



Lenzi, Chelsea

From: Joyce Reed <jreed@montecitofire.com>
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Cc: Hartmann, Joan; Supervisor Das Williams; Hart, Gregg; Nelson, Bob; Lavagnino, Steve
Subject: Public Comment
Attachments: XSB FCA Written Ordinance Comments 05.31.2022.pdf; XSB FCA RFP Written Comments 05.31.2022.pdf

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Clerk of the Board,

I am submitting these written comments on behalf of the Santa Barbara County Fire Chief's Association. Both documents are related to the Ground Ambulance agenda item on May 31, 2022. We are not able to provide an agenda item number because the agenda packet has not been published.

Thank you.



Joyce Reed
Administrative Assistant

595 San Ysidro Road, Santa Barbara, CA 93108
STATION (805) 969-7762
montecitofire.com



**FIRE CHIEFS ASSOCIATION
OF SANTA BARBARA COUNTY**
In association with the California Fire Chiefs Association



VIA ELECTRONIC MAIL

The Honorable Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101
sbcob@countyofsb.org

**RE: May 31, 2022 Santa Barbara County Board of Supervisors (Agenda Item Not Available at
Written Comment Deadline) Regarding Ambulance Services Update**

May 27, 2022

Dear Members of the Board of Supervisors,

The Fire Chief's Association of Santa Barbara County offers the attached Ground Ambulance Ordinance for your consideration.

Respectfully,

Greg Fish, President

CHAPTER 5 AMBULANCES

Sec. 5-1. Legislative Intent and Purpose.

- (A) It is the board's intent in amending this chapter to:
 - (1) Undertake the prescribed functions and responsibilities of a local government entity concerning ambulance services as authorized by the state of California pursuant to, among other authority, Health and Safety Code Sections 1443 and 1797, et seq., Welfare and Institutions Code Sections 14136, 16817, 17000 17001, Vehicle Code Section 2512, and case law.
 - (2) Exercise the full extent available to it under the laws of the state of California its discretion and authority to regulate, set rates, and issue licenses for all ground and air ambulance services, regardless of service level, throughout all the unincorporated areas and incorporated cities of Santa Barbara County.
 - (3) Exempt governmental agencies from the requirements of this chapter.
 - (4) Encourage incorporated cities in Santa Barbara County to incorporate this chapter by reference into their own municipal codes.
 - (5) Not preclude incorporated city from regulating private ground ambulance and EMS Aircraft operators within their jurisdiction if the operators have been issued a license has been issued by Santa Barbara County.
- (B) The purposes of this chapter are:
 - (1) To enact policies and regulations which are necessary for the public health and safety regarding the dispatching and operation of ambulances;
 - (2) To enact policies and regulations for permitting and regulating ambulances, including EMS aircraft, which operate within or from any point within Santa Barbara County;
 - (3) To regulate ambulance personnel and protect the public from the unsafe and unsanitary operation of ambulances;
 - (4) To allow for effective, cost-efficient, economically viable, and reliable ambulance services in all areas of Santa Barbara County; and
 - (5) To allow for the orderly and lawful operation of the emergency medical services system pursuant to Health and Safety Code Section 1797, et seq.

Sec. 5-2. Applicability.

- (A) This chapter shall apply within all the unincorporated territory of Santa Barbara County, as well as within the limits of those incorporated cities which have adopted this chapter.
- (B) Except where specifically exempted, all ambulance service providers must comply with the provisions of this chapter and all regulations adopted to administer such provisions, when operating in the unincorporated areas of Santa Barbara County and when operating within the limits of those incorporated cities which have adopted this chapter.

Sec. 5-3. Exemptions.

The provisions of this chapter and regulations enacted pursuant to such provisions shall not apply:

- (A) To vehicles which provide ambulance services or to persons engaged in such transportation,

where such services are rendered during any "state of war emergency," or a duly proclaimed "state of emergency," or "local emergency" as defined in the California Emergency Services Act (Government Code § 8550 et seq.), at the request of the State Office of Emergency Services.

- (B) During any period (not to exceed 30 consecutive days, but renewable every 30 days) when the EMS Agency has determined in writing that adequate emergency ambulance service will not be available from existing permittees.
- (C) To ambulances responding to calls for service outside of this County.
- (D) To ambulances provided by the state or federal government.

Sec. 5-4. Specific terms.

Unless otherwise specifically provided or required by the context, the following terms have the meanings set forth in this article.

- (A) *Ambulance*: "Ambulance" means (1) a vehicle specially constructed, modified or equipped, or arranged, used or operated for the purpose of transporting sick, injured, convalescent, infirm, or otherwise incapacitated person(s) in need of medical care, which operates or may operate with emergency lights and siren or the equivalent; (2) a privately owned EMS Utility Vehicle (EUV) used for prehospital emergency medical response, which operates or may operate with emergency lights and siren or the equivalent; and (3) an air ambulance or rescue aircraft, as defined in Title 22, Division 9, of the California Code of Regulations. The meaning includes but is not limited to privately owned ambulances and paramedic units.
- (B) *Ambulance service*: "Ambulance service" means the activity, business or service for hire, profit or otherwise of (1) transporting one or more persons by ambulance on or in any of the streets, roads, highways, alleys or any public way or place; or (2) utilizing an EUV or rescue aircraft for prehospital emergency medical services.
- (C) *Advanced life support (ALS)*: "Advanced life support" means special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base hospital as part of a local EMS system at the scene of an emergency, during transport to an acute care hospital, during interfacility transfer, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency or other medical staff of that hospital.
- (D) *Basic life support (BLS)*: "Basic life support" means emergency first aid and cardiopulmonary resuscitation procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life without invasive techniques until the victim may be transported or until advanced life support is available.
- (E) *Attendant*: "Attendant" means a trained and/or qualified individual who, regardless of whether he/she also serves as driver, is responsible for the care of patients and who has met all license, certification and other requirements in applicable state laws and regulations. The term includes Emergency Medical Technicians (EMTs), paramedics, and authorized registered nurses, as those terms are used in Division 2.5 of the Health and Safety Code, § 1797 et seq.

- (F) *County Communications Center*: "County Communications Center" means the County Public Safety Communications Center or Regional Fire Communications Center.
- (G) *Critical Care transport*: "Critical Care Transport" (CCT) means the transport of a critical care patient between medical facilities where it has been determined by the patient's treating physician that such transport requires medical supervision by advanced life support providers with critical care training or experience.
- (H) *Driver*: "Driver" means an individual who drives a ground ambulance and who has met all license, certification and other requirements in applicable state laws and regulations.
- (I) *Ambulance service permit*: "Ambulance service permit" means written authorization by the County to provide ALS or BLS or CCT ambulance service.
- (J) *EMS*: "EMS" means emergency medical services.
- (K) *EMS agency*: "EMS agency" has the same meaning as "local EMS agency" in Health and Safety Code § 1797 et seq., of Division 2.5.
- (L) *EMS Aircraft*: "EMS Aircraft" means any aircraft utilized for the purpose of prehospital and interfacility emergency patient response and transport. EMS Aircraft includes air ambulances and all categories of rescue aircraft.
- (M) *Fire Agency*: "Fire agency" means a fire protection district, including a fire protection district that is governed by the county's board of supervisors, a joint powers agency created for the provision of fire protection services, a city, a special district that provides fire protection services, or a local agency authorized by statute to provide fire protection services.
- (N) *Permit officer*: "Permit officer" means the official designated by the Board of Supervisors to serve this purpose.
- (O) *Response*: "Response" means the time interval commencing with the receipt of a request for service by an ambulance service provider to the arrival of an ambulance operated by the service provider at the scene, site or place of the request.
- (P) *Permit holder*: An entity issued an ambulance service permit according to the provisions of this chapter.
- (Q) *The Act*: "The Act" means the Emergency Medical Services System and Pre-hospital Emergency Care Personnel Act of 1980, Health & Safety Code section 1797, et seq.

Sec. 5-5. Ambulance permit requirement.

- (A) No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain or otherwise engage in, or advertise, offer or profess to engage in ambulance service unless he holds (and is entitled to hold) a currently valid ambulance service permit issued by the permit officer for each ambulance owned and operated by a permittee.
- (B) Government agencies providing emergency and nonemergency ambulance services are exempt from the ambulance permit requirement.
- (C) Any provider of emergency ambulance services at the ALS level must also be a designated contract provider for Santa Barbara County during the anticipated permit period. Such ALS service providers under contract with the County are deemed to have satisfied the permit requirements of this chapter and shall be deemed to be operating under a valid ALS ambulance permit during the period that services are actually provided to the County, upon payment of the

required permit fees.

Sec. 5-5. Application for permit.

Each application, whether for initial permit or renewal of an ambulance service permit, shall be made on forms and in the manner prescribed by the permit officer.

Sec. 5-6. Permit application required information.

The application for an ambulance service permit shall provide the following information:

- (A) The name(s) and address(es) of the applicant(s) and owner(s) of the ambulance(s) and the business entity's name.
- (B) The applicant's training and experience in the transportation and care of patients.
- (C) The name(s) under which the applicant has engaged, does and proposes to engage in ambulance service.
- (D) A description of each ambulance, including the make, model, year of manufacture, vehicle identification (serial) number, state ambulance license number and motor vehicle registration number and expiration date; and for air ambulances; current Federal Aviation Administration (FAA) registration number of each aircraft, airworthiness certificate number and expiration date.
- (E) The length of time each vehicle has been in use, the miles shown on the odometer, the color scheme, insignia, name(s), monogram and any other distinguishing characteristics of each vehicle.
- (F) A description of each company or firm's program for maintenance of each vehicle.
- (G) A description of each vehicle's radio communications equipment.
- (H) A statement that the applicant has obtained and has all necessary licenses and permits required by federal and state laws and regulations for the type of service proposed.
- (I) The names and qualifications of each attendant employed, or to be employed, in providing ambulance service. The applicant shall provide an up-to-date list of attendants on a regular basis to the EMS Agency, as may be required by the permit officer.
- (J) Evidence of a currently valid California Highway Patrol inspection report for each ground ambulance vehicle listed in the application.
- (K) A description of the applicant's training and orientation programs for ambulance attendants, drivers and for dispatchers.
- (L) A description of the applicant's quality management program.
- (M) Evidence of such insurance coverage as may be required by the permit officer.
- (N) Facts relied on by the applicant in asserting that the public health, safety, welfare, convenience and necessity warrant the granting of the ambulance service permit.
- (O) The ability of the applicant to provide ambulance service within established response times for the type of vehicle operated (ground ambulance, aircraft), 24 hours per day, seven days per week, year-round.
- (P) All service charges and rate structure of the company and any additional charges incidental to the company's services.

Sec. 5-7. Applicant investigation.

- (A) Upon receipt of a completed application together with the required fee(s), the permit officer shall make or cause to be made such investigation as deemed necessary to determine if:
- (1) Public health, safety, welfare, convenience and necessity require the issuing of a permit;
 - (2) The applicant is a responsible and proper person to conduct, operate and engage in this ambulance service; and
 - (3) The applicant's ambulances, medical equipment and supplies, and communications and information technology comply with applicable requirements established by the EMS Agency and the County Communications Center.
- (B) The permit officer shall refer every completed application for review by the EMS Agency, the sheriff, the department of public health, the office of emergency management, the county fire department, and any other officer, department, or body that the board designates.

Sec. 5-8. Issuance.

The permit officer shall issue an ambulance service permit covering each listed ambulance of the applicant if the permit officer determines that the requirements contained in Article 3 have been satisfied.

Sec. 5-9. Term of permit.

Permits issued under this chapter shall be valid for a period of one year unless earlier suspended, revoked or terminated. Nothing in this chapter shall be construed as requiring the granting of a permit upon the expiration of a previous permit, or as creating any vested or property right in the renewal, extension or continuance of any permit after the expiration of its term.

Sec. 5-10. Temporary; when issued.

The permit officer may issue a temporary permit for a period of not over 90 days, renewable for cause expressed in writing by the permit officer.

Sec. 5-11. Application; changes.

The applicant and permittee shall report to the permit officer any change in the information required in Section 5-6 within ten days of the effective date of the change.

Sec. 5-12. Prohibited Acts.

- (A) No ambulance service provider shall:
- (1) Fail to dispatch an ambulance within a reasonable time in response to an emergency call from a public agency or authorized emergency transportation operator for that geographical area, unless such entity is immediately advised of a delay in responding to a call;
 - (2) Fail, neglect, or refuse to disclose to any entity requesting an emergency response that an ambulance is not available, if indeed an ambulance or appropriate staffing therefore is not then available;
 - (3) Fail, neglect, or delay to provide transportation of the patient to the most accessible and appropriate medical facility in accordance with state law and EMS Agency policies in an emergency case;

- (4) Use a scanner or radio monitoring device for the purpose of responding to an emergency call when not authorized or requested to respond to that call by the appropriate public safety agency;
 - (5) Use a red light and siren for response to calls received as nonemergencies;
 - (6) Permit the operation of an ambulance in any manner contrary to the provisions of this title or any rule or regulation adopted pursuant thereto and any section of the California Vehicle Code, Titles 13 and 22 of the California Code of Regulations, the Federal Aviation Regulations, and the statutes, rules, and regulations of the Medicare and MediCal programs;
 - (7) Perform ALS or CCT services unless the ambulance service provider has first been approved for the provision of such services by the EMS agency or pursuant to statute;
 - (8) Fail to respond to emergency and nonemergency calls within the time parameters established by the EMS Agency;
 - (9) Provide ALS or CCT transport services to any person or institution under any circumstances without a contract with the county for the provision of such services; and
 - (10) Respond to any request for emergency ambulance services without a contract with the county for the provision of such services, unless the call is from the County Communications Center, a public safety agency, or an ambulance service provider under contract with the county requesting backup services.
- (B) The commission of any prohibited act, as set forth in this chapter, by an ambulance service provider or its employees or agents shall subject the provider to the imposition of administrative fines pursuant to Chapter 24A of this code, in addition to any other applicable administrative, civil, or criminal remedy.

Sec. 5-12. Permit Probation, Suspension, or Termination.

- (A) Any change of ownership of a permitted ambulance service terminates the permit immediately.
- (B) The permit officer may suspend, terminate, or place on probation an ambulance service permit holder for failure to comply with and maintain compliance with, or for violation of, any applicable provisions, standards or requirements of state or local law, or of any regulations promulgated hereunder. Suspension or probation is not a condition precedent to termination.
- (C) Before suspending, terminating, or placing on probation an ambulance service permit holder, the permit officer shall give the ambulance service permit holder written notice. Such notice shall:
 - (1) Specify the reasons for which the probation action is to be taken;
 - (2) Specify the length of any suspension or probationary period;
 - (3) Provide the time and date when suspension, termination, or probation will take effect.
 - (4) Provide notice of hearing and appeal procedures;
 - (5) Request a plan of correction for the violation(s) specifying the reasons the action is being taken; and
 - (6) Be served on the ambulance service permit holder, either by delivery to its principal place of business or to its designated agent for service of such notices, if any.

- (D) The permit officer may immediately suspend, termination, or place on probation an ambulance service permit holder upon written preliminary findings by the EMS Agency's medical director that such action is necessary to protect the public health, safety, and welfare.
- (E) If the ambulance service permit holder, subsequent to service of such a probation, suspension, or termination notice under this section, remedies some or all of the conditions to which the notice refers, the permit officer may rescind the probation, suspension, or termination at any time.

Sec. 5-13. Appeals.

Appeals of ambulance service permit denials, suspensions, probations and terminations shall be governed by the procedures set forth in Chapter 22, division 4, of this Code

Sec. 5-14. Permit fees.

- (A) A nonrefundable fee in the form prescribed by the permit officer shall accompany each and every application for an ambulance service permit. The fee for each ambulance service permit shall be established by resolution of the Board of Supervisors.
- (B) The fees required by this chapter shall be paid to the permit officer at the time of application for a permit and shall be forwarded by the permit officer to the County Controller.

Sec. 5-15. Temporary permit.

- (A) *Amount:* A nonrefundable fee in an amount established by resolution of the Board of Supervisors shall be required to be paid before the permit officer may issue a temporary ambulance service permit.
- (B) *Credit:* If a regular ambulance service permit is issued to a temporary permit holder, the regular permit shall be deemed issued as of the date the temporary permit was issued and the permittee shall be entitled to a credit for the amount of the temporary permit fee paid.

Sec. 5-15. Rate Schedule for Ambulance Services.

- (A) The Board of Supervisors shall establish, by resolution, maximum allowable rates ambulance services permit holders may charge for emergency ambulance services and special ancillary services.
- (B) The Board of Supervisors may establish, by resolution, maximum allowable rates ambulance services permit holders may charge for nonemergency ambulance services and special ancillary services.

Sec. 5-16. Emergency ambulance services contracts.

- (A) All contracts for emergency ambulance services entered by the County are subject to the following requirements:
 - (1) The contract provider shall comply with all applicable Federal and State laws and regulations and DHS policies, protocols, and protocols regarding emergency ambulance services.
 - (2) The contract provider shall not seek payment for or reimbursements from consumers and/or payors for services the contract provider did not actually provide or when otherwise prohibited by Federal and State laws and regulations.

- (3) The contract provider shall be responsible for humane billing and collection practices, have a written financial hardship policy, and follow all Federal and State debt collection laws and regulations.
- (4) The contract provider's invoices and billing statements shall be itemized and clearly explain all fees and charges.
- (5) The contract shall provide performance metrics and response time standards for emergency ambulance services, mechanisms to measure a provider's compliance with such metrics and standards, establish a process for the contract provider to claim exemptions/exceptions from such metrics and standards, and define all exemptions/exceptions available to the contract provider.
- (6) The contract shall contain provisions that clearly and unambiguously specify the conditions or circumstances constituting a material breach, including but not limited to, a provider's failure to comply with the contract's response time standards and performance metrics.
- (7) The contract provider shall subcontract with fire agencies that provide non-transport, first response EMS at the BLS or ALS levels. The contract shall provide that the contract provider's response times shall be extended by two minutes when a subcontracting fire agency arrives at an emergency scene before the contract provider's ambulance units..
- (8) The contract shall demonstrate the contract provider's and, if applicable, its subcontractor's, expertise, capability, and capacity to provide or arrange for emergency ambulance services as described in the contract.
- (9) The contract shall include diversity and equity requirements to address the unique needs of vulnerable and underserved population within the contract provider's service area or jurisdiction.
- (10) The contract shall have financial requirements for the contract provider, including but not limited to requiring a private ambulance service to show proof of insurance or bonding or a public ambulance service to show equivalent self-insurance.
- (11) The contract shall require the contract provider to adopt an employee recruitment, hiring, and retention program to develop and maintain a dedicated, highly trained EMS workforce in the County
- (12) The contract shall require the contract provider to provide monthly reports to the Board of Supervisors detailing its contract performance, and shall include all the following information:
 - (a) The contract provider's staffing levels; aggregate and by zone.
 - (b) The contract provider's response times compliance rates; aggregate and by zone.
 - (c) The contract provider's delayed responses; aggregate and by zone.
 - (d) The number of compliance rate exemptions and exceptions granted by the EMS Agency; aggregate and by zone.
 - (e) Total transports; aggregate and by zone.
 - (f) Unit hour utilization; aggregate and by zone.

- (g) Special Event; aggregate and by zone.
- (13) The contract shall require the contract provider to provide annual, audited financial statements and reports to the Board of Supervisors.
- (14) The contract provider shall enter mutual aid agreements with other EMS providers operating in the County.
- (15) The contract shall have no effect on eligible cities' and fire districts' rights, obligations, and authorities under Section 1797.201, unless the contract expressly provides for such effect.
- (B) Mutual aid agreements entered by the County are exempt from the provisions of the foregoing section 5-16(a).
- (C) The Board is the only County entity authorized to determine whether an emergency ambulance services contract has been materially breached, whether to excuse a breach of, or a contract provider's nonperformance under, an emergency ambulance services contract, or whether to waive, or not enforce, provisions in an emergency ambulance services contract.
- (D) The LEMSA shall publish on its website monthly reports detailing the contract provider's compliance with response time standards and other metrics used by the LEMSA to monitor the contract provider's performance, including but not limited to the number of responses, the number of and grounds for exemptions or exceptions requested by the contract provider and granted by the LEMSA, and the contract provider's compliance rates before and after any exemptions or exceptions granted by the LEMSA.

Sec. 5-17. Exclusive Operating Areas.

- (A) Upon recommendation by the Board adopted by resolution, the EMS Agency may establish one or more exclusive operating areas (EOAs), as defined in Health and Safety Code section 1797.85. Such EOAs may be awarded either without a competitive process (a "non-competitive EOA") or pursuant to a competitive process (a "competitive EOA"), provided that in either case the requirements of Health and Safety Code section 1797.224 are met.
- (B) An ambulance service provider granted an EOA shall enter into an agreement with the County (an "EOA agreement") setting forth the terms on which the ambulance service provider (and/or any approved subcontractor) shall provide services within the EOA, including the level and type of ambulance services covered by the EOA agreement.
- (C) No ambulance service provider shall render any type or level of services considered exclusive within an EOA, unless the provider has entered into an EOA agreement with the county to provide such services or acting as a subcontractor of a provider with such an agreement.
- (D) Nothing in this chapter or in any rule or regulation enacted by the County shall be construed as requiring the County to establish an EOA.
- (E) Nothing in this section shall limit the ability of a fire agency from providing non-transport EMS within their jurisdictions, consistent with applicable law and EMS Agency policy.
- (F) Competitive EOAs shall be awarded by issuing a request for proposals ("RFP") that solicits interested EMS entities to enter an EOA agreement. The RFP shall satisfy the following requirements:

- (1) The RFP shall contain plain, unambiguous, and objective criteria to evaluate the comparative value of competing proposals, including but not limited to the factors identified in this section and the requirements for all County emergency ambulance services contracts in Section 28-18.
 - (2) The RFP shall comply with applicable Federal and State laws, provide for full and fair competitive bidding, and must not exclude, or deny equal opportunity to, proposers interested in competing for and participating in the contract.
 - (3) Any fees or charges for services rendered by, or to recover the regulatory costs of, the County, the EMS Agency, and the County Communications Center, shall be fully disclosed in the RFP and shall not exceed the reasonable costs to these local agencies of providing service(s) or performing regulatory activities.
 - (4) The RFP shall require interested bidders to attest that they have not violated federal and state antikickback laws regarding the Medicare and Medi-Cal health programs (42 U.S.C. § 1320a-7b(b); Cal. Welf. & Inst. Code § 14107.2) or applicable federal and state antitrust laws (15 U.S.C. §§ 1 et seq.; Cal. Business & Prof Code §§ 16600 et seq.), in connection with the competitive process for awarding the EOA agreement.
 - (5) The RFP shall expressly allow interested bidders to rely on subcontractors to provide emergency ambulance services, including fire agencies that intend on providing such services, in whole or in part, through a written subcontract with a private ambulance service.
 - (6) The RFP shall require interested bidders to include in their proposals: their proposed rates to be charged to the public for services rendered; the average hourly unit cost to provide the services; and an estimate of the fees to be charged to the public for an average emergency ambulance transport at the ALS, and, if applicable, BLS, levels of service. The proposed rates, average hourly unit costs, and estimated fees, shall be the basis for the board of supervisors' determination of the maximum allowable rates under the EOA agreement.
 - (7) Consistent with State policy favoring public providers of emergency ambulance services by providing additional reimbursements for transporting Medi-Cal patients to be reinvested in the community, the RFP shall provide for an additional weighting of five percent (5%) to the total rating score for proposals submitted by public agency bidders.
- (G) The procurement process for EOAs shall include, at minimum, the following:
- (1) The EMS Agency shall develop the RFP in consultation with the County's purchasing and contracting officials.
 - (2) The EMS Agency shall make the RFP available to the public for public comment.
 - (3) The Board of Supervisors shall approve the RFP before it is transmitted to the Emergency Medical Services Authority for approval.
 - (4) The Board of Supervisors shall approve the RFP before it is formally issued to the public.
 - (5) The RFP shall be mailed prior to the time set for submission of all proposals, to all EMS and ambulance service providers in the County, to all EMCC members, and any other interested parties who have requested in writing notification of such opportunities to the EMS Agency.

- (6) A pre-submittal conference will be held for interested proposers. Only bidders who attend this public conference will be able to submit proposals.
 - (7) Any proposal received after the time set for submission shall not be considered.
 - (8) An evaluation committee chosen by the Board of Supervisors shall review, rate, and rank all proposals based on objective criteria contained in the RFP. Such committee shall, at minimum, include one (1) physician with experience in the acute emergency department setting and two (2) members of the Board of Supervisors. Persons shall not be eligible to serve on the evaluation committee if they or anyone in their immediate family are employed by, or have a financial interest in, an interested bidder, are current or former employees of the EMS Agency, assisted in the development of the RFP, or serve as consultants to the EMS Agency.
- (H) In recommending a proposer for an EOA under this section, the evaluation committee shall consider the comparative value of competing proposals, including the consideration of:
- (1) The proposer's expertise, capability and capacity to provide the ambulance services as described in the RFP;
 - (2) The proposal's service and deployment plan, addressing, among other things, the provision of high-performance emergency ambulance services within response time standards;
 - (3) The proposal's plan to satisfy the EMS Agency's clinical performance and quality management requirements set forth in the RFP;
 - (4) The proposal's plan to satisfy administrative standards set forth in the RFP;
 - (5) The proposal's rates charged to the public for services provided;
 - (6) Operational and financial impacts to the County and other local agencies;
 - (7) The proposal's plan to work effectively with local agencies;
 - (8) The proposer's financial stability and the economic viability of services to be provided; and
 - (9) The requirements for County emergency ambulance services contracts in Section 5-16.
- (I) The EMS Agency shall submit to the board of supervisors a written report and recommendation, including the evaluation committee's rates and rankings of proposals along with copies of those proposals. The board of supervisors shall select the winning proposer based on the RFP's requirements and Section 5-17(H) and reserves the right to reject any and all proposals as necessary to further the public interest.
- (J) Following the board of supervisors' selection, the County shall negotiate the EOA agreement with the winning proposer. Once the EOA Agreement is finalized, the board of supervisors shall approve the County's entry into the agreement.
- (K) Proposers who are not selected for the EOA Agreement may appeal such decision using the County's bid protest procedures.

Sec. 5-18. County ambulance services contracts with fire agencies.

- (A) The County may enter a contract for emergency and/or nonemergency ambulance services with a fire agency without engaging in competitive bidding.

- (B) The County may enter an EOA Agreement with the fire agency in compliance with the requirements of Section 28-17.
- (C) The County may enter a contract for exclusive emergency and/or nonemergency ambulance services with a fire agency without complying with Section 28-17 if the following requirements are met:
 - (1) The contract does not purport to grant the fire agency any rights to provide service within an EOA.
 - (2) The County determines that the provision of emergency and nonemergency ambulance services on an exclusive basis is necessary to assure the economic viability of such services.
- (D) The County may enter a contract for emergency ambulance services with a fire agency that will provide those services, in whole or in part, through a written subcontract with a private ambulance service.
 - (1) Before the County may enter a contract pursuant to subsection (D) of Section 28-18, the fire agency's governing body must certify that it has adopted a written policy that requires the written subcontract to be awarded pursuant to a competitive bidding process in compliance with Health and Safety Code section 1797.231(b).

Sec. 5-19. Customer Complaint Procedures.

- (A) Any complaint filed against any permittee shall be written on a form prescribed and provided by the EMS Agency.
- (B) Any user of a permitted ambulance service contending that he/she received unsatisfactory service(s) may file a written complaint with the permit officer. Such written complaint shall set forth the allegations. The permit officer shall notify the particular ambulance service of the complaint and provide the ambulance service permittee with a copy of the consumer complaint. Complaints based on the amount of a fee charge shall not be investigated.
- (C) The permit officer shall conduct an investigation of the allegation(s) in the written complaint to determine the validity of said allegation(s). If the allegation(s) are found to be valid, the permit officer shall take reasonable and proper actions to secure compliance with the provisions of this chapter and any established ambulance regulations.

Sec. 5-20. Adoption of regulations.

- (A) The Board of Supervisors may, after public hearing, adopt reasonable regulations concerning ambulance personnel, equipment, vehicles, communications, training, or any other matter which the permit officer determines necessary for the public health and safety regarding the operation of ambulances and to effectuate the provisions of this chapter.
- (B) The Board of Supervisors shall give notice of the time and place of the public hearing to adopt regulations under this Section at least 14 days in advance.

Sec. 5-21. Administrative Authorities.

- (A) The Board of Supervisors shall administer this chapter, appoint the permit officer, and assign administrative functions under this chapter to staff under the supervision of the County Executive Officer.
- (B) The County Department of Public Health is designated as the EMS Agency for Santa Barbara

County.

- (C) The EMS Agency shall plan, coordinate, and monitor the EMS system in conformity with the Act.
- (D) The medical control and direction of the EMS system shall be under the medical control of the medical director of the EMS Agency.
- (E) The medical control authority of medical director of the EMS Agency:
 - (1) Encompasses matters directly related to regulating the quality of emergency medical services, including policies and procedures governing coordinated dispatch, patient destination policies, patient care guidelines, and quality assurance requirements.
 - (2) Does not encompass EMS and ambulance service provider's internal administrative affairs or public safety agency's management of emergency scenes, even if they affect medical matters.
 - (3) Must be exercised consistent with, and subject to any limitations contained in, applicable federal, state, and County laws and regulations, including the Act, regulations issued by the state Emergency Medical Services Authority, and any policies or regulations adopted by the Board of Supervisors
- (F) The Board of Supervisors shall approve any EMS plan or plan update developed by the EMS Agency before the plan or plan update is submitted to EMSA for its review.
- (G) The Board of Supervisors hereby authorizes the creation of County emergency medical care council ("EMCC") in accordance with Health and Safety Code section 1797.270-276.
- (H) Not less than every five (5) years the director of the department shall retain an outside expert to complete an EMS system review. The review shall consist of an evaluation of the EMS system, including governance, performance and coordination of EMS system participants, and performance of EMS Agency EMS planning and oversight functions.
 - (1) The review shall include, at minimum, a review of the most-recent EMS plan developed by the EMS Agency and a system-wide stakeholder survey
 - (2) The EMS system review shall be presented to the EMCC, EMS Agency, and Board of Supervisors.
 - (3) The stakeholder survey shall include provider agency partners including hospitals, fire services, ambulance service providers, communications center, base hospital, law enforcement, EMS training programs and community partners. The survey shall at a minimum, assess the relationship between EMS system participants and the LEMSA. Survey results shall be incorporated into the EMS system review and featured in any presentation of the EMS system re-view to the entities receiving a submission in accordance with this chapter.
 - (4) In addition to the EMS plan and stakeholder survey, the EMS system review may include areas of evaluation requested by the EMCC or EMS Agency.
 - (5) The EMCC may request EMS system review on a more frequent schedule than every five (5) years. In no case shall an EMS system review occur more than annually.
 - (6) EMS system reviews performed more frequently than every five (5) years shall be at the discretion of the Board of Supervisors or the EMS Agency.

Sec. 5-22. Cost recovery.

- (A) The EMS Agency shall have the ability to recover the costs of the oversight and monitoring of the EMS system, including but not limited to:
 - (1) Certification and accreditation of prehospital personnel;
 - (2) Designation of receiving facilities;
 - (3) Designation of base hospitals;
 - (4) Designation of specialty care centers;
 - (5) Approval of EMS training programs;
 - (6) Approval of EMS continuing education providers;
 - (7) Approval and authorization of EMS provider agencies;
 - (8) Approval of ambulance dispatch centers;
 - (9) Oversight and monitoring of exclusive operating areas;
 - (10) Other required approvals and monitoring as required by state law and regulation;
- (B) The board of supervisors shall establish a fee schedule for the EMS Agency
- (C) Ambulance provider permits and county ambulance service contracts shall include cost recovery provisions.

Sec. 5-23. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter or the ambulance regulations are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions hereof



**FIRE CHIEFS ASSOCIATION
OF SANTA BARBARA COUNTY**
In association with the California Fire Chiefs Association



VIA ELECTRONIC MAIL

The Honorable Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101
sbcob@countyofsb.org

**RE: May 31, 2022 Santa Barbara County Board of Supervisors (Agenda Item Not Available at
Written Comment Deadline) Regarding Ambulance Services Update**

May 27, 2022

Dear Members of the Board of Supervisors,

The Fire Chief's Association of Santa Barbara County respectfully offers the attached comments
on the Ground Ambulance Request for Proposal document.

Respectfully,

Greg Fish, President

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4	1. Introduction	1.1 para. 4	<p>Section 1.1 states that “the LEMSA has the exclusive responsibility to plan, implement, evaluate, and regulate the Santa Barbara County EMS System.” This statement is false and must be revised.</p> <p>The LEMSA “shall <i>plan, implement, and evaluate</i> an emergency medical services system, in accordance with the provisions of [the EMS Act], consisting of an organized pattern of readiness and response services based on public and private agreements and operational procedures.” (Health & Saf. Code, § 1797.204.) The statute does not grant the LEMSA the authority to “regulate” the system.</p> <p>Moreover, such activities are subject to the Emergency Medical Services Authority’s (“EMSA’s”) oversight, which sets standards the LEMSA must follow and reviews and approves or disapproves the LEMSA’s local EMS plan, which is the formal plan for the EMS system. (<i>County of Butte v. Emergency Medical Services Authority</i> (2010) 187 Cal.App.4th 1175, 1191.) Furthermore, the LEMSA’s exercise of medical control authority must comply with the standards established by EMSA in state regulations (<i>County of San Bernardino v. City of San Bernardino</i> (1997) 15 Cal.4th 909, 916, 927), as well as the limitations placed on such authority by the Legislature in SB 438, (Health & Saf. Code, § 1798.8.)</p> <p>The EMS Act itself recognizes that the LEMSA’s authority is limited by the Board of Supervisors’ authority. First, the LEMSA may only create exclusive operating areas upon the Board’s recommendation. (Health & Saf. Code, § 1798.8.) Second, the Board may adopt ordinances governing the transport of trauma, burn, and pediatric patients, (Health & Saf. Code, § 1797.222), which indicates that the Board’s authority to regulate the use of public streets takes precedence over the LEMSA’s medical control authority. Third, AB 389 expressly provides that the Board has “exclusive jurisdiction” to establish policy for the County’s emergency ambulance services contracts. (Health & Saf. Code, §§ 1797.230(c), (e).)</p> <p>Furthermore, statutes outside of the EMS Act grant the Board superseding authority over portions of the EMS system. The courts recognize that the County’s obligation to provide emergency ambulance services is predicated on its duty to provide medical care to indigent residents under Welfare & Institutions Code section 17000. (<i>City of Lomita v. County of Los Angeles</i> (1983) 148 Cal.App.3d 671, 673-674; <i>City of Lomita v. Superior Court</i> (1986) 186 Cal.App.3d 479, 481-482.). Under Welfare & Institutions Code section 17001, administration of medical care to indigent is “vested exclusively” in the Board, which has the discretion, without supervision of EMSA, to determine eligibility for, the type and amount of, and conditions to be attached to indigent relief.”</p>

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			<p><i>(Cnty. of L.A. v. Dep't of Soc. Welfare (1953) 41 Cal.2d 455, 458.)</i></p> <p>Thus, the LEMSA's authority regarding the EMS system and medical control is necessarily subject to the Board's exclusive jurisdiction to determine the conditions for the provision of medical care to indigents and make policy regarding county emergency ambulance services contracts.</p> <p>Finally, the notion that any part of the LEMSA's regulatory authority is not subject to oversight by the Board of Supervisors violates well-established, basic principles of democratically elected local government:</p> <p style="padding-left: 40px;">It is axiomatic that a county acts only through its board of supervisors, which as its governing body "exercises the powers of the county." [Citation] Further, the difficult judgments required by the legislative function "cannot be left to individual officers acting in isolation; rather, it is, and indeed must be, the responsibility of the legislative body to weigh those needs and set priorities for the utilization of the limited revenues available."</p> <p><i>(Rose v. County of San Benito (2022) 77 Cal.App.5th 688, 716.)</i></p> <p>Thus, the offensive language in Section 1.1 should be revised to state: "the LEMSA is the County's lead agency charged with planning, implementing, evaluating, and regulating the Santa Barbara County EMS System."</p>
9	1. Introduction	1.5(D)-(E), 1.5(E) para. 3	<p>Recommend that an EMS System participant group/committee review and approve utilization of these funds (as historically occurred with Contract Compliance Committee for expenditures of "Penalty Assessment Fund"). This promotes utilization of funds in a manner that is reflected and supported by system participants.</p>
10	2. Procurement Information	2.10(D)	<p>Should include language that allows for a change to a mutually agreed upon different set of tools for both subsections (F)(i) and (ii). This is in case of a less than satisfactory performance by either of these brand of tools (they are both currently newly implemented—less than 1 year—at the LEMSA level). While they may be the long-term tools, the contract should provide the flexibility to change tools if mutually identified and agreed that it is beneficial.</p>
13	2. Procurement Information	2.3	<p>The second paragraph of this section should be revised to state: "The Board of Supervisors reserves the right to accept or reject. . . ."</p> <p>The Board of Supervisors has ultimate authority over the RFP because the award of public contracts "and all of the acts leading up to the award, are legislative in character" reviewable through traditional mandamus. <i>(Weinstein v. Cnty. of L.A. (2015) 237 Cal.App.4th 944, 964.)</i></p>

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22	2. Procurement Information	2.10(B)	The fiscal review of proposals should not be on a pass/fail basis and must be completed by the review panel itself. The review panel should be allowed to rely on the County's procurement, legal, and financial specialists to evaluate fiscal aspects of proposals, but not LEMSA officials who appear biased in favor of AMR following their expressed support for the company at the Board of Supervisor's Oct. 1, 2019 meeting. Similarly, persons from outside the County must not participate in the fiscal review to protect the integrity of the process.
23	2. Procurement Information	2.10(D)	<p>The RFP should provide for a three-person review panel comprised of one (1) EMS physician and two (2) members of the board of supervisors. The EMS physician must not be Dr. Salvucci given his biased comments in favor of AMR at the Board of Supervisor's Oct. 1, 2019 meeting.</p> <p>If the current panel language is retained, this section should include more detail as it is a very important group for this process.</p> <ul style="list-style-type: none"> i) Specify "...other <u>medically licensed</u> specialty knowledgeable of EMS best practices" ii) Include level/time minimum experience required and specify what constitutes "high-performance EMS System design and service." iii) Specify if these are to be local, regional or state level community leaders. <p>Regardless of the composition of and number of persons on the review panels, persons should not be eligible to serve on the panel if they or their immediate family members are employed by, or have a financial interest in, an interested proposer.</p>
32	3. Service Plan	3.2 para. 1	Due to its unique needs, population, and density, UCSB must be exempted from the new EOA (and corresponding system status management plan) created by the RFP, consistent with UCSB's and County Fire's express requests
36	4. Clinical Standards	4.3 para. 2	Please clarify/define what "damages" the Local EMS Agency is incurring.
39	4. Clinical Standards	4.8 para. 2	Provide maximum hours of "internal staffing support" to clarify appropriate allocation of work hours and staffing by contractor
41	5. Operational Standards	5.2(C)	Reword to say "LEMSA shall be provided access to this data upon request."
43	5. Operational Standards	5.3(A)(viii)	Section 5.3(A)(viii) states that "[a] list of all vehicles detailing make, model, age, and maintenance records must be provided to the LEMSA." This requirement is anticompetitive in that it denies non-incumbent proposers equal opportunity to bid and favors the incumbent proposer, AMR. As a practical matter,

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			only the incumbent proposer has an existing fleet of ambulances and can provide this list. As such, the quoted language must be deleted.
45	5. Operational Standards	5.5(B)	Change language to "Contractor shall utilize an ePCR product that provides all LEMSA required data fields and is compliant to the current data dictionary and NEMSIS version utilized by the local EMS system as directed by the LEMSA." Change language to "Contractor shall, at its expense, utilize an agreed upon/approved data mining tool (currently First Watch) to independently..."
46	5. Operational Standards	5.8	The entire section should be rewritten. First, the first paragraph's "preferentially hire" language is anticompetitive in that it the County's human resources policies preclude County from committing to preferential hiring. A preferential hiring standard could also expose the contractor to liability by creating the appearance of employment discrimination in violation of federal and state law. Second, the second paragraph's language ("all incumbent personnel hired will retain 'seniority status' while working full-time...") violates federal labor laws by interfering in the collective bargaining process and dictating the substantive terms and conditions of collective bargaining agreements. Third, the two paragraphs apply to non-incumbent providers but not the incumbent provider, AMR. This creates a double-standard favoring AMR, as it may choose to terminate existing workers to submit a lower-cost and price proposal. Accordingly, the section should be rewritten to require non-incumbent proposers to "describe their plan to recruit and hire the incumbent workforce" and the incumbent provider to "describe its plan to retain and prevent attrition of incumbent workers" to further the LEMSA's goal of developing and maintaining a dedicated, highly trained EMS workforce in the County.
49-51	6. Ambulance Response Time Performance Standards & Liquidated Damages	6.2(A)-(C) 9-1-1 System Requests	Please explain the criteria used by LEMSA determined each of the noted response time standards in (A), (B), and (C) and how those standards will further clinical excellence and improve patient outcomes.
51-53	6. Ambulance Response Time Performance Standards & Liquidated Damages	6.2(D)-(H) Interfacility Transports	Include language that indicates that the LEMSA shall be responsible for providing training and education to local hospitals and facilities regarding the LEMSA determined Priority categories and associated patient qualifiers and time requirements. Additionally, include language that indicates that the LEMSA will assist in facilitating further education and clarification as needed.
53	6. Ambulance Response Time Performance	6.2(H)	Please clarify the level of EMS assessment required to determine an individual "not to be experiencing an emergency medical condition" and reference the appropriate LEMSA

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	Standards & Liquidated Damages		Refusal Policy or other policy that provides for this action by an EMS Responder.
55	6. Ambulance Response Time Performance...	6.4(C)(iii)	Clarify language in first sentence "by the emergency ambulance," which does not make sense.
55	6. Ambulance Response Time Performance...	6.4(C)(iv)	Clarify language in last sentence "respond to cancelled calls that are cancelled will be," which does not make sense.
26-31, 98-101,	2. Procurement Information Appendix 10. Sample Proposal Evaluation Criteria Explained	2.11	<p>The RFP scoring matrix, the Appendix 10 explanations for the scoring criteria, and the corresponding RFP's substantive provisions, and are confusing, contradictory, subjective and incomplete, and therefore fail "to provide a basis for full and fair competitive bidding upon a common standard." (<i>Baldwin-Lima-Hamilton Corp. v. Superior Court</i> (1962) 208 Cal.App.2d 803, 821.)</p> <p>These sections must be completely overhauled and provide objective standards for competition and evaluation of proposals. Appendix 10 must be complete and its explanation of the evaluation criteria must match the substantive content of the corresponding RFP sections.</p>
26-31, 66-67, 98-101	2. Procurement Information 8. Regulatory Compliance and Financial Standards Appendix 10. Sample Proposal Evaluation...	2.11, 8.3	<p>State policy favors the provision of emergency ambulance services by public providers over private providers in that the State offers to supplemental reimbursements for the transportation of Medi-Cal patients to public providers that it does not offer to private providers, and such supplemental reimbursements count towards the State's share of federal Medicaid dollars, which is then reinvested into the community. (<i>Sierra Med. Servs. All. v. Kent</i> (9th Cir. 2018) 883 F.3d 1216, 1226-1227.)</p> <p>To effectuate this established public policy, the RFP should award points to a providers' ability to further the State's and the County's financial interests through supplemental Medi-Cal reimbursements.</p>
18-22, 26-31, 98-101	2. Procurement Information Appendix 10. Sample Proposal Evaluation...	2.9, 2.11	<p>RFP should be revised to clearly articulate objective standards and criteria for determining whether a proposed bidder is an "eligible bidder."</p> <p>In addition, proposer minimum qualifications should be evaluated on a points basis, and not on a pass/fail basis, to comply with state competitive bidding laws. (<i>Great W. Contractors, Inc. v. Irvine Unified Sch. Dist.</i> (2010) 187 Cal.App.4th 1425, 1429 [minimum qualifications go to proposer responsibility, not proposal responsiveness, and courts will intervene when proposals are rejected as nonresponsive, when the real issue is proposer responsibility].)</p>
(see 30) (see 30) 13, 15-19, 22, 30-31, 68-69,	Required Submission Forms Financial Assessment 2. Procurement Information 8. Regulatory Compliance and Financial Statements.	2.2, 2.7, 2.8, 2.9(B), 2.10(B), 2.11(A), 8.7, 8.9, 9.4	<p>There should be no pass/fail criteria in the RFP; all categories should be scored based on points.</p> <p>Furthermore, the RFP should clearly identify the required elements of a proposal, including all required forms.</p>

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71-73, 98-101	9. Default, Termination and Other General Provisions. Appendix 10. Sample Proposal Evaluation...		General liability insurance requirements exceed counties existing insurance coverage threshold. RFP should consider differing liability insurance requirements for government and private providers.
49, 53	6. Ambulance Response Time Performance...	6.2(A), (J)	Response time requirement for urban should be returned to 7:59, as response and transport times are crucial to achieve positive patient outcomes in cardiac and trauma cases.
44-45, 54-56	5. Operational Standards 6. Ambulance Response Time Performance...	5.4(A), 6.4-6.5	RFP should require the bidder to agree to transmit, via cellular modem or other device, their units' locations to CAD at all times, and such information must be visible to all first responders.
8, 54-55	1. Introduction 6. Ambulance Response Time Performance...	1.5(C), 6.4	Ability to contract with first response providers to "stop the clock" should be allowed in the RFP. While eliminating clock stoppage for ambulance response s an excellent concept and the appreciation for first responders is admirable, elimination of "stop the clock" agreements will result in longer times, by 2 minutes in the Urban areas, and the removal of First Responder fees from the system. The amplified effect is a 25% increase in on-scene time by First Responders coupled to a 100% reduction in revenue.
all; 12-31	all; 2. Procurement Information Appendix 10. Sample Proposal Evaluation Criteria Explained	all; 2.1-2.11	The RFP is fundamentally flawed by deprioritizing the provision of timely and effective service in relation to other considerations, such as KPI recordkeeping for the LEMSA and supporting the LEMSA medical director's research activities. Accordingly, the Operational Standards criteria should be worth a total 200 points, while the Minimum Qualifications, Clinical Standards, and Administrative Standards sections should be worth 100 points each.
9	1. Introduction	1.5(D), (E)	"EMS Clinical and Technical Enhancement Fund" should be eliminated or modified to clearly and transparently articulate what it is, how it works, and who controls it.
all; 8-10, 39	1. Introduction 4. Clinical Standards	1.5, 4.8,	No LEMSA budget considerations, including contributions by provider, should be contemplated in the RFP.
all; 55-56, 63-64	6. Ambulance Response Time Performance... 7. Administrative Standards	6.5, 7.8	RFP and subsequent contract should require staffing, total call time performance (turnout time, drive time, on-scene time, transport time, and out-of-service time) and utilization hours to be reported monthly.
all; 64, 68	7. Administrative Standards 8. Regulatory Compliance and Financial Statements	7.8, 8.6	The RFP financial reporting provisions are anticompetitive and favor private providers over public providers in that the former are required to furnish annual financial report that meets GAAP standards, while the latter are not. Such financial reporting should be uniformly required for all providers to achieve full and fair competition, as well as financial accountability and transparency.
49	6. Ambulance Response Time Performance...	6.2(A)	Increase in Priority 1 response time requirements to 9:59 is unacceptable- BLS providers will not only be required to wait longer for ambulance but also for a paramedic. With EMD in

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			place, we know these to be Delta and Echo calls. Additionally, the change in response times equates to the provider being able to staff less ambulances, which increases delayed responses and decreases system capacity and resilience.
50	6. Ambulance Response Time Performance...	6.2(B)	Increase in Priority 2 response times from 7:59-12:59 is unacceptable. EMD Charlie responses have historically been code 3 calls. This increase of four minutes is going to allow further reduction in ambulances without any increase in positive patient outcomes.
50-51	6. Ambulance Response Time Performance...	6.2(C)	Increase in Priority 3 response times to 16:59 is unacceptable. These have historically been code 2 ALS responses. While BLS will suffice, this is an increase from 14:59. In the City, we have a large number of PD requests for ambulance assessment/transport. This will cause further delays in care and further commitment of PD resources on scene.
50-54	6. Ambulance Response Time Performance...	6.2(D)-(J)	The RFP should require the contractor to deploy dedicated IFT units. Otherwise, emergency units will be tied up on IFTs, which equates to diminished availability and extended response times. Similarly, allowing the contractor to rely on emergency units for IFTs will not solve the persistent and chronic lack of IFTs for hospital needs.
52	6. Ambulance Response Time Performance...	6.2(G)	Long Distance Transfers—The RFP must require the contractor to augment “home” staffing or backfill units used for such transfers.
8, 54-55	1. Introduction 6. Ambulance Response Time Performance...	1.5(C) 6.4	The removal of first responder reimbursements is wholly unacceptable. First response agencies provide care and treatment for patients for which the ambulance provider receives payment from payors. Denying those agencies the ability to recover some of their costs harms the economic viability of such services, subsidizes ambulance provider operations, and allows ambulance providers to receive and keep reimbursements for services they did not actually provide. This is not only unjust and unethical, but it also hampers fire agencies’ funding, which, in turn, reduces their operational readiness and response capabilities. .
9	1. Introduction	1.5(D), (E)	“Clinical and Technical Fund”- There is zero explanation of how this fund will be managed and distributed. This was promised to be an “equipment fund” by the LEMSA, where providers could pull \$ for capital EMS-related purchases. There is only vague information with no clear nexus of how the money could be allocated.
8-9	1. Introduction	1.5(C), (D), (E)	The Technical Enhancement Fund is projected at a \$52,625 maximum and reliant on the revenue/ liquidated damages. What is the actual expectation for enhancements based on such an insignificant sum? On question 13 of the bidder questions, the LEMSA responded to a specific question about the prohibition on Extend the Clock arrangements and First Responder fees as if the Technical Enhancement Fund would

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			somehow replace the First Responder Fees. "The Fund may be accessible to the EMS system participants for EMS initiatives, as well as the LEMSA for Systems enhancements." The language in the bidder responses and the specific language in the RFP lead one to conclude that the reimbursements to local fire departments will no longer exist, in any meaningful way, while the expectation for First Responders to support their communities will require an additional 2 minutes on scene.
9	1. Introduction	1.5(D) para. 2	The RFP misstates the cost recovery for emergency dispatch services.
18-22	2. Procurement Information	2.9	Consistent with California competitive bidding law and best practices, and to avoid potential anticompetitive provisions that stifle competition, the RFP's minimum qualification requirements should be modified to require a showing of proposers' experience and capability to perform the services. (<i>Great W. Contractors, Inc. v. Irvine Unified Sch. Dist.</i> (2010) 187 Cal.App.4th 1425, 1429 [minimum qualifications go to proposer responsibility, not proposal responsiveness, and courts will intervene when proposals are rejected as nonresponsive, when the real issue is proposer responsibility].)
19	2. Procurement Information	2.9(E)(5)	Section 2.9(E)(5) provides: "Proposer shall disclose any municipal contract that was terminated for cause and/or was ended by agreement before the full term." Proposers and evaluators may read this requirement to require disclosure of any breach of city, but not county or district, contracts. It also does not include breach of federal, state, or tribal contracts. Therefore, the language should be revised to state: "Proposer shall disclose any contract with a federal, state, local, or tribal government that was terminated for cause and/or was ended by agreement before the full term."
22-26	2. Procurement Information	2.10	Unacceptable. Removes County Board of Supervisors from any oversight into the process and puts whole contract into hands of the Proposal Review Panel.
30	2. Procurement Information	2.11 Scoring Criteria	<ul style="list-style-type: none"> • Pass/Fail requirements are subjective • The required elements of a proposal (including forms), should be clearly identified in the scoring matrix
33-40	4. Clinical Standards	4.1-4.10	<ul style="list-style-type: none"> • The Clinical Performance and KPI reporting requirements are not based on industry standards and best practices and have not been scientifically vetted. • The winning proposer is not bound by the clinical performance and KPI reporting portions of their proposal; those aspects are to be negotiated between the LEMSA and the winning proposer during contract negotiations before final award. This creates the possibility of favoritism and double standards, in that the LEMSA could require the

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			<p>winning proposer to adopt a losing proposer's superior response to these sections.</p> <ul style="list-style-type: none"> • Liquidated damages- Is this industry standard? Are RNs and MD's fined for care issues? • Clinical performance credits to reduce response time penalties are poorly conceived. • This whole section does not appear to be well thought-out. Highly subjective
33, 98-101	4. Clinical Standards Appendix 10. Sample Proposal Evaluation Criteria Explained	4.1	The substance of this section conflicts with the Appendix 10 scoring criteria evaluations. Section 4.1's requirements overlap with other sections within Section 4 and do not contain objective standards for evaluation.
34, 98-101	4. Clinical Standards Appendix 10. Sample Proposal Evaluation Criteria Explained	4.3	The substance of this section conflicts with the Appendix 10 scoring criteria evaluations. Section 4.2's requirements overlap with other sections within Section 4 and do not contain objective standards for evaluation. Section 4.2 should disclose the KPI performance measures developed by the LEMSA so proposers can adequately explain their systems and processes for tracking the KPIs instead of requiring them to propose or guess which KPIs the LEMSA should or will track.
34, 98-101	4. Clinical Standards Appendix 10. Sample Proposal Evaluation Criteria Explained	4.10	The substance of this section conflicts with the Appendix 10 scoring criteria evaluations. Section 4.10 requires proposers to discuss their history of clinical innovations instead of proposing specific clinical innovations they propose to achieve in the future. Thus, Section 4.10 does not reveal how proposers will drive medical innovation if they are awarded the contract. Furthermore, given LEMSA officials' praise of AMR as their long term partner in innovation during the Board of Supervisors' October 1, 2019 meeting, Section 4.10's emphasis on proposers' history of innovation creates the appearance of bias on the part of the LEMSA in favor of AMR.
40	5. Operational Standards	5.1(A) last sentence	The "periodic and temporary changes to coverage" language appears to allow the contractor to "brown-out" units at the end of compliance periods, which allows the contractor to maximize profits by reducing costs (and service levels), while gaming performance compliance measures.
41	5. Operational Standards	5.1(B)	This section provides that ambulance stations are only required for 24-hour shift personnel, which will increase worker fatigue, stress, and errors for personnel that work less than 24-hour shifts.
43	5. Operational Standards	5.3(B)	This section unnecessarily grants the LEMSA the power to regulate and veto the graphic designs in contractor logos.
45	5. Operational Standards	5.4(A)	Mentions staffing ambulances, "QRV's" and field supervisor vehicles. The RFP does not define "QRV."

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47-48	5. Operational Standards	5.9(C)	Correction - should be "Appendix 14" not "Appendix 13"
48	5. Operational Standards	5.10(B)	Will the contractor be allowed to reduce system capacity and resilience by using emergency units to provide standby services? What medical reasoning or principles support this?
53	6. Ambulance Response Time Performance...	6.2(H)	Section 6.2(H) allows contractors to transport mentally disordered patients using ALS ambulances, which not only removes units from the 911 system, but also fails to address stakeholder concerns regarding this practice in the EMS system review.
54-55	6. Ambulance Response Time Performance...	6.4	This section should be revised to require the contractor to submit to the Board of Supervisors, a monthly report detailing all the following information: <ul style="list-style-type: none"> • Staffing levels; aggregate and by zone • Response times; aggregate and by zone • Total transports; aggregate and by zone • Unit hour utilization; aggregate and by zone • Special Event; aggregate and by zone
48-54	6. Ambulance Response Time Performance...	6.2	Section 6 and response times are simply not acceptable, especially the discrepancy between P1 and P2. We know from experience that MPDS is constantly trying to reduce the number of P1 calls in the system, which will inadvertently increase overall response times.
48-59	6. Ambulance Response Time Performance...	6.2; all	The RFP should require the contractor to work with local agencies on traffic management programs and proposers to detail their plans to do so.
50-53	6. Ambulance Response Time Performance...	6.2(C)-(H)	The entire section on IFT P4-P7 transports acknowledges the current shortcomings and lacks any kind of specificity for solving the current problem.
53	6. Ambulance Response Time Performance...	6.2(H)	Three types of vehicles listed to transport "Mentally Disordered Persons": ALS ambulance, BLS Ambulance or "other LEMSA approved appropriate vehicle to an alternate destination." What does that mean?
55	6. Ambulance Response Time Performance...	6.4(C)(iv)	The last sentence is an incomplete sentence.
57-59 8-9	6. Ambulance Response Time Performance... 1. Introduction	6.7, 1.5(D)-(E)	The whole Liquidated damages section still lacks much clarity. There seems to be conflicting intent. The LEMSA ultimately seeks no liquidated damages, yet, it is planning on the revenue. The revenue plans "system enhancements" imply much more significant sums of money than the \$52,000 projected in the introduction of the document.
59	7. Administrative Standards	7.1	Provider must work with "other public safety...groups" but there is no mention of area fire agencies. This omission contributes to the widely-held belief that the LEMSA is biased against fire agencies.

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59-60	7. Administrative Standards	7.1	<p>Section 7.1 is worth 25 points and requires the contractor to engage in community education programs, have implicit and unconscious bias programs, and train field staff on health inequities specific to populations in the County. Given the importance of these topics, Section 7.1 should be broken up into the following three categories worth 20 points each:</p> <ul style="list-style-type: none"> • Community education programs; • Implicit bias and cultural fluency training at all levels of the proposer’s organization; and • Specific programs, initiatives, and community outreach to reduce health inequities in underserved, under-resourced, and vulnerable populations in the EOA.
61	7. Administrative Standards	7.3(B)	<p>Misspelled line in “Number Publication” sentence</p> <ul style="list-style-type: none"> • “The hotline number will be published <u>in the on the</u> LEMSA’s website...”
63	7. Administrative Standards	7.7(C)(iv)(g)	<p>Under the Field Supervisor section, part G lists the following:</p> <ul style="list-style-type: none"> • “Provide the qualifications, including resumes, and provide job descriptions for all management, clinical and supervisory personnel for the ambulance service.” <p>That part is placed under the subheading for Field Supervisors. Seems like it is misplaced and not applicable.</p>
65	7. Administrative Standards	7.9	<p>Section 7.9 evaluates proposers’ plans to participate in system development and future system enhancement. The RFP should be revised to make this section worth at least 30 points and should have clearer and objective standards and guidelines for evaluation.</p>
65	7. Administrative Standards	7.9	<p>Section 7.9 identifies community paramedicine as a potential future system enhancement. Given its patient and system benefits, community paramedicine should be its own section in the RFP worth 20 points .</p>
66	8. Regulatory Compliance and Financial Standards	8.3	<p>Section 8.3 establishes maximum rates for emergency and nonemergency transport. This may constitute price-fixing in violation of the federal antitrust laws. The County, the LEMSA, and the provider would not be entitled to state action antitrust immunity because Health & Safety code section 1797.224 and the EMS Act do not authorize the LEMSA (or the County) to regulate ambulance rates and fees. Instead, the authority to do so comes from Vehicle Code section 2512(c). Accordingly, the County’s ambulance ordinance must be updated to provide that the Board of Supervisors establishes ambulance service rates, and the RFP must be revised to conform to the revised ambulance ordinance.</p>
67-68, 93-95	8. Regulatory Compliance and Financial Standards Appendix 7. Provision for	8.6(B), Appendix 7	<p>The requirements of these sections are anticompetitive, arbitrary, impose greater burdens on public providers than private providers, and purport to establish policy and governance for public entities.</p>

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	Fairness in Government/ Private Competition		<p>Section 8.6(B) and Appendix 7 purport to provide a “level playing field” between proposers by requiring public providers to organize their operations in an “enterprise fund.” The stated rationale for this requirement is that private providers must obtain performance security, while public providers do not, which somehow increases the risk of public providers submitting low-ball bids and defaulting. This is simply inaccurate.</p> <p>Private providers routinely submit low-ball offers (e.g., AMR in Contra Costa, Paramedics Plus in Alameda) even when they are subject to performance security requirements and bankruptcy risks.</p> <p>Moreover, the stated purpose of the enterprise fund requirement is to provide security from a taxpayer bailout in the event that a public provider defaults, similar to how performance security bonds protect the government from a private provider’s default. However, the public provider’s governing body should be the entity making policy decisions about the use of public monies, not the LEMSA. Nor would an enterprise fund actually protect taxpayers in the event of a public provider default—government funds are essentially fungible and a shortfall in an enterprise fund would have to be filled with general fund monies. Nor is the performance security concept appropriate in the case of County Fire. It would be tantamount to the County taking out a bond to protect itself from a default by the County.</p> <p>Furthermore, the requirement contains very specific and detailed features and configurations for the enterprise fund, such segregating ambulance costs and revenues from the parent entity and establishing and funding the enterprise fund before contract award. The RFP imposes no similar requirements on private providers, such as prohibiting local subsidiaries from remitting funds to its the parent corporation or requiring the subsidiary to be financially self-sufficient. These requirements only serve to hamstring public providers while giving private providers complete freedom in internal organization.</p> <p>Finally, the enterprise fund is intended to protect against low-ball offers by public providers. This restricts competition, rather than promote it. Public providers do not need to make a profit and therefore have more flexibility in setting their rates. Public providers’ ability to charge lower rates than private providers is a proper and desirable competitive advantage in competitions between public and private sector entities. By attempting to negate the public providers’ competitive advantage, which would translate to lower consumer prices, the RFP stifles competition and is contrary to the LEMSA’s professed adherence to the Triple Aim framework.</p>
85-88	Appendix 2. Maps of the County		Polygons showing urban/rural do not appear correct and seem to be slanted toward rural. For example, the SB harbor shows

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			as rural. The polygons' mis- and over-designation of areas as rural will likely result in increased response times, and particularly in historically difficult to access areas.
31,	2. Procurement Information	2.11(A)	The scoring matrix in Section 2.11(A) states that "Administrative Standards" are worth 90 points. This is a typo. The standards are actually worth 100 points.
31, 101	2. Procurement Information Appendix 10. Sample Proposal Evaluation Criteria Explained	2.11(A)	The scoring matrix in Section 2.11(A) states that proposals must respond to Section 8.9 and such response will be scored on a pass/fail basis. There is no Section 8.9 in the RFP.