

ALASKA LEGISLATURE COMMITTEE FILES, 2005-2006 86/2

11629 HOUSE STATE AFFAIRS

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by focusing on just one proposer, while short-shrifting a competitor who might, in fact, have been able to offer a superior alternative.

Additionally, it is self-evident that the use of different evaluation teams for the two different proposers horribly undermines the competitive system. Such a system is not, in fact, "competitive" at all, but a whimsical game of chance.

Finally, and as this memorandum has shown, both irregularities affected the outcome of the procurement.

o With respect to "the extent to which the procurement has been accomplished," and the "degree of prejudice to other interested parties," the contract has been signed, but only on March 13, 2006. The contract performance period does not begin until July 1, 2006. *RFP, Section 1.02*. In the interim, Premiera will be expending funds in preparation for assuming the state's program in July. As of some point *after* July 1, 2006, these start-up funds will eventually approximate \$614,000. *See Affidavit of Robert Moore*, ¶ 5. However

- A portion of these expenditures will be incurred after contract commencement on July 1, 2006. *Id.* at ¶ 7.
- The funds will be incurred only incrementally over the next three months (that is, the number today does not approach \$614,000). The earlier the merits of this appeal can be resolved, the fewer start-up funds at stake. *Id.* at ¶ 5, and

- Even the entire \$614,000 is considerably less than the \$2.48 million that the state would save by accepting Aetna's proposal,²¹ and a fraction of the \$30 million-plus contract price.

Thus, this is not a case where a building has already been constructed (*Bachner*) or a jet completely retrofitted to meet unique state specifications (*J&S Services*). It is, rather, a case where contract performance has not even commenced, and mobilization costs are, to this point, a small fraction of ultimate contract cost.²²

- The Division did not, in Aetna's judgment, proceed "in good faith" here—another factor relevant under both §585(b) and *Keko*. To the extent that the Division's extensive *ex parte* contacts arose from the Division's original loss of Aetna's bid documents, there is no good faith that emerges from that ostensible "mistake." Four entire boxes were "lost." And they were not lost very well, since the Division was able to find them within an hour of Aetna's notification that the materials had, in fact, been timely filed. An agency acting in good faith would have surely questioned why the State's long-time existing contractor had "omitted" the bulk of its bid, and either spent the requisite hour to find the documents much earlier, or simply contacted Aetna. Further, once the materials

²¹ / *McGuinness Aff*

²² / If the contract is ultimately awarded to Aetna, Premera's damages, if any, would be governed by *Earthmovers of Fairbanks, Inc. v. State*, 765 P.2d 1360 (Alaska 1988). Under *Earthmovers*, (i) if Premera's original contract is void because "the defect in the award seriously impair[ed] the purpose of the competitive bidding statutes" (*id.* at 1369), then Premera would be due no damages under the contract, but could receive reimbursement of those out-of-pocket expenses that the factfinder determined fair, and (ii) if the contract is not void, it would be cancelable under Appendix A, Article 5 of the contract (*Attachment 13*), which provides for termination for the Division's convenience, and allows Premera to recover only "for services rendered before the effective date of termination." While this is not the appropriate forum to resolve Premera's damages (and in fact the issue is not yet even ripe, since Premera's contract has not yet been canceled), the extent of those conceivably-available damages does warrant note.

1 were found, the Division undertook no effort to level the now-stilted playing
2 field before finally awarding the contract—a playing field even the agency's
3 commissioner admits was "not entirely level." *Attachment 12* at 24

4 With respect to the different evaluation teams, the Division's unilateral and
5 undisclosed conversion of an agreement to use one different evaluator for an
6 initial threshold review of Aetna's original bid into a process that used a majority
7 of different evaluators for the two companies' final proposals does not reflect
8 good faith

9 And finally, the Division's contention now that Patrick Shier was a member of
10 the evaluation team that "scored Pramera's proposal" is a naked manifestation of
11 bad faith.

- 12 ○ The "costs to the agency and other impacts on the agency of [Aetna's] proposed
13 remedy, and the urgency of the procurement to the welfare of the state" weigh in
14 Aetna's favor. As just discussed *ante*, those costs, if any, are at this juncture
15 relatively minor, since the contract has just been awarded, performance does not
16 commence until July 1, 2006, and currently-ongoing mobilization costs are an
17 order of magnitude less than the longer-term sums at stake here
- 18 ○ Nor is the procurement urgent. The services solicited under the procurement
19 have been satisfactorily provided by Aetna and its affiliates for 24 years, and,
20 even if it became necessary to extend the start-up date under the new contract
21 past July 1, 2006, Aetna stands ready to continue to provide those services at the

existing contract price until a fair procurement process can be completed
Attachment 9 at Cover Letter, p. 2, Wiggins Aff., ¶¶ 30-31.²³

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- Finally, and with respect to the remaining *Keko* factors: (1) Premera's offer was not "clearly superior" (*cf. J&S Services ante* at 7), but in fact likely inferior in cost and quality than Aetna's²⁴, and (2) as we have seen in Section VIII, *ante*, the Division's impropriety in its grossly disproportionate communications with Premera violated specific statutory and regulatory prohibitions designed to avoid the precise misconduct that occurred here, and in a way that affected the outcome of the solicitation.
 - Finally, failure to grant Aetna's remedy would cause extraordinary disruption to the State's provision of health care coverage to its employees and retirees. The switching of health care claim management inevitably leads to confusion and delays in obtaining payment for or reimbursement of health care expenses, and invariably causes extreme hardship on the insured—and in particular, retirees, who are dependent on prescription drug coverage. *See Wiggins Aff.*, ¶¶ 31-41.

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²³ In any event, an extension beyond July 1 is probably not necessary. Because there is currently no stay in effect, Premera is beginning the mobilization process to assume control of the programs at issue—a process described in the *Affidavit of Robert Moore*. That process will continue, unless and until an expedited evaluation of new final proposals from Aetna and Premera concludes that Aetna's proposal is the one most advantageous to the state. Should Aetna prevail, its current infrastructure to continue providing these same services would have remained intact. *Wiggins Aff.*, ¶¶ 30-31. And, the re-evaluation process requested in this Appeal should not be time-consuming. Bear in mind, in this regard, that it took the Division only four days from its February 24 "agreement" to reconstitute the evaluation committee, solicit and review new best and final offers and responses to the Division's substantive questions, and issue a new Notice of Intent.

²⁴ *See McGuinness Aff.*

On balance, then, Aetna's proposed remedy best serves the public interest, is clearly the remedy that best protects the purposes of Alaska's competitive bidding laws, and at this point will pose no great hardship on other parties.

X. Conclusion and Request for Relief

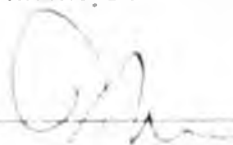
For the foregoing reasons, Aetna respectfully requests that the deciding officer

- (1) direct the Division that the previously-submitted proposals be scored on an expedited basis by an uninterested, qualified and unbiased three-person evaluation team that includes one consultant with demonstrated expertise in medical claim benefit management and acceptable to the Division, Premera and Aetna. If the parties cannot agree on a consultant, the deciding officer should choose the consultant from among the parties' nominees. The evaluation committee shall amend the submitted proposals to include total costs (as defined in this memorandum) in the parties' response to RFP Section 7.23. The process required by this subsection should be completed in no more than seven days.
- (2) direct the Division that, if Aetna's proposal is found to be most advantageous to the state (on the basis of the point system set out in the RFP), award the contract to Aetna and cancel the contract awarded to Premera on March 13, 2006. The award and, if necessary, the contract cancellation, should be issued in final form, without any further Notice of Intent to Award, within one week of entry of the final decision in this appeal, and


(3) award Aetna such other relief as the deciding officer finds warranted under
AS 36 30 585

DATED March 28, 2006

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AETNA'S FIRST EVALUATION SCORES

Evaluators:	Miller	Shier	Porter	Average
Total Evaluator Scores From Aetna's First Evaluation	2415	1570	2105	2030.0

PREMERA'S FIRST EVALUATION SCORES

Evaluators:	Gray	Jarrell	Miller	Williams	Average
Total Evaluator Scores From Premera's First Evaluation	1692	1290.5	1156	1810	1489.5

AETNA'S SECOND EVALUATION SCORES

Evaluators:	Miller	Shier	Porter	Average
Total Evaluator Scores From Aetna's Second Evaluation	2440	1585	2120	2048.3

PREMERA'S SECOND EVALUATION SCORES

Evaluators:	Gray	Miller	Williams	Average
Total Evaluator Scores From Premera's Second Evaluation	2207	2160	1990	2119.0

CHART 1

PREMERA'S FIRST EVALUATION SCORES

Technical Proposal	Gray	Jarrell	Mille	Williams	Average
10.01	40	55	25	75	40.0
10.02	81	67.5	83.5	80	77.3
10.03	50	25	25	45	33.3
10.04	26.5	14	4	20	14.8
10.05	40	55	40	60	45.0
10.06	62	85	51	125	66.0
10.07	166.5	91	127	190	128.2
10.08	127.5	85	87	120	99.8
10.09	80	32.5	11	90	41.2
10.10	67	60	50	100	59.0
10.11	75	42.5	63.5	75	60.3
10.12	84	45	54	85	61.0
10.13	191	155	171	200	172.3
10.14	135	90	72	125	99.0
10.15	104	50	62.5	65	72.2
10.16	79	90	40	100	69.7
10.17	91	85	51	70	75.7
10.18	69	70	46.5	90	61.8
10.19	80.5	65	67	70	70.8
10.20	43	28	25	25	32.0
Total	1692	1290.5	1156	1810	1379.5

PREMERA'S SECOND EVALUATION SCORES

Technical Proposal	Gray	Miller	Williams	Average
10.01	80	75	75	76.7
10.02	128	125	100	117.7
10.03	50	45	45	46.7
10.04	50	45	35	43.3
10.05	90	100	70	86.7
10.06	122	125	125	124.0
10.07	176.5	200	190	188.8
10.08	142.5	125	120	129.2
10.09	92	100	90	94.0
10.10	150	100	100	116.7
10.11	88.5	80	80	82.8
10.12	86	100	90	92.0
10.13	207	225	200	210.7
10.14	145	100	130	125.0
10.15	133.5	100	130	121.2
10.16	150	125	100	125.0
10.17	115	140	90	115.0
10.18	75	100	90	88.3
10.19	83	100	90	91.0
10.20	43	50	40	44.3
Total	2207	2160	1990	2119.0

AETNA'S FIRST EVALUATION SCORES

Technical Proposal	Miller	Shier	Porter	Average
10.01	100	55	100	85.0
10.02	125	80	75	93.3
10.03	50	30	50	43.3
10.04	35	25	40	33.3
10.05	100	70	75	81.7
10.06	150	85	150	128.3
10.07	200	120	165	161.7
10.08	150	85	140	125.0
10.09	100	70	100	90.0
10.10	150	75	120	115.0
10.11	90	50	95	78.3
10.12	100	70	90	86.7
10.13	225	200	225	216.7
10.14	140	85	120	115.0
10.15	150	90	90	110.0
10.16	150	95	135	126.7
10.17	150	120	135	135.0
10.18	100	60	60	73.3
10.19	100	80	90	90.0
10.20	50	25	50	41.7
Total	2415	1570	2105	2030.0

AETNA'S SECOND EVALUATION SCORES

Technical Proposal	Miller	Shier	Porter	Average
10.01	100	55	100	85.0
10.02	125	90	75	93.3
10.03	50	30	50	43.3
10.04	50	35	40	41.7
10.05	100	70	75	81.7
10.06	150	85	150	128.3
10.07	200	120	165	161.7
10.08	150	85	140	125.0
10.09	100	70	100	90.0
10.10	150	75	120	115.0
10.11	90	50	100	80.0
10.12	100	70	90	86.7
10.13	225	200	225	216.7
10.14	150	95	130	125.0
10.15	150	90	90	110.0
10.16	150	95	135	126.7
10.17	150	120	135	135.0
10.18	100	60	60	73.3
10.19	100	75	90	88.3
10.20	50	25	50	41.7
Total	2440	1585	2120	2048.3



AFFIDAVIT OF MIKE WIGGINS

STATE OF WASHINGTON)
) ss.
KING COUNTY)

I, MIKE WIGGINS, being first duly sworn, to depose and say that:

1. I am 51 years old. My home address is 6628 138th PL SW, Edmonds, WA 98026.

2. My current position for Aetna is Vice President National Account, Seattle, Washington. I have worked for Aetna for 8 years.

3. The RFP that is the subject of this protest is to provide medical and/or pharmacy benefit management claim services for the State of Alaska. Aetna and its affiliates have held this contract for these services for 24 years.

4. My own job experience in this field involves 25 years directly related to the pricing, operational monitoring, and consulting on health insurance related matters.

5. In terms of involvement with health management related RFPs, I have had, in addition to the current RFP in question, involvement with the prior (2) five year bids, one with NYLCare, another with Aetna, and (1) prior State of Alaska RFP with Blue Cross of Washington and Alaska.

6. My previous past job titles have included: Manager of Actuarial and Underwriting - Medical Service Corporation of Eastern Washington, now a subsidiary of Blue Cross of Washington and Alaska, Manager of Experience Underwriting, Vice President of Underwriting, Vice President Large Group Consulting and Product Development, (All positions with Blue Cross of Washington and Alaska), Senior Benefit Consultant, William M. Mercer, Solo Consulting Practice - Health Care Tactical Partners, Director of Public Programs - NYLCare, a subsidiary of New York Life.

7. My current job function includes overall account management responsibility for government entities with more than 3,000 employees in part of

Aetna's West region. This includes such entities as the State of Utah, State of Idaho, State of Nevada, King County, and the City of Seattle. Job functions include working with entities such as the State of Alaska in a consultative capacity to help them design health care programs to meet the financial challenges they face in delivering benefits to their active and retired employees. In my current role, I also act as the point person in negotiating future administrative fees, responding to Requests for Proposals, and service related issues.

8. Specifically for the State of Alaska proposal at issue in this protest, I coordinated the responses to the bid questions and the responses that crossed many different disciplines within Aetna. At least 10 Aetna staff members were committed to insuring Aetna's bid response was complete and reflected answers to the questions raised by the State.

9. By virtue of this experience, I have personal knowledge and am competent to testify regarding the subject matter of this affidavit.

**Aetna's bid response to RFP 2007-200-5946 – Issued
November 30th 2005**

10. On December 22, 2005, AETNA submitted a timely, complete, responsive and responsible proposal on the above referenced RFP. The cover page of Aetna's submission is attached as *Attachment 1*. Aetna's bid response contained separate responses to Section 7 (Medical, Dental, LTC and Pharmacy Services), Section 8 (Mental, Dental and LTC Services) and Section 9 (Pharmacy Benefit Management Services). The separate requested responses to the RFP were submitted because one of the stated purposes of the RFP was to allow the State to determine whether it was more economical to award all services on one contractor, or award a stand-alone Pharmacy Benefit Management Services contract to a second contractor.

11. Prior to Jan. 20, 2006, the first scheduled award date of any parts of the RFP in question; I contacted Victor Leamer, who was then the initial procurement officer, asking if there were any problems with the Aetna RFP response. This was due to the fact that Aetna had heard nothing to date about our response to the RFP. His response was no comment and that the bid evaluation would take longer than the original stated date of Jan. 20th.

12. On Saturday, February 18th, 2006, AETNA was notified that its proposal to RFP 2007-0200-5946 was being rejected as being non-responsive. This came in the form of a faxed Notice of Intent to Award the contract to Premiera which Aetna received on that Saturday. Subsequently, I was informed via a telephone call with Mr. Walt Harvey, who was now the procurement officer, that Aetna's bid response was being rejected as non-responsive because it was missing key requested information that was part of the RFP. In the course of this conversation I informed Mr. Harvey that he was mistaken. Together, we confirmed what Aetna material he had in his hands and what materials he should have had. Based upon this conversation, it became obvious that Mr. Harvey was missing a 6 inch binder which contained the meat of Aetna's responses to which Aetna sent multiple copies to the State. Again I stated I had confirmation that the State received our RFP bid materials. At this point Walt said he would get back to me within an hour.

13. One hour later, Aetna's multi-copied bid responses were found in their boxes in a storeroom. No explanation was given as to how or why the boxes were lost, just an apology. Also, no explanation was given as to why they didn't call Aetna sooner.

14. Upon discovering the State's mistake, Mr. Harvey immediately withdrew the State's Notice of Intent previously given to Premiera.

15. Mr. Harvey also stated that he needed to speak with the Attorney General to determine what steps needed to be taken.

16. Following internal dialog, a scheduled meeting was held. The meeting included Aetna, Premiera and State Representatives at which time the State laid out its next steps in the procurement process which included: (1) Aetna's newly discovered RFP response would receive a threshold evaluation to see if it was "reasonably susceptible to award"; (2) since one of the evaluators who had evaluated Premiera's first offer was absent, we agreed that the State could substitute one reviewer on our reviewer panel for the purpose of determining whether we met the threshold of "reasonably susceptible to award"; (3) if we met that threshold, the State would share with Premiera, Aetna's original offer because the State had shared with Aetna, Premiera's unsolicited original "best final and final offer"; and (4) Aetna and Premiera would then be allowed submit another "best and final offer" that would be subject to comparative evaluation and the best offer would receive the contract. It was always our understanding that this second evaluation, in which

Actna and Premiera would be directly compared, would be evaluated by the same individuals. That agreement is reflected in the letter appended as *Attachment 2*. Note that this agreement only permits one different reviewer to review the threshold question of whether Actna's proposal was "reasonably susceptible to award" (Actna was not told, and was not made aware at the time, that the Division substituted two evaluators for even the first "reasonably susceptible to award" evaluation). Nowhere in that agreement did Actna agree to multiple different reviews in comparing the final "best and final offers" that would be submitted by both sides, and under no circumstances would Actna have agreed to such an arrangement.

17. Actna's initial responses were deemed "reasonably susceptible of award," and therefore, thereafter, both Actna and Premiera submitted best and final offers.

18. The Division advised both proposers that they would submit certain questions to both proposers to clarify or improve both parties' proposals. However, the letter to Actna only posed three pages of very limited clarifications. These clarifications questions appended as *Attachment 3*.

19. On the other hand, the Division served 62 pages of detailed questions on Premiera over the course of apparently several weeks. The questions submitted to Premiera are appended as *Attachment 4a & b*.

20. The RFP asks the offeror to agree that it will answer 85% of all telephone calls within 30 seconds in any given month, or face penalties. RFP § 10.11(a)(i). In its original proposal, Premiera "disagreed" with this element of the RFP. *Attachment 5c at 49 & 93*. This caused Premiera to lose point on this issue in its first proposal, receiving only 2 points from one evaluator (Gray) and 0 from another (Miller) out of a possible 5.5 points. *Id.* To raise Premiera's point total, the Department asked Premiera to "clarify" that it would answer 85% of all calls on a monthly basis, despite what it said in its proposal. *Attachment 4b at 33*. In response to the State's suggestion that Premiera change its position, Premiera agreed to the State's demand. *Id.* As a result, Premiera received 3.5 added points from one evaluator (Gray) on this particular Performance Standard issue and additional points from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 47 & 112*.

21. The RFP asked whether the offeror is prepared to offer direct deposit of participant benefit reimbursement. RFP § 10.14(c). In its original proposal, Premera answered "no" to this question in the RFP. *Attachment 5c at 55 & 98*. This caused Premera to lose points on this issue in its first proposal, receiving only 16 points from one evaluator (Gray) and 0 points from another (Miller) out of a possible 25 points. *Id.* To raise Premera's point total, the Department asked Premera, when it had already clearly answered "no" in its original proposal, to describe how Premera would meet the need for direct deposit. *Attachment 4b at 41*. In response to the State's suggestion that Premera change its position, Premera agreed that it would offer this service. *Id.* As a result, Premera received 9 added points from one evaluator (Gray) on this particular Performance Standard issue and additional points from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 53 & 117*.

22. The RFP asked the offeror whether it agrees to allow fees within the greater of 10% or \$10 of UCR without reduction?" RFP § 10.05(e). In its original proposal, Premera answered "no" to this section of the RFP. *Attachment 5c at 41 & 84*. This caused Premera to lose points on this issue in its first proposal, receiving 0 points from two of the evaluators (Gray and Miller) out of a possible 20 points. *Id.* To raise Premera's point total, the Department explained to Premera that "the RFP required offerors' to agree to the UCR procedures" and asked Premera whether it could agree to this procedure although it originally answered that it could not. *Attachment 4b at 29*. In response to the State's explanation and question Premera changed its position, Premera agreed to the State's demand. *Id.* As a result, Premera received 20 added points from evaluators (Gray and Miller) on this particular Performance Standard issue in its "best and final" proposal. *Attachment 5d at 40 & 103*.

23. The RFP asks to the offeror "[t]o what degree does the offeror agree that they shall reimburse the State for any overpayment error in excess of \$50?" RFP § 10.11(g)(i). In its original proposal, Premera "disagreed" with this element of the RFP. *Attachment 5c at 51 & 95*. This caused Premera to lose points on this issue in its first proposal, receiving only 3 points from one evaluator (Gray) and 0 from another (Miller) out of a possible 5.5 points. *Id.* To raise Premera's point total, the Department asked the question a second time when Premera clearly "disagreed" with this element of the RFP. *Attachment 4b at 27*. In response to the State's suggestion that Premera change its position, Premera agreed to the State's demand. *Id.* As a result, Premera received 2.5 added points from one evaluator

(Gray) on this particular Performance Standard issue and additional points from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 49-50 & 112.*

24. The RFP asks whether "the offeror agrees to use a data processing system that is compatible with the State's system and that can produce ... reports [containing key statistics] ... in a timely fashion?" RFP § 10.02(A)(e). In its original proposal, Premiera could only produce annual reports containing key statistics. *Attachment 5c at 38.* This caused Premiera to lose points on this issue in its first proposal, receiving only 6 points from one evaluator (Gray) and 0 points from another (Miller) out of a possible 12 points. *Id. at 38 & 51.* To raise Premiera's point total, the Department asked Premiera to "clarify" that it could produce monthly reports that included key statistics. *Attachment 4b at 13.* In response to the State's suggestion that Premiera change its position, Premiera agreed to the State's demand. *Id.* As a result, Premiera received 6 added points from one evaluator (Gray) on this particular Performance Standard issue and additional points from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 37-38 & 110.*

25. The RFP asks:

To what extent did the offeror agree that some or all of the work associated with this RFP would be performed in Alaska within six months of contract implementation?

How well did the offeror adequately describe which functions Alaskans will perform and list the approximate number of positions? Did they also note where these positions would be located?

RFP § 10.10(a) & (b). In its original proposal, Premiera answered "Yes" without an explanation to the first question and gave an inadequate answer to the second question. *Attachment 5c at 49 & 92.* This caused Premiera to lose points on this issue in its original proposal, receiving only 67 points from one evaluator (Gray) and 50 from another (Miller) out of a possible 150 points. *Id.* One evaluator (Miller) noted that Premiera's answer was inadequate. *Id. at 49.* To raise Premiera's point total, the Department told Premiera to "define the number of dedicated full time employees that will compose the team, defined by function and listed by location." *Attachment 4b at 32.* In response to the State's suggestion

Premera added a chart describing: (1) the functions Alaskans will perform, (2) the number of positions; and (3) where positions would be located. *Id.* As a result, Premera received 50 additional points from one evaluator (Miller) and 83 from another (Gray) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 47 & 111.*

26. The RFP asks "[t]o what extent are third party subcontractors being used to satisfy parts of this RFP?" RFP § 10.01(a). In its original proposal, Premera did not include in its answer discussions regarding subcontractors: PointShare, Subimo and CareMark. *Attachment 4b at 9-10.* This caused Premera to lose points on this issue in its original proposal, receiving 5 points from one evaluator (Gray) and 0 points from another (Miller) out of a possible 20 points. *Attachment 5c at 57 & 80.* To raise Premera's point total, the Department told Premera to discuss its relationship with subcontractors: PointShare, Subimo and CareMark. *Attachment 4b at 9-10.* In response to the State's suggestion, Premera filled in the issue. *Id.* As a result, Premera received 15 added points from one evaluator (Gray) on this particular Performance Standard issue and additional points from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 36-37 & 99.*

27. The RFP asks "[t]o what extent did the offeror offer other dedicated or customized services to the State?" RFP § 10.15(a)(ii). In its original proposal, Premera did not offer any other services. *Attachment 5c at 55.* One evaluator noted that "customization not addressed" and "no other services offered." *Id.* This caused Premera to lose points on this issue in its first proposal, receiving 0 points from one evaluator (Miller) and 6 from another (Gray) out of a possible 12.5 points. *Attachment 5c at 55 & 99.* To raise Premera's point total, the Department asked Premera, when it clearly did not offer any other services, to re-answer this question. *Attachment 4b at 43-44.* In response to the State's suggestion, Premera filled in the issue. *Id.* As a result, Premera received 6.5 added points from one evaluator (Gray) on this particular Performance Standard issue and additional points from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 53-55 & 118.*

28. In their original response, Premera indicated that they would be charging a \$5.00/person network access fee—a fee that would total about \$6 million over the three-year contract period. On February 24, just four days before Premera was due to file its "best and final offer," the Division suggested to

Premiera that they find some way to categorize this cost other than as a "fee." Per-person charges tend to be very visible in cost calculations. Premiera took the Division's cosmetic suggestion, eliminating all network access fees. As a result, Premiera received 16 additional points from one evaluator (Gray) and 54 from another (Miller) on this particular Performance Standard section in its "best and final" proposal. *Attachment 5d at 51-52 & 115-16.*

29. We also repeatedly requested that the State provide us with the evaluation notes of all evaluations. However, the State has only provided us with evaluation notes that appear incomplete and confusing. The evaluator notes that the State did provide us are appended as *Attachment 5a-d*.

30. These are the services that Aetna is currently providing to the State under the existing medical claims administrative contract:

- * Medical
- * Dental
- * Vision - Managed and Indemnity
- * Pharmacy - Retail Card, Mail Order, Specialty, Paper Transactions
- * Cobra Administration
- * Individual Billing Administration
- * Employee Assistance Programs (EAP)
- * Flexible Spending Account Administration
- * Managed Behavioral Health
- * Long Term Care
- * Preferred Provider Arrangements
- * Centers of Excellence
- * Medicare D Administration

31. Aetna is the nation's third largest medical carrier with 14.8 million medical lives, 13.1 million dental lives and has a significant presence in the nation's top 500 largest companies. Aetna is ready, willing and able to perform all current services without interruption if it is allowed to continue to perform under its existing contract pending the outcome of this protest and appeal.

32. As a company, Aetna is committed to insuring that the State's employees have uninterrupted services during the protest and appeal period. Should the ultimate outcome of the protest process be a re-bid or an extension of

the existing Aetna contract, we will work with the State to develop a process to continue our existing fees and administration until the protest and appeal is resolved. Although the State by statute is required to re-bid some services every (5) years there is precedence to extend a contract for a period of time beyond (5) years if it is in the best interest of the State and its employees. For example, the current extension of the State's Life/Disability contract with Unum went beyond the statutorily (5) years and the present (1) year extension of its current contract with its benefit consultants beyond (5) years

33. On the other hand, if Aetna is not allowed to continue to perform under its existing contract pending the outcome of this appeal and protest, a significant amount of short-term harm will occur. The following is based upon an intimate knowledge of the State of Alaska's employee population and observations of 2 transitions by this population to new carrier platforms in the last 10 years - (Aetna to NYLCARE and NYLCARE to Aetna). In addition, it is also based upon recent discussions with Municipal clients and potential new clients who were determining lead times of when to go to bid and the appropriate transition period. Lead times averaged 10 to 12 months.

34. The State of Alaska has a total membership of approximately 68,500; of this number 14,500 are active members and 54,000 are retired members residing in all 50 states and several foreign countries. Due to the high number of retirees many State members are undergoing care for chronic diseases which involves constant interaction with the medical community and any change of benefit administrators must include intensive communication with the effected parties to insure that disruption of service to these ill State of Alaska members who are in course of treatment does not occur.

35. Additionally, because of the high retiree population, the State has almost 1,000,000 prescriptions filled annually. This significant utilization of prescription drugs requires by law some interaction with medical providers to obtain a prescription. The State must acknowledge that in many cases a new prescription and a subsequent office call and in some cases multiple office calls will be required to obtain a new prescription to be submitted to the new Administrator

36. Presently, the State is undertaking a positive open enrollment process for its retiree population to insure that only eligible dependents are covered by the

State's benefit plans. At present this is an un-completed task that will require huge man power commitment to complete. This process must be completed so that only truly eligible retiree members receive Identification Cards from a new Administrator.

37. The State has only limited ability to communicate to its retiree populations on the complexity of any transition to a new administrator. In a short period of time the State will be challenged to communicate significant number of changes and by the sheer volume of information it will appear confusing to this population.

38. Presently, it is also on State's docket to draft new benefit booklets for its retiree population. Again this will be significant manpower commitment by the State as it is planning a transition to a new Administrator. Significant questions will be asked of the State of Alaska by retirees who are mailed these booklets

39. Lastly, the State's Retirement and Benefits is also scheduled to bring a new retirement system online this summer. Even without a transition to a new carrier the division's resources have been stretched to the maximum.

40. There will also be hardship caused to Aetna from immediate closure, including the following:

- Closure of the Aetna Juneau Office
- Closure of the Aetna Anchorage Office
- Loss of Alaska jobs by both Aetna and Magellan
- Overall potential loss of 40 jobs in just Aetna - some of these staff have 20 tenures in servicing the State of Alaska employees, many have at least 10 year tenures.


41. It has been difficult to get qualified individuals to reside in Alaska and we don't want to lose the ones we have. Today there is also significant walk in traffic to both Aetna Alaska offices by retirees by virtue of the complexity of their bills and by legislative staff during session. Over time many deep personal relationships have been established between Aetna staff and the members who they have served diligently. This transition will be very difficult for all because of the close personal ties to Alaska Care staff both in Juneau, Anchorage, and Seattle.

42. Aetna submitted a separate proposal for providing only pharmaceutical benefit management services. This type of stand-alone proposal was specifically requested in the RFP and was therefore responsive to the RFP. Although the RFP promised that these stand-alone proposals would be evaluated in the overall cost evaluation of providing the services covered by the RFP. The State never conducted such an overall evaluation, and therefore had no basis for determining whether it would have been more economical to split the contract between one contractor for medical and other non-pharmaceutical services, and another contractor for pharmaceutical services. Based on public information now available to us, and set out in Exhibit 1 to this Affidavit, it is apparent that the State would have saved approximately \$3 million over the course of the contract by selecting Aetna's stand alone pharmacy offer (the numbers in Exhibit 1 show higher pharmacy numbers for Aetna than for Premier). However, it is important to note that pharmacy numbers are reported as rebate numbers refundable to the state, so that the higher the rebate number, the lower the cost to the State.

43. It must be noted that a significant part of the RFP in question can have a great deal of variability in scoring by individual scorers for the non - cost 60% portion they reviewed. This variability or statistical bias can be observed by the different scorers' totals. For this reason the need to have the same reviewers is statistically important so that all scores reflect the same bias in their totals. It is also important that all bids have the same number of reviewers, if not, the weighting of a different number of scores will distort the outcome of the scoring process.


Further your affiant sayeth naught.

Dated this 27 day of March, 2006, at SEATTLE, WA.


Mike Wiggins

SUBSCRIBED AND SWORN before me this 27 day of March, 2006




Notary Public in and for WA
My commission expires 05/05/08

SUPPLEMENTAL AFFIDAVIT OF MIKE WIGGINS

STATE OF Washington

COUNTY OF King

I, MIKE WIGGINS, being first duly sworn, do depose and say that:

1. This affidavit supplements the information contained in paragraph 28 of my March 8, 2006 affidavit;

2. The network access fees discussed in that paragraph totaled approximately \$6 million over the course of the contract,

3. At the Division's request, Premera stopped referring to these charges as "network access fees," and labeled them instead as claim charges. Because network access fees are included in the reported "cost" of the project, while client charges are not, this had the effect of appearing to reduce Premera's bid by \$6 million, when, in reality, that \$6 million had actually just been moved to another category where it would not show up as a project cost;

4. The methodology and information I used to reach this conclusion is appended to this Supplemental Affidavit as Attachment 1.

Further your affiant sayeth not.

DATED this 10th day of March, 2006 at 10:57 AM, Seattle, WA

Mike Wiggins
Mike Wiggins

SUBSCRIBED AND SWORN to before me this 10th day of March, 2006

Janet L. Brown
Notary Public in and for Washington
My commission expires January 21, 2007

Progression of Premier offer to the State of Alaska

As of February 14, 2006

3 year Fees	\$	30,951,035
3 year Network access fee	\$	6,880,513
3 year Rx Rebate guarantee	\$	(9,000,000)
3 year network savings retained by Premier @ 12%	\$	4,779,925
Total cost to State of Alaska	\$	33,611,473

As of February 28, 2006

3 year Fees	\$	30,951,035
3 year Network access fee	\$	-
3 year Rx Rebate guarantee	\$	(9,000,000)
3 year network savings retained by Premier @ 30%	\$	11,949,813
Total cost to State of Alaska	\$	33,900,848



Please itemize the following components of your service fee for year 1:
 (This is for informational purposes only)

	For Active Employees	For Retirees
Precertification and Utilization Review	\$5.16	\$3.78
Large Case Management	Included in Pre-certification	Included in Pre-certification
COBRA/Continuation Administration	\$0.39	\$0.28
High Risk Maternity	Included in Pre-certification	Included in Pre-certification
Wellness/Patient Education	Included in Pre-certification	Included in Pre-certification
EAP/Managed Mental Health	\$3.29	\$2.69
Pharmacy Network/Administration	No charge	No charge
Vision Network/Administration	No charge	Not applicable

Note (1): In the event of termination of administration services, an administration fee of 4% of claims paid after the date of termination will be made.

Note (2): A \$12 per month billing fee will be applied to bill any self-paying retirees.

included in fees?

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PREMERA

0001 013



February 27, 2006

Mr. Walt Harvey
Contracting Manager
Department of Administration
Division of General Services
333 Willoughby Avenue, 7th Floor State Office Building
Juneau, AK 99811-0203

Dear Mr. Harvey:

Thank you again for the opportunity to provide additional clarification and our "Best and Final" offer. I am personally pleased to reaffirm our commitment to the State of Alaska. I believe Premera Blue Cross Blue Shield of Alaska is uniquely qualified to deliver the lowest net cost while providing outstanding service to the State of Alaska and its members.

The highlights of Premera Blue Cross Blue Shield of Alaska's proposal to the State include:

- **Significant Claims Savings:**

The State of Alaska will achieve at least \$45 million in net additional claims savings in the next three years (before health cost inflation) through the use of the Blue Cross Blue Shield networks. These savings are over and above the savings now achieved using your current administrator's network, and after sharing any upside performance with Premera. To support this claim, we have reduced our administrative fees by 10%, eliminated our pharmacy fees and network access fees, plus placed additional amounts at risk for claims discount performance. In other words, the State will not pay unless Premera Blue Cross Blue Shield of Alaska delivers the network claims savings. Meeting our savings commitments was a big element to our success with Microsoft and Weyerhaeuser; both clients will be happy to validate this achievement.

- **No Surprises:**

The State of Alaska will have the security of an all-inclusive fee arrangement, other than for clearly identified optional services. This includes removal of the pharmacy administration fee proposed when the State requested receipt of full pharmacy rebates, as well as removal of the separately billed charge for use of the national BlueCard network. Additionally, we have now included 65 hours of training provided by Compsych, the FAP vendor partner.

- **Guaranteed Results:**

In addition to waiving our pharmacy administration fee, we are now guaranteeing a minimum of \$3 million in annual pharmacy rebates. Moreover, the State can also share our confidence in our ability to meet our commitments as we are doubling the dollars at risk in our other Performance Guarantees in each category.

dedicated customer service representatives, these representatives serve current Premera Blue Cross Blue Shield of Alaska members.

The original bid noted a customer service staff of five located in Alaska. The five included the two marketing liaisons and one customer service representative noted above, in addition to the two new Marketing Liaisons dedicated to the State of Alaska. These three staff were noted because they can provide back-up to the dedicated State of Alaska staff.

All other State of Alaska customer service and claims staff will be located in Mountlake Terrace, WA. However, if customer service volumes in Anchorage or Juneau indicate a need for additional staff, Premera Blue Cross Blue Shield of Alaska will add appropriate staff to meet the volume.

3) Pages 30 and 31 of 47; answer to 10.13 d);

Provide In dollars the BlueCard access fees and administration fees expected to be charged annually by the State of Alaska for use of the Blues network for our population? Is there a cap on these fees?

As outlined in the Performance Guarantee section of the FFP, there is an access fee charge for the use of the BlueCard network. The access fee is charged as a claim charge. The guaranteed access fee is \$5.51 per employee per month. As the fee is guaranteed as a per employee per month charge, the cap is \$5.51 times the number of employees per month times 12 months.

The access fee works with the network savings guarantee as follows:

Premera Blue Cross Blue Shield of Alaska will guarantee network savings of \$100.00 per employee per month resulting from the use of Premera's Alaska and Washington networks and the national Blue Cross Blue Shield BlueCard network program. The following table represents aggregate network savings outside of the state of Alaska.

Network savings in excess of \$100.00 per employee per month will be shared between the State of Alaska and Premera Blue Cross Blue Shield of Alaska. The State of Alaska will retain 88% of the amounts over \$100.00 per employee per month; Premera Blue Cross Blue Shield of Alaska will retain 12%. In the event that the savings are less than \$100.00 per employee per month, Premera Blue Cross Blue Shield of Alaska will reimburse the State of Alaska 24% of the difference between the savings amount per employee per month and 100.00 per employee per month.



Approach

Premiera Blue Cross Blue Shield of Alaska will produce a quarterly report identifying billed charges for in-network medical claims compared to the in-network provider allowable charges. The difference between these two charges, minus the BlueCard access fees, is savings. The savings are turned into per employee per month savings over the quarter by dividing by the number of employees covered over the 3 month period. The report will be produced 30 days after the end of each quarter and the quarterly results will be settled 45 days after the quarter ends. The final amounts due, if any, will be reconciled and due 90 days after the close of the policy year.

4) Page 33 of 47; answer to 10.14 a);

The State of Alaska plans produce over 100,000 claims per month, not including pharmacy. PBC reflects that 90% of claims from our population will be auto adjudicated. Currently, based on December 2005 volume: 116,119 claims; the actual auto adjudication rate experienced was 40%, with 60% of claims manually processed, which is the typical percentage experienced over time. Please describe the rationale that PBC used to conclude that 90% of all State of Alaska claims per month will be auto adjudicated. PBC must confirm that it can process in excess of 100,000 claims per month regardless of the adjudication ratio.

Premiera Blue Cross Blue Shield of Alaska is very confident that it can process in excess of 100,000 claims per month regardless of the adjudication rate.

The following definitions and calculations provide further clarification as to the process for determining the appropriate number of claims processors for the State of Alaska.

Assume 100,000 claims per month received for processing

- 10,000 claims will require manual entry and adjudication
- 90,000 claims will be electronically entered into the system – either through EDI or Optical Character Recognition (OCR)
 - 45,000 of those claims will be perped for manual review and adjudication
 - 45,000 of those claims will be paid through the system with no manual intervention

THIRD AFFIDAVIT OF MIKE WIGGINS

STATE OF WASHINGTON)

) SS:

KING COUNTY)

I, MIKE WIGGINS, being first duly sworn, do depose and say that:

1. On March 8, 2006, I provided an affidavit in the Blue Cross Premera bid protest matter, and on March 10, 2006, I provided a supplemental affidavit in that matter. The purpose of this affidavit is to clarify two matters raised in those affidavits, and this is in response to the Procurement Officer's rejection of that protest.

A. THE SUPPLEMENTAL AFFIDAVIT: THE MOVING OF THE \$6 MILLION NETWORK ACCESS FEE

2. The supplemental affidavit concerns billings for "Network Access Fees" that Premera proposed to charge the State of Alaska for dealings that Premera would have with other affiliated Blue Cross Blue Shield Plans throughout the United States. Unlike Aetna, which does business as one corporate entity throughout the country, Premera does business through many unrelated corporate state or regional affiliates. This difference in Premera's national operation is the source of the extra charge that Premera sought to add to its bid.

3. Many health care providers utilized by State members (both Aetna and Premera) enter into Preferred Provider Organization agreements. These agreements provide that health providers (doctors, etc.) will write off a portion of the charge for their service when the service is provided to a covered insured.

4. Aetna's PPO agreements have nationwide coverage. "Premera Blue Cross Blue Shield of Alaska" does not. If a Premera Alaska insured incurs a claim (for example) with a California doctor, that California doctor's PPO agreement will be with (again, just as an example) "Blue Cross of California." Premera Alaska will ask Blue Cross of California to make use of the latter's PPO agreement, and for that, in its original bid on this project, Premera proposed to assess the State of Alaska a \$5.51/per employee/per month charge. This so-called "Network Access Fee" would increase Premera's administrative fees by \$6,880,513 over the course of the contract.

5. The contract that is the subject of this appeal was for the provision of administrative services to the State, which self-insures its health coverage. The contracted administrator will administer claims—dealing with things such as eligibility, coverage, deductibles and the like. Its bid amount, which is set out in Section 7.23 of the RFP on a per employee and per retiree basis, and it is supposed to include all of the administrative services being provided by the bidder. Additionally, the contracted administrator will pass on to the State—the eligible claims that health providers have submitted for payment. The amount of these claim charges is not included in the bid, because it is not an administrative cost incurred by the contractor, but rather a health care cost incurred by the doctor or other provider, who seek payment for services rendered. This \$5.51/employee/month “Network Access Fee” is clearly a fee for a service provided by Premera, and not for a health claim charge for services provided by a doctor. So it is obviously not a “claim charge.” Even so, in its original bid, Premera Alaska proposed to add this charge as a “claim charge,” rather than as part of the administrative fees included in the bid cost. *Attachment 4b at 2 & 4*. Since the network access fee is really an administrative fee, and not a claim charge, this tended to artificially lower the actual bid being made by Premera for the administrative services it would provide under the contract. Premera’s original bid was approximately \$34 million (*Attachment 4c at 1*)—a sum that did not include the \$6.88 million in network access fees that I have been discussing. In truth, and counting these \$6.88 million in fees as the administrative cost of the contractor services, Premera’s initial cost bid was closer to \$40 million.

6. The State apparently understood that much, because, on February 24, 2006, the Procurement Officer requested that Premera place this “Network Access Fee” somewhere else, rather than as a claim charge, in its final bid. *Id. at 2*. The State failed, however, to tell Premera where to put these charges (i.e. in its cost bid), which left it open for Premera to merely obscure those charges somewhere else.

7. In a February 27 letter, Premera advised the Procurement Officer that it has “eliminated our... network access fees.” *Id. at 57*. But Premera did not simply eliminate the \$6.88 million in fees. Rather, the fees were moved in a way, which made them even harder to detect.

8. Here is how the costs were moved: PPO agreements save the State money. Usually, a bidder will guarantee a certain level of savings from these PPO Agreements. Earlier, Premera had proposed to guarantee the state a certain amount

of savings, but, above that guaranteed amount, Premera would keep 12% of those savings. *Id. at 2.*

9. However, on February 28, 2006, in its final bid, Premera increased the amount of these savings that it would retain to 30% over the guaranteed amount. *Id. at 63-64.* Based on the number of plan participants, the difference in value between 12% and 30% (in excess of the guaranteed amount) is roughly \$8.2 million.

10. So, in summary: Premera's initial bid was understated by a significant amount, since its \$34 million bid did not include \$6.88 million in "Network Access Fees." Premera accomplished this by calling these fees "claim charges," which are not included in the bid. The State advised Premera that these access fees were not "claim charges." Premera responded not by adding them to their bid, as it should have, but by obscuring them even further by hiking the amount of PPO savings that Premera would retain by \$8.2 million.

11. In my, March 10, Supplemental Affidavit I stated that Premera labeled its "Network Access Fee" as a "claim charge" and that this appeared to reduce Premera's bid. After further review of Premera's bid proposal I now realize in its final proposal that Premera did not label the \$6.88 million fee as a "claim charge," rather Premera increased its proposed guaranteed savings amount that it would retain from 12% to 30%. This increase is where Premera recovered its \$6.88 million "Network Access Fee."

B. 1ST AFFIDAVIT, ¶42: THE SAVINGS FROM AETNA'S PHARMACY PLAN

12. In assessing whose bid for providing pharmacy services was "lower," the uniqueness of the pharmacy market needs to be explained. As discussed above, for medical claim services, the bidder will bid an amount that covers all services being provided.

13. For pharmacy claim services, however, there is another large source of revenue that drives the bid for these services. Each year, drug manufacturers give pharmacy claim services rebates based on volumes of certain drugs sold. To win a contract for providing pharmacy claim management services, bidders will often promise to guarantee that a minimum amount of rebates will be passed along to the plan sponsor (i.e. the State). The more financially attractive arrangement for the State of any pharmacy claim management services plan would, therefore, be a

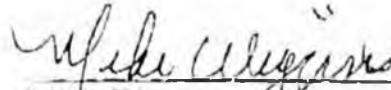
guaranteed rebate pass-through amount, net of any administrative charge that bidder might assess. The higher the guaranteed rebate amount, the better the bid for the State.

14. Aetna's proposed rebates are set out in *Exhibit 1* to my March 8 affidavit. I derived these rebates from section 9.09 of Aetna's Cost Proposal *Attachment 4d at 1-5*. These numbers are net of any administrative charge for providing pharmacy claim management services.

15. Premera's proposed rebates are also set out in *Exhibit 1*. I derived these rebates from Premera's "Pharmacy Rebate Guarantees." *Attachment 4b at 75*. These numbers are also net of any administrative charge for providing pharmacy claim management services, so they are comparable to Aetna's.

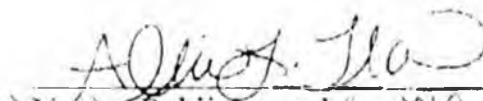
Further your affiant sayeth naught.

Dated this 27 day of March, 2006, at Seattle WA


Mike Wiggins

SUBSCRIBED AND SWORN before me this 27 day of March, 2006.




Notary Public in and for WA
My commission expires MAY 5, 2008

FOURTH AFFIDAVIT OF MIKE WIGGINS

STATE OF WASHINGTON

COUNTY OF KING

I, MIKE WIGGINS, being first duly sworn, do depose and say that:

1. My background, employment and relationship to the current procurement dispute involving the State of Alaska, Premera and Aetna is set out in my March 8, 2006 affidavit;
2. Aetna timely submitted 10 copies of our entire proposal as specified in 1.01 of the Introduction and Instructions section for the State's RFP No. 2006-0200-5946 to the correct address at the Department of Administration as provided in the RFP. Aetna bid responses were broken out in the appropriate sections and labeled as specified in the RFP.
3. Several conversations prior to Aetna's mailing of our bid responses took place with the State's procurement office to insure the necessary mail lead times were met to insure our bid responses timely reached Alaska over the Christmas holidays.
4. Prior to the opening date of December 28th as specified in the State's RFP, I called Victor Learner, the designated procurement officer noted in the RFP, to confirm the mailing date of Aetna's proposal. Subsequently, on or about December 27 (and, in any event, before the bid opening date of December 28th) I called to confirm the State's timely receipt of our RFP responses prior to the Opening Date and the number boxes the State should have received. Mr. Learner's response affirmed that he had received Aetna's boxes.
5. Additionally, there was another call to Mr. Learner when he extended the opening date past Dec 28th. On this call, I voiced Aetna's concerns that we could not realistically retrieve our bid responses that had already been sent and we would have to live with the previously sent bid responses.

6. Mr. Learner was very much aware prior to the RFP Opening Date that Aetna intended to respond to the State's RFP for Administrative Services. I affirmed this as part a number of conversations with him during discussions on aspects of the bid and our submission. It is also evidenced by Aetna's attendance at the State's pre-proposal conference and Aetna's written submission of the majority of bidder's questions seeking clarifications prior to the original Opening Date of Dec 28, 2005

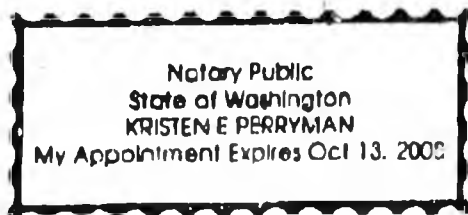
FURTHER YOUR AFFIANT SAYETH NOT.

DATED at Seattle, Washington this 28th day of March, 2006.

Mike Wiggins
Mike Wiggins

2006

SUBSCRIBED AND SWORN to before me this 28th day of March



Kristen E Perryman
Notary Public in and for Washington
My Commission Expires 10/13/08

individual with another reviewer for both proposals and the best and final offers.

7. There was no discussion during this call about different reviewers being involved in the review for Premiera or Aetna or that more than one reviewer would be new to the process. The discussions centered on the one individual original reviewers being currently out of State and that only one reviewer was going to be new to the process. All of us participating in the call were very concerned that the review team be as close as possible to the old team, so that the team's scores were as comparable as possible, to those of the original review team. Based up the State representative's comments during the call we had assurance that the remaining two members of the team would be "two (who) were on the original and PEC that scored Premiera's proposal

8. During the call it was never mentioned, that one of the two "original" PEC members would be a member that did not score Premiera. Had we been given notice of such a material change in the team's composition we would never have agreed to the process proposed by the State.

9. During the course of the telephone call discussing the State's proposed agreement a Premiera representative stated that his company would not accept the agreement if it prevented his company from its rights to pursue future challenges and remedies. At the point in the conversation, Margie Van Dorn confirmed that accepting the State's proposed agreement in know caused Premiera or Aetna to forfeit their right to pursue future appeals and protests.

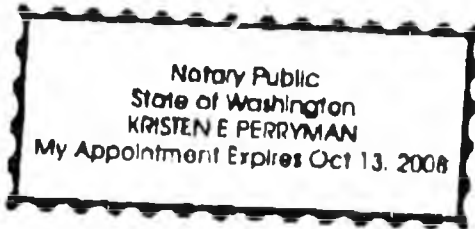
10. Based the AG's comments we understood that at no point was Aetna waiving any of our rights to protest irregularities in the procurement process that had occurred

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 28th day of March, 2006, at Seattle, Washington

Mike Wiggins
Mike Wiggins

SUBSCRIBED AND SWORN before me this 28th day of March, 2006.



Kristen Perryman
Notary Public in add for Seattle
My commission expires 10/13/08

involved in the decision making process for all the major financial issues in the original proposal as well as the best and final offer.

9. By virtue of this experience, I have personal knowledge and am competent to testify regarding the subject matter of this affidavit.

Attached Bar Chart

10. The purpose of this affidavit is to clarify the numbers discussed in the attached bar chart (attached as Exhibit 2) submitted by Aetna.

11. The bar chart highlights three things:

- o The relative amount of administrative fees paid toward the total cost of the plan over three years;
- o To point out that when Premera stated that they "eliminated" the \$6.88 million "Network Access Fee", they had actually just moved it to a less obvious place; and
- o That when looking at total plan costs, the Aetna proposal actually saves the State of Alaska almost \$2.5 million.

A. Premera, 2/13/06

12. In Premera's original bid on this project, it proposed to assess the State of Alaska a \$5.51/per employee/per month "Network Access Fee." *Attachment 4b, pg 2 & 4*

13. All medical claims service providers (both Aetna and Premera) enter into Preferred Provider Organization agreements. The agreements provide that health providers (doctors, etc.) will write off a portion of the charge for their service when the service is provided to a covered insured.

14. Aetna does business as one corporate entity throughout the country therefore Aetna's PPO agreements have nationwide coverage. Premera does business through many state and regional affiliates therefore Premera Alaska's PPO agreements have only state wide coverage. This difference in Premera's operations is the source of the "Network Access Fee."

15. If a Premiera Alaska insured incurs a claim (for example) with an Arizona doctor, that Arizona doctor's PPO agreement will be void (again, just as an example) "Blue Cross of Arizona." Premiera Alaska will ask "Blue Cross of Arizona" to make use of the latter's PPO agreement and for that in its original bid on this project, Premiera proposed to assess the State a \$5.51 per employee per month charge. This so-called "Network Access Fee" increases Premiera's Net Administrative Fees by \$6.88 million over the course of the contract.

16. In the bar chart *Premiera 2/13/06 Net Administrative Fees* of \$31,957,787 has been calculated as follows: \$34,077,274, as described in section 7.23 of Premiera's Cost Proposal dated February 13, 2006, plus \$6,880,513 in "Network Access Fees" minus \$9.0 million in "guaranteed" pharmacy rebates (\$3.0 million per year) ($\$34,077,274 + \$6,880,513 - \$9.0 = \$31,957,787$).

17. In the bar chart *Premiera 2/13/06 Carrier Retained Discounts* of \$5,496,780 is calculated as follows:

- o The \$5.49 million consists of 12% of the projected Network Discount Savings over \$100 per employee per month. The first year estimate network savings is \$117.32 per employee per month. The amount over \$100 would therefore be \$17.32 and Premiera would retain 12% of that number, which works out to \$2.08 per employee per month. We calculated this \$117.32 by following standard industry underwriting methodology.
- o We took Actua's actual Network Discount Savings from our standard "level A" reporting package for the period 10/1/04 – 10/1/05 of \$92.42 and trended it forward to the 7/1/06 – 7/1/07 contract period at an annual rate of 15.4%, which works out to an adjusted rate of 27.0%. This adjusted rate is developed by measuring the number of months between the midpoint of the reporting period (4/1/05) and the midpoint of the upcoming contract period (1/1/07). There are 21 months between these two points in time. Therefore the annual trend rate of 15.4% is multiplied by 21/12, which gives the 27.0%. We

¹ Please note that this "guarantee" by Premiera is contingent upon a minimum average volume of 80,000 "paid claims" per month. Premiera's guarantee specifies that if the number of paid claims does not meet this threshold, the "guarantee" will be prorated accordingly, meaning it can be less than \$3.0 million per year. Actua's first year expectation of the number of paid claims (what Actua calls "valid scripts") is 72,137 per month.

then increased \$92.42 by 27.0% to arrive at the first year estimated network savings of \$117.32 per employee (or retiree) per month.

- o Premera stated in its "Clarification Questions" dated February 14, 2006, that 12% of any savings over \$100.00 per employee per month would be retained by Premera. *Attachment 4b, pg 4*. Therefore, 12% of \$17.32 would be retained by Premera. This works out to \$2.08 per employee per month x 33,592 employees (or retirees) x 12 months in the first contract period, for a total of \$837,954 estimated to be retained by Premera.
- o This same methodology was followed for the second and third contract years, trending each year's estimated network discount savings forward at an annual rate of 15.4%, and assuming 12% of the amount over \$100.00 per employee per month would be retained by Premera. Second year estimated retained discounts are \$1,779,257. Third year estimated retained discounts are \$2,879,568. The three year total is: $\$837,954 + \$1,779,257 + \$2,879,568 = \$5,496,780$.

B. Premera, 2/28/06

18. The State asked Premera, in "Clarification Questions" dated February 24, 2006, if it could bill the "Network Access Fee" in a different manner. *Attachment 4b, pg 2*

19. Premera advised the Procurement Officer, in its February 28, 2006 Best and Final Response, that the fee was "eliminated." *Id. at 57*. Premera did remove the fees it titled "Network Access Fees" however Premera correspondingly increased other fees to its bid particularly Carrier Retained Discounts that would be more than enough to recover the \$6.88 million "Network Access Fee."

20. In the bar chart *Premera 2/28/06 Carrier Retained Discounts* of \$13,741,949 was calculated the same way *Premera 2/13/06 Carrier Retained Discounts* were in paragraph 16 above, but Premera changed their retained amount of rebates from 12% of anything over \$100.00 per employee per month to 30% of anything over \$100.00 per employee per month in its Cost Proposal dated February 28, 2006. This change in percentage is very significant.

- o The \$13.74 million consists of 30% of the projected Network Discount Savings over \$100 per employee per month. The first year estimated network savings is a \$117.32 per employee per month. The amount over \$100 would therefore be \$17.32 and Premiera would retain 30% of that amount, which works out to \$5.196 per employee per month. We calculated this \$117.32 by following standard industry underwriting methodology.
- o We took Aetna's actual Network Discount Savings from our standard "level A" reporting package for the period 10/1/04 - 10/1/05 of \$92.42 and trended it forward to the 7/1/06 - 7/1/07 contract period at an annual rate of 15.4%, which works out to an adjusted rate of 27.0%. The adjusted rate is developed by measuring the number of months between the midpoint of the reporting period (4/1/05) and the midpoint of the upcoming contract period (1/1/07). There are 21 months between these two points in time. Therefore the annual trend rate of 15.4% is multiplied by 21/12, which gives the 27.0%. We then increased \$92.42 by 27.0% to arrive at the first year estimated network savings of \$117.32 per employee (or retiree) per month.
- o Premiera stated, in its "Performance Standards Summary" dated February 28, 2006, that 30% of any savings over \$100.00 per employee per month would be retained by Premiera. Therefore, 30% of \$17.32 would be retained by Premiera. This works out to \$5.196 per employee per month x 33,592 employees (or retirees) x 12 months in the first contract period, for a total of \$2,094,886 estimated to be retained by Premiera.
- o This same methodology was followed for the second and third contract years, trending each year's estimated network discount savings forward at an annual rate of 15.4%, and assuming 30% of the amount over \$100.00 per employee per month would be retained by Premiera. Second year estimated retained discounts are \$4,448,143. Third year estimated retained discounts are \$7,198,920. The three year total is: \$2,094,886 + \$4,448,143 + \$7,198,920 = \$13,741,949.

² It is important to note that the amounts retained go up dramatically each year because the per employee per month savings are compounded each year (working out to \$117.32 in year 1, \$135.39 in year 2 and \$155.24 in year 3), but Premiera retains 30% of all amounts over a fixed amount of \$100.00 for the three year contract period.

21. In the bar chart *Premera 2/27/06 Net Administrative Fee* of \$21,951,035 is the \$30,951,035 described in section 7.23 of Premera's Cost Proposal dated February 28, 2006 less the \$9.0 million in guaranteed pharmacy rebates (\$3.0 million per year).

22. *Premera 2/27/06 Net Administrative Fee* reflects the "removal" of the \$6.88 million "Network Access Fee." In conjunction with removing this \$6.88 million "Network Access Fee", Premera's Cost Proposal dated February 28, 2006 increased the amount of Carrier Retained Discounts from 12% to 30%. As described in paragraph 20 above, 30% results in an estimated additional \$8.2 million in discount savings to be retained by Premera.

23. The increase in Premera's Carrier Retained Discounts effectively shifts the \$6.88 million from Net Administrative Fees to Carrier Retained Discounts. Therefore Premera did not in fact eliminate the \$6.88 million "Network Access Fee." It hid the fee by increasing Carrier Retained Discounts.

C. Actna

24. It is common practice, and in fact, common sense, that when judging one proposal against another, one cannot focus on just one category of costs, while excluding another.

25. To determine the total cost to the State of Alaska, in addition to the administrative fees specified in the Cost Proposal, one must also include:

- o The impact of pharmacy rebates (whether retained by the carrier or given to the State);
- o Fees collected through another mechanism besides the monthly billing;
- o Network discounts retained by the carrier in lieu of higher fees, and
- o Runoff processing charges.

The State of Alaska should have taken these factors into consideration when judging the proposals. If the state did take these factors into consideration the

proposal submitted by Aetna on February 28, 2006 would have been judged to save the state approximately \$2.5 million.

26. This \$2.5 million does not include the impact of the cost of runoff claim processing. Premiera charges 4% of claims processed after termination of the plan for this service. Aetna charges three months of service fees. Based on our projections, at the end of the 3 year contract period, the Aetna runoff processing fee would be \$2.6 million, while the Premiera fee will be almost \$5 million. This alone would result in a savings to the State of \$2.4 million at the time the plan terminates. Should the State of Alaska terminate the Aetna contract in 2006, the runoff processing fee payable at that time will be approximately \$2.8 million.

27. Including the impact of runoff claim processing, we feel the Aetna proposal would save the State a total of \$4.9 million.

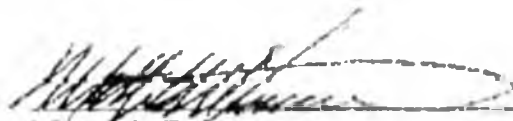
28. The following describes in some detail, how Aetna came up with each of the numbers in the graph, and their significance to Aetna's assertions.

29. Aetna Carrier Retained Discounts of \$3,401,128 is made up of two components. The first is a potential "bonus" of up to 5% of medical fees that Aetna can earn for exceeding the Aetna network savings guarantee. For purposes of this comparison, we have assumed that Aetna will exceed that guaranteed network savings and thus earn the additional fee, and further that the "bonus" will be the same for each year of the three year contract period, totaling \$977,622 over 3 years. Please note that the threshold set for this guarantee was only set for year 1 of the contract period, with the intent that it will be reviewed towards the end of each year, and set at a level agreeable to the State for the subsequent year, based on the latest claim information available. The second component is the fee for Aetna's "National Advantage Program." The NAP program gains the State of Alaska special negotiated discounts on certain PPO out of network and indemnity claims that would normally be paid at a non-discounted rate. The fee for the NAP program is 30% of the actual savings attained. We have estimated the total three year fee at \$2,423,506 which is based off of actual 2005 NAP savings & fees.

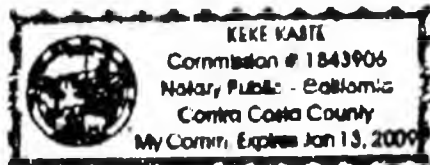
30 Aetna Explicit Administrative Fee of \$29,804,652 is comprised of \$32,954,652, which is the total 3 year Aetna fee in section 7.23 of the Cost Proposal dated February 28, 2006, less the \$2,250,000 guaranteed minimum pharmacy rebate to the State.

Further y r affiant sayeth naught

Dated this 24th day of March, 2006, at Walnut Creek, California.


Matt McGuinness

SUBSCRIBED AND SWORN before me this 24th day of March, 2006,
By Matt McGuinness WHO PRODUCED I.D.



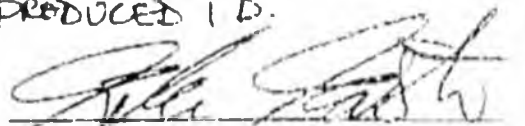
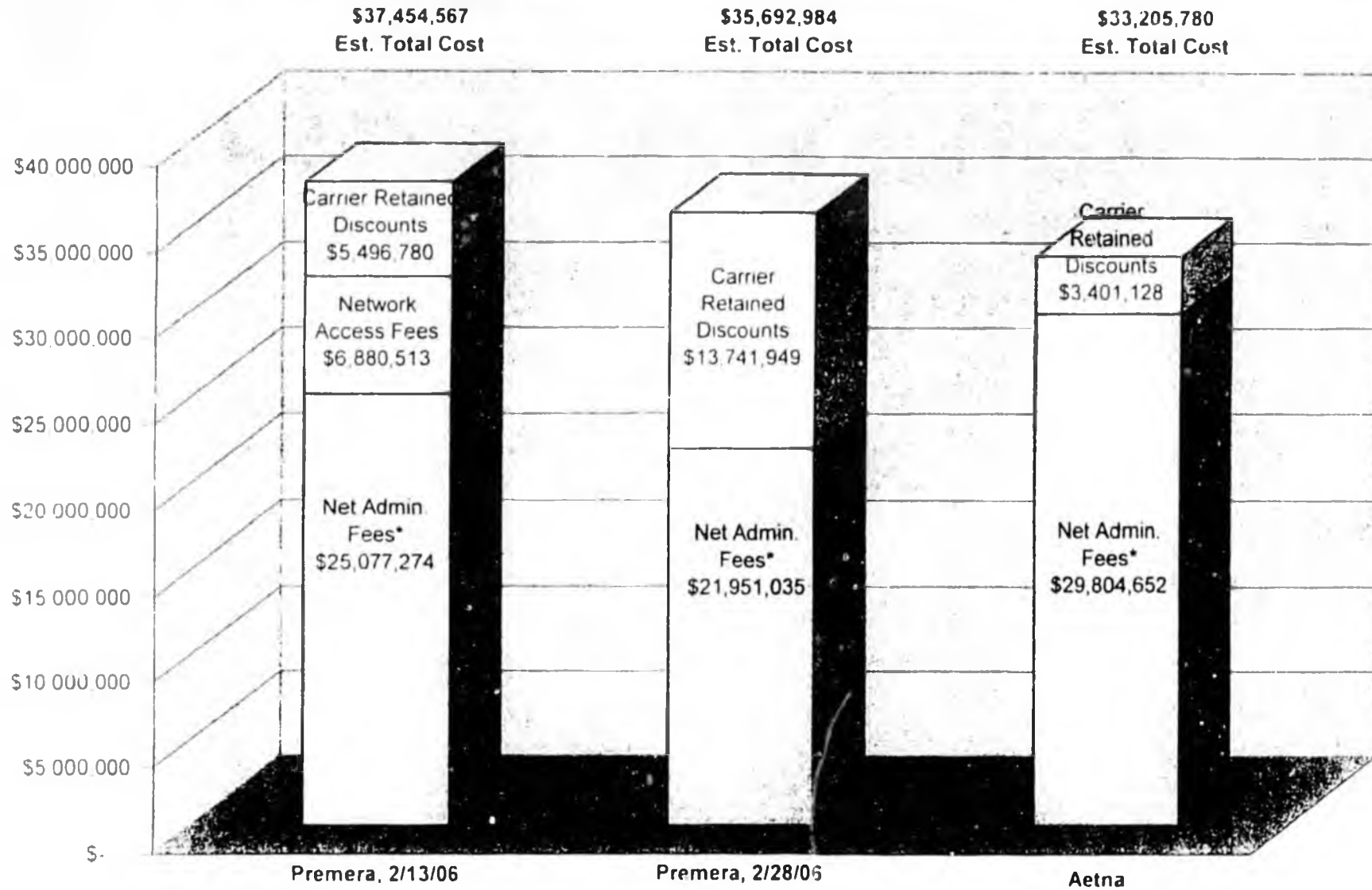

Notary Public in and for California
My commission expires 1/13/09

Exhibit 2: State of Alaska, Carrier Compensation Breakdown, 3 year view



*Net Administrative Fees is actual fees minus guaranteed pharmacy rebates

AFFIDAVIT OF ROBERT C. MOORE

STATE OF CONNECTICUT

COUNTY OF HARTFORD

I, ROBERT C. MOORE, after being first duly sworn, do depose and say that:

1. I am 56 years old. My home address is 11 Stegos Drive Wallingford CT 06492.
2. My current position for Aetna is Actuarial Team Leader, Hartford, Connecticut. I have worked for Aetna for 36 years.
3. My current job function includes responsibility for pricing health benefit plan administrative services provided to plan sponsors by Aetna, including the cost of new customer implementation management services.
4. Based on my experience in pricing administrative services to plans sponsors, I have projected the costs to an insurer, such as Premiera, in setting up new benefit plans for the State of Alaska active employees and retirees. In making these cost projections, I considered that the contract was awarded to Premiera on March 13, 2006, with a contract effective date to be July 1, 2006, for health and pharmacy services to be provided to approximately 35,000 enrollees and their dependants.
5. Listed below are the projected new customer set up costs for the State of Alaska plans. The costs include hiring or re-deploying necessary staff to work on all aspects of account set up prior to the effective date, including customer-specific training. To reflect employee benefits, taxes, rent, telephone, computer services and other overhead items, I added a 50% overhead factor to pre-contract date salary costs. Based on this review, I calculated the costs to implement the State of Alaska plans to be \$614,293. The cost components are as follows:

Claims Processing Requirements	\$126,575
Member Services	\$144,831
Provider Services	\$144,821
Eligibility	\$ 9,975
Plan Coordination Consult	\$ 5,400

Billing	\$ 2,734
Drafting	\$ 7,313
SIMS Coordination	\$ 16,875
Patient Management	\$ 82,500
Account Executive	\$ 73,260
TOTAL START UP COSTS	\$614,293

6. While my calculations are based on Aetna's experiences with setting up large national account costumers, I believe that these costs are representative of the health insurance industry as a whole and that Premera's set up costs for the State of Alaska active employees and retirees would be similar.
7. With a July 1, 2006 effective date, implementation expenses would be incurred primarily in the three months preceding the effective date

FURTHER AFFIANT SAYETH NOT.

DATED at Hartford, Connecticut this 27th day of March, 2006

Robert C. Moore

Robert C. Moore

SUBSCRIBED AND SWORN to before me this 27 day of March, 2006.

Janet S. Fox

Notary Public in and for _____
My Commission Expires _____

JANET S. FOX
NOTARY PUBLIC
My Commission Exp. June 30, 2008

1 AFFIDAVIT OF REED R. STOOPS

2 STATE OF ALASKA)
3) ss
4 FIRST JUDICIAL DISTRICT)

5 I, Reed R. Stoops, being first duly sworn, do depose and say that

6 1 I am 57 years old. My home address is 1703 Willow Drive, Juneau,
7 Alaska 99801

8 2 I am a lobbyist for business clients, including Aetna. I have
9 represented Aetna in Juneau for approximately 20 years.

10 3 My current job function includes representing Aetna with the
11 Legislature and Administration.

12 4 Specifically for the State of Alaska proposal at issue in this protest, I
13 consulted with Aetna on occasion during its development and participated in calls
14 with the Department of Administration after it was determined that a portion of
15 Aetna's bid had been lost by the Department.


16 5 On Wednesday, February 22, 2006, I participated in a call with
17 representatives from Aetna, Premiera, the Department of Administration and the
18 Department of Law. The call was convened to discuss proposed actions by the
19 Department in the aftermath of the discovery of a portion of Aetna's RFP that was
20 not provided to evaluators.

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SIMPSON, TULLINGHAST & SORENFSEN
One Sealaska Plaza, Suite 300
Juneau, Alaska 99801
(907) 586-1400 FAX (907) 586-3065

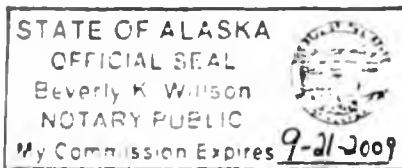
6 In that call, the Department indicated that it was going to "reconstitute
1 the evaluation team" to determine whether Aetna's bid was susceptible to award.
2 The Department further indicated that they were going to substitute a member of
3 the "evaluation team" that reviewed and scored Premera's proposal because Ellen
4 Gray had left for vacation out of state. My recollection is that the new member
5 was going to be Judy Porter. There was no discussion that indicated another
6 member of the "evaluation team" which was going to score Aetna's proposal was
7 someone who did not complete the evaluation of Premera's initial proposal and
8 whose score was not used in the evaluation.


Further your affiant sayeth naught

Dated this 27 day of March, 2006, at Juneau, Alaska


Reed R. Stoops

SUBSCRIBED AND SWORN before me this 27th day of March, 2006




Notary Public in and for Alaska
My commission expires 9-21-2009

AFFIDAVIT OF MIKE ROBINSON

STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

I, MIKE ROBINSON, being first duly sworn, do depose and say that

1. I, Michael T. Robinson, being first duly sworn, do depose and say that:

2. I am 44 years old. My home address is 27 Sheridan Road, Oakland, CA 94618.

3. My current position for Aetna is Regional Vice President, National Accounts. I have worked for Aetna for 20 years.

4. My current job function includes overall responsibility for Aetna's national accounts business in the west region. In this role I have oversight for all administration work in support of the State of Alaska plan.

5. Specifically for the State of Alaska proposal at issue in this protest, I participated in the development of our proposal strategy, review of specific sections of the proposal and oversight of the final price for our proposal and BAFO. I also participated in calls with the Department of Administration about actions being taken to remedy the loss of our proposal.

6. On Wednesday, February 21, 2006 I participated in a call with representatives from Premera and the Department of Administration. Aetna participants in this call were Mike Wiggins, Steve Fisher, Reed Stoops and myself. The call was convened to discuss the issue of Aetna's lost proposal and Premera information that was disclosed to Aetna at the point where a notice of intent to award was issued on February 18, 2006.

7. In the call a state representative (I believe to be Vern Jones) identified a problem with the review team. He indicated that one of the original review team was no longer available to continue the process because that one individual was on vacation, and the state would be replacing that one individual with another reviewer for both proposals and the best and final offers (assuming Aetna's proposal was deemed "reasonably susceptible to award"). There was no discussion whatsoever about different reviewers being involved in the review for each competitor or that more than one reviewer was new to the process. Indeed, the reference to one individual being on vacation very clearly reinforced to us the fact that only one reviewer was going to be new to the process. As all of us were very concerned that the "reconstituted" review team be as close as possible to the old team, so that the team's scores were as comparable as possible, we relied on the fact that the remaining two members of the team would be "two (who) were on the original and PEC that scored Premera's proposal," as paragraph 1 of the agreement provided. It never occurred to us, and it was never mentioned, that one of the two "original" PEC members would be a member that did not score Premera. Such an individual would have been of no value in reconstituting a comparable-as-possible review team, and we would never have accepted such a major change in the agreement.

8. It is also important to note comments made about the agreement not preventing future remedies for either competitor. As the agreement was being discussed Yoni Milo, Chief Legal Officer for Premiera, stated that he did not accept this agreement as preventing his organization from pursuing future challenges or remedies. Margie Vando, a representative of the Department of Law, confirmed this agreement did not cause either party to forfeit their future opportunity to pursue a future protest or appeal. This is confirmed by item #5 in the agreement.

9. Consistent with the preservation of all remedies in paragraph 5 of the agreement, it was never our understanding that we were waiving any right to protest irregularities in the process that had occurred by that point (i.e. February 24). We would not and could not have made such a waiver, as we had no knowledge of what irregularities may have occurred by that point. Specifically, we had no knowledge at that time of the extent to which the State had coached Premiera in improving its proposal through many pages of specific suggestions. We also did not know that one of the proposed reviewers, Pat Shier, never completed his scoring for the Premiera proposal.

10. Finally, paragraph 4 of the agreement provided that, as a final step, after receipt of best and final offers from Aetna and Premiera, both proposals will be scored. I understood the word "proposal" to mean the entire proposal, and not just the cost score, and my understanding of this sentence was that the entirety of both parties' final proposals would be scored by a common review team—the review team reconstituted under paragraph 1 of the agreement.

FURTHER YOUR AFFIANT SAYETH NOT

DATED at Walnut Creek this 27th day of March, 2006

Mike Robinson

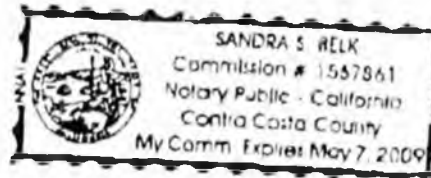
Mike Robinson

SUBSCRIBED AND SWORN to before me this 27th day of March, 2006

Subscribed and sworn to before me Sandra S. Belk, Notary Public on this 27th day of March, 2006, by Michael Robinson who proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Sandra S. Belk

Notary Public in and for _____
My Commission Expires _____





Michael T. Robinson
National Accounts Region Head - West

RobinsonMT@actna.com
Tel: 925-948-4205
Fax: 925-948-4902
2625 Shadclands Drive
Walnut Creek, CA 94598

April 28, 2006

The Honorable Bruce Weyhrauch
Chair, Special Committee on Ways and Means
House of Representatives
Alaska State Capitol, Room 421
Juneau, AK 99801

Re: State of Alaska Third Party Administrator proposals for health claims processing

Dear Representative Weyhrauch:

On April 7, 2006, you received a letter from the Department of Administration accompanied by a chart which purports to show Premera's proposal to the State of Alaska as less expensive than Aetna's proposal. Aetna maintains the Department's analysis contained in this letter is not accurate and fails to recognize Premera's proposal to the State would result in a significantly greater cost to the State over the next three year contract period.

This letter is written to help clarify and quantify some of the differences in cost between the Aetna and Premera proposals. In evaluating health care administration proposals, it is common practice in our industry to ask for all cost components to be clearly disclosed to ensure a full evaluation all of cost factors. We feel confident that had this procurement followed the established State procurement practice of utilizing a Benefit Consultant, they would have established benchmarks and completed a thorough financial analysis to ensure this occurred. We are concerned you and other members of your committee may not be aware of several key cost components of the current Premera proposal which are significant enough to warrant your attention.

The summary analysis provided to your committee by the Division of Administration (attached) fails to quantify the full cost of the Premera contract. To help you better understand the full financial picture, we have outlined the details of two significant, but material, omissions about Premera's most recent proposal to the State below:

- Network savings retained by Premera in lieu of higher fees
- Post termination claim processing costs

As noted previously, it has been the State's practice to retain and involve expert benefits consultants in evaluating medical claims administration proposals. We believe a benefits consultant would include these additional cost components in the normal course of the proposal analysis and evaluation. This would ensure a comparable or "apples to apples" evaluation with full disclosure of all cost elements. This analysis would also lead to the conclusion that the "best and final offer" submitted by Aetna on February 28, 2006 was the most cost effective proposal for the State of Alaska saving approximately \$4.9 million when compared to the Premera proposal.

Outlined below, you will find a financial analysis that we believe to be an accurate and supportable approach in comparing the Aetna and Premera proposals submitted to the State. We also believe an expert benefits consultant would find our assumptions and conclusions to be very reasonable. Aetna has submitted detailed affidavits of these calculations with our pending appeal to the assigned Administrative Law Judge.

**Network discounts retained by Premera (30%) as compared to Aetna's (5%) retention:
(\$2.5 million savings to the State had they selected Aetna)**

Premera

\$30,951,035 (3 years of fees)
- \$9,000,000 (3 years of guaranteed pharmacy rebates)
= \$21,951,035 (gross cost)

\$21,951,035
+ \$13,741,949 (Network savings that Premera keeps and does not pass on to the State)
= **\$35,692,984 (Net cost to State of Alaska)**

Aetna

\$32,054,652 (3 years of fees)
- \$2,250,000 (3 years of guaranteed pharmacy rebates)
= \$29,804,652 (gross cost)

\$29,804,652
+ \$3,401,128 (Network savings that Aetna keeps and does not pass on to the State)
= **\$33,205,780 (Net cost to State of Alaska)**

Aetna and Premera both offer national preferred provider networks in which negotiated discounts benefit both the plan participants and the plan sponsor (State of Alaska). In some cases, a portion of the negotiated discount is retained by the plan administrator as an offset to administration fees. In reviewing publicly available information, we found a significant change in Premera's "best and final offer." While the explicit administration fees were reduced, the network savings share increased significantly from 12 % to 30%. This means Premera will retain 30% of the negotiated savings realized through this PPO network arrangement. By comparison, Aetna is retaining 5% of the network savings. The estimated impact of this

arrangement allows Premera to retain \$13.7 million of the savings over the first three years of the contract while Aetna would only retain \$3.4 million. In other words, Premera's bid cost the State \$10.3 million more than Aetna's bid in network savings with a net effect of making their proposal \$2.5 million more expensive than Aetna's proposal.

Post termination claim processing costs: (Savings to State for selecting Aetna \$2.44 million)

As required in the RFP, both proposals included administrative fees to be paid at the end of the contract for the handling of claims incurred prior to, but paid after that termination date. This is a fairly common approach, and a benefits consultant would typically include this termination cost in developing the total cost projection. The Premera proposal states their charges for this service will equal 4% of claim dollars processed after termination of the plan. Aetna's quoted cost for this administration is three months of service fees. Using very conservative projections, the Aetna runoff processing fee would be \$2.6 million and Premera's fee would be approximately \$5 million. This will result in an additional cost to the State of \$2.4 million at the time the plan terminates. We do not believe this additional cost has been included in the State's analysis.

Premera

\$30,951,035 (3 years of fees)
- \$9,000,000 (3 years of guaranteed pharmacy rebates)
= \$21,951,035 (gross cost)

\$21,951,035
+ \$13,741,949 (Network savings that Premera keeps and does not pass on to the State)
= **\$35,692,984 (Net cost to State of Alaska)**

\$35,692,984
+ \$5,000,000 (Post Termination Costs)
= **\$40,692,984 Final Premera Cost to State of Alaska**

Aetna

\$32,054,652 (3 years of fees)
- \$2,250,000 (3 years of guaranteed pharmacy rebates)
= \$29,804,652 (gross cost)

\$29,804,652
+ \$3,401,128 (Network savings that Aetna keeps and does not pass on to the State)
= **\$33,205,780 (Net cost to State of Alaska)**

\$33,205,780
+ \$2,600,000 (Post Termination Costs)
= **\$35,805,780 Final Aetna Cost to State of Alaska**

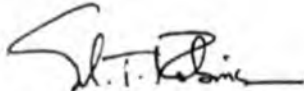
Representative Bruce Weyhrauch

April 28, 2006

Page 4

Beyond the numerous bid irregularities, Aetna contends its bid was and is still financially superior to the Premera bid that has been accepted by the Department of Administration when all cost elements are evaluated. We will continue to pursue an appeal of the award because we believe our cost proposal is the most advantageous, and it involves none of the turmoil associated with changing administrators. Aetna values the State's business, and we hope to continue supporting State benefit plans. We appreciate the time you have taken to understand our concerns, and we are happy to discuss any of the details provided in this letter or our appeal if you would like more information.

Sincerely,

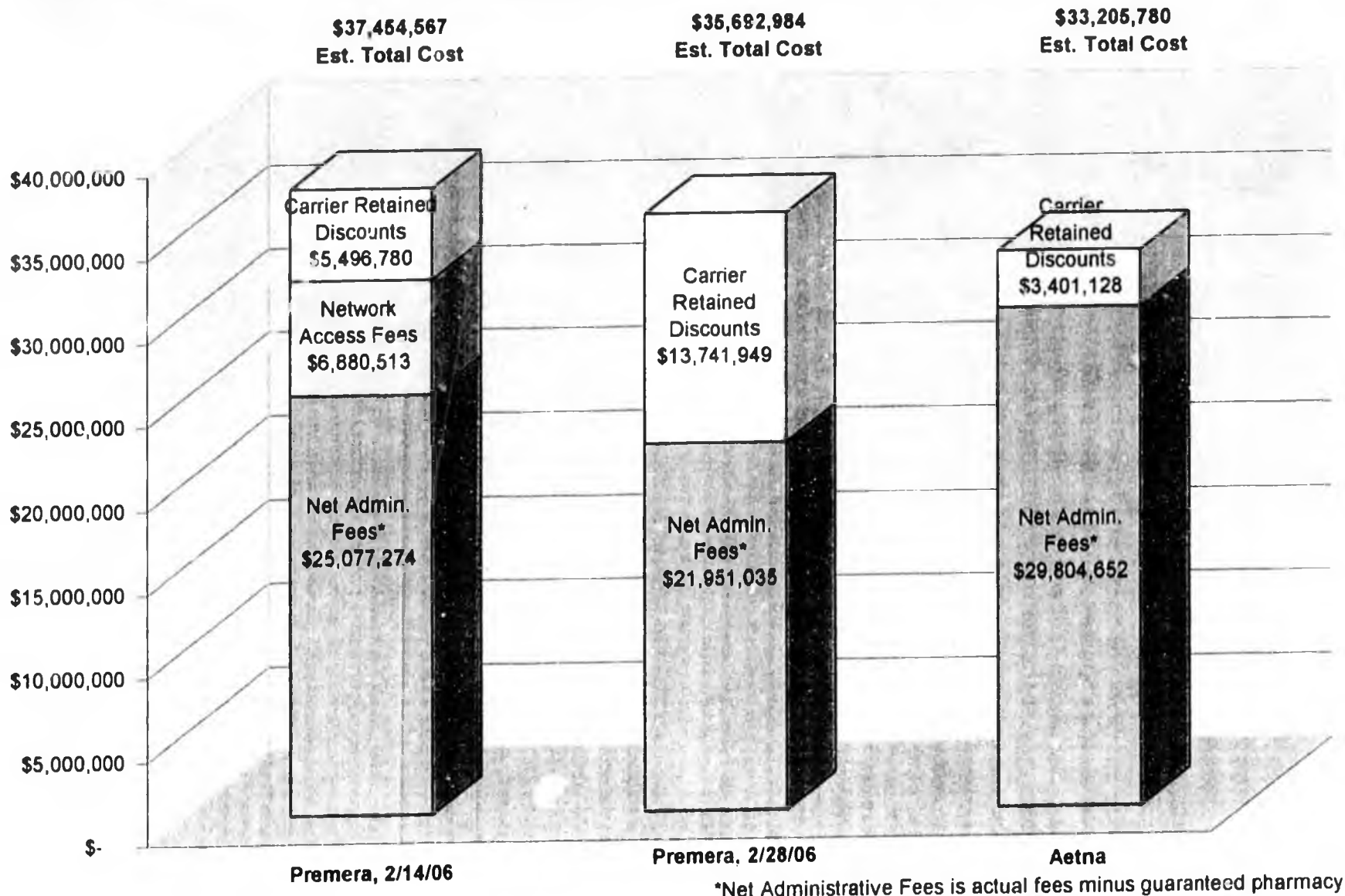


Michael T. Robinson

National Accounts Region Head

Exhibit 2

State of Alaska, Carrier Compensation Breakdown, 3 year view



*Net Administrative Fees is actual fees minus guaranteed pharmacy

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

PO BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE (907) 465-2200
FAX (907) 465-2135

April 7, 2006

The Honorable Bruce Weyhrauch
Chair, Special Committee on Ways and Means
House of Representatives
State Capitol, Room 421
Juneau, Alaska 99801

Re: Response to Questions from Meeting on March 17, 2006

Dear Representative Weyhrauch:

This letter is written in response to questions received from members of the Special Committee on Ways and Means on March 17, 2006. I have re-stated the questions, below in italics, with responses immediately following.

1. *What were the cost proposals received by the Division of General Services for the RFP Third Party Administrator (TPA) for active and retiree health claims processing?*

Attached is a summary sheet that outlines the cost proposals received from Aetna and Premera Blue Cross for Third Party Administrative services.

2. *What percentage of the 3.0 % premium increase for the retiree plan and 1.8% for the active plan premium increase can be attributed to the Third Party Administrator?*

The specific categories of cost containment as provided to the Special Committee on Ways and Means are noted below for both the AlaskaCare active and retiree health plans (see attached sheet).

Utilize Network Savings TPA (FY05)*.....\$35.2 M

The Network Savings amount originates from the TPA, who negotiates rates with various medical facilities and providers. In FY2005 the State negotiated with the TPA a performance guarantee associated with the network savings amount in an effort to increase the network savings amount. The State expects Premera Blue Cross, as the new TPA, to meet or exceed the network savings amount previously generated from Aetna.

Verify Dependent Eligibility Active and Retiree Health Plans\$14 M

This first time cost containment measure was brought forward by the Division with strong support from the Commissioner's Office, the Health Benefits Evaluation Committee and Retirement Health Subcommittee.

Qualified for Medicare Part D Subsidy.....\$7 M

The Division pursued application with the Federal Government to qualify for this subsidy.



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Negotiated Pharmacy Rebates*.....\$4 M

The Third Party Administrator negotiates to obtain pharmacy rebates. In the last three years the pharmacy rebate amount has been approximately \$4 million annually. The recent proposal from Aetna provided for a pharmacy rebate of \$750,000 whereas Premera Blue Cross will guarantee \$3.5 million annually under the terms of the contract.

Utilize Generic Drugs*.....\$4 M

This was an educational effort that included combined efforts from the TPA, Health Subcommittees (active and retiree), Division Staff and Deloitte Consulting.

Verified Eligibility for Full-time Students.....\$3 M

The Division initiated this measure in order to remove dependents that were not eligible in accordance with AS 39.35.680 (12) and as a cost containment measure.

Awarded New TPA Contract To Premera Blue Cross (3 Yr Ave).....\$3.6 M

The Division initiated the TPA RFP in accordance with AS 36.30. Division of General Services has oversight for RFPs and the contract negotiation process.

Note: * identifies the Third Party Administrator's role in cost containment initiatives.

3. *What were Aetna's last final bid proposal costs for FY2007, FY2008 and FY2009 compared to the last final proposal costs for Premera Blue Cross?*

See attached sheet.

In closing, I appreciate the opportunity to provide the members with this information. Please let me know if you have any questions about this correspondence.

Sincerely,



Scott J. Nordstrand
Commissioner

Enclosure(s)

cc: Members of Special Committee on Ways and Means

Kevin Brooks, Deputy Commissioner
Department of Administration

Michael Tibbles, Deputy Commissioner
Department of Administration

Melanie Millhorn, Director, Division of Retirement and Benefits
Department of Administration

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Last update: April 27, 2006 - 8:56 AM

Blue Cross reserves: \$1 billion

He says premiums continue to rise while reserves total more than \$1 billion.

Glenn Howatt, Star Tribune

Blue Cross and Blue Shield of Minnesota has amassed more than \$1 billion in financial reserves but continues to raise health care premiums and shift costs to consumers, according to an investigation by Minnesota Attorney General Mike Hatch.

In a seven-volume report to be released today, the attorney general's office credited Blue Cross for trimming travel and entertainment expenses, but faulted the Eagan company for generous executive pay packages, high spending on consultants and accumulating \$1.1 billion in reserves, an amount 12 times greater than state law requires.

"The obligation of Blue Cross is to provide affordable health care," Hatch said. "Their statutory purpose is not to become the wealthiest nonprofit."

Officials in at least 12 other states have raised concerns about growing surpluses at local Blue Cross plans. Some have called for customer rebates or funding health care for the uninsured.

A Minnesota Blue Cross official defended the reserves Wednesday, saying Hatch's office had overstated the company's financial position.

"We actually don't agree with the calculations that the attorney general has in his report," said President Colleen Reitan. "Our reserve levels are absolutely in keeping with both regulatory and auditing requirements."

Blue Cross acknowledged that it has \$693 million in surplus funds, which is about three to four times above state-required minimums. Reitan said it would be too risky to reduce the company's surplus to the mandatory minimum.

She added that its financial strength gives the company the ability to serve state residents with a variety of health plans.

Reitan said Blue Cross, which received a copy of the report Wednesday, will review Hatch's recommendations on consulting, compensation and expenses. But she said the company stands behind several health improvement initiatives criticized by Hatch, including its \$9 million "do" advertising campaign, which promotes physical fitness.

"[Hatch] really views health plans as playing a very narrow role," Reitan said. "We have an eye towards the long-term determinants of health care costs. We think it is central to the mission of the organization."

Series of criticisms made

With 2.7 million members, Blue Cross is also a much more complex organization than when it became Minnesota's first health plan in 1933 and offered hospital insurance for a dime.

The Minnesota Blues have become a national player, selling health insurance to national companies through an agreement with the Blue Cross and Blue Shield Association, which coordinates with other Blues organizations. About one-third of its members don't live in the state.

They are also involved in multicompany partnerships that control prescription drug costs and market Medicare drug plans.

Hatch's Blue Cross review, which began 15 months ago, is the fourth his office has conducted of a nonprofit health care company. The first review, of Allina Health System, which at that time included Medica health plans, uncovered lavish spending on travel, executive perks, entertainment, gifts and consultants.

That review, released in 2001, triggered management and board changes at Allina and Medica. The health plan remained under Hatch's purview until Medica won its independence last year after a long court battle.

He called on Blue Cross, which had already made changes in response to the audits of Medica and HealthPartners, to tighten its spending policies on compensation, travel and consultants.

But his primary criticism was the size of the Blue Cross reserves.

"They ought to refund this money back to policyholders," Hatch said. He also criticized the Minnesota Commerce Department, which regulates insurers, for letting the Blues set aside the money, which appears on company financial statements but is not counted as part of its surplus.

"We have as many complaints about the regulator here as we do about the company," he said.

Concerns raised elsewhere

The report said Blue Cross has used accounting gimmicks to inappropriately set aside \$174 million. Another \$50 million was moved to the Blue Cross Foundation, which has been giving away an average of \$1.7 million a year and "stockpiling" the rest, according to the report.

And \$190 million that Blue Cross has in three HMO subsidiaries aren't included in the surplus, contrary to national insurance standards.

"We have a very complacent regulator," said Hatch, who was commerce commissioner under Gov. Rudy Perpich. Commerce Department spokesman Pet Sexton said agency officials had not seen Hatch's report. But Assistant

Commissioner Jackie Gardner said the national standard doesn't apply to Minnesota in this case because HMOs here are nonprofit, meaning that they have no corporate owners and that Blue Cross can't claim the assets.

The issue of Blue Cross subsidiaries has been raised in other states, said Laurie Sobel, senior staff attorney at Consumers Union, which is monitoring developments across the country.

"A lot of this is just a hide-the-money game," Sobel said. "We feel like there should be more transparency, and the surpluses don't need to be so high."

Under a deal reached with Pennsylvania's governor, the Blue Cross plans serving that state agreed to spend \$1 billion of surplus funds over six years for community health activities, including basic health coverage for the uninsured.

Consumers Union found that the 38 nonprofit Blue Cross plans had a combined surplus of \$20 billion at the end of 2003, an increase of 30 percent from the previous year. Health care researchers are now analyzing 2005 financial statements, which were filed in most states a month ago, to see if competition has forced those surpluses to shrink.

Large reserves are of concern to health-care policy officials because they indicate that premiums could be too high. They also give an insurer the financial cushion to underbid competitors.

School plans were questioned

Concerns about Blue Cross' market powers were raised last year in Minnesota after State Auditor Pat Anderson released a report criticizing the relationship between Blue Cross and several regional state cooperatives that buy health insurance for school districts and local governments.

The audit discovered that Blue Cross had employed a consultant who was also working for the cooperatives. It also said Blue Cross was not providing enough information to school districts, and questioned payments that Blue Cross was making to the cooperatives.

The Commerce Department said it would investigate Anderson's findings. Blue Cross said its arrangements with the cooperatives were appropriate and beneficial to schools and local governments.

Reitan said Hatch's misstatement of its reserves was one of the factual errors in the report. But she said the company will work with his office to make required changes.

Glenn Howatt • 612-673-7192

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ALASKA CARE

Third Party Administrator Cost Proposals (3 year total)

Original Cost Proposal (January 6, 2006)

Aetna ----- \$49,163,734 / \$45,387,171*
\$3.5 million annual guarantee for pharmacy rebates

Premera - \$34,390,750
No minimum guarantee for pharmacy rebates

* The state was unable to discern the difference between the two total prices offered by Aetna. Aetna was required to submit a single cost proposal in its best and final offer.

Best and Final Cost Proposal (February 13, 2006)

Premera - \$34,077,274
No minimum guarantee for pharmacy rebates

Best and Final Cost Proposal (February 28, 2006)

Aetna ----- \$32,054,652
\$750,000 annual guarantee for pharmacy rebates

Premera - \$30,951,035
\$3.0 million annual guarantee for pharmacy rebates



Retiree and Active Health Plans Cost Containment Measures

- Utilize Network Savings TPA (FY05)\$35.2 M
- Verify Dependent Eligibility (Est) \$14 M
- Qualified for Medicare Part D Subsidy\$7 M
- Negotiated Pharmacy Rebate.....\$4 M
- Utilize Generic Drugs.....\$4 M
- Verified Eligibility for Full-time Students.....\$3 M
- Awarded New TPA Contract to Premera Blue Cross (3 Yr Ave)...\$3.6 M

Total Annual Savings = \$70.8 M

ALASKA CARE

Third Party Administrator Contract Fee Schedule Last Final Best Offer Figures

Annual Contract Fees	Premera Proposal	Aetna Proposal	Difference
FY07	\$8.1 M	\$7.2 M	\$.9 M
FY08	\$10.9 M	\$12.0 M	(\$1.1 M)
FY09	\$11.6 M	\$12.8 M*	<u>(\$1.2 M)</u>
		Savings	\$1.4 M *

Note: The RFP process reduced the overall costs for Third Party Administration by \$10.9 million when compared with existing contract fees.

*Third year costs for FY09 with Premera Blue Cross would also apply to contract renewal periods. For example, 4 one-year renewals at \$1.2 M would result in Additional savings of \$4.8 M in the out years of the contract compare to the Aetna proposal. In other words, the baseline contract cost ending in FY09 would allow additional accrual of savings for each one-year renewal.

Premera offered an annual \$3.0 M Pharmacy Rebate Guarantee
Aetna offered an annual \$750,000 Pharmacy Rebate Guarantee



Third Party Administrator Contract Fee Schedule

Annual Contract Fees	Premera Proposal	Aetna * Existing Contract	Difference
FY07	\$8.1 M	\$13.9 M	\$5.8 M
FY08	\$10.9 M	\$13.9 M	\$3.0 M
FY09	\$11.6 M	\$13.9 M	<u>\$2.1 M</u>
		Savings	\$10.9 M

* Current contractor figures are based on FY06 amount, which are held constant for FY07, FY08 and FY09 for comparison purposes.

In the Press Conference held on March 7th, the Commissioner stated the Department of Administration would save almost \$11 million dollars in future health care costs by comparing the 2005/2006 administrative fees charged by Aetna to the 2006/2007 bid price by Premera.

First, the comparison is not valid as the administrative costs currently charged by Aetna are not equivalent to those requested in the RFP bids due in part to the issue of payment for "claim runoffs" which is not included in the RFP bid for administrative costs.

Second, the comparison, at a minimum should have compared the bid numbers between the two companies, which would drastically reduce the difference as portrayed by the Department.

But the most important comparison should be the full cost that will be charged to the State under each bid.

There are three major "costs" to the State in this contract: administrative fees for processing claims, retention of pharmacy rebates, and retention of network savings.

The three are closely interrelated because costs may be easily shifted from one to the other. In fact, the change in Premera's bid from 2/14/2006 to 2/28/2006 shows just that sort of re-arranging. For that reason, the State has normally used its consultant to compare all cost variables so that the State can more accurately determine the best overall bid price.

Based upon documents that are now publicly available, Aetna estimates that Premera's bid price for administrative services was \$35,692,984. Aetna's bid price was \$33,205,780 for a three year period. These costs consider all three of the important elements required to complete an effective cost analysis.

If the State chooses to go to a plan design with more financial incentives to utilize network providers, Premera's retention will increase significantly, raising their cost further.

Without a competent analysis by a qualified consultant, the State cannot reasonably demonstrate any savings in Premera contract. In fact, it may cost the State more

Progression of Premera offer to the State of Alaska

As of February 14, 2006

3 year Fees:	\$	30,951,035
3 year Network access fee:	\$	6,880,513
3 year Rx Rebate guarantee	\$	(9,000,000)
3 year network savings retained by Premera @ 12%	\$	5,496,780
Total cost to State of Alaska	\$	34,328,328

As of February 28, 2006

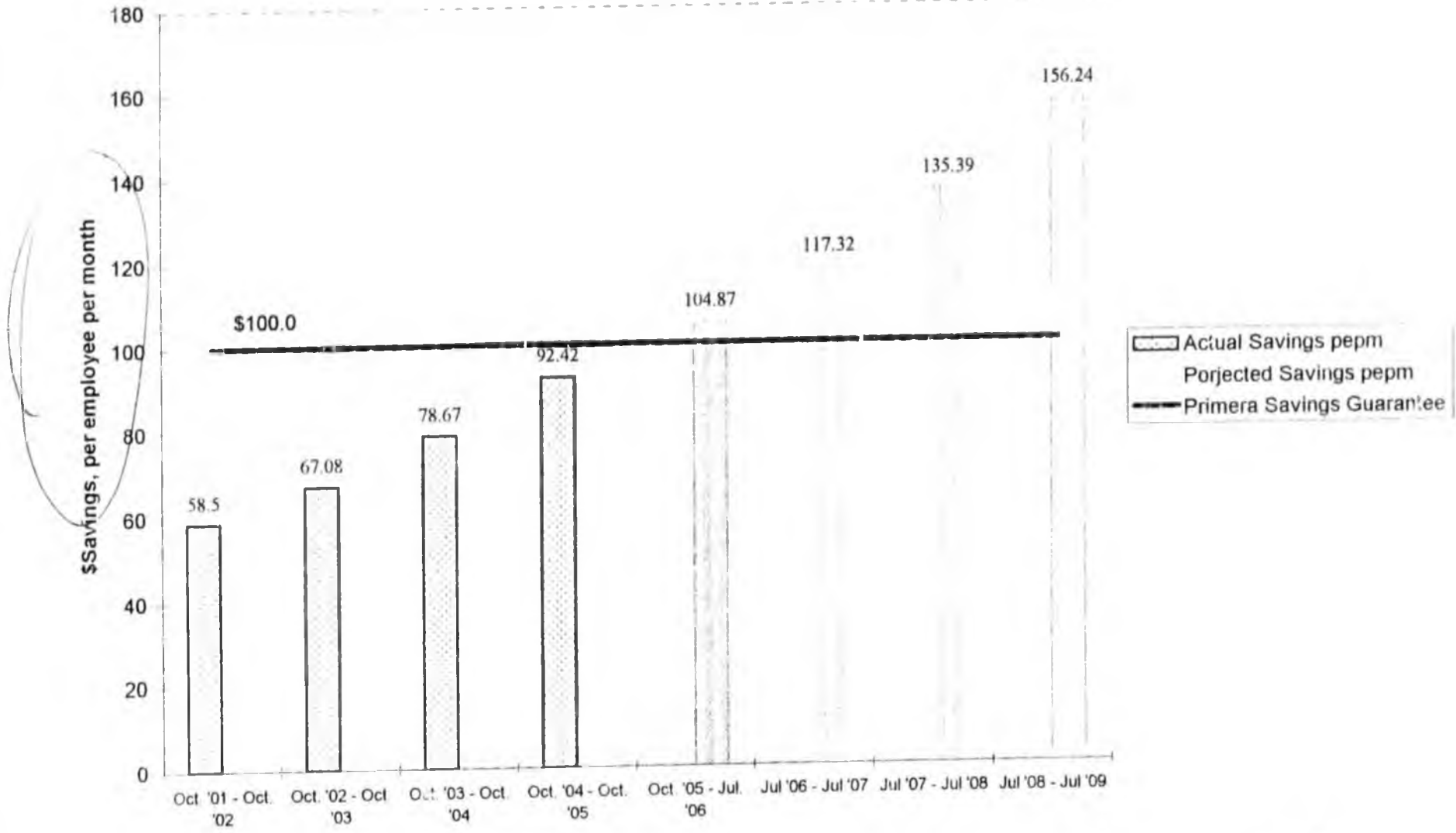
3 year Fees:	\$	30,951,035
3 year Network access fee:	\$	-
3 year Rx Rebate guarantee	\$	(9,000,000)
3 year network savings retained by Premera @ 30%	\$	13,741,949
Total cost to State of Alaska	\$	35,692,984

Aetna Best and Final Offer to the State of Alaska

3 year Fees:	\$	32,054,652
3 year Network access fee:	\$	-
3 year Rx Rebate guarantee	\$	(2,250,000)
3 year network savings retained by Aetna*	\$	3,401,127
Total cost to State of Alaska	\$	33,205,780

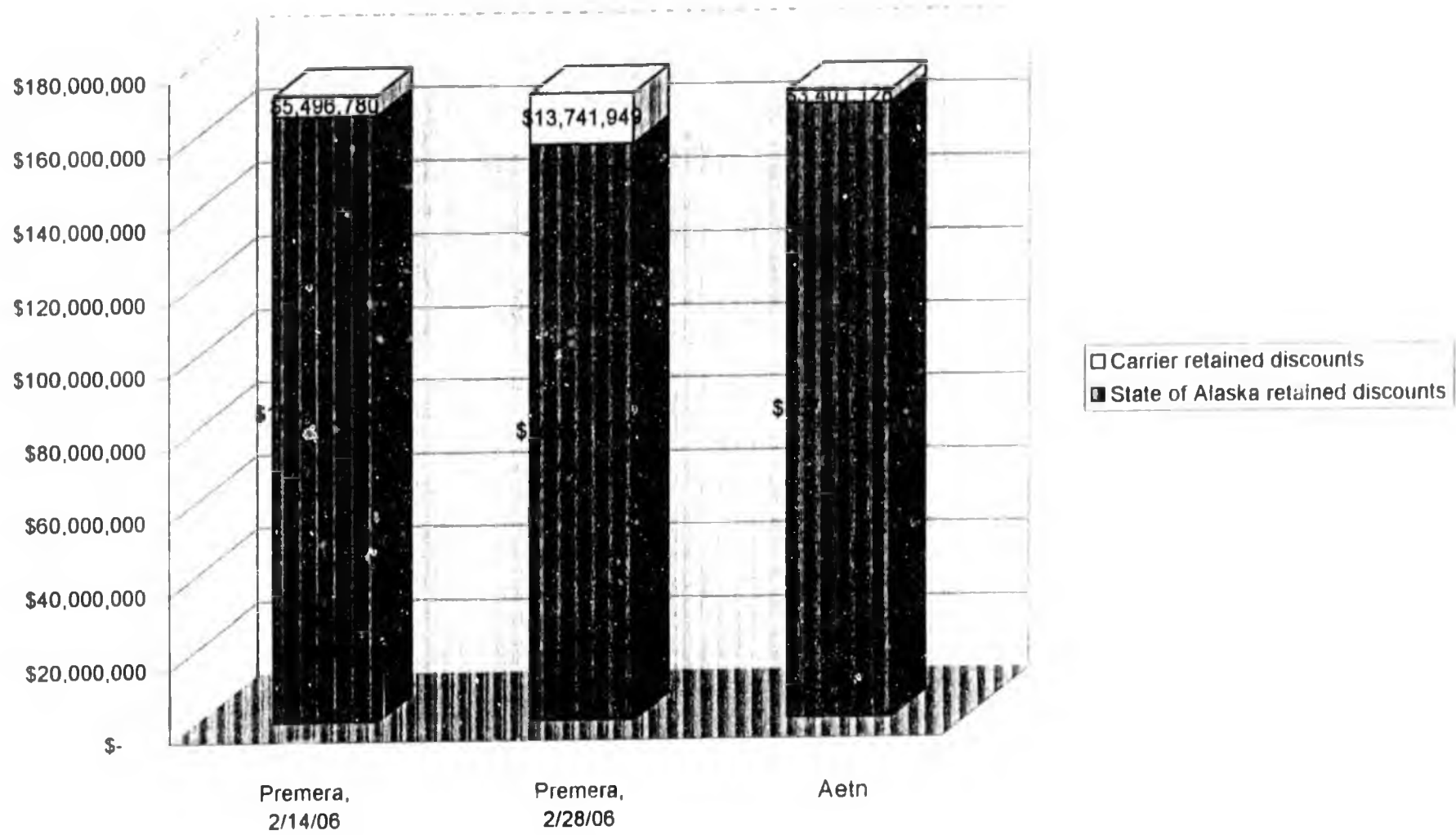
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State Of Alaska

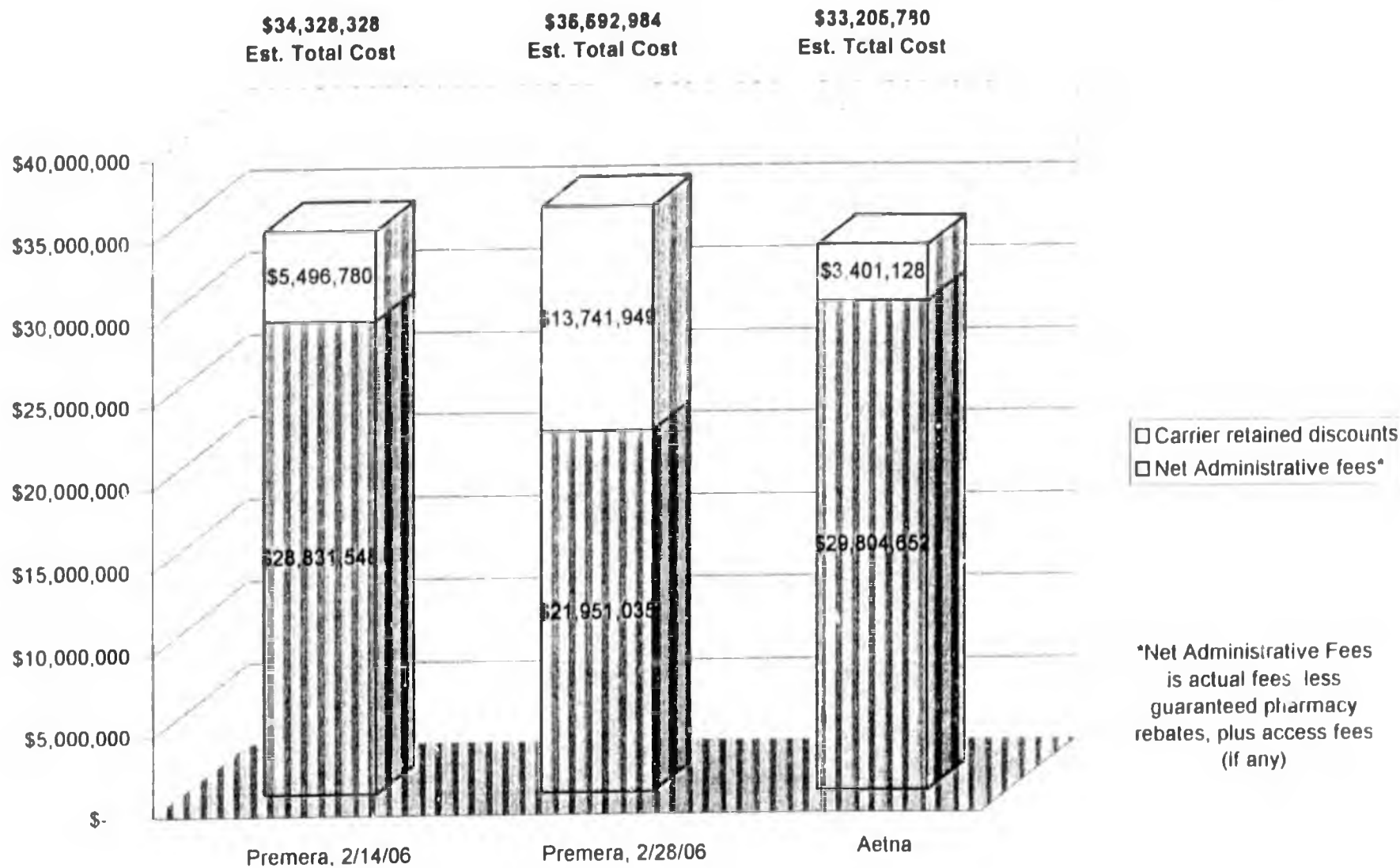


From Reed

State of Alaska, Network Discount Savings Comparison, 3 year view



State of Alaska, Carrier Compensation Breakdown, 3 year view



- Carrier retained discounts
- Net Administrative fees*

*Net Administrative Fees is actual fees less guaranteed pharmacy rebates, plus access fees (if any)

Savings to the State, Aetna deal	Amount retained by Aetna	% increase in savings over prior period
		N/A
		14.7%
		17.3%
		17.5%
		13.5%
\$ 114.79	\$ 2.53	11.9%
\$ 132.09	\$ 3.30	15.4%
\$ 152.57	\$ 3.67	15.4%

*Includes upside to fee g'tee plus NAP savings estimate

NAP:

Current	\$ 602,485
Year 1	\$ 695,268
Year 2	\$ 802,339
Year 3	\$ 925,899
3 year total:	\$ 2,423,506

or meeting network savings g'tee

Year 1	\$ 325,874	>> based on immature fees
Year 2	\$ 325,874	>> assumed @ year 1 level, as no actual g'tee was offered
Year 3	\$ 325,874	>> assumed @ year 1 level, as no actual g'tee was offered
3 year total:	\$ 977,622	

Combined 3 year total: \$ 3,401,128

Network Savings

Retained by
Carrier

\$ 5,496,780
\$ 13,741,949
\$ 3,401,128

Projected SOA discount savings PEPM

Experience Period	Total \$ Savings PEPM	Savings to the State, Premera deal	Amount retained by Premera
10/1/01-10/1/02	\$ 58.50	\$ -	
10/1/02-10/1/03	\$ 67.08	\$ -	
10/1/03-10/1/04	\$ 78.67	\$ -	
10/1/04-10/1/05	\$ 92.42	\$ -	
10/1/05-7/1/06	\$ 104.87	\$ -	
7/1/06-7/1/07	\$ 117.32	\$ 100.00	\$ 5.20
7/1/07-7/1/08	\$ 135.39	\$ 100.00	\$ 10.62
7/1/08-7/1/09	\$ 156.24	\$ 100.00	\$ 16.87

	Network savings totals	Retained by Premera	Retained by Aetna
Year 1	\$ 47,292,161	\$ 2,094,886	\$ 1,021,142
Year 2	\$ 56,722,453	\$ 4,448,143	\$ 1,128,213
Year 3	\$ 66,663,233	\$ 7,198,920	\$ 1,251,773
	\$ 170,677,847	\$ 13,741,949	\$ 3,401,128
Total Savings	\$ 170,677,847	\$ 170,677,847	
Carrier retained Savings	\$ 13,741,949	\$ 3,401,128	
State of Alaska Retained :	\$ 156,935,898	\$ 167,276,720	

	Premera	Aetna
Lives		
Year 1	33,592	
Year 2	34,913	
Year 3	35,556	

Upside to fee fr

Comt

	Network savings totals	Retained by Carrier	Retained by SOA
Premera - Feb 14	\$ 170,677,847	\$ 5,496,780	\$ 165,181,067
Premera - Feb 28	\$ 170,677,847	\$ 13,741,949	\$ 156,935,898
Aetna	\$ 170,677,847	\$ 3,401,128	\$ 167,276,720

	Gross Fees	Rx Rebates	Access fee	Net fees
Premera - Feb 14	\$ 30,951,035	\$ (9,000,000)	\$ 6,880,513	\$ 28,831,548
Premera - Feb 28	\$ 30,951,035	\$ (9,000,000)	\$ -	\$ 21,951,035
Aetna	\$ 32,054,652	\$ (2,250,000)	\$ -	\$ 29,804,652

10/1/01 - 10/1/02
 10/1/02 - 10/1/03
 10/1/03 - 10/1/04
 10/1/04 - 10/1/05
 10/1/05 - 7/1/06
 7/1/06 - 7/1/07
 7/1/07 - 7/1/08
 7/1/08 - 7/1/09

Actual Savi Projected S. Primera Savings Guarantee

Oct. '01 - Oct. '02	\$58.50	\$100.00
Oct. '02 - Oct. '03	\$67.08	\$100.00
Oct. '03 - Oct. '04	\$78.67	\$100.00
Oct. '04 - Oct. '05	\$92.42	\$100.00
Oct. '05 - Jul. '06	\$ 104.87	\$100.00
Jul '06 - Jul '07	\$117.32	\$100.00
Jul '07 - Jul '08	\$135.39	\$100.00
Jul '08 - Jul '09	\$156.24	\$100.00

Legislative Briefing on Health Care Cost Proposals

During the hearing a series of questions were asked about certain cost elements of the evaluation, namely pharmacy rebates and network savings sharing. In response to the questions, Vern Jones indicated that rebates and network savings share were evaluated in the qualitative segment of the review process. On page 4 of his response to Aetna's appeal it appears that those items would be scored under items 7.15(Provider Discounts) and 7.18(Pharmacy Benefit Management Services). The combined weight of these two categories is 8%.

The Premera proposal involves significant dollars in pharmacy rebates and network savings share. It also appears that they may have intentionally moved money among categories in an effort to improve their scoring in the financial section while the overall cost to the State does not improve. This would allow Premera to score better in the financial evaluation, where 40% of the overall weight is placed.

If you refer to the attached exhibit, you will see an estimate of the two Premera offers compared to Aetna's. This view includes administrative fees, pharmacy rebates and network savings share. A comprehensive evaluation must include all three of these categories to gain a full view of the cost picture. Failure to include all of these elements may allow a bidder to move money between the categories and improve their bid without actually improving the cost structure paid for by the State plans.

It appears Premera's initial bid (2/14/2006) involved administration fees and network access fees totaling \$40,957,787. This was revised for their best and final offer (2/28/2006) to \$30,951,035. Upon initial review this appears to be a significant reduction that would benefit the State. However, the initial proposal and subsequent contract include a network savings share arrangement that would allow Premera to recapture money if savings exceed a threshold. It appears that the savings share increased from 12% to 30% in conjunction with the revised administration fee. This allows Premera to recapture cost through a different mechanism. Aetna developed an estimate of what would likely be recaptured through this arrangement in both scenarios. While certain assumptions were made in developing this network share estimate, the assumptions are based upon Aetna's experience as the plan's long time administrator and established underwriting methods.

Using Aetna's estimate of network savings share it appears Premera would expect to recapture \$5,496,780 with the initial offer. This increases to \$13,741,949 with their best and final offer. It seems convenient that this arrangement allows them to recapture an additional \$8,245,169 at a point where they claim to have reduced their fees by \$10,006,752. While there was some overall improvement in the offer when all of the