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July 7, 2016

The Honorable Scott Haggerty, President, Alameda County Board of Supervisors
The Honorable Richard Valle, Alameda County Board of Supervisors
The Honorable Wilma Chan, Alameda County Board of Supervisors
The Honorable Nathan Miley, Alameda County Board of Supervisors
The Honorable Keith Carson, Alameda County Board of Supervisors
1221 Oak Street, Suite 536
Oakland, CA 94612

**Complaint Regarding Alameda County's Selection Process of
Ambulance Provider for Exclusive Operating Areas**

Dear Members of the Board of Supervisors:

Alameda County appears to be using an unorthodox method for selecting an ambulance provider to serve the exclusive operating area. The method bypasses the usual scrutiny imposed by the California Emergency Medical Services Authority (EMSA) to ensure a fair selection process. The California Ambulance Association (CAA) believes that the process which started in early June in Alameda County will not allow for free, open, and fair competition among qualified ambulance providers to compete for the exclusive contract. As a result, the County may be violating the Health and Safety Code and the State's anti-trust parameters. Further, actions taken by Alameda County to restrict free trade and fair competition will result in higher costs to the public, hamper innovations in operational efficiency, and possibly limit modernization in care to patients/public.

It seems that Alameda County is following a path recently taken by Contra Costa County to use two distinct selection processes for choosing an ambulance company to serve as an exclusive provider. The first process involves the Alameda County Fire Department's (ACFD) selection of an ambulance company to partner with the special district to form an Alliance. In accordance with information posted to ACFD's website:

The Alameda County Fire Department (ACFD) was formed on July 1, 1993 as a dependent special district with the Alameda County Board of Supervisors as its governing body. This consolidation brought together into a single jurisdiction the Castro Valley Fire Department, Eden Fire Department and County Fire Patrol (each a dependent special district under the Board of Supervisors).

ACFD issued an RFQ (#9014177) seeking a single ambulance company in which to form a partnership (Alliance). The purpose of the Alliance is to provide ACFD with the capability of providing ambulance

service to the public. Responses to the RFQ were due on June 22, 2016. Once ACFD becomes a qualified provider of ambulance service, as a result of forming the Alliance, ACFD becomes eligible to submit a proposal to the local EMS agency (LEMSA) to obtain the exclusive operating area contract. In this case, the LEMSA is the Alameda County Health Services Agency, Emergency Medical Services Division.

As the initial RFQ was prepared by ACFD, and not the LEMSA, the RFQ was not submitted to the California EMS Authority for pre-approval, as is required by State law of all competitive processes for ambulance exclusive operating area (EOA) contracts. ACFD's initial process to select an ambulance partner in the Alliance (as the EOA provider) bypasses the State's usual oversight.

In addition, a stipulation in ACFD's RFQ is that the selected ambulance company must agree to not compete in the second RFP competition for the EOA. ACFD's selected ambulance company is prohibited from competing for the EOA on its own as a separate entity – only as a partner in the Alliance. It seems that a restriction of this nature imposed by a special district or county may possibly violate a private company's ability to engage in free trade; this is probably a violation of the US Constitution.

The second process to be used by Alameda County is the typical LEMSA RFP process to select an EOA provider. As previously mentioned, the LEMSA is required by State law to submit the proposed RFP to the California EMS Authority for review and approval prior to public issuance.

The CAA finds it particularly problematic that the Alameda County Fire Department Board of Directors are the same individuals as the Alameda County Board of Supervisors. The Board of Supervisors sit as the directors of ACFD. Consequently, decisions to select an ambulance company partner and form the Alliance are essentially no different than the Board of Supervisors who later in the process award the exclusive operating area contract.

As the ACFD Board of Directors and the Board of Supervisors are the same people, it appears that the decision is made to select the exclusive ambulance company well in advance of the LEMSA's/County's formal selection process. The decision is essentially made upon the forming of the Alliance and not during the second RFP process. Consequently, the competitive process being used in Alameda County is seriously flawed and unfair.

When the County makes its decision as to its favored ambulance company well before the close of the LEMSA RFP process, then the LEMSA RFP process is meaningless. The LEMSA RFP process becomes nothing more than a sham to satisfy the State EMS Authority's RFP process standards; the decision to select an ambulance company had already been made well in advance.

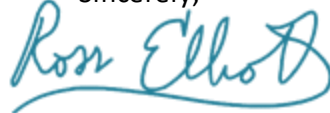
The two-step selection process that has begun in Alameda County is particularly problematic for you as individual board members. Please review California Government Code section 1099 - Prohibitions Applicable to Specified Officers. It appears that you as individuals cannot simultaneously hold the position of Board of Supervisors of Alameda County and the position of Board of Directors of Alameda County Fire Department because these offices are incompatible. As stated in statute, "Public policy considerations make it improper for one person to hold both offices." Clearly, selecting an alliance partner as the Board of Directors and then weeks or months later awarding an EOA contract in which your own Alliance is a competitor creates an incompatibility. It does not pass the smell test, nor does it in actuality provide for fair open competition.

It is unusual for the CAA to become involved and review matters affecting one county or one LEMSA. Typically, the CAA is primarily concerned about public policy issues having statewide impacts. In this case, the CAA believes the actions by Contra Costa County and the possible actions by Alameda County do have possible widespread impacts on the administration of EMS systems. The action to bypass EMSA's oversight of competitive processes for selection of EOA providers is unorthodox and inappropriate, and these actions have the potential to negatively alter EOA selection processes statewide. In the interest of fairness for all future competitive processes for EOAs the CAA questions the path Alameda County appears to be taking.

The CAA is requesting the Alameda County Fire Department Board of Directors and the Alameda County Board of Supervisors to abandon the Alliance model and urge your County to use an ambulance selection process that complies with the law and gives every qualified ambulance company a fair and open process to compete for the exclusive operating area contract.

Thank you for your attention to this matter. If you have any questions, I can be reached at (916) 239-4095 or via email at relliott@the-caa.org.

Sincerely,



Ross Elliott
Executive Director

cc:

Mr. Scott Haggerty, Alameda County Fire Dept. Board of Directors
Mr. Richard Valle, Alameda County Fire Dept. Board of Directors
Ms. Wilma Chan, Alameda County Fire Dept. Board of Directors
Mr. Nathan Miley, Alameda County Fire Dept. Board of Directors
Mr. Keith Carson, Alameda County Fire Dept. Board of Directors
Ms. Susan S. Muranishi, County Administrator, Alameda County
Mr. David A. Rocha, Chief, Alameda County Fire Department
Ms. Rebecca Gebhart, Acting Director, Alameda County Health Services Agency
Mr. Travis Kusman, Director, Alameda County EMS Agency
Dr. Howard Backer, California EMS Authority
Mr. Bryan Cleaver, President, EMSAAC
Dr. Bruce Haynes, President, EMDAC
Ms. Kamala Harris, California Attorney General
Ms. Jodi Remke, Chair, California Fair Political Practices Commission