



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Contracts and Procurement-Health Insurance Preference	Number 5-16
Originating Department Department of Health and Human Services	Effective Date

Montgomery County Department of Health and Human Services

Regulation on:

CONTRACTS AND PROCUREMENT – HEALTH INSURANCE PREFERENCE

Issued by: County Executive

Regulation No: 5-16

COMCOR No: 11B.77.01

Authority: Montgomery County Code (2014) Section 11B-77(b)

Supersedes: None

Council Review: Method (2) under Code Section 2A-15

Register Vol. 33 No. 5

Effective Date:

Comment Deadline: May 30, 2016

SUMMARY: This regulation covers the Procurement Certification process for an Applicant to receive a procurement preference in consideration of its offer to provide services to Montgomery County. The Certification process establishes a business as a "Small Business With Health Insurance," to be eligible for a Montgomery County Procurement preference.

STAFF CONTACT: Clark Beil, Sr. Administrator
255 Rockville Pike, Suite 100
Rockville, Md. 20850
Phone: 240-777-3831

BACKGROUND INFORMATION: This regulation establishes the operating standard for a preference to an offeror in the County's procurement of services, where the offeror is a small business that provides health insurance to its employees.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Contracts and Procurement-Health Insurance Preference	Number 5-16
Originating Department Department of Health and Human Services	Effective Date

11B.77.01.01 Authority

This regulation establishes definitions, processes, and procedures to administer and implement a preference for a Small Business with Health Insurance, authorized under Montgomery County Code, Chapter 11B, Article XVII and codified at §§ 11B-77.

11B.77.01.02 Definitions

Terms defined in Montgomery County Code, Chapter 11B-77(a), Preference for a Small Business with Health Insurance, are specifically incorporated herein and made part of this Regulation and are not redefined. Terms defined in Montgomery County Code, Chapter 11B-65, Local Small Business Reserve Program, do not apply to this Regulation, unless otherwise expressly stated.

(a) "Applicant" means a business applying to become a Certified Small Business with Health Insurance.

11B.77.01.03 Application Process

(a) This regulation covers the Certification process for an Applicant to receive a Health Insurance Evaluation Factor for an offer made in response to a County Request for Proposal (RFP), or a Percentage Price Preference for an offer made in response to a County Information for Bid (IFB).. If successful, the Applicant becomes a Certified Small Business With Health Insurance. Health Insurance Evaluation Factors and Percentage Price Preferences may only be applied to a Certified Small Business With Health Insurance in response to Formal Solicitations.

(b) An Applicant must submit an application to the County establishing that it qualifies as a Small Business With Health Insurance as defined in Montgomery County Code, Section 11B 77(a). An application must include:

- (1) An insurance broker's certificate showing provision of health insurance by the business to its employees, or
- (2) A sworn affidavit by the owner(s) and/or Board of Directors of the business attesting that



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Contracts and Procurement-Health Insurance Preference	Number 5-16
Originating Department Department of Health and Human Services	Effective Date

- (i) the employer has provided its employees with 2 hours paid time off to obtain health insurance from another source, and
- (ii) employees have obtained health insurance from another source.

(c) The County will advise each Applicant within 30 days after the receipt of an application if the application is not complete, along with information delineating the steps that must be taken by the Applicant to complete the application. Incomplete applications will not be processed.

(d) The County will process an application to become a Certified Small Business with Health Insurance within 60 days after its receipt of a complete application.

(e) The County may request clarification of information contained in the application at any time in the Certification process. The County will take into account any clarification made by an Applicant in response the County’s request for clarification.

(f) Changed circumstances for an Applicant occurring after its application that may adversely affect its Certification will be considered and may constitute grounds for denial of the application. The Applicant must inform the County of any changed circumstances that may adversely affect its Certification during the application process. Failure to inform the County of any changed circumstances constitutes good cause for which the County may deny Certification.

(g) An Applicant's Certification will be based on circumstances existing on the date of application, except where clarification is made pursuant to subsection (e) above or changed circumstances as provided in subsection (f) above.

11B.77.01.04

Approval or Denial of an Application

(a) The Director is authorized to approve or deny an application to become a Certified Small Business With Health Insurance. The Department of Health and Human Services (“DHHS”) will receive, review and evaluate all Certification applications.

(b) The Director’s decision to approve or deny an Applicant’s Certification will be in writing.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Contracts and Procurement-Health Insurance Preference	Number 5-16
Originating Department Department of Health and Human Services	Effective Date

(1) A decision to deny Certification will state the specific reasons and will inform the Applicant of any appeal rights.

(2) If the Director approves Certification, the date of the written approval is the effective date on which the Applicant becomes a Certified Small Business With Health Insurance, for purposes of determining the Certification term.

(3) The term of Certification is for 2 years from the date of the County's written approval. The Certified Small Business with Health Insurance must continuously maintain the standards that formed the basis for its Certification during the Certification term, and must inform the County of any changed circumstances that may adversely affect its Certification.

11B.77.01.05

Procedures for Suspension or Revocation of Certification

(a) The County may initiate a Certification examination if it receives credible information that questions the status of a Certified Small Business with Health Insurance. Upon completing the Certification examination, the County will issue a written decision regarding the status of the questioned Certified Small Business with Health Insurance.

(b) The Director may suspend or revoke the Certification of a Certified Small Business with Health Insurance prior to the expiration of the Certification term. In that event, the Director must send the Certified Small Business with Health Insurance notice of the proposed suspension or revocation in writing, and must set forth the rationale for the Director's findings. The business will have 30 days from the date it receives the letter to submit a written response to the Director setting forth reasons the suspension or revocation should not proceed, or proposing corrective action to address deficiencies set forth in the notice of proposed suspension or revocation.

(c) The Director will consider any information submitted by the Certified Small Business with Health Insurance in response to the Director's notice of proposed suspension or revocation.

(d) If the Director decides that suspension or revocation is not warranted, the Director will notify the business in writing.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Contracts and Procurement-Health Insurance Preference	Number 5-16
Originating Department Department of Health and Human Services	Effective Date

(d) The decision on the request for reconsideration shall be a final decision. After the Director has denied a request for reconsideration, the Applicant or previously Certified business may seek judicial review under the Maryland Rules for review of administrative decisions in the Circuit Court and the Court of Special Appeals.

11B.75.01.07 Procurement Preference Implementation

- (a) The Office of Procurement will state requirements in Formal Solicitations that are subject to the Health Insurance Preference Law, and will implement the Health Insurance Evaluation Factors in Requests for Proposals and the Percentage Price Preference in Invitations for Bids.
- (b) At the time of bid or proposal submission, the offeror must submit a Small Business with Health Insurance Certification to be deemed eligible.
- (c) The Office of Procurement will implement the "Health Insurance Evaluation Factors" in RFPs and "Percentage Price Preferences" in IFBs.
 - (1) Any offer to an RFP made by a Certified Small Business with Health Insurance must receive a Health Insurance Evaluation Factor equal to 3% of the total points contained in the evaluation criteria.
 - (2) Any responsive bid to an IFB made by a responsible Certified Small Business with Health Insurance must receive a Percentage Price Preference equal to 3% of the bidder's total price.

11B.75.01.08 Penalty; Enforcement

In addition to that stated under County Law, or a particular contract, any person or business who willfully makes a false statement to a County official or employee for the purpose of influencing the Certification status of a Small Business with Health Insurance; or fraudulently obtains, attempts to obtain, or aid another person or business in fraudulently obtaining or attempting to obtain Certification as a Small Business with Health Insurance constitutes a material breach of the contract. Accordingly,



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Contracts and Procurement-Health Insurance Preference	Number 5-16
Originating Department Department of Health and Human Services	Effective Date

the County may then exercise any available remedy, including terminating the contract for default and revocation of Certification.

Isiah Leggett
County Executive

Approved as to form and legality:

 4/11/16

Office of the County Attorney/Date