

**BEFORE THE  
MARYLAND STATE BOARD OF CONTRACT APPEALS**

In The Appeals of Occupational )  
Health Centers of the )  
Southwest, P.A. d/b/a Concentra )  
Medical Centers ) Docket Nos. MSBCA 2996, 3014 and  
 ) 3016  
 )  
 )  
Under DBM RFP No. 050B6400002 )

**ORDER**

This Order is issued as a ruling of the Maryland State Board of Contract Appeals ("Board") in advance of the Board's final written opinion in these appeals. The Board of Public Works ("BPW") urgently requested that the Board hear and decide this matter as expeditiously as possible so that the BPW could make an award determination as soon as possible.

The Board and the parties to this matter heard the urgent request of the BPW, and thanks to the unprecedented efforts of counsel for Appellant Conentra Medical Centers, Interested Party WorkPro Occupational Health and the Department of Budget and Management, the Board issues the instant Order within the timeline specified. While there will be a more detailed opinion at a later date that fully explains the rationale of its determination, the Board's decision in this Order is firm and final.

On December 8 and 9, 2016 the Board heard oral argument and testimony in these appeals. The parties ordered expedited transcripts and agreed to submit post-hearing briefs on December 22, 2016.

It is the Appellant who has the burden of proof in its attempt to disturb the Procurement Officer's recommendation for award, and that burden is not easily met. It is not the role of the Board to substitute its judgment for that of the Procurement Officer unless there is clear and substantial evidence that the Procurement Officer acted in a way that was contrary to law or regulation, arbitrary, capricious or an abuse of discretion.

Relying on the parties' submissions prior to the hearing, the argument of counsel, witness testimony, hearing exhibits and the parties' post-hearing briefs, the Board finds that the Appellant was unable to elicit testimony or provide other evidence that would corroborate its allegations that the Procurement Officer acted in a way that was arbitrary, capricious, contrary to law or regulation, an abuse of discretion or otherwise unreasonable or disallowed.

The Board further finds that the Procurement Officer, acting within his discretion as described in the Code of Maryland Regulations and in the Annotated Code of Maryland,

correctly determined that the recommendation of award to WorkPro  
was in the best interest of the State.

Accordingly, the Board hereby denies these Appeals.

So Ordered this 28<sup>th</sup> day of December, 2016.

Dated: 12/28/16

  
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Michael J. Collins  
Chairman