

	Montgomery County Government Department of Health and Human Service	No.	ACCP-1
	Allowable Contract Cost Reimbursement Policy	Effective Date	July 1, 2015
		Sunset	Indefinitely
		Revision Letter	[Ltr]
		Uma Ahluwalia, Director of Health and Human Services	

1.0 Purpose

To establish a Department of Health and Human Services (DHHS) cost-reimbursement policy regarding contractor costs, including those for salary, fringe benefits, indirect costs, and direct costs, for which reimbursement by the County to a contractor is allowable or unallowable.

2.0 Definitions

The following definitions are listed for ease of reference in designating the term noted below, but do not replace definitions otherwise set forth by applicable Federal, State or local law.

- 2.1 **Compliance Team (CT)** DHHS staff that provides a central point for coordination and responsibility for activities that promotes accountability, integrity, and efficient use of public resources; ensures adherence to County, state and federal laws; provides technical support to staff and vendors on contract compliance and other technical issues on internal controls; and coordinates external audits and audit responses.
- 2.2 **Contract Management Team - (CMT)** – DHHS staff responsible for the majority of DHHS’s procurement actions: supports and trains contract monitors; works with program staff and Office of Procurement and oversees all aspects of the contract process from solicitation to recommending contract award, as well as overseeing the term of the contract.
- 2.3 **Chief Operating Officer - (COO)** DHHS employee responsible for overseeing financial and business activities of DHHS.
- 2.4 **5+ Contractor Group Contractor** - A Contractor identified, by the DHHS Director, as having five or more cost reimbursement contracts that are subject to monthly random, support documentation submission to their Contract Monitors.

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- 2.5 **Contract Monitor - (CM)** – DHHS employee responsible for overseeing that a Contractor is complying with the terms and conditions of its contract with the County.
- 2.6 **Cost Reimbursement Contract** – A County contract under which a contractor is reimbursed for costs that are allowable, and a fee, if any. See Montgomery County Procurement Regulation 2.4.29.
- 2.7 **Department of Health and Human Services (DHHS)** – The County Department of that name, as currently defined at Montgomery County Code § 2-42A.
- 2.8 **Direct Operating Costs or Direct Costs** – Contractor's salary, fringe and other costs that are directly applicable to a DHHS project or activity described in the scope of a contract in a given fiscal year.
- 2.9 **Fair Labor Standards Act – (FLSA)** - The Fair Labor Standards Act 1938 (also referred to as the Wages and Hours Bill) is a federal statute of the United States. The FLSA introduced a maximum 44-hour, seven-day workweek, established a national minimum wage, guaranteed 'time-and-a-half' for overtime in certain jobs, and prohibited most employment of minors in "oppressive child labor," a term that is defined in the statute. It applies to employees engaged in interstate commerce or employed by an enterprise engaged in commerce or in the production of goods for commerce, unless the employer can claim an exemption from coverage. In 1938, a revised version of Black's proposal was passed that adopted an eight hour day and a forty hour workweek and allowed workers to earn wage for an extra four hours of overtime as well. According to the Act, workers must be paid minimum wage and overtime pay equal to at least one-and-a-half times regular pay. Children under eighteen cannot do certain dangerous jobs, and children under the age of sixteen cannot work.
- 2.10 **Federal Insurance Contribution Act – (FICA)** - An employer and employee pay a percent of total earned income up to annual limit into the Social Security Fund and additional percentage must be paid into the Medicare Fund. An employer pays 50% of the FICA and Medicare Taxes.
- 2.11 **Federal Unemployment Tax Act - (FUTA)** – Together with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a Federal and a state unemployment tax.
- 2.12 **Fiscal Team (FT)** – DHHS staff responsible for overseeing the financial transactions of DHHS and ensuring strong financial management and accountability. Duties include processing all contract payments, client benefits and receipts for a number of DHHS programs, recording revenues, fee collections and medical billing, managing claims for federal Medicaid and Social Services programs, overseeing P-cards, and performing fiscal year-end closing activities.
- 2.13 **Fiscal Year (FY)** – Period for which an organization settles its accounts to provide its financial or tax position, which is normally twelve (12) month(s).

Fiscal year is a departure from a calendar year which extends through a January to December time period. For Montgomery County, the fiscal year period is July 1 through June 30.

- 2.14 **Fixed Price Contract** – A contract that provides for a firm price under which a contractor bears the full responsibility for profit or loss. This does not include a cost reimbursement contract. See Montgomery County Procurement Regulations 2.4.45.
- 2.15 **Fringe Benefit Costs or Fringe Costs** –A fringe benefit is a form of pay by an employer to its employee (including property, services, cash, or cash equivalent), in addition to stated salary or wages, for the performance of services. Some forms of additional compensation are specifically designated as “fringe benefits” in the Internal Revenue Code; other fringe benefits such as moving expenses or awards are addressed by statutory provisions. IRS considers some fringe benefits as taxable and others as non-taxable income. Consult IRS Fringe Benefit Guide regarding the taxable and non-taxable issues. DHHS’s policy is to allow reimbursement to contractor of only certain fringe benefits as allowable costs under the contract. See Section **8.0** of this Policy for a list of reference documents. For purposes of this Policy, while fringe benefit costs may be either direct costs or indirect costs, they are noted in a contract as a separate item for which a rate is determined based on a percentage of direct costs.
- 2.16 **Indirect Operating Costs or Indirect Costs** – Contractor costs that are directly applicable to more than one project or activity. The precise cost cannot be easily traced to a project or activity. For purposes of this Policy, indirect costs related to a contract are reflected as a rate that is determined based on a percentage of total direct costs.
- 2.17 **Qualification and Selection Committee (QSC)** – A committee established by a Using Department for the purpose of evaluating responses submitted by offerors in connection with a Request for Proposal (RFP) or a Request for Expression of Interest (REOI). Each member of the QSC must be an employee of a public entity, unless specific authorization is obtained from the CAO for another to serve on the QSC. Unless otherwise provided in the procurement regulations, the committee must be composed of an odd number of members and must have at least three members. See Montgomery County Procurement Regulation 2.4.79 and 4.1.2.4.
- 2.18 **State Unemployment Tax Authority (SUTA)** – States require employers to pay a tax on payroll based on past unemployment rates. SUTA is paid by an employer and is added to a fund that can be used by a qualifying employee in the event that he or she is unemployed.
- 2.19 **Program reports** – Written documents prepared by a Contractor to summarize the status of its performance in providing contractual services, including statistical information, client served, activities held related to the scope of work, etc. Program reports may be required under the contract.

- 2.20 **Requirements Contract** – A contract for goods, services, or construction covering long term requirements (usually twelve months or more), used when the total quantity required cannot be definitely fixed, but may be stated as an estimate or within maximum and minimum limits. Delivery of goods, services or construction are made upon issuance of a delivery order. A requirements contract may be exclusive, in which case all orders of goods, services, or construction covered by the contract, must be made pursuant to it. In the alternative, a requirements contract may be non-exclusive, in which case the contract is not the only source of goods, services, or construction covered by it. Unless a requirements contract, and the solicitation for it, states that it is an exclusive contract, it is a non-exclusive contract. A requirements contract may not be used to unduly restrict competition and may not normally be used for large construction contracts. See Procurement Regulation 2.4.82.

3.0 Scope

This Policy applies to all DHHS Contractors or potential vendors with cost reimbursement contracts. Vendors are required to submit indirect and fringe cost information during the DHHS contract negotiations process, at the time of contract execution, and at the time of future contract modifications (i.e., annual contract renewal) that affect the contractor's budget for any contract for which it seeks cost reimbursement. Also, this Policy applies to the type of supporting documentation required for contractors to submit to their contract monitors on a monthly basis.

4.0 Policy

4.1 General policies

- 4.1.1 All expenses billed to the contract must be reasonable and in alignment with the scope of work defined in the contract, and must be included in the contract budget or required under the scope of work.
- 4.1.2 Each contract is expected to be a fair, arms-length, and equitable agreement between DHHS and a vendor regardless of the number or type of other contracts that may exist between DHHS and that vendor.
- 4.1.3 Contractor must deliver required program reports to the Contract Monitor (CM) before DHHS may issue a payment to the contractor.
- 4.1.4 Contractor must include in its contract budget form a description of each budget category and general budget line item, and include the indirect cost and fringe cost rates.
- 4.1.5 Contractor must submit monthly supporting documentation for its invoice and proof of payment to the CM unless contract states otherwise.

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- 4.1.6 The Contractor's proposed indirect and fringe rates must be substantiated through historical data (two years of financial records) and projections must be reasonable, justifiable, verifiable, and consistent (i.e., methodologies applied from one period to the next).
 - 4.1.7 For renewed contracts, the Contractor on an annual basis must submit to the DHHS CM the documentation of the fringe and indirect rates even, if the rates remain unchanged. If the Contractor has an annual financial statement audit prepared, the Contractor may request its auditors to provide a justification and/or an explanation on its annual indirect. Also, the Contractor must provide the elements or expenses that consist of its indirect costs in the financial statements to demonstrate that only the allowable costs, as described in this policy, are included in the calculation.
 - 4.1.8 A Contractor that does not have audited financial statements is required to submit documentation to support its indirect (e.g., general ledger, financial statements, spreadsheets, etc.) before the contract is executed or renewed by Montgomery County.
 - 4.1.9 The Contractor's financial documents will be maintained in a restricted access file available to the DHHS CMT, CM and CT. In addition, the Cost and Price Section in the Department of General Services (DGS), Office of Procurement may, also, request similar information from the vendor as outlined in this policy. DHHS and DGS will coordinate the County's request for and the maintenance of Contractor data.
 - 4.1.10 Contractors must apply the indirect cost rate uniformly to all their DHHS contracts unless a Funder restrict the percentage of indirect costs which a Contractor may bill and be reimbursed by the County.
 - 4.1.11 Grant writing costs directly related to performing the contract's scope of services where it specifically requires the contractor to seek and obtain grants to support the scope of work contained in the contract are allowable. These costs can be for salary, fringe and direct operating expenses.
 - 4.1.12 Legal costs directly related to performing the contract's scope of services where it specifically requires the contractor to provide legal services to clients. However, the legal services cannot be used to sue the County in any way.
 - 4.1.13 Funder's conditions of award may restrict the percent of indirect cost that a Contractor can bill and be reimbursed by the County

4.2 Indirect Costs

- 4.2.1 The Contractor must identify one of the four following options in establishing the Contractor's indirect costs. With any of the four methods described in this section, the indirect costs rate will be capped at 15% for **County funded contracts.**

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- 4.2.1.1 **Contractor, without a federally or DHHS approved indirect rate,** must invoice and submit supporting documentation monthly to DHHS for its actual indirect costs. Contractor must provide justification on the method of allocating or prorating the indirect costs.
- 4.2.1.2 **Contractor, with federally-approved rates for a County funded contract,** may submit the Contractor's federally-approved annual indirect cost rate to DHHS for its contracts. However, DHHS will cap the most recent federally-approved indirect cost rate at **15% for County funded contracts** and compensate Contractor for only the identified allowable costs in this Policy, which must also be described in the Contract.
- 4.2.1.3 **Contractor, with federally funded contracts and an approved federal indirect rate,** must submit to DHHS the contractor's Federally approved rate letter. DHHS will accept the federally approved rate **without reduction** for contracts with Federal funding in accordance with Federal OMB Uniform Guidelines, 2 CFR 200. Additionally, Federal guidelines require DHHS to allow for first time and new contractors with Federal funding to have a **10% indirect rate** of modified total direct costs for those Contractors receiving Federal grant funds in their contract.
- 4.2.1.4 **Contractor that wants to establish an indirect rate with DHHS** must submit supporting documentation to establish an annual indirect cost rate as allowed by this policy. Each Contractor must calculate its indirect cost rate based on total allowable indirect costs divided by total allowable direct costs.
- 4.2.2 There are some federal/State/Other grants that restrict the amount of indirect costs to be reimbursed to a contractor. DHHS must follow these restrictions in reimbursing to Contractor the amount of indirect costs when using these grant funds.
- 4.2.3 When Contractor bills the County, the indirect costs are calculated on the direct salary, direct fringe and direct operating costs. DHHS calculates indirect costs as the rate times the total of Contractor's direct costs, which include salary, fringe benefits, and other direct operating costs. See Table below.

Contractor's Total Annual Allowable Indirect Costs per the budget	\$30,000
Contractor's Total Annual Allowable Program Costs or Direct Costs per the budget	\$200,000
Annual Indirect Rate Calculation by DHHS	\$30,000 Divide by \$200,000
Indirect Rate	15%

- 4.2.4 Expenses included in the calculation of the indirect cost rate must **not** be included as **direct costs** in the contract budget.
- 4.2.5 Conditions of award imposed by a non-County provider of funds for the contract may restrict the percent of fringe cost rates that a Contractor may bill the County.
- 4.2.6 DHHS Compliance Team will review of the Contractor's indirect cost rate information to determine its sufficiency and completeness.
- 4.2.7 Contractor may be reimbursed by the County for its administrative costs through charging an indirect rate. Indirect costs are considered administrative personnel support services (Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Chief Information Officer, Finance/Accounting staff, Human Resources staff, IT staff, Office Manager, Administrative Assistants, Receptionist, Custodian, etc.) and the costs to support the administrative personnel.

4.3 Fringe Costs

- 4.3.1 The types of fringe costs DHHS may reimburse are the Contractor's share of retirement, social security tax, Medicare tax, disability, health and dental insurance, workers' compensation and unemployment insurance.
- 4.3.2 Contractor may include employee's leave as part of the cost of fringe benefits which may include holiday, sick, annual leave or employee's paid time off. The amount may be included as a fringe cost only if it has not been included in the salary cost. See Section 5.5.7.2 for a description of the prorated calculation.
- 4.3.3 DHHS will reimburse the Contractor for the allowed fringe costs proportion to the time spent on the contract (FTE – Full Time Equivalent).
- 4.3.4 Contractor's fringe costs must be calculated on annual basis based on its year to date information from the Contractor's accounting records for the total allowable fringe costs and the Contractor's annual total salaries for all employees.

- 4.3.5 Contractor divides the total allowable fringe costs by the total salaries for all employees to arrive at a fringe rate.
- 4.3.6 Contractor's Fringe Rate Calculation

Contractor's Total Annual Allowable Fringe Costs for all Employees per the budget	\$50,000
Contractor's Total Annual Salaries for all Employees performing under the contract	\$200,000
Annual Fringe Rate Calculation	\$50,000 Divide by \$200,000
Fringe Rate	20%

- 4.3.7 When Contractor invoices the County for a contractor's fringe costs, the Contractor calculates the fringe rate times the individual employee's salary or expenses to the contract.
- 4.3.8 Conditions of award imposed by a non-County provider of funds for the contract may restrict the percent of fringe cost rates that a Contractor may bill the County.
- 4.3.9 DHHD Compliance Team is responsible for the review of the Contractor's fringe rate information to determine its sufficiency and completeness.

4.4 Restrictions and Limitations

- 4.4.1 The Contractor must submit acceptable documentation for its indirect and fringe rates by September 1 of each fiscal year to its CM. Acceptable documentation is defined in this Policy. If Contractor has not submitted any documentation for its indirect rate or fringe rate by September 1, the CM must not reimburse the Contractor for indirect or fringe costs.
- 4.4.2 CM may submit the information to the Compliance Team for review and evaluation. The information must be available in the CM file in case of an internal review or external audit. The DHHS Chief Operating Officer (COO) is the final approver for all indirect and fringe rates.
- 4.4.3 Once rates have been approved by DHHS's COO for a contract term, Contractors may not change their fringe rates and indirect rates during that contract term as identified in the contract rate.

4.4.4 If an external audit (audit conducted by an authorized governmental unit, including the State, federal government, Montgomery County Inspector General or Montgomery County Government Office of Internal Audit) or a compliance review by DHHS identifies an overpayment of indirect or fringe costs, any overpayments of indirect or fringe costs will require repayment by the Contractor to DHHS. In cases where DHHS has specifically approved the indirect rates and fringe rates through a separate review by its Compliance Team, and through approval by the DHHS COO, the County may choose not to require the Contractor to repay any amounts that may appear to be overpayments. If Contractor fails to deliver to the County's DHHS a repayment related to an amount the County has notified Contractor that it has improperly overpaid to Contractor, within 30 calendar days after request by the County, then DHHS may withhold from Contractor's next invoice the amount the County overpaid to Contractor.

4.5 **In order to be eligible for cost reimbursement by the County, Contractor's direct costs must be adequately documented and meet the following general criteria:**

4.5.1 Be ordinary, necessary, and reasonable for proper and efficient performance and administration of contracts.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

4.5.2 In determining reasonableness of a given cost, consideration shall be given to:

4.5.2.1 Whether the cost is of a type generally recognized as ordinary and necessary.

4.5.2.2 The restraints or requirements imposed by such factors as: sound business practices; arm's length bargaining; Federal, State, County and other laws and regulations; and, terms and conditions of the contract.

4.5.2.3 Market prices for comparable goods or services.

4.5.3 Be applicable to contracts.

4.5.3.1 A cost is applicable to a particular cost objective (contract) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefit received.

- 4.5.3.2 Any cost applicable to a particular contract or cost objective may not be charged to other contracts to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the contracts, or for other reasons.
- 4.5.4 Be authorized and/or not prohibited under Federal, State or local laws or regulations.
- 4.5.5 Conform to any limitations or exclusions set forth in this policy statement, Federal laws, terms and conditions of the contract, or other governing laws or regulations as to types or amounts of cost items.
- 4.5.6 Be treated consistently. A cost may not be assigned to a contract as a direct (including fringe) cost if any other cost incurred for the same purpose in like circumstances has been applied to the contract as an indirect cost or vice versa.
- 4.5.7 Except as otherwise provided for in this policy, be determined in accordance with generally accepted accounting principles.
- 4.5.8 Not be included as a cost or used to meet cost sharing or matching requirements of any other contract in either the current or a prior period, except as specifically provided by Federal law or regulation.
- 4.5.9 Reflect only actual expenses.

5.0 Procedures for Contractor's Submission of Indirect and Fringe Rates to Contract Monitors and Compliance Team

- 5.1 All DHHS Contractors with cost reimbursement contracts are to submit documentation for their indirect and fringe rates at the time of contract execution or at contract renewal. Vendors who bid on cost reimbursement, fixed cost, or requirement contracts are required to submit this documentation to support the indirect cost to the DHHS Negotiations Team and may need to submit supporting documentation to confirm the indirect cost to the Cost and Price Section in the Office of Procurement at the time of contract negotiations. DHHS and the Office of Procurement will coordinate the review of the data.
- 5.2 CM or DHHS Negotiations Team is to provide the documentation for review and evaluation to the Compliance Team for its recommendation to accept or not to accept the indirect and fringe rates to the DHHS COO. CT reviews and evaluates the information submitted for sufficiency, compliance with this Policy and whether the documentation supports the indirect and fringe rates. After CT's evaluation of the supporting documentation, CT will recommend approval or disapproval of the indirect and fringe rates to the DHHS COO by preparing a form for COO approval. See Exhibit A.
- 5.3 DHHS COO approves or disapproves the indirect and/or fringe rate and returns to CT for dissemination to CM.

- 5.4 CT disseminates the approval form to CMT and CM.
- 5.5 CM sends approval form to Contractor.
- 5.6 Contractor must provide the documentation for the indirect and fringes costs to the CM or the DHHS Negotiations Team.

6.0 List of Allowable and Unallowable Costs for DHHS Contractor

- 6.1 **Allowable Salary, Fringe and Direct Operating Costs and Supporting Documentation** Requirements
- 6.2 **Allowable Salary Costs** and Supporting Documentation Requirements
 - 6.2.1 **Salary** must be supported by payroll documents for the period for which the invoice is submitted. These payroll documents must include rate of pay and contract cost center for each employee assigned to the contract as well as payroll deductions, net pay and time period. Contractor must inform the CM of payroll period such as monthly, biweekly, bimonthly, etc., so CM has sufficient information to calculate salary costs.
 - 6.2.2 **Timesheet reports** for each employee on the contract must accompany the payroll documents. These hours reported on the time sheet must delineate the activities related to the specific contract and hours devoted each day to the contract. If an employee time devoted to the contract becomes questionable, a brief summary of the activity performed each day must be provided by the Contractor if requested by the CM. Only positions identified in the contract budget may be billed by the contractor to DHHS. Both employee and supervisor must approve the time sheet.
- 6.3 **Allowable Direct Operating Costs and Supporting Documentation Requirements**
 - 6.3.1 **All Direct Operating Costs** must be noted in the contract budget including its justification for the cost as it relates to the scope of services as defined in the contract. The following represents some of the costs that could be contained in a contract budget as allowable direct operating costs and applicable supporting documents required. This is not a comprehensive list, but is a general guideline.
 - 6.3.1.1 **Consultants or subcontractors** – Each consultant must be separately identified. The consultant contract budget must identify scope of work to be performed,

budgeted hours, rate of pay and contract period. The Contractor must submit to the CM the executed contract between the prime and sub-contractor before the CM may reimburse the contractor (prime). The subcontractor contract must be approved by the Board or other appropriate personnel of the organization who has the authority to enter into contracts by their signature on the agreement. Subcontractor must maintain a time report delineating the date, number of hours, and brief description of the activity performed for the contract each day. The prime and subcontractor must both provide the supporting documentation for their invoices.

Alternately, a consultant or subcontractor agreement could be based on a task order where certain deliverables for a certain price must be submitted to the County and accepted by the CM before payment could be authorized by CM. Consultant does not receive fringe benefits from the prime contractor.

As a reminder to the contractor, it is the responsibility of the Contractor to properly classify their employees and independent contractors. If the consultant is misclassified and is later deemed an employee by an IRS determination, the County is not responsible for any back payroll taxes for that employee.

- 6.3.1.2 **Subcontractor's budget** – If a subcontractor's costs include more than the hours and rate of pay, the subcontractor must submit a detailed budget outlining all costs as discussed in this document – e.g. personnel, fringe, indirect, and direct operating costs as a separate contract budget document denoting the prime contractor for which the subcontractor is performing work.
- 6.3.1.3 **Staff Development or Training** – Contractor is to provide the agenda, document indicating completion of the course (such as a continuing education certificate), as well as evidence that it paid the invoice in the amount for which it seeks reimbursement. The training must be related to the contract's scope of services. Proof of payment must also be provided to the CM.
- 6.3.1.4 **Travel** – Travel costs are the expenses for transportation (mileage, airfare, train, bus, etc.), lodging, meals, and related items incurred by employees who are in travel status on official business of their overall organization. Local Travel (within 75 miles of Montgomery County) or Non-Local Travel (outside a 75 mile radius of Montgomery County) must be included in

the contract budget. Supporting documentation must include business purpose of the travel, invoices, mileage logs, hotel and restaurant receipts, and payment information. Contractor must follow County Administrative Procedure 1-5, Local Travel Guidelines, and Administrative Procedure 1-2, Non-Local Travel Guidelines, for per diem and other information related to travel. Travel expenses must be itemized and must be directly related to the contract's scope of work. Entertainment costs during travel are **not** reimbursable.

- 6.3.1.5 **Rent** – Rent costs and associated costs such as parking related directly to the contract's scope of services. A copy of the lease and proof of payment, as well as justification for any allocation or proration of the rent based on square footage related to the contract usage. Proration methodology must be established by the Contractor at the beginning of the contract fiscal year. Any administrative portion of the rent and associated costs for which Contractor seeks reimbursement must be included in its indirect costs.
- 6.3.1.6 **Mortgage interest** – mortgage interest may be allowable for mortgage payments when the cost of the mortgage payment is similar to the fair market value of renting a facility of similar size for performing the contract's scope of work. The contractor must show that the property is needed to perform the work under the contract.
- 6.3.1.7 **Utilities** – Utility costs related directly to the contract's scope of services. A copy of the detailed bill and proof of payment must be submitted by the Contractor to CM. If it is allocated, a reasonable explanation for the method of allocation among the organization's cost centers must be provided. The method of allocation must explain the justification for the organization's charge for utilities and how it serves the contract's scope of services. Any administrative portion of the utilities cost for which Contractor seeks reimbursement must be included in its indirect costs.
- 6.3.1.8 **Communications** – Only communication costs directly related to the contract scope of work such as telephones, cell phones, pagers, internet, etc. Contractor is to supply justification for the cell phone use related to the contract's scope of services and describe the location of the telephones (land lines and cell phones). Allocation justification and proof of payment are required for submission by the Contractor. Contractor's cell phone

policy should be submitted to the CM at the commencement of contract.

- 6.3.1.9 **Food** – (Supplies) – Food must be limited to the clients or participants served by the contract's scope of services. It should be kept to a minimum. For example, food for staff meetings is not an allowable cost to the contract. Receipts, invoices and other documentation must be kept, and must include the identity of participants or clients receiving the food. Proof of payment must accompany request for reimbursement.
- 6.3.1.10 **Maintenance** – Repairs or other costs of keeping building, machinery, copiers, etc. related directly to the contract scope of work in working order. The maintenance invoice must contain description of services performed, the location of the services performed and proof of payment by the Contractor. These costs must be directly related to the scope of services in the contract.
- 6.3.1.11 **Equipment under \$5,000** – Contractor costs for assets that have a useful life of greater than one year such as laptops, computers, fax machine, scanners, office furniture etc. Please identify in the Contract budget the type of equipment or furniture or other type of asset and its justification for the equipment's use for the contract. If the County purchases the equipment, it owns the equipment at the end of the contract, so an inventory of County-purchased equipment must be maintained by the contractor, updated annually and submitted to the CM.
- 6.3.1.12 **Gift Cards** – are highly negotiable instruments. A Contractor must have the contract monitor's approval before purchasing a gift card. Recommend sparingly using gift cards for program needs and maintaining the cards in a secure location with restricted access. Programmatic needs may consist of emergency client services for food, clothing, medicine, etc., and for client incentives for reaching milestones in meeting programmatic requirements such as a client attending specified recovery training. A Contractor must **not** use gift cards to compensate a **volunteer** or employee. A contractor must establish written policies on the eligibility, the accountability, and the distribution of gift cards.

The Contractor must submit with its invoices the purchases, distribution, and remaining balance of gift cards before CM may authorize reimbursement of these expenses. Records of those receiving gift cards and the reasons for the distribution must be kept by the Contractor

and be submitted to the CM at the time of invoicing DHHS. Gift Card logs must contain the following information:

- Recipient's name and signature
- Date recipient received the gift card
- Amount of the gift card
- Gift card serial number
- Reason for receiving gift card

Also, Contractor must submit the initial invoice purchasing the gift card which must include the gift card serial number and denomination purchased. Contractor must maintain only minimal gift card inventory to avoid any mishandling of this asset. Inventory should last only a maximum of ninety (90) days. The contract budget must include the dollar limit on the gift card value and the total dollar limit for a gift card.

DHHS Financial Operations can assist Contractor in recommending a gift card system to track purchases, inventory, and distribution.

6.3.1.13 Insurance (Business) --. Contractors are required to have their insurance coverage at the Contractor's expense prior to entering into a contract with the County. Insurance costs are only reimbursable when permitted by the contract and approved by Risk Management. If the County Council approves a Council grant budget with insurance costs as part of the contract costs for non-competitively bid contracts, the County will reimburse the contractor for those insurance premiums prorated to the County contract only. If approved by the County a Contractor is to submit a copy of the insurance document, proration method and proof of payment to the CM for reimbursement.

6.3.1.14 Office Supplies – Contractor must provide copy of the invoice and proof of payment for any office supplies for which it seeks reimbursement. The supplies must be directly related to the scope of services in the County contract and not related to administrative purposes. Office supplies include pen, paper, toner, etc. for the direct contract staff performing the contract's scope of work.

6.3.1.15 Postage and Printing – Contractor must provide a copy of the invoice and proof of payment for any postage and printing for which it seeks reimbursement. The postage and printing must be related to the contract's scope of services. Any proration of expenses must be justified by the Contractor.

6.3.1.16 **Stipends** – Contractor must provide the name of a person receiving a stipend, amount of stipend, and validation that the individual eligible for the stipend has met the contract or program requirements and proof of payment. A stipend is payable only for work directly related to the scope of work under the contract. A stipend is considered by the IRS to be compensation to whoever receives the funds. Contractor must comply with applicable IRS regulations.

6.4 **Allowable Capital Equipment Over \$5,000**

6.4.1 **Any capital equipment** is usually an asset that has a useful life greater than one year which is reimbursed to the Contractor from the contract's funding. Capital Equipment over \$5,000 must be approved by DHHS in advance as part of the contract's budget. At the conclusion of the contract, an inventory of County purchased equipment must be conducted by the contractor and any capital asset greater than \$5,000 must be included in the contract line item budget and be specifically identified in the contract budget which is funded through the contract's compensation amount. The contract budget must include a justification of such a large capital asset purchase. If the County purchases the equipment, the County owns the equipment at the conclusion of the contract.

6.4.2 **Examples of capital equipment over \$5,000 are as follows:**

- Data Processing Equipment
- Vehicles
- Other Machinery or Equipment

6.4.3 Contractor must maintain a listing of inventory items purchased by the Contractor to perform the scope of services. The inventory must include the cost of the equipment; date purchased, and invoice number. Contractor must update this list **annually** and submit the inventory **annually** to the CM.

6.5 **Supporting Documentation Requirements for fringe calculation.**

6.5.1 **Employer's share of retirement.** Contractor's supporting documentation must include Employee Handbook, Fringe Report and Payments to Retirement Trustee for each employee.

6.5.2 **Employer's share of healthcare coverage.** Contractor's supporting documentation must include a copy of the relevant invoice from the Health Care Insurer and the Fringe Report for each employee.

- 6.5.3 **Employer's share of employment taxes (FICA, Medicare, SUTA, and FUTA).** Contractor's supporting documentation must include copies of Federal or State reports of Employer's liability for these costs or letters of unemployment experience rate and proof of payment.
- 6.5.4 **Employer's share of long-term and short-term disability insurance (LTD/STD).** Contractor's supporting documentation must include an invoice from the provider and payment documents for each employee.
- 6.5.5 **Employer's share of other insurance coverage (Accidental Death & Dismemberment, Long-term care, etc.)** Contractor's supporting documentation must include an invoice from the provider and payment documents for each covered employee.
- 6.5.6 **Employer's share of life insurance coverage (basic coverage) Worker's Compensation** – Contractor's supporting documentation must include an invoice from the provider and payment documents for each employee.
- 6.6 **Holiday, Vacation and Sick leave or Paid Time Off** – Contractors must treat employee leave in one of the two ways shown below:
- 6.6.1 **Employee Leave Reimbursement Through Fringe Cost Invoicing.**– The Contractor may include vacation, sick or holiday leave hours in the fringe rate calculation if Contractor bills the County salary costs for an employee's time devoted to DHHS' contract (**productive time**) and **not** for the employee's time on leave. When this option is selected and the contractor has a policy to pay out accrued leave upon an employee's departure from employment with Contractor, any leave pay out is taken from the Contractor's own fringe expenses and not billed to the County. The Contractor would already be receiving reimbursement for the leave payout through its monthly billing to the County each month as part of the fringe costs.
- 6.6.2 **Employee Leave Reimbursement through Salary Invoicing.** Contractor must bill the County a prorated portion of an employee's leave based on the employee's FTE on the contract.
- 6.7 **Unallowable Costs**
- 6.7.1 **Unallowable Costs - Direct or Indirect** Costs The following is a sample list of unallowable direct and indirect costs. This list is not comprehensive or all-inclusive. Contractors may use this list only as a guide in its classification of costs.
- 6.7.1.1 **Alcoholic beverages**

- 6.7.1.2 **Bonuses**
- 6.7.1.3 **Bad Debts**
- 6.7.1.4 **Interest expense** related to a line of credit.
- 6.7.1.5 **Charitable or Political Donations** and Contributions.
- 6.7.1.6 **Entertainment costs.**
- 6.7.1.7 **Fines and Penalties** (tax penalties, traffic violations, etc.).
- 6.7.1.8 **Goods and services for personal use.**
- 6.7.1.9 **Legal costs for litigation, for contract negotiations and for any type of disputes** (employee, contract, IRS, etc.) will not be considered an allowable cost by the department.
- 6.7.1.10 Costs related to **fund raising activities.**
- 6.7.1.11 Costs related to **political activities or lobbying costs.**
- 6.7.1.12 Costs of **insurance on the lives of trustees, officers, or similar positions** when the organization is named as beneficiary.
- 6.7.1.13 Costs incurred in connection with **any criminal, civil or administrative proceeding.**
- 6.7.1.14 **Selling and marketing other than outreach activities specific to the scope of services.**
- 6.7.1.15 **Losses from other contracts.**
- 6.7.1.16 **Investment expenses.**
- 6.7.1.17 **Overtime compensation without prior approval of the County evidenced by a contract amendment.**

6.8 **Unallowable Fringe Benefits**

- 6.8.1 **Staff training and development** (seminars, workshops, training, conferences, etc.) This must be a direct operating expense to the contract, or it is not to be reimbursed by the County.
- 6.8.2 **Staff employment verification checks** (criminal and financial background checks, fingerprinting, clearance, etc.) This must be a direct operating expense to the contract or it is not to be reimbursed by the County.
- 6.8.3 **Volunteer or employee screening checks** (criminal and financial background checks, fingerprinting, clearance, etc.) This must be a direct operating expense to the contract or it is not to be reimbursed by the County.

- 6.8.4 **Bonuses.**
- 6.8.5 **Holiday Incentives** (gift cards, baskets, contracts, prizes, etc.)
- 6.8.6 **Memberships to gyms or health clubs.**

6.9 **Suggested Support Documentation for Indirect and Fringe Costs**

- 6.9.1 Every organization may have a different methodology for preparing its indirect and fringe rates. Below is a summary list of suggested documentation Contractor may be required to provide the CM, who then will submit to CT for review and evaluation.
 - 6.9.1.1 Latest Audited Financial Statements.
 - 6.9.1.2 Trial Balance for the latest Audited Financial Statements.
 - 6.9.1.3 Unaudited financial statements for the period from the last audited financial statement to the submission of the indirect or fringe rate.
 - 6.9.1.4 List of expenditures included in the fringe and indirect rates.
 - 6.9.1.5 Indirect Cost Methodology and spreadsheets to support the indirect cost calculation.
 - 6.9.1.6 Invoices for health, dental and life insurance and payment information.
 - 6.9.1.7 SUTA and FUTA tax returns and/or letter for the experience rate and payment information.
 - 6.9.1.8 Retirement contributions by the employer.
 - 6.9.1.9 Employee Handbook describing the Employer's benefits for insurance, retirement and employee's leave, paid holidays and other benefit information or other similar documentation. The Handbook or other document should note the percentage of the employer's and employee's share of the fringe benefits.
 - 6.9.1.10 Any other documentation to support indirect or fringe costs.

7.0 **Responsibilities**

- 7.1 The **Director** of DHHS shall ensure compliance with this Policy.
- 7.2 The **Director** of DHHS or designee approves or disapproves the indirect and/or fringe rate.

- 7.3 **Contractor** provides the documentation for the indirect and fringe costs to the CM or the DHHS negotiating team.
- 7.4 **Contract Monitor (CM)** provides the documentation for review and evaluation to the Compliance Team for an indirect and fringe rate recommendation to the Director of DHHS or designee.
- 7.5 **CM or DHHS Negotiations Team** sends the indirect and fringe form approved by the DHHS COO to the Contractor. See Exhibit A.
- 7.6 **Compliance Team** analyzes the financial data and prepares a recommendation for approval of the indirect and fringe rates to the Director or designee approved by the DHHS COO. See Exhibit I for form. Disseminates the approval rates to the CMT, the DHHS Negotiation Team and CM.

8.0 Document Approvals

Role	Position	Name of Approver	Approval Signature	Date Approved
Author	Compliance Team Manager	Susan Cymek	<i>[Signature]</i>	6/15/15
Office of Chief Operating Officer	Service Area Administrator	Stuart Venzke	<i>[Signature]</i>	6/25/15
Policies and Procedures Department	Policy and Operational Risk Manager	Joy Page	<i>[Signature]</i> EV PO JJP/2/26/15	6/25/15
Final Approver	Director of Dept. of Health and Human Services	Uma Ahluwalia	<i>[Signature]</i>	6/25/15

**TABLE OF SUPPORTING DOCUMENTATION REQUIREMENTS
FOR ALLOWABLE DIRECT COSTS**

Be aware some funding sources may have specific requirements. Please refer to those conditions. Also, be aware sales tax is not an allowable cost for non-profit contractors.

Category	Documentation	Comments
Salary	<ul style="list-style-type: none"> ▪ Payroll records with pay period dates, ▪ Cost center (if applicable) ▪ Gross wages ▪ Payroll Deductions. ▪ Time sheets approved by employee and supervisor. 	
Consultation or subcontractors	<ul style="list-style-type: none"> ▪ Copy of consultant agreement ▪ Specifies work to be performed ▪ Hours ▪ Pay rate ▪ Provide at contract execution and annually. ▪ Alternately, it could be based on a task order where certain milestones must be met by contractor prior to reimbursing the cost for the deliverable. ▪ Subcontractor budget may be required with the same elements of the prime contractor. 	<ul style="list-style-type: none"> ▪ Consultant should be listed on budget as a direct operating costs and not personnel. ▪ Consultant does not receive fringe benefits. Remind contractor of IRS consequences if converting an employee to a consultant status ▪ County will not be liable for the significant penalties.

Category	Documentation	Comments
Staff Development	<ul style="list-style-type: none"> ▪ Agenda – does it meet the scope of services? ▪ Registration form ▪ Certificate of Completion ▪ Proof of payment. 	
Travel - Local	<ul style="list-style-type: none"> ▪ Travel log with staff name ▪ Date of Travel ▪ Origination & destination Use Google or MapQuest printouts to support mileage. ▪ Business Purpose of the travel. 	<p>Organization should use Montgomery County Administrative Procedure 1-5, Local Travel for guidance unless grant conditions of award specify otherwise.</p>
Travel – Non-Local Meetings and Conferences	<ul style="list-style-type: none"> ▪ Prior approval by CM reflecting in contract budget with specific details outlining the cost ▪ Copy of airline ticket ▪ Proof of payment. ▪ Copy of agenda and how it relates to the scope of services for this contract. ▪ Copy of detailed hotel portfolio ▪ Proof of payment. ▪ Copy of restaurant bill proof of payment. ▪ Request the name of others included on the restaurant bill, ▪ State the program purpose of paying for a meal for a number of guests. 	<p>County does not reimburse for meals included in the conference fee. This should be a rare occurrence with County contracts.</p> <p>Organization should use Montgomery County, Administrative Procedures 1-2, Non-Local Travel for guidance unless grant conditions of award specify otherwise.</p>
Rent	<ul style="list-style-type: none"> ▪ Copy of Rental Agreement ▪ Proof of payment. ▪ Invoices must reflect the prorated rent amount. Documentation of space 	<p>Request annually from contractor.</p>

Category	Documentation	Comments
	<p>usage should be submitted by the contractor at the beginning of fiscal year or commencement of contract.</p> <ul style="list-style-type: none"> ▪ Any changes must be supported by the contractor such as office square footage or other allocation method. 	
Utilities	<ul style="list-style-type: none"> ▪ Copy of utility bills with appropriate proration ▪ Proration should agree with the rental allocation ▪ Proof of payment. 	
Communications	<ul style="list-style-type: none"> ▪ Copy of invoice(s) ▪ Proration method if applicable ▪ Contractor's cell phone policy for employees ▪ Use is related to the contract scope of services ▪ Proof of payment 	Types of communications: cell phone, telephone land line, pagers, internet, etc.
Food	<ul style="list-style-type: none"> ▪ Food is for clients only and not for staff meetings. ▪ Copy of invoice or receipt with the purpose ▪ List of participants. 	Food should only be expenditure in rare situations such as snacks in an afterschool program or in a residential facility.
Maintenance	<ul style="list-style-type: none"> ▪ Repairs or other costs of keeping building, machinery, copiers, etc. related to performing the contract scope of services. ▪ Invoice must contain description of services performed and location. 	
Equipment under \$5,000	<ul style="list-style-type: none"> ▪ Equipment must be included in contract 	

Category	Documentation	Comments
	budget and relate to the scope of services <ul style="list-style-type: none"> ▪ Copy of invoice ▪ Proof of payment ▪ Contractor must maintain an inventory of the purchased equipment and submitted annually to CM 	
Gift Cards	<ul style="list-style-type: none"> ▪ Copy of Contractor's Gift card policy ▪ Copy of receipt ▪ Tracking forms for all gift card purchases distributions ▪ Client form receiving the gift cards ▪ Cards are to be kept in a secure location. 	These are high risk items like cash. High potential for abuse. Tracking purchase and distribution is critical. Use sparingly.
Insurance (Business)	<ul style="list-style-type: none"> ▪ Insurance costs are only allowed when permitted by the contract and approved by Risk Management. ▪ Contractor are expected to have their own insurance at the time of contract execution. 	Please refer to the insurance requirements of the contract to determine if insurance costs are allowable on the contract.
Office Supplies	<ul style="list-style-type: none"> ▪ Copy of invoice, receipt or internet receipt ▪ Proof of payment. 	
Postage and Printing	<ul style="list-style-type: none"> ▪ Receipt ▪ Purpose related to contract's scope of services. ▪ Proof of payment. 	
Stipends	<ul style="list-style-type: none"> ▪ Name of client receiving stipend and purpose of stipend ▪ Amount per client ▪ Award letter 	Stipends are considered compensation by the IRS. Contractors are

TABLE OF SUPPORTING DOCUMENTATION REQUIREMENTS FOR ALLOWABLE FRINGE COSTS

Be aware some funding sources may have specific requirements for fringe benefits and may cap the fringe rate. Please refer to those conditions. Also, Employer's Handbook may be helpful in establishing the fringe benefits offered by the employer. The review of fringe benefit and the fringe rate will be conducted by the Compliance Team. Fringe benefits will be limited to the ones below and those mentioned in this policy.

Category	Documentation	Comments
Employer's share of retirement	<ul style="list-style-type: none"> ▪ Employee Handbook if available for the employer's policy on paying for the employee's retirement amount or other documentation to validate the amount of the retirement which may be based on years of service. ▪ Documentation of payment of the retirement benefit to a Trustee. 	Some employees may not be eligible for retirement until after a certain period of time.
Employer's share of Healthcare Coverage	<ul style="list-style-type: none"> ▪ Employer's invoice or rate sheet for health care choice. ▪ Proof of payment of health insurance. 	
FICA	<ul style="list-style-type: none"> ▪ IRS Form 941 Quarterly Forms ▪ Other information to support data on Form 941. ▪ Proof of payment 	Current rate is 6.2%
Medicare Tax	<ul style="list-style-type: none"> ▪ Same as above 	Current rate is 1.45%

Category	Documentation	Comments
FUTA Federal Unemployment Tax	<ul style="list-style-type: none"> ▪ IRS Form 940 ▪ Other information to support data on Form 940 ▪ Proof of payment 	Rates may vary.
SUTA State Unemployment Tax	<ul style="list-style-type: none"> ▪ State Unemployment Tax Form ▪ Other information to support data on the Form ▪ Proof of payment 	Rates may vary.
Insurance: Short & Long Term Disability Workers Compensation Accidental & Dismemberment	<ul style="list-style-type: none"> ▪ Invoice from provider ▪ Proof of payment 	

Category	Documentation	Comments
FUTA Federal Unemployment Tax	<ul style="list-style-type: none"> ▪ IRS Form 940 ▪ Other information to support data on Form 940 ▪ Proof of payment 	Rates may vary.
SUTA State Unemployment Tax	<ul style="list-style-type: none"> ▪ State Unemployment Tax Form ▪ Other information to support data on the Form ▪ Proof of payment 	Rates may vary.
Insurance: Short & Long Term Disability Workers Compensation Accidental & Dismemberment	<ul style="list-style-type: none"> ▪ Invoice from provider ▪ Proof of payment 	

9.0 Reference Documents

Montgomery County Code, Chapter 11B and Code of Montgomery County Regulations (COMCOR) Section 11B, Procurement Law

<http://www.montgomerycountymd.gov/PRO/Laws.html>

Federal OMB Uniform Guidance 2 CFR 200

<http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>

IRS Fringe Benefit Guide – January 2014

<http://www.irs.gov/publications/p15b/ar02.html>

Montgomery County, Administrative Procedures, 1-5, Local Travel

Montgomery County, Administrative Procedures, 1-2, Non-Local Travel

EXHIBIT A

**Montgomery County Department of Health and Human Services
Indirect Cost and Fringe Rate Approval**

Contractor:		Prepared by:	
Contract Number:		Date:	
Contract Period:		Contract Amt.:	
Contract Monitor:		Service Area:	

SUBMITTED BY CONTRACTOR			RECOMMENDED FOR APPROVAL BY CT	
INDIRECT RATE	FRINGE RATE		INDIRECT RATE	FRINGE RATE

Recommend the above rates for approval:

Compliance Team Manager

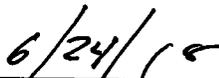
Date

Approval

Disapproval



DHHS Chief Operating Officer



Date

