

55378

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, M. D.
Commissioner of Health

DATE: February 22, 2017

RE: Resolution authorizing the County of Westchester to award emergency contracts for the transportation of children with special needs to special education programs at: Arc, Inc., CSED Hawthorne and at Five sites in the Northern Regional Zone for the term February 28, 2017 through August 31, 2017 to All County Bus, LLC and to TLC Transportation Corp. of Westchester, respectively, as a result of the Bankruptcy of Allways East Transportation, Inc., pursuant to Chapter 11 of the US Bankruptcy Code, and the sale at auction of its assets, which included the above contracts, for which no bids were received, effective February 28, 2017 through August 31, 2017, in the amounts not-to-exceed stated below at the bid price per vehicle per day rates that the providers have agreed to be reimbursed.

Westchester County is mandated by Section 4410, Part 200 of the New York State Education Law and Article 25, Title IIA of the New York State Public Health Law to provide for transportation to children under five years old with special needs. The County currently has three contracts with Allways East Transportation, Inc. ("Allways East") which filed for bankruptcy protection under Chapter 11 of the US Bankruptcy Code, and on February 15, 2017 an auction of the assets of Allways East was conducted which included the County's contracts for the provision of transportation for children with special needs to special education programs at: Arc, Inc., CSED - Hawthorne; Five sites in the Northern Regional Zone and John A Coleman School, White Plains (the "County Contracts") for their unexpired terms. The County has been advised that Allways East will cease to operate on February 28, 2017, pursuant to its Bankruptcy filing. No bids were received at the auction of assets for the County Contracts, so the County must obtain transportation for these children on an emergency basis for the period February 28, 2017 through August 31, 2017.

As your Honorable Board is aware, in the case of a public emergency affecting the "life, health, safety or property of a political subdivision" that requires "immediate action which cannot await competitive bidding" the County may award contracts on an emergency basis, until such competitive bidding can be undertaken. NY General Municipal Law §103(4). The dissolution of Allways East, Inc. on February 28, 2017 and its inability to provide transportation for these disabled children pursuant to the NY Education Law and the Public Health Law has created a public emergency requiring immediate action. The Department of Health ("WCDH") does not have adequate time to obtain transportation bids for these children by February 28, 2017. WCDH estimates that it will require five months to prepare and award bids for the required transportation services, therefore the term of the emergency contracts requested are proposed to extend from February 28, 2017 through August 31, 2017. In the meantime WCDH will prepare bid documents for transportation of children with special needs to special education programs for the term beginning September 1, 2017.

WCDH was able to obtain quotes from All County Bus, LLC and TLC Transportation Corp. of Westchester at the same rates that were submitted for the transportation bids opened on April 25, 2012. The price for the John A. Coleman School has not yet been obtained. A separate resolution authorizing an emergency contract for the John A. Coleman School will be submitted for the next Board of Acquisition and Contract Meeting.

Authority is therefore requested to enter into the following emergency contracts for the term February 28, 2017 through August 31, 2017 at a per vehicle per day rate, and in the not to exceed amounts indicated below:

Contract Number	Program(s)/Zone	Company	Not to Exceed Amount
WCDH E/T 498	ARC Inc./CSED – Hawthorne	All County Bus, LLC	\$116,640
WCDH E/T 510	Northern Regional Zone (5 sites)	TLC Transportation Corp of Westchester	\$470,448

Performance security in the form of a 10% retainage will be required of each of the above contractors.

The transportation services provided under these agreements will promote the public health, safety and welfare of approximately seventy-five (75) Westchester County children with special needs by enabling daily participation in Special Needs programs through safe transportation. The goals and objectives of these programs are to:

- provide appropriate services to from birth to five with developmental disabilities and/or delays in accordance with their approved Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP);
- provide these services in the child's least restrictive setting/natural setting through safe transportation.

Monitoring of the Transportation providers, as per the contract requirements, is accomplished through required County pre-approval on all bus routes prior to implementation, random County inspections to ensure provider vehicle safety and staff compliance to County policy, and accuracy of billing by monthly reviews of submitted documentation.

Approval of the attached resolution authorizing the award of the above emergency contracts is respectfully requested.

SA/am/DI

Attachment

RESOLUTION

Upon communication from the Commissioner of Health, it is hereby

RESOLVED, that the County of Westchester is hereby authorized to award the following emergency contracts, for the transportation of preschool children with disabilities to the locations/regions listed below, for the term February 28, 2017 through August 31, 2017, at a per vehicle per day rate, and in the not to exceed amounts indicated below:

Contract Number	Program(s)/Zone	Company	Not to Exceed Amount	Security Amount
WCDH E/T 498	ARC Inc./CSED – Hawthorne	All County Bus, LLC	\$116,640	10% retainage
WCDH E/T 510	Northern Regional Zone (5 sites)	TLC Transportation Corp. of Westchester	\$470,448	10% retainage

and, be it further,

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the “State Budget”) proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his duly appointed designee is authorized to execute any and all documents and to take all actions necessary and appropriate to effectuate the purposes hereof.

<u>Fund</u>	<u>Dept</u>	<u>Major Program, Program & Phase or Unit</u>	<u>Object/Sub-object</u>	<u>Trust Account</u>	<u>Dollars</u>	<u>Budget Year</u>
101	27	2700	4539		\$469,670	2017
101	27	2700	4541		\$117,418	2017

Budget Funding Years	2017	Start date	2/28/17	End date	8/31/17
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Funding Source	Tax dollars						
		43%	\$252,448				
	State aid	57%	\$334,640				
\$587,088	Insurance						
(must match resolution)	Medicaid						

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/23/2017 - LISA MARIJAJ, SECRETARY