



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
**DEPARTMENT OF ADMINISTRATION**

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TO: Nancy McIntyre  
State Purchasing Agent

FROM: Michael DiBiase *Michael DiBiase*  
Director/Chief Purchasing Officer

DATE: October 18, 2018

SUBJECT: RFP # 7591562 – Transportation Brokerage Services -- Determination for Continuation of the Award during the Pendency of the LogistiCare Bid Protest

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### **I. Introduction**

On or about October 11, 2018, the Department of Administration (“Department”) received correspondence, hereto attached as **Appendix A**, from Attorney David A. Wollin, Esq., on behalf of LogistiCare Solutions, LLC (“LogistiCare”) alleging a protest of RFP # 7591562 – Transportation Brokerage Services. In accordance with R.I. Gen. Laws § 37-2-53 and 220-RICR-30-00-1.6(F), the procurement/award was put on hold.

The LogistiCare correspondence did not provide a substantive basis for a protest, but simply complained that records requested under the Rhode Island Access to Public Records Act (“APRA”) were not yet provided.

On behalf of the Department, a timely APRA response was sent to Attorney Wollin on Thursday, October 11, 2018, attached hereto as **Appendix B**, making the entire procurement file available, along with six (6) redacted proposals received by the Department in response to RFP # 7591562. LogistiCare’s correspondence stated in part that “LogistiCare reserves the right and expects to submit additional information and briefing in support of this Bid Protest.”

On October 17, 2018, the Department received a memorandum, attached hereto as **Appendix C**, from Patrick Tighe, Medicaid Director, on behalf of the Executive Office of Health and Human Services (“EOHHS”) requesting the Chief Purchasing Officer approve the continuation of “readiness work” related to RFP # 7591562 during the review of the Bid Protest. In support of the request, Mr. Tighe provides in pertinent part as follows:

The vendor chosen, MTM, Inc., was not the incumbent (LogistiCare). As such, EOHHS must undertake a significant amount of readiness and transition work to onboard MTM.

For a successful transition of vendors on January 1, 2019, MTM needs to be configured in the States' MMIS system so that it can identify our members, authorize services, submit claims, and coordinate the essential contract transition activities with the current vendor, LogistiCare. There can be no interruption of services between the expiration of the

LogistiCare contract and commencement of the MTM contract. Thus, MTM must successfully and seamlessly transition 311,000 members and approximately 130,000 trips per month in the Medicaid program alone from LogistiCare to MTM. Most of these trips are for critical services such as dialysis, substance use treatment, wound care, pre- and post-surgical visits, etc. Please be advised that the first production enrollment files will be shared on December 9, 2018.

EOHHS concludes that that any delays in readiness or transition planning will jeopardize the start date of the contract and proceeding is necessary to protect a substantial interest of the State.

## II. Determination

As Chief Purchasing Officer, in accordance with R.I. Gen. Laws 37-2-53, I hereby determine as follows:

- The contract is set to become effective on January 1, 2019.
- Disruption of this contract would jeopardize an important service to thousands of vulnerable citizens of the State who are relying on transportation to critical services such as dialysis, substance use treatment, wound care, pre- and post-surgical visits;
- Significant readiness work and planning is necessary to prevent any disruption to a contract that involves 130,000 trips per month;
- LogistiCare has received its requested records from the Department in accordance with APRA and may supplement its Bid Protest within two (2) calendar weeks from October 11, 2018;
- LogistiCare has at this time stated no basis for a bid protest; and
- Even if supplemented, in accordance with R.I. Gen. Laws 37-2-51 and decades of case law, the decisions of procurement officials shall not be overturned absent fraud, bad faith or a palpable abuse of discretion. See *Gilbane Bldg. Co. v Bd. of Trs. of State Colls.*, 267 A.2d 396, 399 (R.I. 1970); thus, LogistiCare faces a significant burden to protest the award of this contract.

The continuation of the procurement/award is necessary to protect a substantial interest of the State. The Division of Purchases and EOHHS shall proceed with contract readiness activities and transition planning to prevent any disruption. In the event that LogistiCare timely supplements its alleged bid protest, the Division of Purchases and EOHHS may continue to proceed with the procurement/award activities unless and until a further determination by the Chief Purchasing Officer is issued to the contrary.

cc: Patrick Tigue, Medicaid Director,  
David Francis, Division of Purchases  
Daniel W. Majcher, Esq., Division of Legal Services