BEFORE THE DIRECTOR OF THE
ARIZONA DEPARTMENT OF ADMINISTRATION

MAGELLAN HEALTH SERVICES OF ARIZONA, INC.
Appellant,

vs.

ARIZONA DEPARTMENT OF HEALTH SERVICES
Respondent.

Solicitation: ADHS13-00002257

DECISION AND ORDER REGARDING REQUEST FOR STAY

Pursuant to Arizona Administrative Code ("A.A.C.") R2-7-A907(B), Magellan Health Services of Arizona, Inc. ("Appellant") requested an immediate stay of performance of ADHS13-00002257 including any associated transition of services during the appeal to the Director. The Director\(^1\) has reviewed:

- Appellant’s Request for Immediate Stay of Award During Appeal to the Director, pursuant to A.A.C. R2-7-A907 ("Stay"), and Appeal, pursuant to A.A.C. R2-7-A905, both dated May 9, 2013;
- the Procurement Officer’s April 17, 2013 Protest Response ("Protest Response") and Exhibits; and
- the Appellant’s April 3, 2013 Protest, and Protest Stay Request During the Protest Pursuant to A.A.C. R2-7-A902.


\(^1\) The Arizona Department of Administration ("ADOA") Director, Brian C. McNeil, indicated his recusal from the appeal of ADHS13-00002257 and delegation to ADOA Deputy Director, Jeff Grant, in an email of May 10, 2013 to the interested parties or their representatives, and to ADHS.
Contractor [to] operate as the Regional Behavioral Health Authority (RBHA) to coordinate the delivery of health care services to eligible persons in Geographic Service Area (GSA) 6, which includes Maricopa County." See id.

The solicitation due date and time (aka “Bid Opening Date” or “Bid Closing”) was January 8, 2013 3:00:00 PM. See id. at 2; RFP Bid Opening Date (available at https://procure.az.gov/bs0/external/bidDetail.sdo?docId=ADHS13-00002257&external=true&parentUrl=bid last viewed 5/15/2013). Appellant, a disappointed offeror for this solicitation, was not awarded the contract. See Protest Response at 3. The Respondent awarded the contract March 25, 2013 to Mercy Maricopa Integrated Care (“MMIC”) and notified unsuccessful vendors. See id. Appellant filed a timely protest and request for stay April 3, 2013. Id. The Procurement Officer denied the protest and stay during the protest, by a decision issued April 17, 2013. See id. at 10.

Appellant now requests that the Director stay the performance of ADHS13-000002257, and any related transition activities, pending the outcome of its appeal, pursuant to A.A.C. R2-7-A907. The Director may stay the procurement “if the director determines that there is a reasonable probability the protest will be upheld or that a stay is in the best interests of the state.” See A.A.C. R2-7-A907.

Disposition

Appellant cites the cost, the uncertainty and the impact to the population served as basis for granting the stay. See Stay.

The Respondent’s Procurement Officer denied Appellant’s request for stay during the protest. See Protest Decision at 10. The Respondent’s Procurement Officer did not detail the basis for denial of the stay, but adopted and accepted “the analysis found MMIC’s Opposition to [Appellant] Magellan’s Protest” ... “to the extent it is not inconsistent with th[e] [Protest] Decision.” See id. That MMIC filing acknowledges that “[i]mplementing and performing this contract is a massive and complex undertaking” but concludes that “[t]he sooner the contract is awarded and performed, the sooner the needs of this behavioral and health care needy population will be served.” See Protest decision, Exh. 2 at 2.

The Director acknowledges the transition to a new model for integrated physical and behavioral health services, but respectfully disagrees the performance of the
contract awarded to MMIC, especially related transition activities, should not be stayed pending resolution of the appeal.

Without considering the merits of the substantive arguments raised in the Protest and Appeal, the Director concludes based on the impact transition of services imposes, the expense of the contract and RFP, the scope of the services provided and the population and their families it serves, a stay is in the best interests of the state. Further, it is unknown if a civil action filed by Magellan Health Services of Arizona, Inc. and Magellan Complete Care of Arizona, Inc. against Maricopa Integrated Health System ("MIHS")\(^2\) will affect the solicitation or the protest proceedings. When transition may be in the best interests of the state is not yet apparent, thus the Director concludes a stay is advisable during the appeal to the Director.

**Conclusion and Order**

Therefore, it is ORDERED that ADHS13-00002257, and related performance and transition activities, is STAYED during the appeal to the Director, or until otherwise notified by the Director.

Dated this 21\(^{st}\) day of May 2013.

Jeff Grant, Deputy Director for
Brian C. McNeil
Director

A copy of this Decision sent by
U.S. Certified Mail and e-mailed
this 21\(^{st}\) day of May 2013 to:

David G. Derickson
John P. Kaites

\(^2\) Magellan Health Services of Arizona, Inc. v. Maricopa County Special Health Care District d/b/a Maricopa Integrated Health System, Maricopa County Superior Court Civil Action No. CV2013-006962.
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And delivered by e-mail
this 21st day of May 2013 to:

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