



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Health and Social Services

Certificate of Need Program

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June 28, 2016

Mr. David A. Joslin, Administrator
Diagnostic Health Alaska
4100 Lake Otis Parkway, Suite 102
Anchorage, AK 99508

RE: Diagnostic Health Alaska Request for Determination dated April 25, 2016

Dear Mr. Joslin,

This letter is in response to Diagnostic Health Alaska's (DHA) "amended request for determination" submitted on April 25, 2016. This request amended the original request for determination submitted on July 27, 2015 for a project to open a multi-modality imaging center at 1751 E. Gardner Way, Suite A, in Wasilla, Alaska. The center was to include Computed Tomography (CT) and Magnetic Resonance Imaging (MRI).

As you know, the Certificate of Need (CON) program made its determination on September 1, 2015, finding that "[b]ased on the request for determination, a CON is not required for the proposed project, *as presented*, because the expenditures at issue do not exceed the \$1.5 million statutory threshold under AS 18.07.031." Based upon the additional information provided in the amended request, as well as your response to the CON program's request for additional information, and our review of discovery DHA submitted as part of litigation involving Imaging Associates of Alaska, we have concluded that a certificate of need is required because your expenditures exceed the statutory threshold under AS 18.07.031. Our analysis is set forth below.

DHA has submitted three certified cost estimates, which are outlined in full below.

Total project expenditures in the September 1, 2015 determination were as follows:

Total Projected Expenditures:	<u>\$1,242,282.07</u>
MRI GE Gold Seal 1.5T 16 Channel HDXT	\$ 571,600.68
CT GE Gold Seal Brightspeed 16	\$ 266,987.75
Lease Costs (\$11,500 x 24 months)	\$ 276,000.00
Leasehold Improvements	\$ 105,800.00
Furniture and Accessories	\$ 5,893.64
MRI Rigging	\$ 16,000.00

Total project expenditures in the April 25, 2016 request were as follows:

Total Projected Expenditures:	<u>\$1,464,353.71</u>
MRI GE Gold Seal 1.5T 16 Channel HDXT	\$ 588,600.68
CT GE Gold Seal Brightspeed 16	\$ 266,987.75
Ultrasound Siemens Sequoia 512	\$ 1,500.00
X-Ray Unit Americorps Summit AM2	\$ 57,840.00
OEC C-Arm GE Stenoscope 2	\$ 2,000.00
Lease Costs	\$ 236,736.00
Leasehold Improvements	\$ 286,763.00
Furniture and Other Equipment	\$ 17,449.04
X-Ray Install	\$ 6,646.24

Total project expenditures in the June 8, 2016 response to the request for additional information are as follows:

Total Projected Expenditures:	<u>\$1,454,020.51</u>
MRI GE Gold Seal 1.5T 16 Channel HDXT	\$ 588,600.68
CT GE Gold Seal Brightspeed 16	\$ 266,987.75
Ultrasound Siemens Sequoia 512	\$ 1,500.00
X-Ray Unit Americorps Summit AM2	\$ 57,840.00
OEC C-Arm GE Stenoscope 2	\$ 2,000.00
Lease Costs	\$ 226,402.80
Leasehold Improvements	\$ 286,763.00
Radiologist Table	\$ 2,460.20
Lobby Furniture	\$ 2,471.30
Ultra Sound Table	\$ 7,280.20
Procedure Table	\$ 5,237.34
X-Ray Install	\$ 6,646.24

In reviewing the material identified above, the CON program identified the following discrepancies as set forth below.

1. The subleases

DHA originally stated the cost of the lease would be \$276,000.00; in its amended request it reduced that number to \$226,987.75. The rationale for this reduction is that DHA is deducting from its total lease amount the income that it intends to collect from two subleases; one with Chugach Imaging, JV, LLC and one with Cottonwood Creek Clinic.

Specifically, DHA stated that Chugach Imaging JV, LLC remits \$1,497.30 a month or \$35,935.20 for their two year lease term. And, Cottonwood Creek Clinic remits \$569.25 a

month or \$13,662.00 for their two year lease term. This reflects a total of \$2,066.66 per month or \$49,597.20 for the two subleases two year lease term. Applying these deductions from the 2 year lease, DHA now calculates its lease costs at \$226,402.80 rather than the \$276,000.000 initially reported.

The CON Program does not agree with DHA's calculation of lease costs. CON regulations do include a section for "net present value" (NPV) for leased space. That section does not support the conclusion that subleased space income can be deducted from overall lease space costs for the purpose of determining expenditures for a request for determination.

Accordingly, the total lease amount should be \$276,000, not \$226,402.80. This results in an underreporting of \$49,597.20 in the most recent certified cost estimate.

2. Furniture and Other Equipment

DHA's original cost estimate identified furniture and other equipment in the amount of \$5,893.64. This amount was amended in the amended cost estimate to be \$17,449.04. However, the discovery provided evidence of additional expenditures that were not included in the original or amended request for determination. Specifically, the discovery indicated the following expenditures:

DHA 26: Invoice for \$1,551.52 from National Business Furniture (Shelf and storage units)
DHA 27: Invoice for \$789.99 from National Business Furniture (3 office chairs)
DHA 28: Invoice for \$759.99 from National Business Furniture (Storage Unit)
DHA 29: Invoice for \$2,535.66 from McKesson (Stretcher and Thermometer)
DHA 31: Invoice for \$7,085.00 from Royal Business Systems (Copier)
DHA 32: Purchase order for \$34,320.00 (unclear who vendor is)-Diagnostic Equipment
DHA 36: Invoice for \$8,928.00 from Design Graphics (building signage)

Accordingly, DHA underreported \$55,970.16 in furniture and other equipment in its certified cost estimate.

3. Costs associated with the OEC C-Arm and the Ultrasound

A further review of the material submitted in discovery identifies a significant discount in the cost estimate for the OEC C-Arm and the Ultrasound. Specifically, DHA 552 provides a pricing sheet from GE to Alliance Health Care which lists quotes for many pieces of equipment. Based on email communication provided in Discovery (DHA 552-561) along with the materials submitted as part of this request for determination, it appears these items were actually purchased by DHA, but their total cost was not included in any of the certified cost estimates. These items that were either not included or underreported in the certified costs estimate are as follows:

US Gold Seal Logiq E9	\$83,750.00 (your cost estimate only included \$1,500.00)
C-Arm Gold Seal 9900 Elite	\$181,925.00 (your cost estimate only listed \$2,000.00)
XR Gold Seal Definium	\$188,803.60 (not included in your cost estimate)

Based upon the above, you underreported expenditures for these three pieces of equipment by \$454,478.60.

Conclusion

Based upon our review of the material submitted and available to the Department we have concluded that DHA's revised total project expenditures should be as follows:

Total Projected Expenditures:	<u>\$2,010,771.47</u>
MRI GE Gold Seal 1.5T 16 Channel HDXT	\$ 588,600.68
CT GE Gold Seal Brightspeed 16	\$ 266,987.75
X-Ray Unit Americorps Summit AM2	\$ 57,840.00
US Gold Seal Logiq E9	\$ 83,750.00
C-Arm Gold Seal 9900 Elite	\$ 181,925.00
XR Gold Seal Definium	\$ 188,803.60
Lease Costs	\$ 276,000.00
Leasehold Improvements	\$ 286,763.00
Radiologist Table	\$ 2,460.20
Lobby Furniture	\$ 2,471.30
UltraSound Table	\$ 7,280.20
Other Furniture, Signage and Misc.	\$ 55,970.16
Procedure Table	\$ 5,273.34
X-Ray Install	\$ 6,646.24

Since the revised expenditures exceed the \$1.5 million statutory threshold under AS 18.07.031, this determination finds that the proposed project requires a certificate of need.

If you are dissatisfied with this determination, you may request reconsideration under 7 AAC 07.033. A request for reconsideration must be postmarked no later than 30 days after the date of this determination.

Sincerely,



Alexandria Hicks, CON Coordinator

Cc: Jon Sherwood, Deputy Commissioner, DHSS
Stacie Kraly, Chief Attorney General