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GOVERNOR

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STATE TREASURER

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COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES  
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HUGH K. LEATHERMAN, SR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE  
CHAIRMAN, HOUSE WAYS AND MEANS

## Written Determination

**Matter of:** Cancellation of Award to Southeastrans, Inc.

**Case No.:** 2016-132A

**Posting Date:** August 31, 2016

**Contracting Entity:** SC Department of Health and Human Services

**Solicitation No.:** 5400008382

**Description:** Transportation Coordinator to Manage the Daily Functions of the South Carolina Non-Emergency Medical Transportation Program

This matter is before the Chief Procurement Officer for Information Technology<sup>1</sup> (CPO) for a second time. The South Carolina Department of Health and Human Services (HHS) requests the CPO to cancel an award to Southeastrans, Inc. (Southeast) under the provisions of §11-35-1520(7) of the South Carolina Consolidated Procurement Code (Code) and Regulation 19-445.2085(C). The Department's request is attached as Exhibit 1.

### BASIS FOR THE REQUEST

HHS issued this solicitation under a delegation from the CPO to acquire a transportation coordinator to manage the daily functions of the South Carolina Non-Emergency Medical Transportation Program. It posted an Intent to Award to Southeast on February 26, 2016. The award statement indicates the total potential value of the contract is \$94,660,696.70. LogistiCare,

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<sup>1</sup>. The Materials Management Officer delegated the administrative review of this request to the Chief Procurement Officer for Information Technology.

Inc. protested the intended award, alleging among other things that Southeast proposed to use its own Quick Response Vehicles in violation of the Request for Proposals and federal regulation 42 CFR 440.170(a)(4)(ii)(B). The CPO denied the protest. On the specific issue of Southeast's proposed use of its own vehicles, HHS argued that an exception in the regulation allowed the transportation coordinator to also provide transportation under certain emergency conditions. (Ex. 2) The CPO relied on this exception in denying this protest ground. Logisticare appealed the decision to the Procurement Review Panel.

Subsequently, HHS sought additional clarification from the Centers for Medicare and Medicaid Services (CMS). CMS responded as follows:

... These exceptions must be approved by CMS and specified in the state plan in order for a state to have the authority for a broker to also be a provider of transportation. Since South Carolina has not submitted a request with documentation to show that such an exception is needed and CMS has not approved such an exception, the state plan does not currently have this authority to permit the broker to also be a provider of transportation.

It should be noted that these exceptions were intended to provide relief in circumstances where the availability of qualified transportation providers is unusually scarce and the area is therefore underserved by transportation providers. Brokers who bid on an NEMT contract are expected to be able to contract with an adequate network of transportation providers. I [*sic*] should be noted that these exceptions were not intended to provide back up for the broker when a qualified provider does not complete the assigned travel request.

(Ex. 3)

As a result, HHS has requested cancellation of the award to Southeast prior to performance, alleging that "the award is in error." The request cites Regulation 19-445.2085(C)(7), which states:

**Cancellation of Award Prior To Performance.**

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

(7) Administrative error of the purchasing agency discovered prior to performance....

## DISCUSSION

Consistent with the decision in *Appeal by Analytical Automation Specialists, Inc.*, Panel Case No. 1999-1, the CPO advised the Panel of HHS's request. The Panel's response is attached as Exhibit 4. Although the using agency has specifically requested cancellation, the determination whether to grant the request is not one the CPO takes lightly. As the Panel noted in *Analytical Automation Specialists*:

The Panel takes this opportunity to caution agencies to carefully consider before requesting cancellation and resolicitation, especially when a protest has been filed, as the request may appear to be an attempt to circumvent the procurement process. The Panel encourages the CPOs to continue to cautiously and carefully exercise the authority to cancel and resolicit procurements, especially when a protest has been filed.

HHS now considers the proposal by Southeast to be non-responsive, leaving the CPO little choice but to grant the request, and to order resolicitation of the contract. *See Appeal by Blue Cross Blue Shield of South Carolina*, Panel Case No. 1996-3.

## DETERMINATION

In order to cancel the award, the CPO determines that the automatic stay shall be lifted pursuant to S.C. Code Ann. § 11-35-4210(7).<sup>2</sup> Pursuant to Regulation 19-445-2085(C), the award to Southeastrans, Inc., and Solicitation No. 5400008382, are cancelled.



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Michael B. Spicer  
Chief Procurement Officer for Information Technology

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<sup>2</sup> The CPO infers that the head of the using agency concurs with this action, since the agency has requested cancellation.

## Exhibit 1

Dear Mr. Spicer,

The South Carolina Department of Health and Human Services (SCDHHS) hereby requests cancellation of award prior to performance for proposed Contract No. 4400012490 resulting from Solicitation No. 5400008382—Transportation Coordinator to Manage the Daily Functions of the South Carolina Non-Emergency Medical Transportation Program. The total potential value of the proposed contract award is \$94,660,696.70.

After award but prior to performance, the Centers for Medicare and Medicaid Services (CMS), the federal agency that administers the Medicaid program and approves the South Carolina Medicaid State Plan (State Plan), informed SCDHHS that the current State Plan does not include the authority to permit a broker to also be a provider of transportation. A copy of the correspondence from CMS dated August 3, 2016, is attached. Since the intended awardee, Southeastrans, proposed that it also serve as a provider of transportation when conditions warranted, the award is in error.

SCDHHS therefore requests cancellation of the award prior to performance in accordance with Regulation 19-445.2085(C), (7), that reads,

### C. Cancellation Of Award Prior To Performance.

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

(7) Administrative error of the purchasing agency discovered prior to performance

Since the intended award is currently under appeal and scheduled to be heard by the Procurement Review Panel on August 31, 2016, time is of the essence.

Thank you for your consideration of this request.

Sincerely,

-----  
\*John Stevens\*

/Administrative Manager II/

John.Stevens@scdhhs.gov <mailto:John.Stevens@scdhhs.gov>

803-898-0541

J 633 1801 Main St.

Columbia, SC- 29201

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**\*Confidentiality Note \***

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If you have received this in error, please notify us immediately and destroy the related message.

## Exhibit 2



Nikki R. Haley GOVERNOR  
Christian L. Saura DIRECTOR  
P.O. Box 8206 > Columbia, SC 29202  
www.scdhhs.gov

March 25, 2016

Via email [mspicer@mmo.sc.gov](mailto:mspicer@mmo.sc.gov)

Mr. Michael B. Spicer  
Chief Procurement Officer  
Materials Management Office  
1201 Main Street, Suite 600  
Columbia, South Carolina 29201

Dear Mr. Spicer:

This is the Department of Health and Human Services' ("Department's") response to your request of March 18, 2015. LogistiCare Solutions, LLC ("LogistiCare") filed a protest to the award of Solicitation 5400008382 for Transportation Coordinator to Manage the Daily Functions of the South Carolina Non-Emergency Medical Transportation Program by the Department. In the protest, LogistiCare alleged the selected offeror, Southeastrans, Inc. ("Southeastrans") failed to provide a contingency plan as its only proposed solution violates the RFP and governing federal law, thereby making Southeastrans non-responsive. The Department disagrees.

LogistiCare's allegation that Southeastrans' proposal for the contingency plan violated the solicitation misrepresents the RFP. The scenario presented in the solicitation asks for the offerors to describe their contingency plans for how they will handle unexpected peak transportation demands and back-up plans when notified that a vehicle is excessively late or unavailable. These scenarios are unusual situations outside of the development of the transportation provider network and very important considerations to ensure that the most vulnerable citizens of South Carolina are able to reach their medical appointments. Additionally, Section 3.3.6 of the RFP contemplates the Transportation Coordinator operating its own vehicles and specifically permits it.

### **3.3.6 Control The Use of Transportation Coordinator Operated Vehicles**

Only operate vehicles to provide NEMT services in limited circumstances, as provided in 42 CFR 440.170(a)(4)(ii)(B). If the Transportation Coordinator meets any of these limited circumstances, prior to use by the Transportation Coordinator, the vehicles must be inspected and the drivers must be credentialed using the same requirements applied to the contracted transportation providers.

In its protest, LogistiCare cites responses to several questions which were asked as a part of the procurement process. The response to question 41 mirrors the language provided in the Code of

Federal Regulations ("CFR") at 42 CFR 440.170(a)(4)(ii)(B). The responses to question 33, specifically subsections a – d, were answered by the Department based on the conditions which were existing at the time of the responses and did not limit or speak to any potential future environment. Additionally, the response to question 33, subsection e, briefly and broadly restated contractual requirements, rather than proposal requirements. It confirms that as a part of the contract, the Transportation Coordinator will have a transportation provider network for adequate access for Members. If during the term of the contract, any area is determined to have inadequate access, a recruitment plan must be developed and implemented. These responses do not require "approval on a case by case basis" as LogistiCare alleges. The language in the responses cited did not alter the language of the RFP.

In fact, the language mirroring 42 CFR 440.170(a)(4)(ii)(B) is broad related to a contingency plan, specifically the third exception which allows the Transportation Coordinator to operate its own vehicles if the availability of qualified participating transportation providers is insufficient to meet the need for the demand. It is clear to the Department that the scenarios for which the contingency plan is requested squarely fit into the third exception, allowing the Transportation Coordinator to provide services itself if the number of participating qualified providers "is insufficient to meet the need for transportation."

As for the response to question 33, the response reiterates that a contingency plan is necessary to address unexpected changes. Neither the Department nor federal law prohibits the Transportation Coordinator from operating its own vehicles as a part of its contingency plan for unexpected peak demands or back-up situations.

As discussed above, the response to question 41 and the RFP language, itself, reflect federal law, as presented in the CFR. Federal law allows Southeastrans the latitude to provide Quick Response Vehicles for unexpected peak transportation demands and as a back-up when notified that a vehicle is excessively late or otherwise unavailable because such times reflect periods where participating qualified providers is insufficient to meet the transportation need.

Additionally, LogistiCare misrepresents Southeastrans' proposal, including the description of its contingency plan. As a part of the contingency plan, Southeastrans does propose transportation providers take responsibility for the trips they are assigned by assisting with back-up service when that transportation provider fails to perform. The Department expects the Transportation Coordinator to hold its transportation provider network accountable, so having Southeastrans look to the original transportation provider to whom the trip was originally assigned for resolution of a failure scenario is a viable contingency plan method. Southeastrans also proposes using its *InSight* Mobile Application, which allows dispatchers to identify the vehicles in the area to determine whether another transportation provider can meet the unexpected peak demand or provide back-up service for a late or unavailable vehicle. Both of these methods are also a part of Southeastrans' contingency plan proposal, in addition to the possibility of using their Quick Response Vehicles, which are the vehicles owned and operated by Southeastrans.

Mr. Michael B. Spicer  
March 25, 2016  
Page 3

LogistiCare's contention that Southeastrans is able to provide its "own vehicles in other places because of the way Medicaid programs are set up in those other states" fails because all Medicaid programs are required to follow the federal law, which includes the CFR requirements related to the circumstances under which transportation brokers (called Transportation Coordinator in this solicitation) may use their own vehicles to provide service. Southeastrans' model in other states, or as presented for South Carolina, is not contrary to federal law, nor the solicitation. LogistiCare's protest takes issue with the validity of Southeastrans' contingency plan, but whether the contingency plan is valuable to the State is a scoring issue, not a responsiveness issue.

For the reasons presented above, the Department believes Southeastrans' proposal to be responsive and not contrary to federal law. The Department respectfully requests that the protest of LogistiCare be dismissed and that the award to Southeastrans be re-instated.

Sincerely,



Vicki Johnson  
Deputy General Counsel

VJ/b

cc: Keith McCook - via email  
Dixon Robertson - via email  
Wade Mullins - via email  
Butch Bowers - via email  
Missy Copeland - via email  
John Schmidt - via email



## Exhibit 3

**Deirdra Singleton**

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**From:** Drake, Maria (CMS/CMCHO) <Maria.Drake@cms.hhs.gov>  
**Sent:** Wednesday, August 03, 2016 4:19 PM  
**To:** Deirdra Singleton  
**Cc:** Sheila Chavis  
**Subject:** SC Broker Authority

**Importance:** High

Hello,

42 CFR 440.170(a)(4)(A)(ii) prohibits the non-governmental broker from also being a provider of transportation unless certain exceptions exist. The prohibitions described at clause (A) of this paragraph do not apply if there is documentation to support that: (1) Transportation is provided in a rural area, as defined at § 412.62(f) (which defines a rural area as being outside of a metropolitan statistical area) and there is no other available Medicaid participating provider or other provider determined by the State to be qualified except the non-governmental broker; (2) Transportation is so specialized that there is no other available Medicaid participating provider or other provider determined by the State to be qualified except the non-governmental broker; or (3) Except for the non-governmental broker, the availability of other Medicaid participating providers or other providers determined by the State to be qualified is insufficient to meet the need for transportation. These exceptions must be approved by CMS and specified in the state plan in order for a state to have the authority for a broker to also be a provider of transportation. Since South Carolina has not submitted a request with documentation to show that such an exception is needed and CMS has not approved such an exception, the state plan does not currently have this authority to permit the broker to also be a provider of transportation.

It should be noted that these exceptions were intended to provide relief in circumstances where the availability of qualified transportation providers is unusually scarce and the area is therefore underserved by transportation providers. Brokers who bid on an NEMT contract are expected to be able to contract with an adequate network of transportation providers. It should be noted that these exceptions were not intended to provide back up for the broker when a qualified provider does not complete the assigned travel request.

Fran

--Maria--

Maria Drake, MSW | Health Insurance Specialist | Centers for Medicare & Medicaid Services (CMS) | Division of Medicaid and Children's Health Operations | Atlanta Regional Office | 61 Forsyth St. S.W., Suite 4T20 | Atlanta, GA 30303-8909 | 404-562-3697 Phone | 443 380-5814 Secure Fax | [Maria.Drake@cms.hhs.gov](mailto:Maria.Drake@cms.hhs.gov)

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

## Exhibit 4

### South Carolina Procurement Review Panel

HON. MARK HARTLEY  
HON. WILLIE D. FRANKS  
VICE CHAIRMAN  
HON. GLENNITH C. JOHNSON  
  
PAMELA GILLINS  
BUSINESS MANAGER

SOLOMON BLATT BUILDING  
1105 PENDLETON STREET, SUITE 209  
COLUMBIA, SOUTH CAROLINA 29201  
(803) 734-0660  
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HON. MARGARET A. COLLINS  
HON. MELISSA E. DAWSON  
HON. BARBARA DERRICK

CHRISTIE M. EMANUEL  
ATTORNEY



HON. C. BRIAN MCLANE, SR.  
CHAIRMAN

August 23, 2016

#### Via E-mail and U.S. Mail

John E. Schmidt, III, Esquire  
Counsel for LogistiCare Solutions, Inc.  
Schmidt & Copeland, LLC  
P.O. Box 11547  
Columbia, SC 29211

E. Wade Mullins, III, Esquire  
Counsel for Southeastrans, Inc.  
Bruner Powell Wall & Mullins, LLC  
P.O. Box 61110  
Columbia, SC 29260

Vicki Johnson, Esquire  
Counsel for SCDHHS  
SCDHHS  
P.O. Box 8206  
Columbia, SC 29202

W. Dixon Robertson, III, Esquire  
Counsel for SFAA  
P.O. Box 11608  
Columbia, SC 29211

Re: Appeal by LogistiCare, Inc.  
Panel Case No. 2016-7

Dear Counsel:

The Panel Chairman has received and considered the CPO's request for guidance on how to proceed with the South Carolina Department of Health and Human Services' request that he cancel the award which is the subject of an appeal to the Panel and scheduled for a hearing on Wednesday, August 31, 2016. In considering the CPO's request, the Chairman has considered the applicable Procurement Code provisions, the Panel's precedent, and the written submissions of counsel for Southeastrans, Inc., and LogistiCare, Inc.

The Chairman finds that the circumstances here, where the Department has requested the cancellation and the CPO has asked for the Panel's guidance, are almost identical to those present

in the case of *Protest of Analytical Automation Specialists, Inc.*, Panel Case No. 1991-1. In addition, the Chairman recognizes that any decision the CPO makes regarding the Department's request will directly impact the issues on appeal before the Panel. For these reasons, and in the interest of judicial economy, the Chairman concludes that the CPO should proceed with his review of the Department's request and issue a written determination at his earliest convenience.

While the CPO considers the Department's request, the Panel's proceedings will be continued until he has reached a decision. I have included with this letter a notice canceling next Wednesday's hearing. In light of this cancellation, Southeastrans' objection and motion to quash and LogistiCare's request for hearing attendance subpoenas will be held in abeyance until such time a new Panel hearing is scheduled.

The Chairman is confident that the CPO will conduct his review of the Department's request in accord with the provisions of the Procurement Code and expresses no opinion on the question of whether or not the award to Southeastrans should be canceled.

Please do not hesitate to contact me if you have further questions.

Respectfully yours,



Christie M. Emanuel

Enc.

cc: Mr. Michael B. Spicer (e-mail only)  
Mr. Karl S. Bowers, Jr. (e-mail only)  
Ms. Melissa J. Copeland (e-mail only)

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Written Determinations Appeal Notice (Revised May 2016)*

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b), states:

(1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:

(b) requests for review of other *written determinations*, decisions, *policies*, and *procedures* arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

(Emphasis added.) See generally *Protest of Three Rivers Solid Waste Authority by Chambers Development Co., Inc.*, Case Nos. 1996-4 & 1996-5, *Protest of Charleston County School District*, Case No. 1985-5, *Charleston County School Dist. v. Leatherman*, 295 S.C. 264, 368 S.E.2d 76 (Ct.App.1988).

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Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 111.1 of the 2015 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel  
Request for Filing Fee Waiver  
1105 Pendleton Street, Suite 209, Columbia, SC 29201**

---

\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

---

1. What is your/your company's monthly income? \_\_\_\_\_

2. What are your/your company's monthly expenses? \_\_\_\_\_

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

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To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

\_\_\_\_\_  
Requestor/Appellant

My Commission expires: \_\_\_\_\_

---

For official use only: \_\_\_\_\_ Fee Waived      \_\_\_\_\_ Waiver Denied

\_\_\_\_\_  
Chairman or Vice Chairman, SC Procurement Review Panel

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Columbia, South Carolina

**NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.**

	<u>Apr-16</u>	<u>May-16</u>	<u>Jun-16</u>	<u>TOTAL/Average</u>
Total Cancellations	38,541	41,326	42,214	122,081
RNS Cancellations	5,277	5,503	6,585	17,365
RNS Cancellation Percentage	13.69%	13.31%	15.59%	14.20%
RNS Complaints	1,036	1,280	1,210	3526
RNS Complaint Percentage based of TOTAL Cancellations	2.68%	3.09%	2.86%	2.88%
RNS Complaint Percentage based of RNS Cancellations	19.63%	23.26%	18.37%	20.42%
Gross Trips	233,136	237,057	240,982	711,175
RNS Complaint Percentage based on Gross Trips	0.44%	0.53%	0.50%	0.49%
RNS Cancellation Percentage based on Gross Trips	2.26%	2.32%	2.73%	2.44%

	<u>Apr-16</u>	<u>May-16</u>	<u>Jun-16</u>	<u>TOTAL/Average</u>
Repeat RNS Complaints (3 or more valid RNS Complaints in a 30 day period)	43	72	48	163
Percent of repeat complaints from All RNS complaints	4.15%	5.62%	3.96%	4.58%
Percent of Repeat RNS Complaints compared to gross trip volume	0.01%	0.03%	0.01%	0.02%
Percent of ALL RNS Complaints compared to gross trip volume	0.44%	0.53%	0.50%	0.49%

22 Repeat Members	
Percent of 22 Repeat offenders compared to all RNS complaints	0.62%
Percent of 22 Repeat offenders compared to Gross Trips	0.00%
Percent of 22 Repeat offenders compared to Total Cancellations	0.01%
Percent of 22 Repeat offenders compared to Total RNS cancellations	0.12%

Of those 163 repeat offenses only 22 carried over to May and June continuing their habitual RNS behavior.

## **Rider Guidelines**

### **Rider Rights**

#### **Information**

You have the right to receive accurate information you can understand about your transportation. If you speak another language or just don't understand something, you will be helped.

#### **Transportation**

You have the right to safe transportation. Drivers must drive safely and follow all state and local laws. Drivers must do their best to pick you up and drop you off at the scheduled times. Drivers may request to pick you up early.

#### **Respect**

You have the right to respectful treatment. You have the right not be discriminated against by your driver or by other riders.

#### **Complaints**

You have the right to file a complaint. This includes complaints about pick-up times, waiting times, safety, and the conduct of drivers or other riders. This also includes complaints about LogistiCare and the conduct of LogistiCare staff. Complaints may be called into any LogistiCare phone number. LogistiCare's phone numbers are below.

### **Rider Responsibilities**

#### **Information**

You are responsible for providing correct information to LogistiCare and to your transportation provider.

#### **Cancellations**

You are responsible for notifying LogistiCare if you need to cancel your trip. Please call as soon as possible so LogistiCare can tell the transportation provider. LogistiCare's phone numbers are below.

#### **Pick-Up Times**

You are responsible for being ready at your scheduled pick-up time. Your driver needs to pick you up and also pick up other riders. Your driver will not be able to wait more than ten (10) minutes past your scheduled pick-up time. After ten (10) minutes you are considered a "no-show" for your ride. Your ride will be cancelled at that time.

## **Transportation**

You are responsible for obeying all state and local laws including wearing the provided safety belts. You must obey immediately any request or suggestion from the driver about safety. You must obey all posted rules.

## **Respect**

Your driver has the right to respectful treatment. Your driver has the right not be discriminated against by you or by other riders (including escorts). You are responsible for treating your driver and other riders with respect. You must not use vulgar or offensive language.

## **Packages**

Your driver is only able to transport you and any medical equipment (like a wheelchair or walker). You may not bring other packages (like groceries or presents) on the vehicle.

## **Complaints**

Your driver has the right to file a complaint. This includes complaints about pick-up times, waiting times, safety, and the conduct of passengers. Here is what happens if a complaint is filed:

- LogistiCare will research the complaint and find out what happened. If we find out the complaint is valid, we will tell you what we think happened and what we would like you to do next time.
- If a second complaint is filed and we find out the complaint is valid, we will tell you what we think happened and what we would like you to do next time. We will also tell you about possible consequences if the behavior continues.
- If a third complaint is filed and we find out the complaint is valid, we will tell you what we think happened and what we will do to fix the problem. That might include bringing an escort with you for future trips, using public transit, or using gas reimbursement.
- If we continue to receive complaints, LogistiCare will ask others for help in resolving the problem. This might include DHHS, your doctors, or your caregiver.

## **Contact Information**

Please call LogistiCare if you have any questions.

Region 1: Reservation Line: (866) 910-7688

Region 2: Reservation Line: (866) 445-6860

Region 3: Reservation Line: (866) 445-9954

Ride Assist Line: (866) 910-7689

Ride Assist Line: (866) 445-9962

Ride Assist Line: (866) 445-9964



Proposed Glossary Definitions:

**Total Trips** – Total number of one-way trips completed and paid.

**A Leg** – The first leg of the trip, traditionally originating from a residence and going to the medical appointment and will also include one-way only trips.

**B Leg** – The second leg of the trip, traditionally returning to the residence after a medical appointment.

**Extra Passengers** – The total number of additional people transported in addition to the member (includes parent/guardian, minor children riding with parent, adult escort providing assistance to the member).

**Overnight Trips Arranged** – The total number of unique overnight trips. This number is not representative of the total number of individual days/nights or the amount of service provided. (for instance a member who travels out-of-state and is gone for 7 nights and uses airfare, meals, and lodging is represented as a '1').

**Miscellaneous Complaints** – Transportation Provider complaints not covered by another specific category. (for instance a complaint involving dispatching procedures).

**Rider/Injury Complaints** – Includes complaints resulting in rider injury, potential rider injury, and incidents involving rider behavior such as physical or verbal attacks or threats.

**Valid/Invalid Complaints** – Closing code based on a thorough investigation and deemed to be within the contractual service parameters (invalid) or outside the contractual service parameters (valid).

**Other Stakeholder Complaints** – Includes suspected rider fraud and abuse, healthcare facility issues that affect a stakeholder, rider no shows or other non-threatening/non-violent rider complaints.

**Incident Severity Level One:**

Received an incident report from *Provider* on *Date*. *Provider* stated that the member was being transported to her appointment on *Date* and she stated that she felt as though she was going to black out. The member blacked out and became unresponsive. The driver pulled over and called 911 and his dispatcher. EMS met the driver and took over the care of the member and transported her to the ER to be checked out. LogistiCare called the member on *Date* but phone was not working and could not leave a message. Letter sent to the member on *Date* asking the member to contact me regarding her illness. The member never called. *Provider* sent the incident report describing the incident. Member was released from the ER and has gone to other appointments since this incident.

**Incident Severity Level Two:**

*Provider* called Logisticare on *Date*. She stated that their driver was backing the vehicle up on *Date* and hit a wheelbarrow. *Provider's* vehicle and the wheelbarrow were not damaged and the member was not injured. LogistiCare called the member on *Date* but got his voice mail. Left the member a message to call me back regarding the incident. Called the member on *Date* and *Date* but he was not in. The member never called back. *Provider* sent the incident report describing the incident. Member was taken to the appointment.

**Incident Severity Level Three:**

Received an incident report from *Provider* on *Date*. *Provider* stated that the driver took the member's walker off the vehicle as she stood at the top step at the door of the vehicle. The driver put her hands up to assist the member down the steps and the member fell backwards. LogistiCare spoke to the member on *Date*. She stated that she was not injured and she is doing fine. *Provider* sent the incident report describing the incident. The driver asked the member if she was ok after fall and went to the top of the steps to pick the member up. The member said that she was okay and driver helped her down the steps.

**Injury Severity Level Two:**

*Provider* called Logisticare on *Date*. She stated that the *Provider's* driver was stopped at a traffic light on *Date* and was rear ended by another vehicle. There was one member on the vehicle and the member was not injured. Called the member on *Date* and she stated that she had a headache later after the accident and went to ER to be checked out. Member is doing okay now. Member will call LogistiCare back if she need to. *Provider's* driver was not at fault in the accident. Member was transported to her destination after the accident.

**Injury Severity Level Three:**

*Provider* called Logisticare on *Date*. She stated that the driver was transporting two members on *Date* and was hit in the rear by another vehicle. This was a three car accident and the driver was hit by a car that was hit in the rear by another car. Called the member's residence (Trip *Number*) on *Date*. Spoke to the member's mom and she stated that member is sore and seem to sleep a lot and is holding his head. She stated the member is taking Tylenol for the pain. Mom states she will call Logisticare back if she need to. *Provider* sent the incident report describing the accident. The *Provider's* driver did not contribute to the accident. EMS was called and the member on trip *Number* was picked up by his mom and did not go to the ER.

## Courtney Sanders

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**From:** Heath Hill <hhill@nhcnorthaugusta.com>  
**Sent:** Wednesday, September 14, 2016 2:53 PM  
**To:** Courtney Sanders  
**Cc:** randylee@schca.org  
**Subject:** RFP concerns for the TAC

Courtney-

As I pointed out earlier today, I have come across some puzzling figures as it relates to the current RFP up for bid. I understand it is still in the process and not sure what the legalities of that are. However I would like for these concerns be made available to Ms. Bedsole as the Chairman, as well as the other members of the TAC.

I do not have full numbers on the impact of this program all the way back to its inception but I will try to point out some questionable numbers that I have come across.

First, in the LAC report that was responded to by Director Forkner in 2009, it was explained that the actuary's projections would have had state costs in 2007-08 to be \$52.5 million up to \$60.6 million. When I look at the awards for AMR and Logisticare for the 2010-11 rebids, they were awarded \$162 million and \$72 million respectively over a 5 year contract. That comes in to be an average of \$32.4 million and \$14.5 respectively. Being that the state was covered by both of these providers, that would be a combined cost of \$47.9 million.

I do not have information prior to that on the award amounts for the MTM/ Logisticare shared broker service that originated in 2006.

That leads me to my next question of how the most recent award could go to Southeasterntrans earlier this year for \$94.6 million over a 7 year period. That comes in at \$13.5 million per year. This is much below what previous estimates and awards have been. This leads me to question what the level and quality of service would have been had this award not been appealed.

Now when I read the appeal that Logisticare placed in reference to the award to Southeasterntrans, it states that Logisticare values the contract at about \$80 million. That is a much different number than what has been covered previously in this email.

However, if you take the high end estimate of \$60 million as was alluded to by Director Forkner, and project a 3% increase over the last 10 years, that comes in roughly at \$80.6 million.

That being said, I have some serious concerns about the wide range of these numbers. Let alone the question of whether this could be done in the old format of dealing directly with the transportation providers. There has been a lot of unnecessary burdens--cost and labor--that have arisen over the last 10 years due this program that did not exist when you could just pick up the phone and schedule a transport. This may be an appropriate program to mitigate costs out in the community but it is not a suitable program for patients in a nursing home setting.

Like was done within 3 years of this program's inception, I find it appropriate that the TAC request to have the LAC do another audit on the suitability of this program. At a time when the contract is still up in the air, I find that the TAC would be doing it's due diligence in making this request.

If you have any questions about this email, or if I have mistaken any of this information, please feel free to let me know.

Respectfully submitted,

Heath Hill  
Rep for SCHCA

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## MEMORANDUM

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**TO:** FACILITIES  
**FROM:** LOGISTICARE SOLUTIONS, LLC  
**SUBJECT:** ESCORTS  
**DATE:** 7/14/2016  
**CC:**

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As discussed during the recent Advisory Council Meetings, LogistiCare has been reviewing existing policies regarding Non-Emergency Medical Transportation (NEMT) and escorts. While no changes have been made to the current process, questions have arisen regarding when an escort is approved/required and what responsibilities Transportation Providers have regarding escorts.

- An escort is an individual who is not an employee of a NEMT transporter and whose presence is required to assist a Member during transport or while at the place of treatment. An escort is typically a relative, guardian, or volunteer. An escort may also be staff should the Member reside at a nursing home or attend a facility that is required and/or chooses to provide an escort.
- A Member age eighteen (18) or older who requests an escort must submit a medical certification statement. The certification must document that the recipient has a physical or mental disability that would require assistance, such as the following:
  - Blindness
  - Deafness
  - Intellectually disabled
  - Mental illness or diminished capacity
  - Physical handicap to a degree that personal assistance is necessary
- An escort may be mandated by LogistiCare as part of the Rider Rights & Responsibilities process if an escort is deemed an appropriate part of the complaint resolution process.

- In instances in which an escort has been approved, transportation must not be provided without the presence of the escort on the vehicle. Should a Transportation Provider arrive for pick-up and the escort is not present, the Transportation Provider must contact LogistiCare. LogistiCare will not authorize transport without an escort in situations in which an escort has been mandated or when a medical certification statement is on file stating an escort is required.
- An escort's purpose is to provide assistance to the Member during transportation. It is the responsibility of the escort to remain engaged with the Member during transport and to ensure the Member's needs have been met. This includes, but is not limited to, the following examples:
  - Assist the Member in the seating process
  - Assist the Member with any required equipment or packages
  - Ensure the Member meets the expectations outlined in the Rider Guide
  - Assist the Member in exiting the vehicle
- The requirement for an escort is made based upon the Member's medical condition. If a Member requires an escort, this requirement must be met regardless of the level of service provided. This includes the requirement for an escort even when transportation is provided via non-emergency ambulance.
- The driver and/or attendant may not act as an escort for a Member age eighteen (18) or older under any circumstances.

Please reach out to the Facility Line at (866) 420-6231 with any questions regarding escorts.

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**MEMORANDUM**

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**TO:** TRANSPORTATION PROVIDERS  
**FROM:** KRISTA MARTIN  
**SUBJECT:** ESCORTS  
**DATE:** 7/13/2016  
**CC:**

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As discussed during the recent Advisory Council Meetings, LogistiCare has been reviewing existing policies regarding Non-Emergency Medical Transportation (NEMT) and escorts. While no changes have been made to the current process, questions have arisen regarding when an escort is approved/required and what responsibilities Transportation Providers have regarding escorts.

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  - Deafness
  - Intellectually disabled
  - Mental illness or diminished capacity
  - Physical handicap to a degree that personal assistance is necessary
- An escort may be mandated by LogistiCare as part of the Rider Rights & Responsibilities process if an escort is deemed an appropriate part of the complaint resolution process.
- In instances in which an escort has been approved, transportation must not be provided without the presence of the escort on the vehicle. Should a Transportation Provider arrive for pick-up and the escort is not present, the Transportation Provider must contact LogistiCare. LogistiCare will not authorize transport without an escort

in situations in which an escort has been mandated or when a medical certification statement is on file stating an escort is required.

- An escort's purpose is to provide assistance to the Member during transportation. It is the responsibility of the escort to remain engaged with the Member during transport and to ensure the Member's needs have been met. This includes, but is not limited to, the following examples:
  - Assist the Member in the seating process
  - Assist the Member with any required equipment or packages
  - Ensure the Member meets the expectations outlined in the Rider Guide
  - Assist the Member in exiting the vehicle
- The requirement for an escort is made based upon the Member's medical condition. If a Member requires an escort, this requirement must be met regardless of the level of service provided. This includes the requirement for an escort even when transportation is provided via non-emergency ambulance.
- The driver and/or attendant may not act as an escort for a Member age eighteen (18) or older under any circumstances.

Please reach out to the Provider Line at (866) 910-7690 with any questions regarding escorts.