

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of:

No. 2017-EMS-0104-DHS

4 RBR Management LLC, dba Community
5 Ambulance
6 Applicant

CASE MANAGEMENT ORDER NO. 8

ORDER ON MOTION TO EXCLUDE

7 and

8 ABC Ambulance, Maricopa Ambulance,
9 LLC, American Medical Response of
10 Maricopa, LLC, Canyon State Ambulance,
11 Southwest Ambulance and Rescue of
12 Arizona, Life Line Ambulance Service,
13 Southwest Ambulance Maricopa,
14 Rural/Metro Corp - Maricopa, ComTrans
15 Ambulance Service, Inc., Professional
16 Medical Transport, Inc., and American
17 Ambulance
18 Intervenor

17 Pending before the Office of Administrative Hearings is Intervenor ABC
18 Ambulance's (ABC Ambulance) Objection and Motion to Exclude Previously Withheld
19 Financial Documents, joined by Intervenor Maricopa Ambulance, LLC, in which ABC
20 Ambulance argued Exhibit B attached to Applicant's Response to Intervenor's Closing
21 Argument should be excluded because it an improper attempt to introduce new
22 evidence it did not provide in response to ABC Ambulance's subpoena, did not provide
23 in its prehearing disclosure, and did not introduce during the hearing.

24 Applicant filed its Response to Motion to Exclude Audited Financial Records in
25 which Applicant argued Exhibit B was not required by the Arizona Department of Health
26 Services (Department) during the application process and, because the documents
27 were submitted while the record in this matter was open and were reliable, the tribunal
28 should exercise its discretion to consider them as evidence that Applicant was fit and
29 proper.
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1 ABC Ambulance filed a Reply to Its Objection and Motion to Exclude Previously
2 Withheld Financial Documents in which ABC Ambulance asserted that Applicant failed
3 to address the issue of whether Applicant should be permitted to submit Exhibit B in its
4 final filing in this matter to aid it in establishing a factor that it had the burden of proving
5 at the hearing, but rather focused on its legal interpretation of the applicable
6 regulations as to whether Exhibit B was required by the Department.

7 The threshold issue presented in the filings is not whether Exhibit B is relevant,
8 reliable, or should be considered in an analysis of whether Applicant is fit and proper.
9 Rather, the threshold issue is whether Applicant may, in its final filing in this matter
10 submit new exhibits that were not provided pursuant to a subpoena, were not disclosed
11 prior to the hearing, and were not offered at the hearing. By failing to provide Exhibit B
12 at any earlier point in this proceeding, Applicant denied Intervenors the opportunity to
13 review the documents, to cross examine witnesses as to the information contained in
14 the documents, and to present evidence in contradiction. Having considered the
15 arguments presented,

16 **IT IS ORDERED** granting ABC Ambulance's Objection and Motion to Exclude
17 Previously Withheld Financial Documents, joined by Intervenor Maricopa Ambulance,
18 LLC.

19 Done this day, March 26, 2019.

20
21 /s/ Tammy L. Eigenheer
22 Administrative Law Judge
23

24 Copy e-mailed March 26, 2019

25 By: autogenerated and posted to <https://portal.azoah.com/oedf/documents/2017-EMS-0104-DHS/index.html>
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