriate evaluation of proposals, which typically consist of three steps:

- Administrative review of prequalification criteria (optional);
- Technical evaluation – An examination of the non-cost elements that were not considered during the administrative review, such as the functional specifications (e.g. hardware requirements, scheduling); and
- Cost evaluation – A comparison of the price proposed (and, at the agency's option, other costs of the project) to the prices and costs of other competing proposals.

See Manual at § 6.5. The Manual contemplates that the technical proposal should be evaluated separately from the cost portion of the proposal:

Technical Proposal Review Team – This team is typically comprised of program and technical experts, and may conduct its evaluation under the direction of a team leader (most commonly the procurement officer). The team is responsible for all aspects of the evaluation of the technical proposal. This may include review of vendor qualifications, such as the number of past projects performed of a similar size and scope, and proposed personnel resources, such as staff capacity. Depending on the nature of the RFP, the team may also be responsible to perform such activities as benchmark tests, site visits, and reference checks.

Cost Proposal Review Team – The cost proposal review team is typically comprised of one individual (usually the procurement officer), but may be a team of people, responsible for evaluating and scoring the cost proposals submitted in response to the RFP. The cost team works under the direction of the procurement officer.

NOTE: While it may be necessary for the cost team to obtain technical information to clarify the association between costs and technical components, the technical evaluators must not be provided with the proposed costs until after their evaluation is complete.

Id. § 6.6.1. While the technical proposal must be evaluated in accordance with the RFP's stated evaluation criteria in their relative order of importance, the Manual recommends that cost be evaluated and scored by a formula ((Lowest Price/Price Offered) * Max Points = Awarded Points).

Here, the CPO failed entirely to follow the Manual with respect to Alluma. First, the CPO did not even score Alluma's proposal using the cost formula set forth in the Manual and the Scoring Methodology applicable to this RFP. The decision to exclude Alluma was based, instead, on the percentage difference between Alluma's proposed cost and other offerors' proposed costs with no regard for the technical portion of Alluma's proposal. That method (using raw cost scores and percentage differences) was never disclosed to the offerors and was inconsistent with the Scoring Methodology adopted for this very procurement.

Further, the CPO did not permit the evaluation committee to review or score Alluma's technical proposal separate from its cost, as provided by Manual § 6.5 and § 6.6.1. The Manual contemplates that an offeror's cost proposal should not interfere with the technical evaluation – although technical evaluators may need to assess the relationship between cost and technical components. This separation of technical evaluation versus cost evaluation is plainly intended to prevent the technical evaluators from being influenced by an offeror's cost offering. And the Manual clearly contemplates that the *combined* scores should result in the best value for the State (as opposed to just the lowest cost, as would result from an Invitation for Bids).

Here, rather than allow that process to proceed without unnecessary interference, the CPO removed Alluma from being considered for evaluation because the CPO arbitrarily used the raw cost numbers (not the cost formula) to reject Alluma's proposal. That decision was contrary to Arizona law, and did not result in the State achieving a contract award in its best interest.

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3. *The Procurement Determination Failed to Evaluate Alluma's Proposal in Accordance with the Evaluation Criteria.*

Whether AHCCCS' procurement code or the Arizona Procurement Code and regulations govern this procurement process, there is no question but that this procurement was bound by a fundamental procurement principle that each proposal was required to be evaluated in accordance with the RFP's stated evaluation criteria, in their relative order of importance. See e.g., RFP, Special Instructions to Offerors, ¶ 3, at p.41 ("evaluation factors are listed in their relative order of importance"); R9-22-602(2) ("The Administration shall evaluate a proposal based on the . . . evaluation factors listed in the RFP."); R2-7-C301(C)(h); R2-7-C316(A) (procurement officer "shall evaluate offers and best and final offers based on the evaluation criteria listed in the request for proposals" and "shall not modify evaluation criteria or their relative order of importance after offer due date and time").

The Procurement Determination, by excluding Alluma based on the least important evaluation criterion – without evaluating the substantive elements of its technical proposal – made "price" the only, and therefore the most important, evaluation criterion with respect to Alluma. The Procurement Determination did not result in Alluma's proposal being evaluated "based on the evaluation criteria listed in the request for proposals" and amounted to an impermissible modification of the relative order of the evaluation criteria's importance.

Because the Procurement Determination is directly contrary to both the RFP and Arizona law on a fundamental precept of public procurement, the CPO should sustain this protest.⁶

4. *The Procurement Determination is Inconsistent With AHCCCS' Past Practice.*

Further demonstrating the arbitrary nature of the Procurement Determination, the determination is wholly inconsistent with AHCCCS' past practice. Indeed, AHCCCS has considered proposals that have a *much* higher price differential in the past without finding them "not susceptible" for award. As just one example, in 2019 AHCCCS issued an RFP for AHCCCS Works Portal. AHCCCS received ten proposals in response to the RFP. AHCCCS scored each of the ten proposals after a full evaluation, regardless of the price differential between the offerors' cost proposals. See BAFO Scoring Summary, YH19-0028, attached as **Exhibit F**.

Accenture's proposal (for \$16.8 million) was more than **442%** higher than the lowest cost evaluated option by SIS/Alluma (for \$4.4 million). Accenture's cost proposal received 57 points out of 250, yet Accenture was not deemed "not susceptible for award." Deloitte also received a cost score of 57 out of 250, yet Deloitte was not deemed "not susceptible for award." In fact, both Accenture and Deloitte were invited to present a demonstration of their proposed solutions. In this RFP, Alluma's pre-BAFO cost proposal was at most 279% higher than the lowest offer. Had Alluma's cost proposal been scored in response to this RFP it would have received 66 points out of 250. Yet, Alluma was arbitrarily deemed "not susceptible for award."

Another vendor, RCR Technologies, received only 25 points out of 250. Although RCR Technologies ultimately was not asked to participate in a demonstration, its proposal was not

⁶ In addition, if the CPO relied on materials outside the scope of the RFP and Alluma's proposal in determining that Alluma was not susceptible for award (as it appears from the face of the Procurement Determination, ¶ 1(c)), that consideration impermissibly added an additional evaluation criterion to the RFP and is a separate basis for sustaining this protest. Alluma has requested the records on which the CPO relied in making this determination.

rejected as not susceptible for award based only on cost, and its technical proposal was fully evaluated. The AHCCCS Works Portal Scoring Summary demonstrates that even proposals with low cost scores were fully susceptible for award based on their technical proposals (Accenture and Deloitte were in the top four point-scorers, notwithstanding their relatively low-cost scores).

Because AHCCCS' own past practice supports full evaluation of proposals regardless of price differential, and because the AHCCCS Works Portal Scoring Summary demonstrates that even a 442% price differential does not take a proposal outside the susceptibility range, the Procurement Determination in this procurement was arbitrary and an abuse of discretion. Alluma's proposal in response to this RFP was susceptible for award (and was certainly more susceptible than Accenture's and Deloitte's fully scored proposals in the AHCCCS Works Portal procurement). Had Alluma been permitted to participate – as Accenture and Deloitte were in the AHCCCS Works Portal proposal – Alluma would have attained the highest score, and should have been awarded the contract.

D. The CPO Incorrectly Found That Alluma's Offer Was Not Susceptible for Award.

The Procurement Determination was made only three days after the proposal submission deadline, before Alluma's cost proposal was scored using the Scoring Methodology's chosen formula, and before any proposal's technical elements were evaluated or scored. Even if a susceptibility determination related to cost would have comported with Arizona law (and for all the reasons set forth above it unquestionably did not), there simply was no way to determine susceptibility at the earliest stage of this procurement. The AHCCCS Works Portal RFP and resulting scores prove that point – substantial price differentials were immaterial in determining susceptibility for award (not unexpected, given that price was the least important evaluation criterion), and proposals (Accenture and Deloitte) with prices 442% higher than their competitors' received among the highest point totals.

1. Alluma's Proposal Best Met the RFP's Most Important Evaluation Criteria.

Here, at the outset of the procurement process, based on the least important evaluation criterion (which accounted for just 25% of the total points) the CPO unilaterally rejected Alluma's proposal. At no point did the CPO ask Alluma a single clarification question, nor did the CPO submit the proposal to subject matter experts for their evaluation. And, while other offerors were given the chance to negotiate their proposals and revise their costs in BAFOs (and were then scored accordingly) – Alluma was not. Had the State considered Alluma's proposal, even with the original price score included, Alluma would certainly have been within a range warranting negotiations and would have been at the very least susceptible for award, if not the successful contract awardee.

Based on the substance of Alluma's proposal, it is reasonable (even conservative) to expect that Alluma's score for Experience/Expertise, the most important evaluation factor, would have been 90% or more of the possible 475 points (that is, 427.5 points). Alluma's experience and expertise exceeded the RFP's required minimums and, critically, is specific to the HEAPlus solution and operations that AHCCCS and CMS recognize as tremendously successful. It is also reasonable to expect that Alluma's score for Methodology would have been 90% or more of the possible 275 points (that is, 247.5 points), as the M&O program in place today, and upon which the RFP Scope of Work requirements were based, was developed in partnership with, and often led by, the Alluma team. In addition, Alluma's approach to and readiness for the new requirements is informed by its intimate knowledge of and plans to reuse and leverage past and present artifacts and processes, many of which have been approved by DHHS/CMS, AHCCCS and DES.

Even after negotiations and BAFOs, Accenture’s score for Experience/Expertise was just 56% of the possible 475 points (266 points). And its score for Methodology was just 64% of the possible 275 points (176 points). See Detailed Scoring, attached as **Exhibit G**. These are not strong scores by any measure, and certainly should have raised red flags about the feasibility of Accenture’s cost proposal. Combined, the Accenture proposal scored fewer than 60% of the 750 allowed points for the most important evaluation criteria, Experience/Expertise and Methodology.

Alluma’s pre-BAFO score for price would have been 66 points, based on the initial price bid and using the Scoring Methodology formula. Even so, Alluma’s point total would have exceeded Accenture’s without even achieving the 90% scores in the more important categories. Namely, with a pre-BAFO score of 66 points for price, Alluma would have needed to achieve only 83.5% of the 750 points (or 626 points) allowed for Experience/Expertise and Methodology to have scored higher than Accenture (692 points versus Accenture’s 691). Alluma believes its proposal reasonably would have scored enough points for Experience/Expertise and Methodology, which would have resulted in a total award of 741 (the highest point score by 50 points). In any event, what is clear is that Alluma was susceptible for award and should have been evaluated and scored, not arbitrarily removed from the procurement process as “not susceptible.”

	Max Points	Accenture (59.3%)	Alluma (83.5%)	Alluma (90%)
Experience/Expertise, and Methodology	750	445	626	675
Price	250	246	66	66
TOTAL SCORE	1000	691	692	741

A few examples taken from AHCCCS’ own Strengths & Weaknesses Report illustrate the strength of Alluma’s proposal, both against the scoring criteria and as compared to the successful offeror’s proposal:

Experience/Expertise	Accenture Score out of 5	Strengths	Weaknesses
MARS-E Compliant Systems (achievement of compliance, annual audit, ethical hacking)	3	Detailed 5 step process to achieve MARS-E compliance. Has successfully helped all its clients through the Authority to Connect (ATC)/Authorization to Operate (ATO) process that includes ATC/ATO for the Federally Facilitated Marketplace. Key security staff is a certified ethical hacker.	Proposal did not describe the use of third party ethical hackers.

Alluma’s Proposal: As set forth in Alluma’s proposal: “CMS, the regulating entity requiring MARS-E compliance, has told Arizona that the HEAplus security program is in the top 3% of States that CMS oversees for Medicaid. CMS awarded Arizona an unsolicited three-year Authority to Connect (ATC), which CMS awarded to only two other states.” See Alluma Proposal, B1 Narrative Experience/Expertise, at p.6.

Alluma’s proposal detailed the following components of the HEAplus MARS-E security program:

- Robust program of continuous self-Auditing
- Annual audits:
 - Secure Organization Control (SOC), and Security Assessment Report (SAR) audits
- Third Party Reviews – ‘conducted by independent, third-party contractors, approved by Arizona, CMS, SSA, FNS or others, who are qualified by the federal government to perform assessments on solutions like HEAplus that access federal information’
- Internal as well as external penetration tests and security vulnerability assessments
- Ethical hacking program
- Reporting to CMS and SSA
 1. System Security Plan (SSP) submissions and reviews annually and for all major changes
 2. Information System Security Risk Assessment (ISRA) annually and for all major changes
 3. Fed2NonFed Interconnectivity Security Agreement (ISA) for all changes
 4. Privacy Impact Analysis (PIA) for all changes
 5. Change reports and updates to notify CMS and SSA of changes in advance of the change review cycle

Id. at pp. 5-7. AHCCCS identified Accenture’s failure to identify ethical hackers as a weakness. Alluma’s proposal provides: “Though not required by MARS-E or Arizona, Alluma has instituted an Ethical Hacker Program to test the veracity of HEAplus and provide extra protection from potential hackers.” *Id.* at p. 7.

Experience/ Expertise	Accenture Score out of 5	Strengths	Weaknesses
POAMs (number, aging, severity) (Severity and Security V1, V2, V3)	2.5	Low number of open POAMs (33) none critical but oldest is 21 months which is approaching the 24 month threshold low	

Alluma’s Proposal: At the time of proposal submission, Alluma had only 18 POA&Ms open, and only 20 POA&Ms were open in the January 2020 POA&M Report submission to CMS. All of these POA&Ms were of LOW severity. *Id.* at 5.

Experience/ Expertise	Accenture Score out of 5	Strengths	Weaknesses
Systems Capability for Resuse of e Data Collected RFP: ‘Describe your experience with leveraging existing ACA capable Medicaid E&E capabilities’	2	Adequate response, no special insights	

Alluma’s Proposal: Among many points set forth in its proposal, Alluma highlighted significant experience in its thought leadership driving the technical systems goals and objectives codified by the ACA and leveraging these for Arizona’s benefit.

Leveraging knowledge and experience from one program to another, from one solution to another, from one state to another, from social technology partners and forums, or from the federal government to the state is what keeps HEAplus continuously moving and improving. Since its first project in 1999 to reform the CHIP application in California, Alluma has been laying the groundwork for the field that exists today focused on application automation, streamlining technology and operations, horizontal program integration, and human-centered design (HCD). Alluma leadership were key contributors to drafting ACA Section 1561, the technical requirements for eligibility and enrollment. We were asked to write this section by former Senator Barbara Mikulski and her staff based on our work in Maryland. The inputs used to write this section included the many lessons learned from Health-e-Arizona and One-e-App clients. Some of the biggest challenges at the time were the integration of SNAP and TANF, leveraging of electronic verification sources to remove this burden from consumers, and the use of electronic communication protocols like email and text to expand communication options for consumers. Section 1561 was then translated into policy, which CMS then refined into the “Seven Standards and Conditions” for states to obtain enhanced 90% federal match for their eligibility, enrollment and exchange systems.

Alluma has been an active participant, on behalf of Arizona, in the best practice round table forums sponsored by CMS called Learning Collaboratives where we presented Arizona features regularly. Alluma will be supporting Arizona in its upcoming interview with Mathematica where Arizona has been identified as an exemplary state, with two others, in the area of Program Integrity and System Efficiency. These forums give the Arizona team information and options to pursue and continue to improve HEAplus and outcomes for Arizona consumers.

Arizona also asked Alluma to support DES for Medicaid, SNAP, and TANF when the state was working on completing the SSP for its first-time submission to CMS. This support has also been provided to the AHCCCS team who is working through their MARS-E requirements.

Alluma works with other jurisdictions, participates in national forums, and takes pride in always being in a listening, learning, and collaboration mode to make our solutions work better. This can be as simple as observing consumers inputting application data in a DES office, using HCD to evaluate how to improve HEAplus, garnering best practices from our other solutions, or studying consumer survey information to gather feedback. Many ideas for HEAplus improvements come from the Joint Application Design (JAD) sessions, SWOT/SWAT meetings, program, build, ticket review, backend, leadership and other meetings where State colleagues and Conduent provide valuable input.

Alluma also “pays it forward,” by providing technical assistance to other states, participating in CMS Learning Collaboratives and national studies, presenting at conferences, and writing articles and publishing research. Alluma’s non-profit model allows us to uniquely leverage our experience. For example, of significant value to HEAplus is our leadership and engagement in the social technology space including our partnership with Microsoft’s Technology for Social Impact initiative. In addition, our Policy Innovation team investigates trends, best practices, policy changes and collaborates with our project teams, like HEAplus, to ensure our solutions align with and support changing policies.

The HEAplus team has recently been asked by CMS to be interviewed by Mathematica on its use of Automation to Achieve Program Integrity which CMS indicated is an “exemplary example.”

Id. at pp. 8-9.

Methodology	Accenture Score out of 5	Strengths	Weaknesses
2.7 Reporting	2	Adequate response. myWizard batch 360 tool for one stop shop.	

Alluma’s Proposal: Alluma’s response to the SOW 4.6.7 (Reporting) recognized to extend beyond automated reporting designed and implemented by Alluma, to date, but also the support provided to State staff to further analyze data and expand reporting. Further, Alluma related the operational reports to be the tip of the operations support. The Alluma response demonstrated not only an intimate level of understanding of the importance of capturing, curating, and consuming associated data, but also the operations necessary to construct collaborative processes and build tools to efficiently act on that data. For instance, Alluma’s response included approaches to resolve job exceptions beyond the required reporting of job exceptions. See Alluma

Proposal, B2 Narrative Methodology, § 2.7, at p.16. The Accenture response hinged on working with the State to “help you reach the goals stated in your requirements and can help you think through strategies.” See Accenture Proposal, B2 Narrative Methodology § 2.7, at p. 14.

The HEAplus organization chart proposed by Alluma is based on the current level of operations support provided. For instance, it includes an Auto Applications Team that monitors, maintains, analyzes and resolves exceptions in collaboration with an AHCCCS team, collaborates with other system owners (AHCCCS, DES, external to the State) to resolve issues and improve processes. See Alluma Proposal, B1 Narrative Experience/Expertise, at p. 15. The project organization chart proposed by Accenture was redacted.

Methodology	Accenture Score out of 5	Strengths	Weaknesses
2.8 Training	2	Adequate response - no special insights.	

Alluma’s Proposal: Alluma’s proposal articulated its robust training environment and features, and its strong commitment to this crucial aspect of Alluma’s partnership with the State:

HEAplus maintains a separate training environment as part of our system development life cycle which supports all the types of training the State conducts. Training is post-production and is synchronized with production on the Friday following each build. In this manner, the training environment reflects the latest code so that trainees are trained on the latest version of HEAplus. In addition, Alluma built a module to support trainers whereby they can create defined application scenarios, stored as a master. Trainers can then replicate these master applications for as many trainees or use purposes they have. Further, the training masters are set up for the specific trainer, so there can be multiple training classes going on and the master applications and their clones are not impacted by a different trainer. This way, trainers can maintain and customize their curriculum and conduct their training class concurrent with other classes without interference from the other training classes. This replication and cloning feature available in training saves time in prepping for their training classes and ensures each trainee has the right types of applications to work on for the training that is being conducted. The training environment is stand alone, so it will support as many training classes and as many trainees as Arizona needs it to support. As with all of our HEAplus application environments at Alluma, the training environment is maintained and operated following MARS-E standards, including user security profiles. In addition to the training environment, Alluma has also supported trainers in preparing computer-based training modules for HEAplus. Alluma will continue to support this process as needed. Training is critical and as such, Alluma is

committed to making sure trainers and trainees have a positive HEAplus experience.

See Alluma Proposal, B2 Narrative Methodology, at p.18.

Methodology	Accenture Score out of 5	Strengths	Weaknesses
3.1 Transition Methodology	3	<p>Robust plan proposed.</p> <p>Attention to all phases of transition covered to provide a seamless transition.</p> <p>Include dedicated lead resources for the technical side and management side.</p> <p>Start Up Plan includes 2 weeks of</p> <p>2 in a chair process - to bring both vendors together to resolve defects and accelerate knowledge transfer.</p> <p>Will target incumbent staff for rehire and has a 85% success rate in hiring incumbent's staff to help with transition.</p> <p>Includes robust knowledge transfer approach including reports of status.</p> <p>Start Up Schedule diagram demonstrates 6 month start up.</p>	

The highlighted language above demonstrates conclusively that both Accenture's experience and its methodology depend, in some measure, on Alluma. The State's citing Accenture's promise to "target incumbent staff" as a strength shows that Alluma would have scored at least as well as, but almost surely better than, Accenture (that is, Alluma planned to retain all of its knowledgeable employees, not just 85%). This is another example proving that there would have been real value in having Alluma at least be a part of the discussion. Further,

the propriety of the evaluation committee's seeming endorsement of another vendor poaching an incumbent's employees as a strength in its proposal is questionable, particularly in light of the fact that the incumbent was improperly excluded from consideration.

2. *Alluma's Cost Proposal Was Feasible, Reasonable Based on the RFP's Requirements, and Supported by Alluma's Significant Experience with HEAplus.*

Notwithstanding the Procurement Determination, Alluma's cost proposal cannot properly be viewed in isolation, separate from its robust technical proposal. Namely, in its response to the RFP, Alluma proposed M&O approaches and methods which support the full breadth of the services required to support Arizona and HEAplus M&O. Other offerors simply did not. Although Alluma's response to the technical portion of the RFP drove Alluma's pricing to be higher than other offerors' pricing, Alluma's offer presents a far more realistic estimate of the cost required to perform the work to adequately support HEAplus.⁷

By rejecting Alluma's proposal before evaluation, the CPO prevented Alluma from explaining the basis of its cost proposal (through clarification or discussion) and deprived Alluma of the opportunity afforded to other offerors to engage in discussions and/or price negotiations. By failing to evaluate Alluma's technical proposal, the CPO also failed to analyze: (1) the reasons for the cost disparity between the incumbent contractor's proposed price and the other offerors' proposals;⁸ (2) whether that disparity was justified by the technical proposal; and/or (3) whether the lower cost proposals presented a meaningful and/or feasible solution.

In reviewing Alluma's cost proposal compared to other vendor offerings, it appears that the other offerors, who do not have experience with HEAplus's current M&O, may have lacked sufficient information to provide reasonable staffing and cost estimates for the required M&O work. Alluma believes that this lack of understanding by vendors not familiar with HEAplus and the responsibilities to support Arizona, resulted in the offerors submitting significantly below-market cost proposals that will necessarily result in cost adjustments and amendments subsequent to the contract award by the awarded vendor. The awarded cost (\$39 million) is not feasible, given the scope of the work required by the complex HEAplus E&E system.

Overall, in excluding Alluma and awarding the contract to a lower cost offeror, it appears that Arizona took the approach that an E&E system is a commodity, and that all E&E systems are equivalent. This is not the case. While E&E systems are generally based on the same fundamental guidelines, the implementation, the extensiveness of the implementation, the array of program and system integrations, the degree of consumer engagement, and the support for automated adjudication has wide variability across the states.

There was no substantive evaluation of the quality of the cost proposals, which would have revealed real differences in the scope of the proposals' technical offerings. Alluma's cost proposal was rejected out of hand, although Alluma has the deepest knowledge of the breadth and depth of the HEAplus solution and its operation, which includes a level of support not contemplated by the other offerors' proposals.

⁷ Additionally, Alluma's proposed costs are more aligned with comparable states' costs for M&O, such as Texas TIERS and others, *see infra*.

⁸ Critically, the procurement file contains very little information regarding the basis for other offerors' cost proposals; Alluma anticipates learning more upon receipt of public records in response to its June 26, 2020 public records request.

Accenture’s bid for M&O is about 1/3 of the current M&O cost for HEAplus (annual \$6.5 million as compared to \$19.6 million), yet the current level of support has achieved a level of success, touted by AHCCCS as:

- Eliminated manual staff processing time, increased the timeliness of eligibility determinations, and improved customer satisfaction.
- System automation has reduced the number of manual communication documents by 1.3 million between 2016 and 2018, creating an estimated savings of more than 110,000 hours of state employee time.
- More than 69 percent of HEAplus applications are submitted by the applicants themselves, community assistors, or other non-state employees.
- In 2019, 88 percent of eligibility renewals were entirely automated.
- More than 83 percent of users say HEAplus is “very easy or easy” to use.
- The Centers for Medicare and Medicaid Services (CMS) rated HEAplus in the top 3 percent of Medicaid eligibility systems in the nation.

See Press Release, [Exhibit E](#).

While the combined total prices proposed by the three fully evaluated offerors were within approximately \$10 million of each other, there was significant variation in the cost categories. For example, Accenture’s bid for transition costs is the highest and is more than 14 times the lowest (Deloitte), and Accenture’s bid for operations is half or less than the other offerors’. These wide variations further indicate that the offerors had a very different understanding of the requirements and level of services expected and should have raised red flags about the feasibility of performance and whether the scope of the offerors’ proposals would meet the State’s needs.

Cost Scoring YH20-0001				
	Accenture	Deloitte	Optum	Alluma
Online Knowledge Management System (not scored)	\$ 414,478.00	\$ 879,817	\$ 1,416,263	\$ 165,657
Reporting Region (not scored)	\$ 406,351.00	\$ 1,136,343	\$ 2,616,064	\$ 177,051
Automated Testing Tool (not scored)	\$ 78,076.00	\$ 1,468,012	\$ 515,602	\$ 156,215
subtotal of unscored tools	\$ 898,905.00	\$ 3,484,172	\$ 4,547,929	\$ 498,923

The level of variability in the above cost chart would indicate not only significant difference in development costs across vendors, but also a difference as compared to M&O.⁹ Since AHCCCS did not request or require information such as hours and rates to support the cost proposals, it would be impossible to analyze the efficacy of the costs provided or to support analysis that could substantiate the differences between vendors. Had Alluma’s offer been considered, the evaluation committee would have been able to observe critical differences

⁹ Arizona appears to consider the skills and cost of M&O services to be equivalent or comparable to “New Development” services. The AHCCCS RFP requested information relevant to M&O only, yet AHCCCS awarded an additional \$82 million in New Development and Infrastructure based on the M&O Response. New Development requires different skills, experience, knowledge of the platform, operating software, rules, program and data integrations. The evidence of the variability in the bids Arizona received for New Development items that were included in this RFP and demonstrated in the vendor responses highlights very different underlying assumptions and capabilities of each vendor. This variability and the fact that AHCCCS did not request or require New Development information to support informed analysis of capabilities or experience related to New Development work indicates that the additional award of \$82 million in New Development Costs and Infrastructure to Accenture may not be in the best interest of the State of Arizona.

between the proposals and would undoubtedly have seen a qualitative justification for Alluma's cost proposal. But the evaluation committee was not provided that opportunity.

Other offerors' lower cost proposals are not feasible, and/or will not meet the State's needs (that is, either there will be cost overruns or the State will realize a substantially reduced level of M&O support). There are many examples of similar systems in other states with total costs to date that are significantly higher than HEAplus. Costs for similar programs in states such as Rhode Island, Massachusetts, Oregon, Maryland, Kentucky, Arkansas, Kansas, and West Virginia cost as much as 2-4 times the cost to develop and implement HEAplus. Available information for systems such as Access Arkansas and Texas TIERS shows that annual costs to maintain similar programs are commonly in excess of \$30 million. See, e.g., Articles re Access Arkansas, attached as **Exhibit H**.

Most notably, the Ohio Benefits system, licensed from Accenture, is reported (as of January 2020), to have cost Ohio \$1.2 billion, approximately 5 times the cost of HEAplus to date. Further, the Ohio Benefits system is reported to have a significant number of defects, including eligibility determination issues. See "State Reveals \$1.2 billion Ohio Benefits system riddled with defects a year out from Medicaid work requirements," attached as **Exhibit I**. In addition, Accenture's implementation of the KEES system in Kansas is reported to have encountered many delays, and a 34% cost overrun, to tally a reported \$181 million. See Articles re KEES System, attached as **Exhibit J**.

Accenture's proposal was significantly redacted, making it impossible to determine if Accenture cited specific examples to support its proposal; but Deloitte highlighted Texas TIERS as the largest Medicaid system supported by Deloitte. Based on a variety of key indicators, supplied by Deloitte, HEAplus is comparable in size and, arguably, greater complexity than Texas TIERS. Deloitte further indicated that their Texas Tiers M&O and Enhancement Team is greater than 100 people, which is comparable to Alluma's entire HEAplus team. Annual expenditures for Texas TIERS are reportedly in excess of \$46 million. See Quarterly TIERS Report, attached as **Exhibit K**. The disparity in Deloitte's cost proposal and the Texas TIERS example it cited demonstrates that Deloitte (and others) did not understand the scope and complexity of HEAplus.

Because Alluma is a non-profit organization, what Alluma says and commits to is exactly what the State gets in return. Alluma's history with the State proves this out. Alluma does not bid low with the intention of continuously requesting change orders. It does not bid low with the hope of being considered for other procurement opportunities. It does not provide services that are outside its mission, such as a re-build of PMMIS or other such potential procurement opportunities. Instead, Alluma's proposal was experientially based. Alluma provided a price for what it knew was required to maintain and operate HEAplus and to support the State. It then added to that base the following:

- Costs associated with complying with, reporting on, and meeting new SLA's imposed in the RFP (RFP reference Section 5.5, specifically SLA ID # 1-12) and some expectation that given the SLA's the risk of sanctions also increases.
- Costs associated with meeting the continuous and growing requirements of MARS-E (RFP Section 5.4.2) with the expectation of MARS-E version 3.0 expected to be released in mid 2021.

- Costs associated with the additional scope items including Section 5.1.1, 5.1.2, 5.2 and Online Knowledge Management System (Cost Section of the RFP).
- Cost associated with the creation, update, review and completion and frequency of delivery of a series of deliverables required in the RFP which are not part of the current M&O contract (RFP Section 5.3) as shown in the table below:

Deliverables			
#	Deliverable	Update Frequency	Target Submission Date
1	Start Up Plan	One Time	15 business days after the start of the contract, 10/1/2020.
2	Operational Readiness Test Plan	One Time	60 business days prior to the start of the operational test.
3	Start Up Phase Readiness Assessment	One Time	20 business days prior to the planned completion of all startup activities.
4	Operational Procedures Manual	Annual	30 business days prior to the planned completion of all startup activities.
5	Maintenance & Operations Plan and Schedule	Annual	30 business days after completion of startup period.
6	Infrastructure and Application Support Plan	Annual	140 business days after completion of startup period.
7	Quality Assurance Plan	Annual	160 business days after completion of startup period.
8	MARS-E Compliant Security Documentation	Annual	70 business days after contract start.
9	Transition Plan	One Time	Within 30 business days of notice of contract termination or expiration.
10	Project Status Report	Monthly	3 business days after the last day of each month.
11	Defect Remediation Report	Monthly	3 business days after the last day of each month.
12	Job Exceptions Report	Monthly	3 business days after the last day of each month.

Alluma also included a small price per hour increase (5%), because Alluma’s hourly rate has not increased for five years. Together, Alluma’s cost proposal best reflects the quality and quantity of work required under the RFP and presents the proposal most advantageous to the State.

III. REQUEST FOR STAY

For all the reasons set forth above, there is a reasonable probability that Alluma’s protest will be upheld; and, consideration of Alluma’s proposal is in the best interest of the State. As such, and pursuant to AHCCCS R9-22-604(E) and R2-7-A902(A) & (C), Alluma respectfully requests that contract implementation be stayed until its protest is fully resolved.

IV. REQUESTED RELIEF & CONCLUSION

Because the State’s contract award does not comply with applicable statutes and rules, the CPO should sustain the protest and “order an appropriate remedy.” R2-7-A904(A); R9-22-604(H). Alluma respectfully requests that the CPO award Alluma the contract. Alternatively, the CPO should reissue the solicitation consistent with Arizona law.

Pursuant to R2-7-A904(B) and R9-22-604(H)(2), Alluma’s proposed remedies are wholly appropriate under the circumstances:

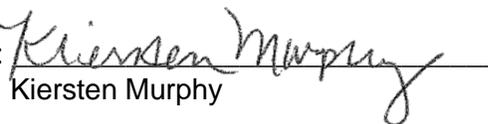
- As articulated above, the procurement deficiencies in connection with the RFP were both material and prejudicial. Alluma’s proposal was precluded even from evaluation, inconsistent with applicable procurement regulations, the Arizona Procurement Manual, and AHCCCS’ own past practices. See R2-7-A904(B)(1); R9-22-604(H)(2)(a);

- Although other interested parties may argue prejudice, the integrity of the procurement process would be furthered by Alluma's requested relief and a stay pending resolution of the protest would serve the State's best interests. *Id.* at R2-7-A904(B)(2); R9-22-604(H)(2)(b);
- Alluma has acted in good faith, reviewed the procurement file for apparent errors in the procurement process, and brought this protest only after careful consideration. *Id.* at R2-7-A904(B)(3); R9-22-604(H)(2)(c);
- To the best of Alluma's knowledge, contract performance has not yet begun. *Id.* at R2-7-A904(B)(4); R9-22-604(H)(2)(d);
- Based on Alluma's proposal and its understanding of the work required under the RFP, Alluma reasonably believes that its proposed solution would be the most advantageous to the State (meaning that its proposal represents the highest level of benefits at an accurate cost, without cost overruns or unanticipated add-ons). *Id.* at R2-7-A904(B)(5); R9-22-604(H)(2)(e) & (g);
- Alluma is not aware of any particular urgency for this procurement that would preclude staying implementation during the pendency of this protest. *Id.* at R2-7-A904(B)(6); R9-22-604(H)(2)(f);
- Alluma believes a stay would further AHCCCS' mission, giving AHCCCS an opportunity to consider this protest and Alluma's proposal (which will best meet with State's ultimate needs under the RFP). *Id.* at R2-7-A904(7).

Alluma therefore respectfully requests that the CPO: (1) stay contract implementation pending resolution of this protest; (2) sustain Alluma's protest; and (3) either issue the contract award to Alluma or reissue the solicitation consistent with Arizona law.

Very truly yours,

HENZE COOK MURPHY, PLLC

By: 
Kiersten Murphy