

September 26, 2014

Brian McNeil, Director  
Arizona Department of Administration  
100 North 15<sup>th</sup> Avenue  
Phoenix, Arizona 85007

Dear Director McNeil:

Pursuant to the authority granted the Director of the Department of Administration pursuant to A.R.S. § 41-2546(A), AHCCCS is requesting a determination from you that it is advantageous to the State to extend YH12-0001 for a period of time in excess of five years. In compliance with A.A.C. R2-7-605(B), this is the agency's written request for a one year extension of the initial five year term. This letter is intended to (1) document that the estimated requirements are reasonable and continuing and (2) document that such a contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

As detailed in my letter to you dated June 23, 2014, there are several important programmatic reasons that need to be considered as part of requesting a one year extension. The uncertainty and impact surrounding the Arizona 1115 waiver renewal, new Medicaid Managed Care Regulations and Dual Special Needs Plans all will negatively impact the procurement if it moves forward as scheduled for October 1, 2016. While AHCCCS must deal with uncertainty in every procurement cycle, the number and severity of the open issues associated with this procurement will no doubt add costs to the AHCCCS bids as potential contractors have to price into their bid the variables associated with each of these items. The value associated with the next contract will be approximately \$5 billion over five years. While it is difficult to quantify the premium associated with the programmatic variable highlighted above, it is reasonable to assume that it is at least millions and probably tens of millions of dollars in added costs to the AHCCCS program. It is also possible that, rather than pricing the uncertainties, some potential offerors may elect not to submit a proposal; in other words, the level of uncertainty may lead to reduced competition.

Issuing an RFP that is reasonably expected to include bid rates that are increased by a risk premium to account for uncertainties is not consistent with maximizing the purchasing value of public monies since the risk premium can be avoided by simply waiting one year. Stated differently, if the expensive contingencies do not come to pass, the state will still have incurred the cost through higher capitation payments during the first year of the contract.

In addition it is likely that, if a procurement is held for an October 1, 2016 contract, significant amendments will have to be made to the terms of the contracts and compensation under the contracts to account for the uncertainties once they are resolved. To the extent that this might be perceived as significant and material changes from the terms of the RFP, the necessary amendments may undermine public confidence in the procurement process.

The additional year will provide more clarity around each of the programmatic variables. The 1115 waiver issues will be resolved as the current waiver expires on September 30, 2016. The Medicaid Managed Care Regulations will have been promulgated by the federal government and the impact identified. Finally, AHCCCS will have considerable more information on how the Duals Special Needs Plan Medicare products are evolving.

Among other objectives, Arizona Laws 1984, Chapter 251, Sections 1 and 40, lists the purposes of the Arizona Procurement Code as including: maximizing the purchasing value of public monies, fostering effective broad-based competition, safeguarding the quality and integrity of the procurement system, and increasing public confidence in the public procurement process. As stated in this letter and the letter of June 23, 2014, a one year delay is consistent with and fosters each of these objectives.

I also wanted to take this opportunity to provide additional information on the transparent public stakeholder process that was highlighted in my June 23<sup>rd</sup> letter. AHCCCS will follow a similar process to what we have currently engaged in with regards to the proposed merger between Banner Health Systems and the University of Arizona Health Network. As part of our review of this merger, AHCCCS has held a public hearing that was very well attended. At the hearing information was provided to the public as well as the opportunity for the public to make comments. AHCCCS also now has a 60 day period in which organizations can submit public comment that will be evaluated as part of the decision on the merger issues. As has been done with the Banner/UAHN merger, AHCCCS will post all relevant information to the website. This process of seeking stakeholder input is very important to AHCCCS given the size and scope of these public contracts. Stakeholder input will be evaluated and used to validate or alter the approach with regards to the proposed contract extension.

I appreciate your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Betlach', with a large, sweeping flourish at the end.

Thomas J. Betlach  
Director