

Open Solicitation #1074957

Open Solicitation Plan For Service Coordination for Housing Initiative Program

As required by Montgomery County Procurement Regulations, Code of Montgomery County Regulations (COMCOR), Section 11B.00.01, et seq., Section 4.1.6.3 (a), the Department of Health and Human Services (DHHS) is submitting this Open Solicitation Plan for approval by the Director, Office of Procurement, Montgomery County.

Section 4.1.6.3 Procedures: These services are to be client-driven in that the selected providers will be placed on the list of current contractors for the County's Special Needs Housing (SNH) unit provided.

- (1) Public Notice – Notice for this solicitation will be posted on the Montgomery County (County), Office of Procurement website.
- (2) Application Process – The solicitation packet is available for download at <http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>. The solicitation packet includes the following: 1) the Notice to Vendors; 2) the Instructions; and 3) the pre-approved Form Contract including the General Conditions of Contract Between County and Contractor and all other attachments. Applicants are required to sign the Application Form (Attachment F, to the pre-approved Form Contract), as an indication that the solicitation packet was received, read and the requirements of the Open Solicitation understood.
- (3) Criteria for accepting or rejecting applications – The solicitation packet contains the minimum qualifications (set forth in Article II., Minimum Qualifications of the Pre-Approved Contract) for services upon which applicants will be accepted. Applications will be reviewed by DHHS staff for acceptance or rejection, based on the applicant meeting or not meeting the minimum qualifications stated in the solicitation.
- (4) All applicants meeting the minimum qualifications listed in the Pre-Approved Contract will be eligible to receive a contract to provide the services described in the Open Solicitation. The County makes no guarantee that any single contractor will receive referrals or serve clients under a contract resulting from this Open Solicitation
- (5) Pre-Approved Form Contract – Applicants are required to execute a contract with the County using the Pre-Approved Form Contract (the Form Contract), including the General Conditions of Contract Between County and Contractor ("General Conditions"), without modification.
- (6) Cost – The cost of contracts will not exceed available appropriations. Funds for services will be encumbered in purchase orders issued under the contracts by DHHS.
- (7) Cancellation – The County reserves the option to cancel this Open Solicitation at any time. Award of a contract under this Open Solicitation is subject to fiscal appropriations.

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- (8) Changes to Forms - At the request of the Office of Procurement, the County may update the Open Solicitation Form contract with updated versions of the forms listed below without issuing an amendment to the Open Solicitation or to existing contracts:

- (a) General Conditions of Contract Between County & Contractor (PMMD-45);
- (b) Minority Business program & Offeror's Representation (PMMD-90);
- (c) Minority-owned Business Addendum to the General Conditions of Contract between County and Contractor (PMMD-91)
- (d) Minority, Female, Disabled (MFD) Person Subcontractor Performance Plan. (PMMD -65)
- (e) Wage Requirements for Services Contract Addendum to The General Conditions of Contract Between County and Contractor (PMMD-177); and
- (f) Business Associate Agreement.

The updated forms will be applicable to new contracts entered after the date they are added to the open solicitation; forms attached to previously executed contracts will remain in effect for these contracts unless formally amended by contract amendment.

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Service Coordination for Housing Initiative Program

- A. Montgomery County, Maryland (the "County"), through its Department of Health and Human Services (the "Department"), administers the County's Housing Initiative Program (the "Program"), a Housing First Permanent Supportive Housing Program. Housing First is a model that provides immediate access to independent permanent housing and supportive services without preconditions such as sobriety, medication compliance, and/or participation in behavioral health services. Participants in Housing First programs are offered choice in the type and frequency of services. Refusal of services or continuation in the program will have no consequence for access to housing.

The Program provides housing subsidies equal to approximately 85 percent of the average Montgomery County rental rates, as determined by the Montgomery County Department of Housing and Community Development and service coordination to promote long term housing stability and self-sufficiency for adult Program participant households.

A complete description of the Scope of Services required is provided in the Open Solicitation application packet. You may obtain a packet by visiting

<http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>

The compensation rates for the goods or services provided under Open Solicitation #1074957, are set by the County in this Open Solicitation Rates Sheet found at the following link:

<http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>

The Rates Sheet will be provided to potential vendors upon request of an Open Solicitation application packet.

The County will enter into a contract with each applicant who meets the minimum qualifications as described in the Form Contract (Article II., Minimum Qualifications) and are found to be a responsible individual/organization. The County will sign the contract and return a copy to the applicant. The Form Contract with all attachments will constitute the entire Contract. The applicant must sign the County's Form Contract which includes the General Conditions of Contract Between County and Contractor, and other attachments, as written, with no modification.

~~Questions related to the technical information in this Open Solicitation should be directed to Aneise E. Childress-Harvell, Contract Monitor, Special Needs Housing, at (240) 777-4027. Questions related to the application/contract process and insurance requirements may be directed to Gregory Green, Senior Contract Manager, at (240) 777-1247.~~

Any prospective vendor questions regarding the Open Solicitation process or services to be provided should be emailed to:
HHS.Open.Solicitations@montgomerycountymd.gov

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INSTRUCTIONS TO VENDORS

I. Submission Documents: The following items must be submitted:

- A. Form Contract – Attachments of the Form Contract must be filled out correctly and submitted. Please follow these steps:
1. Sign the Form Contract – If the applicant is a corporation, an officer of the corporation with authority to sign contracts for the corporation must sign the Form Contract.
 2. PLEASE DO NOT PUT A DATE IN THE PARAGRAPH AT THE TOP OF THE SIGNATURE PAGE of the Form Contract. ENTER A DATE ONLY IN THE SIGNATURE BLOCK.
 3. Submit all pages of the Form Contract (not just the signature page) including the completed attachments listed below:
 - a. General Conditions of Contract Between County & Contractor (**Attachment A**);
 - b. Business Associate Agreement, (**Attachment B**);
 - c. *Optional* (**Attachment C**), “Minority Business Program & Offeror’s Representation” – this form may be filled out and submitted if applicable to the applicant’s organization;
(www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-90.pdf)
 - d. (**Attachment D**), “Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor,” and “Minority, Female, Disabled Person Subcontractor Performance Plan” (“MFD” Plan) – Please submit your MFD plan or request a waiver;
(www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-65.pdf)
 - e. (**Attachment E**), “Application Form”, Please complete the Application Form in its entirety. Applicant must indicate its organization tax status as either “profit” or “non-profit”;
 - f. (**Attachment F**) “Wage requirements for services Contract addendum to The General Conditions of Contract Between County and contractor.
(www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-177.pdf)
 - g. (**Attachment G**), “References”, Please provide with your proposal, three references of similar contracts you’ve held with other entities;
- B. Narrative – A description of your organization’s area of specialty, knowledge of and experience providing housing stabilization services to formerly homeless individuals and families. This information must be provided in no more than eight double-spaced typewritten pages, using Times New Roman 12-point font.
- C. Resume – Please provide a copy of an up-to-date resume for each person who will provide services coordination under the Contract resulting from this Open Solicitation.
- D. Certificate(s) of Insurance – This provides evidence of meeting the insurance requirements set forth in Article IX. of the Pre-Approved Form Contract. Contact your insurance broker to obtain the Certificate.
- E. Financial Information – Please provide a copy of your agency’s most recent audited financial statement. In the case of a sole proprietor, an applicant can submit the prior year’s tax return.

INSTRUCTION TO VENDORS

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All applicants must submit additional data as requested by the County to help determine financial responsibility and resolve any questions concerning their financial soundness.

- F. Proof of legal name – Please provide the articles of incorporation and articles of amendment if applicable.
- G. Proof of Good Standing - With the State of Maryland Department of Taxation and Assessment at the following site.
(http://charter.dat.maryland.gov/Pages_HTML/UCC-helpsearch.aspx) ,if applicable.
- H. Proof of tax – Please provide a W-9 Tax form or a copy of Social Security card if an individual or Sole Proprietorship is applying under this Open.
- I. Proof of tax-exempt status – Please provide a determination letter from the IRS if applicable
- J. Provide proof that your facility or facilities meet the requirements of the federal Americans with Disabilities Act (ADA).

II. Instructions:

- A. As directed above in Section I., please complete, attach, and send all Submission Documents to hipbilling@montgomerycountymd.gov.
- B. If your application meets the Minimum Qualifications stated in the Pre-Approved Form Contract and your organization is found to be responsible, your application will be accepted and approved and the County will execute the contract and return a copy to you. Once you receive notice from the County that the contract has been executed, an executed purchase order from the County, a request for services from the County and have completed and passed the criminal and Child Protection Services (CPS) background check, you may begin to provide services to clients.
- C. A copy of the County's General Conditions of Contract Between County and Contractor ("General Conditions") is included with the solicitation packet. The County's General Conditions will be attached as (**Attachment A**) to any contract that results from this Open Solicitation and includes terms and conditions that the County requires of Contractors.

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BACKGROUND/INTENT

A. In alignment with the Montgomery County Continuum of Care (CoC) strategic plan to end homelessness, the target population for the Program is defined below. The CoC seeks to end chronic homelessness by the end of 2017 and family homelessness by the end of 2020. To accomplish the goals of the CoC, households will be prioritized based on their level of vulnerability.

1. Chronically homeless individuals and families with the most severe service needs;
2. Chronically homeless individuals and families with the longest history of homeless;
3. All other chronically homeless individuals and families;
4. Homeless individuals and families with a disability with the most severe service's needs;
5. Homeless individuals and families with long period of continuous or episodic homelessness;
6. Homeless individuals and families coming from places not meant for human habitation (such as emergency shelters, streets, safe havens, etc.).

Veterans will be prioritized over non-veterans in each prioritization category listed above.

B. Program applicants will be referred to the Program by the Department of Health and Human Services (DHHS) or a public or private service provider agency. The Montgomery County Continuum of Care has designed a Coordinated Entry System (CES) to coordinate and strengthen access to housing for individuals and families who are homeless or at risk of homelessness in Montgomery County. The Coordinated Entry System is made up of community providers, staff of the Department, and other involved parties.

All CES participating providers use a common housing assessment tool, the Vulnerability Index – Service Prioritization Decision Assistance Tool (VI-SPDAT) to determine a household's level of vulnerability and the most appropriate housing intervention. All Program applicants will be referred by CES and have a VI-SPDAT score for permanent supportive housing. Housing for Program participants will be at scattered site rental units in Montgomery County located by the Housing Locator(s) designated by the County. Program participants will either sign the lease or the Contractor may enter a sublease arrangement with the Program participant household, only if the sublease is a standard rental lease.

Services provided under this Contract will be funded by the County. The Department will administer the Program's application and eligibility determination process, issue housing subsidy payments, and refer Program applicants determined eligible for Program services to qualified contract entities for service coordination in accordance with Montgomery County requirements for the Housing Initiative Program.

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C. Service Providers will receive a tiered reimbursement case rate based on the level of the acuity and needs of the homeless individual or family:

1. Low Acuity Needs: Participants with low needs require low intensity case management services including systems navigation and linking the household to appropriate mainstream services. This population typically demonstrates an ability to live independently with a housing subsidy and limited support and strong connections to community providers. Service Coordination for households with a low acuity score requires a minimum of one face-to-face visit in the home per month. ~~The caseload ratio must be a minimum of 1 Case Manager to 25 cases.~~
2. Medium Acuity Needs- Participants with medium needs require medium intensity case management services including care coordination to access employment, behavioral health, and physical health care services, money management, activities of daily living, etc. This population has often experienced long-term homelessness and has major barriers to self-sufficiency such as mental health, addiction, domestic violence, etc. as well as financial and housing barriers. Service Coordination for households with medium acuity scores requires a minimum of three face-to-face visits per month. One visit must occur in the Participant's home. ~~caseload ratio must be a minimum of 1 Case Manager to 15 cases.~~
3. High Acuity Needs- Participants with high needs require high intensity case management services including care coordination, skills coaching, modeling, entitlement assistance, etc. Services are individualized and highly flexible to address the unique challenges of the participants. This population has often experienced chronic homelessness and has a major disabling condition. Many recipients with high acuity needs have more than one complex issue such as serious mental or physical disabilities, chronic addiction and lack of employability. Service Coordination for households with high acuity scores requires a minimum of six face-to-face visits per month. One visit must occur in the Participant home. ~~The caseload ratio must be a minimum of 1 Case Manager to 10 cases.~~

The Acuity needs of the Participants will be determined at intake, 6 months after intake, and annually thereafter using the Montgomery County Housing Support Services Acuity Scale. DHHS will complete the initial Acuity Scale and make the appropriate referral to the Contractor.

If the acuity needs of the household change prior to the six month or yearly review, a reassessment of the household's acuity can be done at any time by making this request through the designated County Contract Monitor for the Contract.

D. Program participants must have a total household income at or below 30% of the current area median income upon admission to the Program and will remain eligible for continued Program benefits until income exceeds 50% of area median income. Program participants will be responsible for paying 30% of their household's income toward rent and utilities.

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E. Other Program eligibility criteria include, but are not limited, to the following:

1. Program applicants must be at least 18 years old, a legal resident of the United States, and a resident of Montgomery County.
2. Value of the assets of all members of the Program applicant's household must not exceed \$10,000.
3. Program participant's household members 18 years of age or older, must undergo a criminal background check and be screened through the National Sex Offender Registry, prior to program acceptance and annually as a part of
4. Program participants may be excluded from the Program if they or any member of the household has been convicted of criminal activity that would adversely affect the health, safety or well-being of other persons or cause property damage.

F. Unless otherwise stated, all terms have the meanings prescribed to them in Montgomery County Executive Regulation 20-12 Requirements for the Housing Initiative Program. Regulations can be obtained by cutting and pasting the link below.

http://www.montgomerycountymd.gov/council/resources/files/res/2013/20130924_17-879.pdf

The Contractor must frequently check this link for updates to the policy.

TERMS AND CONDITIONS

I. SCOPE OF SERVICES

- A. The Contractor must accept referrals for service coordination services for this Program only through the Department or a public or private service provider agency and must assign a Service Coordinator to each Program participant within 10 working days of receipt of the referral.
- B. The Contractor must ensure that the Service Coordinator collaborates with the Housing Locator to assist each referred Program participant who is in need of housing, to locate an eligible rental unit to move into.

The Contractor may act as the landlord for a rental unit leased by a Program participant household via a sublease agreement on a rental unit that the Contractor has leased on behalf of the Program participant household, or by leasing a rental unit owned by the Contractor to the Program participant household.

Each rental unit, either identified by the Contractor or the Housing Locator or supplied by the Contractor for Program participant households, must comply with the following requirements:

1. Must not exceed 120 percent of the average Montgomery County rent, for rental units of varying sizes, as most recently determined by the Montgomery County Department of Housing and Community Affairs;

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2. Must be suitably sized as determined by the most recent standard published by the Montgomery County Housing Opportunities Commission for the Housing Choice Voucher Program (The rental unit may not have more bedrooms than the standard, but may have fewer bedrooms if all other applicable space requirements are met.);
 3. Must be in Montgomery County and licensed in accordance with Chapter 29 of the Montgomery County Code:
http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:montgomeryco_md_mc *The Contractor must frequently check this link for updates to the policy.*
 4. Must be a detached or attached single family home or town home; an apartment, condominium or cooperative rental unit in a multi-family facility; a rental mobile home in a licensed mobile home park; a rented mobile home pad on which the applicant has placed a mobile home in a licensed mobile home park; a room or group of rooms in an attached or detached single family home or town home, apartment, condominium or cooperative; a personal living quarters; or an accessory apartment;
 5. Must not be owned by a relative of any member of the Program participant household unless the Department determines that approving the rental unit would provide reasonable accommodation for the Program participant household; and
 6. Must not be occupied by more than one Program participant household. Single persons may reside together in one rental unit and be considered as individual households, if each person has an individual lease.
- C. The Contractor's Service Coordinator and Contractor's Housing Locator must have an initial meeting with program household to conduct a housing intake and assessment. The intake will assess where the individual would like to live and identify any barriers that may get in the way of or moving into an apartment, such as a past felony charge or poor credit history. The Program seeks to honor client choice whenever possible and will consider the Program participants needs and desires when selecting units. The household will be shown three units. The Service Coordinator and the Housing Locator must meet again with the Program participant household if the Program participant fails to accept any of the housing units offered. The Housing Locator and the Service Coordinator must work with the Program participant household for up to six months to find a unit acceptable to all parties.
- D. The Contractor, together with the Program participant household, must submit a written request to the Department if a Program participant wishes to move to a new unit, at least 30 days prior to the requested move date. If the move is voluntary, the request must be made at least 30 days prior to the date when the Program participant household is required to provide a notice to vacate to the landlord and the household is responsible for the full cost of voluntary moves. The Department must approve all move requests prior to the Program participant household entering into a new lease agreement.

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- E. The Contractor must ensure that the Service Coordinators assist Program participant households wishing to move to a new unit and submit a request for approval of the rental unit to the Department. The Department will review the rental unit request to determine if the rental unit meets the standards outlined in Montgomery County Executive Regulation 20-12 and determine the amount of the rental assistance subsidy (must cut and paste to link).

http://www.montgomerycountymd.gov/council/resources/files/res/2013/20130924_17-879.pdf

The Contractor must frequently check this link for updates to the policy.

- F. The Contractor must submit a copy of an executed written lease agreement between the landlord and the Program participant household within 15 calendar days of receipt of notification from the Department that the rental unit is approved. All lease agreements must comply with the provisions of Montgomery County Code, Chapter 29, Landlord-Tenant Relations. If the Program household is subletting a rental unit, either from the Contractor or other primary lessee, then the primary lessee, or the Contractor, as the case may be, must have a written agreement with the property owner permitting the primary lessee to sublet the rental unit.

http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:montgomeryco_md_mc

- G. The Contract Monitor will do the initial assessment of the household's level of Acuity using The Montgomery County Housing Support Service Acuity Scale. The Contractor must review the household's Acuity six months after intake using the Acuity Scale and submit to the Contract Monitor. After the intake and six-month review, the Contractor must complete the Acuity Scale for each household annually. In the event that a household's Acuity level changes outside of the review period, the Contractor may request a re-assessment from the Contract Monitor. The Contractor and Contract Monitor will complete a new Acuity Scale and adjust the reimbursement rates accordingly.
- H. The Contractor must complete a goal plan with each household. The written goal plan must be developed and agreed upon by both the Contractor's Service Coordinator and the Program participant, consisting of time-specific goals and objectives designed to promote self-sufficiency and maintain permanent housing. These goals and objectives are based on the client's individually assessed needs, desires, strengths, resources and limitations. The Contractor must execute the goal plan with each Program participant household within 30 calendar days of the execution of a written rental lease agreement between the landlord and the Program participant household or sublease agreement between the Program participant household and the primary lessee. If the referred household is already housed at the time of the referral, the Contractor must execute a written goal plan within 30 calendar days of the referral. The Contractor may require a written goal plan for all individuals age 18 years and older in the Program participant households. All goal plans must be updated every six months and signed by both the Service Coordinator and Program participant. All goal plans must include the following:

1. Program participant's strengths and challenges
2. Detailed description of the tasks and responsibilities of both the Service Coordinator

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- and Program participant for maintaining permanent housing.
3. Emergency and next of kin contact information.
Goal plans may not include provisions that require the Program participant to participate in treatment or services in order to receive rental assistance. Housing is only terminated for violations of the lease.
- I. The Contractor must utilize the Admissions and Termination Agreement form provided by DHHS. The form must be signed within 14 calendar days of the execution of a written lease agreement between the landlord and the Program participant household or sublease agreement between the Program participant household and the primary lessee. The Agreement must include a statement which indicates that the Program participant understands and agrees to cooperate with all program requirements.
 - J. The Contractor must ensure that each of its Service Coordinators provides comprehensive case management services to each Program participant household to ensure that individuals and families are connected to needed benefits and services to ensure housing stability. Service Coordination should be provided in the residence and the community. Service Coordination must include, but is not limited to, at a minimum the following:
 1. Ongoing tenancy supports, such as landlord and property management relationship building, strategies for developing regular payment of rent, utilizes, and property management needs; education about participation in tenant associations; minimum of one monthly home visit;
 2. Eviction prevention, such as advocacy and linkage with community resources to prevent eviction; conflict resolution; lease behavior requirements.
 3. Assistance with maintaining housing such as assistance with housing support and crisis plan on a regular basis to reflect current needs and address existing or recurring housing retention barriers.
 4. Continuing training in being a good tenant and adhering to the lease, including ongoing support with activities related to household management.
 5. Coordinating and linking the Program participant to services including primary care and health homes; substance use treatment providers; mental health providers; medical, vision, nutritional and dental providers; vocational, education, employment and volunteer support; hospitals and emergency rooms; correctional facilities, probation, and parole; crisis services; end of life planning; and other support groups and natural supports.
 6. Entitlement assistance including obtaining documentation, navigating, and monitoring application process and coordinating with entitlement agency; and
 7. Independent living, including skills coaching, financing counselling, anger management, individual and family counseling, support groups and community integration.

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- K. ~~The Department is currently engaged in planning work that will allow the Department to bill Medicaid for many of the services currently provided to Program participant household through Service Coordination. When this becomes available, reimbursement rates may change to account for the additional infrastructure required to bill for services.~~

The Department of Health and Human Services has concluded its plan that allows the Department to bill Medicaid for many of the services currently provided to Program participant households through Service Coordination. The current reimbursement rates are reflected on the Tier Rate Sheet as Compensation (Medicaid Reimbursement). Reimbursement rates may change to account for any additional infrastructure required to bill for services, and all future rate change/adjustment will be done without amending contracts from this solicitation however a new Rate Sheet will be posted at, and contractors are responsible to periodically check the website:

<http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>

- L. The Contractor must document all client contacts in HMIS within 48 hours of service provision. Contact notes must include the date, time, duration, and location of the service. Contact notes must include a brief description of the service provided and a plan for future services.
- M. The Contractor must ensure that all Program participants apply, when available, to receive Housing and Urban Development (HUD) Housing Choice Voucher and Public Housing benefits, through the local housing authority, the Housing Opportunities Commission. If selected to receive HUD benefits, the Program participant household will no longer be eligible for rental assistance through the Program. If the Program participant has an Acuity level of Mid or High Acuity, they will remain eligible for Service Coordination provided by the Contractor and funded through the Department.
- N. The Contractor, together with the Program participant, must reapply to the Department for continued Program eligibility before the expiration of the Program participant's current eligibility period in accordance with deadlines and procedures established by the Department and Montgomery County Executive Regulation, 20-12 Requirements for the Housing Initiative Program (must cut and paste for link).
http://www.montgomerycountymd.gov/council/resources/files/res/2013/20130924_17-879.pdf
The Contractor must frequently check this link for updates to the policy.
- O. The Montgomery County Department of Health and Human Services Housing Locator will conduct an inspection of the rental unit to determine if the rental unit is safe and sanitary whenever a Program participant household moves into a rental unit. The Service Coordinator will conduct monthly home visits and submit to the Department Home Visit Reports on a monthly basis for each Program participant household.
- P. The Contractor must ensure that its Service Coordinators notify the Department within 30 days of the date if any one of the following occurs:
1. the number of Program participant household members increases or decreases; or
 2. amount of contract rent increases or decrease;
 3. Program participant household gross income changes by 10 percent or more.
- Q. The Contractor must ensure that its Service Coordinators immediately complete an incident report and notify the Department when any one of the following occurs:
1. Rental unit lease is terminated;
 2. Program participant household moves from the rental unit;
 3. Program participant household receives a notice of eviction;

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(Revised by Solicitation Addendum #2)

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4. Program Participant is away from the rental unit for more than 60 consecutive calendar days;
 5. Any member of a Program participant household is convicted of a criminal activity that would adversely affect the health, safety or well-being of other persons or cause property damage;
 6. Program participant household has been approved to receive an equivalent rental assistance subsidy from another local, state or federal housing subsidy program;
 7. Any member of the Program participant household is found to have improperly obtained, or improperly used, rent subsidy payments.
 8. Any member of the Program participant household has died, experienced a medical or psychiatric emergency requiring hospitalization or medical transport, or been the victim of a violent crime or;
 9. A fire occurred in the Program participant's unit or the rental unit was damaged by a fire.
- R. The County reserves the right to terminate a Program participant household from the Program and therefore discontinue the provision of service coordination to any Program participant household referred to the Contractor by the Department for any one of the following reasons:
1. Any Program participant household member convicted of criminal activity that would adversely affect the health, safety or well-being of other persons or cause property damage;
 2. The Program participant household no longer meets all of the eligibility requirements;
 3. The Program participant household fails to provide information required to determine continued eligibility or fails to reapply for Program benefits;
 4. The Program participant household is evicted from the rental unit or the lease is terminated by the landlord;
 5. the Program participant household is no longer residing in the eligible rental Unit;
 6. The Program participant household notifies the Department that assistance is no longer required;
 7. Any member of the Program participant household is found to have improperly obtained, or improperly used rent subsidy payments.
- S. DHHS will not automatically terminate a Program participant household solely because a household member has been the victim of domestic violence, dating violence, stalking or disability.
- T. The Department may waive any of the Program termination requirements upon a finding of good cause. The Contractor must submit all waiver requests in writing to the Department on a form provided by the Department.

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Each request must clearly state the reason for which the waiver is being requested. Upon a finding of good cause, the Department may grant a waiver in writing and must clearly state the reason the requirement is being waived;

- U. The Contractor must document all client goal plans in HMIS. Goals plans should be reviewed and updated every 6 months.
- V. Executive Regulation 20-12, Requirements for the Housing Rental Initiative Program is incorporated by reference into and made a part of this Open Solicitation. Regulations can be found at:
[http://www.montgomerycountymd.gov/exec/Resources/Files/20-12\(2\).pdf](http://www.montgomerycountymd.gov/exec/Resources/Files/20-12(2).pdf)
The Contractor must frequently check this link for updates to the policy.
- W. The Contractor must comply with DHHS Background Clearance policy requirements for staff, subcontractors and volunteers serving clients (please see link below for policy). Also **Attachment H: Frequently Asked Questions—Background Investigations for DHHS Contract**, is attached for your information.
(<https://www.montgomerycountymd.gov/HHS/DoingBuswDHHS.html>)
- X. ***Plan of Care (POC) Requirements***
Only contractors pre-approved and assigned by the County are required to complete a POC. Upon approval, the County will assign a contractor to complete a POC for participants enrolled in the Assistance in Community Integration Services (ACIS) Program, who must comply with all applicable program requirements outlined at: <https://health.maryland.gov/mmcp/Pages/ACIS.aspx>.

Contractors responsible for the POC must adhere to the following:

1. *Complete the POC at intake and review/update annually for each enrolled participant in the ACIS program.*
2. *In accordance with the program's conflict-free case management requirements, the contractor completing the POC must not be affiliated with or employed by any organization that provides direct services to the participant under the ACIS program.*
3. *The contractor completing the POC must meet face-to-face with the ACIS participant to collaboratively develop a person-centered POC that reflects the participant's preferences and needs related to housing and tenancy-based case management services*
4. *The POC must include documentation that:*
 - a) *The participant was able to invite individuals of their choice to the planning meeting;*
 - b) *The participant actively participated in developing the plan;*
 - c) *The participant was offered choice of services and supports;*
 - d) *The participant agreed to the services and support outlined in the POC;*
 - e) *The participant was provided the opportunity to review and request changes to the POC; and*
 - f) *The finalized POC developed with the participant was shared with the service provider for planning and coordination purposes.*

II. MINIMUM QUALIFICATIONS

The Contractor must meet the following minimum qualifications, listed below in order to receive a contract to provide services in accordance with **Open Solicitation #1074957** and to continue to provide services under the resulting contract. Each Contractor must:

1. Be a public or private service provider agency and have experience with providing service coordination and other relevant human services to special needs populations as outlined in **Open Solicitation #1074957**;
2. Assign a Service Coordinator to provide services to Program participant households within 10 working days of receipt of a Department referral and execute a written Admission and Termination and Service Agreement with each Program participant household as noted in this Contract;
3. Conform to confidentiality and informed consent policies governing services, including mandates that all Contractor staff and Program participant household member interactions and the Contractor's record keeping, and storage of those records, are conducted in accordance with State, local and federal privacy laws and regulations, including the federal Health Insurance Portability and Accountability Act (HIPAA);
4. Have, or develop and implement a Notice of Privacy Practice (NOPP) that must be approved by the County. The purpose of the NOPP is to inform Program participants that their personal information will be entered into an electronic record in the Homeless Management Information System (HMIS) database and how their information will be used;
5. Enter into an HMIS Participation Agreement provided by the County within 30 days of a signed contract resulting from **Open Solicitation #1074957**. This agreement delineates the responsibilities of the County and Contractor in operating the HMIS;

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6. Comply with the County's Business Associate Agreement (BAA) a copy of which is included in the Open Solicitation packet and attached to this Contract;
7. Maintain client records and store them in a secured, non-public area to assure client confidentiality; and
8. Comply with the County's mandatory insurance requirements as set forth under Article IX of this Contract and must provide an insurance certificate(s) evidencing the required insurance certificate.

III. STAFFING AND OTHER REQUIREMENTS

The Contractor must:

1. Ensure that each Service Coordinator providing service under this Contract possesses, at a minimum, a Bachelor's Degree in social work or another human services-related field and two years of experience providing human services. All staff providing services for this Program, must be free of illegal drugs and abuse of alcohol, and must be fully able to perform all required duties at all times;
2. Ensure that the Service Coordinator Supervisor has a Master Degree in Social Work and has a Maryland Clinical Social Work License, ***or a Master Degree & a MD Professional Counselor License (LCPC)***;
3. Conduct and/or arrange for background checks on all program personnel and volunteers for child sexual abuse and other criminal activity and must provide evidence of the background checks to the County upon request. The Contractor must obtain the results of criminal background checks before any staff or volunteers provide direct services;
4. Maintain a personnel manual which identifies the Contractor's job descriptions and personnel regulations and explains policies for Contractor's employees regarding benefits, supervision, termination and grievances;
5. Provide or obtain training for all Service Coordinators providing services in the following areas:
 - A. Housing First and harm reduction model;
 - B. Motivational Interviewing;
 - C. Mental health, substance use and co-occurring disorders;
 - D. Crisis intervention; and
 - E. Health risks and medical precautions.

It is anticipated, but not guaranteed, that the County or other services providers in the community will make training sessions available for staff on the above areas. In the event training sessions are not available through the County or other service providers, the Contractor is required to provide or obtain the necessary training.

6. Maintain and have available for review by the County a roster of all employed individuals providing services under this Contract, along with their resumes, current licenses, work schedules and evidence of completion of training related to maintaining employment with the Contractor;
7. Have a mechanism to record, report and track Program participant household

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- participation and the ability to provide semi-annual statistical reports;
8. Have a mechanism to record data and produce reports that track the following outcomes noted in Article V, Outcome Measures.
 9. Maintain and have available for the County's review personnel files that includes staff schedules, resume, license(s) (current), evidence of completion of job-appropriate training for each staff providing services under this Contract, and training requirements that must be met by staff, by specified dates, in order for the staff to continue providing services under this Contract. Upon written notification by the County, the Contractor must replace any unqualified or unsatisfactory personnel as determined by the County within two (2) weeks of notification, at no additional cost to the County. If the Contractor is unable to replace such personnel in this timeframe, the Contractor must notify the County in writing with an explanation for any personnel not replaced within this timeframe.

IV REPORTING

- A. The Contractor must maintain client records according to Federal, State, and local privacy and confidentiality requirements and must store them in a secured, non-public area to assure client confidentiality.
- B. The Contractor must participate in all recording, reporting, and Program participant household participation mechanisms as determined appropriate by the County.
- C. The Contractor must provide monthly HMIS data quality reports required by the County by the 15th business day of the following month in formats approved by the County. The HMIS monthly notes must include general demographic information on client within the caseload, a description of the contact (frequency and type) with each client, a description of the services clients are engaged in and the efficacy of those services, levels of client participation, progress towards client's service plan goals, a listing and explanation of any/all concerns related to clients or other matters, description of any and all unusual incidents.
- D. The Contractor must submit a Comprehensive Monthly Case Management/ report with their invoice that includes a listing of the client's served under this contract and their level of acuity and description of the contacts for the month including frequency and type for each client. The report must also include a Monthly Home Visit form for each Program participant.
- E. The Contractor must enter required client demographic information into the HMIS within 24 hours to provide the County with accurate client and program information. The Contractor must make arrangements with the County for training staff who will use the HMIS.
- F. The Contractor must perform the duties of an HMIS Agency Administrator and must be proficient in the use of the HMIS including







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running reports to ensure data quality. There is required information that the Contractor must enter into the HMIS that must conform to County and HUD standards.

- G. The County will determine what information must be entered into the HMIS by the Contractor. The Contractor must adhere to the HIPAA requirements that govern the HMIS although there is no requirement that the Contractor itself be a HIPAA covered entity.

V. OUTCOME MEASURES

1. The Contractor must collect and submit semi-annual statistical data in a format approved by the County by the 15th business day of January and July of the fiscal year.
2. The Contractor must collect statistical data which calculates the following:
 - a. Number of Program participant households remaining in permanent housing
 - b. Tenure in current housing situation per Program participant household
 - c. Tenure in the Program
 - d. Number of Program Participants connected with mainstream benefits for which they are eligible (Supplemental nutritional assistance Program (Formerly Food Stamps), TCA, TDAP, Medicaid, Medicare, SSI, SSDI, etc.)
 - e. Number of Program Participants employed
 - f. Number of Program Participants connected to behavioral health services
 - g. Number of Program Participants connected to primary care
 - h. Number of hospitalizations per Program Participant in the last 90 days
 - i. Number of incarcerations per Program Participant in the last 90 days
 - j. Percent of households with increased income
3. The Contractor must conduct the following Customer Satisfaction Survey. The survey must be conducted annually and results compiled and submitted to the County Contract Monitor. How would you rate your recent experience with this program or service in each of the following areas?

	Very Satisfied  	Satisfied 	Not Satisfied 	Very Unsatisfied  	Don't Know /Not Applicable
Responsiveness/Timeliness					
Courtesy/Respect					
Overall Experience					

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VI. COMPENSATION

1. The County will compensate the Contractor for services rendered at pre-determined rates as indicated in the Open Solicitation Rates Sheet found at the following Link:

<http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>

These rates are inclusive of all the requirements as indicated in Article 1, Scope of Services, Item C.

2. No services will be performed or compensated under this Contract prior to the execution of a County Purchase Order and Notice(s) to Proceed and the Contractor's receipt of said County Purchase Order containing a maximum compensation amount.

VII. INVOICES

The Contractor must submit a monthly invoice and supporting documentation in a format approved by the County no later than the fifteenth day following the end of each month. Upon receipt, acceptance and approval of the Contractor's invoice, the County will make payment, net 30 days, at the rates set forth in Article IV, Compensation, above. All required reports and other supporting documentation must be provided with the Contractor's monthly invoice. All Invoices must be sent to the Contract Monitor designated for this Contract by the County.

VIII. TERM

This Contract shall become effective on the date indicated on the signature page (page 16) of this Contract, and shall be for a two-year term. Before the contract term ends, the Director may, (but is not required to) renew this Contract for an additional term, if the Director determines that renewal is in the best interest of the County. The Contractor's satisfactory performance does not guarantee renewal of this Contract. The Director may exercise this option to renew two (2) times for up to two (2) years each. Substantial non-compliance or substantial non-satisfactory performance, as determined in the sole discretion of the County, may lead to a work improvement plan or early termination of this Contract.

IX. GENERAL CONDITIONS AND INSURANCE

The General Conditions of Contract Between Contractor and County ("General Conditions") are incorporated by reference and made part of this Contract as (**Attachment A**). The following insurance requirements supersede those outlined in Provision 21 of the General Conditions:

Prior to the execution of the contract by the County, the proposed awardee/contractor and their contractors (if requested by County) must obtain, at their own cost and expense, the following *minimum* (not maximum) insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to

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the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/contractor shall provide a copy of the insurance policies and additional insured endorsements.

The minimum limits of coverage listed below shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of proposed awardee / contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary.

Commercial General Liability

A minimum limit of liability of ***one million dollars (\$1,000,000), per occurrence and one million (\$1,000,000) aggregate***, for bodily injury, personal injury and property damage coverage per occurrence including the following coverages:

Contractual Liability Broad Form
Premises and Operations
Independent Contractors & Subcontractors
Products and Completed Operations

Worker's Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

Bodily Injury by Accident - \$100,000 each accident
Bodily Injury by Disease - \$500,000 policy limits
Bodily Injury by Disease - \$100,000 each employee

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees, must be included as an additional insured on Contractor's commercial general, automobile insurance, and contractor's excess/umbrella insurance if used to satisfy the Contractor's minimum insurance requirements under this contract, for liability arising out of contractor's products, goods and services provided under this contract. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to Customer and failure to request evidence of this insurance shall in no way be construed as a waiver of Contractor's obligation to provide the minimum insurance coverage specified.

Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County in accordance with the policy provisions.

Certificate Holder

Montgomery County, MD

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HHS/Contract Management Team/Gregory Green
401 Hungerford Drive, 6t floor
Rockville, MD 20850

X. PRIORITY OF DOCUMENTS

The following documents are incorporated by reference and made a part of this Contract and are listed in the following order of precedence to be applied in the event of a conflict in their terms:

- A. This Contract Document;
- B. The General Conditions of Contract Between County and Contractor (PMMD-45) (Attachment A);
- C. Business Associate Agreement (Attachment B);
- D. Minority Business Program & Offeror's Representation (PMMD-90) (Attachment C);
- E. Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor and Minority, Female Disabled Person Subcontractor Performance Plan (PMMD-91) (Collectively, Attachment D);
- F. Application Form, (Attachment E)
- G Wage Requirements for Services Contract Addendum to The General Conditions of Contract Between County and Contractor (PMMD-177) (Attachment F);
- H. References (Attachment G); and
- I. (Frequently Asked Questions) Background Investigations for DHHS Contract (Attachment H)

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Signature Page

This Contract, which incorporates by reference: the Instructions to Vendors, the completed Application Form, the Notice to Vendors, the Approved Form Contract with applicable Attachments A, B, C, D, E, F, G and H, copies of which have been provided to the Contractor, is entered into this _____ day of _____, _____ by and between _____ (the "Contractor") and Montgomery County, Maryland (the "County"). This Contract will become effective on _____ by signature of the Director, Office of Procurement. This Contract and any renewals or extensions of this Contract are subject to the appropriation of funds.

SIGNATURE PAGE

Part A: Contractor's Offer to Provide Services:

(Prospective Contractor Must Complete)
Contracting Corporation, Partnership, Limited
Liability Company OR Proprietorship

Agency Name

Signature*

Typed

Title

Date

Part B: County Acceptance:

MONTGOMERY COUNTY, MARYLAND

Avinash G. Shetty, Director
Office of Procurement

Signature Date

RECOMMENDATION

James C. Bridgers, Jr., Ph.D., MBA, Director
Department of Health and Human Services

Date

This form has been approved as to form and
legality by the Office of the County Attorney.

*** Must be signed by corporate officer or person legally authorized to bind organization to a contract**

Open Solicitation # 1074957

Attachment A

GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first tier subcontracts.

2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5.

3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. Through signature of this contract, the contractor certifies that the contractor has filed an initial statement with the Maryland State Board of Elections in compliance with MD Code Ann., Election Law, §14-104(b)(1), or is not required to file an initial statement as per MD Code Ann., Election Law, §14-104(c)(2).

For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The County's prevailing wage law, as found at §11B-33C of the County Code, applies to certain construction and mechanical systems service contracts. To the extent applicable, the County's prevailing wage requirements are enumerated within this solicitation/contract in the "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor." If applicable to this contract, the Addendum will be attached to the contract, and will be incorporated herein by reference, and made a part thereof.

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Md. State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

The contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

Montgomery County's Earned Sick and Safe Leave Law, found at Sections 27-76 through 27-82 of the County Code, became effective October 1, 2016. An employer doing business in the County, as defined under the statute, must comply with this law. This includes an employer vendor awarded a County contract. A vendor may obtain information regarding this law at <http://www.montgomerycountymd.gov/humanrights/>

4. ASSIGNMENTS AND SUBCONTRACTS

The contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests. The contractor must not employ any subcontractor that is a debarred or suspended person under County Code §11B-37. The contractor is fully responsible to the County for the acts and omissions of itself, its subcontractors and any persons either directly or indirectly employed by them. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the County, and nothing in the contract documents is intended to make any subcontractor a beneficiary of the contract between the County and the contractor.

5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

6. CONTRACT ADMINISTRATION

- A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:
- (1) serve as liaison between the County and the contractor;
 - (2) give direction to the contractor to ensure satisfactory and complete performance;
 - (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
 - (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
 - (5) accept or reject the contractor's performance;
 - (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
 - (7) prepare required reports;
 - (8) approve or reject invoices for payment;
 - (9) recommend contract modifications or terminations to the Director, Office of Procurement;
 - (10) issue notices to proceed; and
 - (11) monitor and verify compliance with any MFD Performance Plan.
- B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

9. DOCUMENTS, MATERIALS, AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code. In addition, the contractor must comply with the political contribution reporting requirements currently codified under the Election Law at Md. Code Ann., Title 14.

13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.

- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the minimum insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. The minimum limits of coverage listed shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County, nor shall failure by the County to request evidence of this insurance in any way be construed as a waiver of proposed awardee/contractor's obligation to provide the insurance coverage specified. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Contractor must provide to the County at least 30 days written notice of a cancellation of, or a material change to, an insurance policy. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. After consultation with the Department of Finance, Division of Risk Management, the Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

Please disregard TABLE A. and TABLE B., if they are replaced by the insurance requirements as stated in an attachment to these General Conditions of Contract between County and Contractor.

TABLE A. INSURANCE REQUIREMENTS
(See Paragraph #21 under the General Conditions of Contract
between County and Contractor)

CONTRACT DOLLAR VALUES (IN \$1,000's)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by				
Accident (each)	100	100	100	See
Disease (policy limits)	500	500	500	Attachment
Disease (each employee)	100	100	100	
Commercial General Liability for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300 Attachment	500	1,000	See
Minimum Automobile Liability (including owned, hired and non owned automobiles)				
Bodily Injury				
each person	100	250	500	See
each occurrence	300	500	1,000	Attachment
Property Damage				
each occurrence	300	300	300	
Professional Liability* for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See Attachment

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
27 Courthouse Square, Ste 330
Rockville, Maryland 20850

*Professional services contracts only

(Remainder of Page Intentionally Left Blank)

TABLE B. INSURANCE REQUIREMENTS
(See Paragraph #21 under the General Conditions of Contract
between County and Contractor)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
27 Courthouse Square, Ste 330
Rockville, Maryland 20850

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22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

23. INFORMATION SECURITY

A. Protection of Personal Information by Government Agencies:

In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

B. Payment Card Industry Compliance:

In any contract where the Contractor provides a system or service that involves processing credit card payments (a "Payment Solution"), the Payment Solution must be Payment Card Industry Data Security Standard Compliant ("PCI-DSS Compliant"), as determined and verified by the Department of Finance, and must (1) process credit card payments through the use of a Merchant ID ("MID") obtained by the County's Department of Finance by and in the name of the County as merchant of record, or (2) use a MID obtained by and in the name of the Contractor as merchant of record.

24. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

25. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B 33 and Section 27 19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

26. PAYMENT AUTHORITY

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees, late fees, or shipping fees that are not provided for in the contract. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

27. P-CARD OR SUA PAYMENT METHODS

The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account ("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's p-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

28. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

29. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or

(c) endangering the performance of this contract.

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

30. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

31. TIME

Time is of the essence.

32. WORK UNDER THE CONTRACT

Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

33. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.

ATTACHMENT B

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Montgomery County, Maryland (hereinafter referred to as “Covered Entity”), and _____ (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

I. GENERAL

A. Covered Entity has a business relationship with Business Associate that is memorialized in Montgomery County Contract # _____ (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

B. The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

C. For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

D. This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply with the the Maryland Confidentiality of Medical Records Act (Md. Code Ann., Health-General I §§4-301 *et seq.*) (“MCMRA”) or other applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

E. This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

F. The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

II. DEFINITIONS.

A. The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

B. Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

1. "Breach" is defined at 45 CFR § 164.402.
2. "Business Associate" is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean _____.
3. "Covered Entity" is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.
4. "Designated Record Set" is defined at 45 CFR § 164.501.
5. "Individual" is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.
6. "Protected Health Information" or "PHI" is defined at 45 CFR § 160.103.
7. "Required By Law" is defined at 45 CFR § 164.103.
8. "Secretary" means the Secretary of the U.S. Department of Health and Human Services or designee.
9. "Security Incident" is defined at 45 CFR § 164.304.
10. "Unsecured Protected Health Information" or "Unsecured PHI" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

III. PERMISSIBLE USE AND DISCLOSURE OF PHI

A. Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA, MCMRA, or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

B. Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

C. Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

D. Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

E. Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

F. Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section III.F must:

1. Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

2. Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3. Be in substantially the same form as Exhibit A hereto;

4. Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

5. Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

6. Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

7. If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

8. Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

9. State whether the PHI was actually acquired or viewed;

10. Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

11. Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address;

and

12. Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III.F.4 – III.F.11 above.

G. Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

H. In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

I. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

J. Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

K. Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered

Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

L. To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

M. A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

N. To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

O. Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

P. Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

Q. Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

R. Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

S. Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to

Covered Entity that seeks documents or other information held or controlled by Business Associate.

T. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

U. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

V. Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

IV. TERM AND TERMINATION.

A. Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

2. Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

3. If neither termination nor cure is feasible, report the violation to the Secretary.

4. This Article IV, Term and Termination, Paragraph B, is in addition to the provisions set forth in Paragraph 27, Termination for Default of the General Conditions of Contract Between County and Contractor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

C. Effect of Termination.

1. Except as provided in Section IV.C.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

3. Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, the MCMRA, or other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

V. CONSIDERATION. Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

VI. CAUSES OF ACTION IN THE EVENT OF BREACH. As used in this paragraph, the term "breach" has the meaning normally ascribed to that term under the Maryland law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action

contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in Paragraph 18, "Indemnification", of the General Conditions of Contract Between County and Contractor, attached to the Underlying Agreement in which "Business Associate" is "Contractor" and "Covered Entity" is "County", for purposes of this Agreement.

VII. MODIFICATION; AMENDMENT. This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES. Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

IX. COMPLIANCE WITH STATE LAW. The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

X. MISCELLANEOUS.

A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

B. Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Joy Page, Esq.
Deputy Privacy Official
Montgomery County, Maryland
401 Hungerford Drive, 7th Floor
Rockville, Maryland 20850

(240) 777-3247 (Voice)
(240) 777- 3099 (Fax)

Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: _____

Attention: _____

Phone: _____

D. Maryland Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of Maryland, without regard to choice of law principles.

E. Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

F. Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

CONTRACTOR NAME

MONTGOMERY COUNTY, MARYLAND

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: James C. Bridgers, Jr., Ph.D., MBA

Title: Director, Department of Health
and Human Services

Date: _____

EXHIBIT A

FORM OF NOTIFICATION

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Montgomery County, Maryland, (the “County”) and
- _____ (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as
necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

Open Solicitation # 1074957

Attachment C

MINORITY BUSINESS PROGRAM & OFFEROR'S REPRESENTATION

It is the policy of the County to recruit actively, minority-owned businesses to provide goods and services to perform governmental functions pursuant to Section 11B-57 of the County Code. Minority-owned businesses are described in County law as Minority/Female/Disabled Person owned businesses (MFD). MFD businesses include certain non-profit entities organized to promote the interests of persons with a disability demonstrating (on a contract by contract basis) that at least 51% of the persons used by the non-profit entity to perform the services or manufacture the goods contracted for by the County, are persons with a disability. MFD firms also include those firms that are 51% owned, controlled and managed by one or more members of a socially or economically disadvantaged minority group, which include African Americans who are not of Hispanic origin, Hispanic Americans, Native Americans, Asian Americans, Women and Mentally or Physically Disabled Persons.

Section 7 - "Minority Contracting", Montgomery County Procurement Regulations specifies the procedure to be followed and will govern the evaluation of offers received pursuant to this solicitation. A copy of Section 7 of the Procurement Regulations is available upon request.

Prior to awarding contracts with a value of \$50,000 or more, a prospective Contractor must demonstrate that a minimum percentage of the overall contract value as set by the County, will be subcontracted to certified MFD businesses. A decision as to whether the prospective Contractor has demonstrated a good faith effort to meet this subcontracting requirement will be made by the Director, Office of Procurement, or his/her designee, who may waive this requirement.

A sample of the MFD Report of payment Received is attached. This form is mailed to the MFD Subcontractor to complete for documentation of payment by the Prime Contractor. It is not to be completed by the Prime Contractor nor submitted with the MFD Subcontractor Performance Plan.

The Director, Office of Procurement, or his /her designee determines whether a waiver of MFD subcontracting would be appropriate, under Section 7.3.3.5 of the Procurement Regulations.

For further information regarding the MFD Business Program, please contact the MFD Program Manager, Division of Business Relations and Compliance at (240) 777-9912.

Offerors are encouraged (but not required) to complete the following:

I hereby represent that this is a Minority Business firm as indicated below (CIRCLE ONE):

AFRICAN AMERICAN	ASIAN AMERICAN	DISABLED PERSON
FEMALE	HISPANIC AMERICAN	NATIVE AMERICAN

Attach one of the following certification documents from: Maryland Department of Transportation (MDOT); Federal SBA 8(a); MD/DC Minority Supplier Development Council, Women's Business Enterprise National Council; Department of Veterans Affairs; or City of Baltimore.

Open Solicitation # 1074957

Attachment D

Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor

A. This contract is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program.

B. Contractor must subcontract a percentage goals listed below of the total dollar value of the contract, including all modifications and renewals, to certified minority owned businesses. The MFD subcontracting goal may be waived under appropriate circumstances by submission of a letter to the Minority Business Program Manager. The letter must explain why a waiver is appropriate. The Director of the Office of Procurement or designee may waive, in whole or in part, the MFD subcontracting goal if the Director determines that a waiver is appropriate under Section 7.3.3.5 of the Montgomery County Procurement Regulations. In determining if a waiver should be granted, the Director may require the Contractor to submit additional information; the Director may require the Contractor to submit some or all of this information on forms approved by the Director.

For Goals by each purchasing category, please refer to www.montgomerycountymd.gov/mfd

C. The attached MFD Subcontractor Performance Plan, which must be approved by the Director, is an integral part of the contract between County and Contractor. In a multi-term contract, Contractor must submit a MFD Subcontract Performance Plan to be in effect for the life of the contract, including any renewal or modification.

D. Contractor must include in each subcontract with a minority owned business a provision that requires the use of binding arbitration with a neutral arbitrator to resolve disputes between the Contractor and the minority owned business subcontractor. This arbitration provision must describe how the cost of dispute resolution will be apportioned; the apportionment must not, in the judgment of the Director, attempt to penalize a minority owned business subcontractor for filing an arbitration claim.

E. County approval of the MFD Subcontractor Performance Plan does not create a contractual relationship between the County and the minority owned business subcontractor.

F. Contractor must notify and obtain prior written approval from the Director regarding any change in the MFD Subcontractor Performance Plan.

G. Before receiving final payment under this contract, Contractor must submit documentation showing compliance with the MFD Subcontracting Performance Plan. Documentation may include, at the direction of the Director, invoices, copies of subcontracts with minority owned businesses, cancelled checks, affidavits executed by minority owned business subcontractors, waivers, and arbitration decisions. The Director may require Contractor to submit periodic reports on a form approved by the Director. The Director may conduct an on-site inspection for the purpose of determining compliance with the MFD Subcontractor Performance Plan. If this is a multi-term contract, final payment means the final payment due for performance rendered for each term of the contract.

If the Contractor fails to submit documentation demonstrating compliance with the MFD Subcontractor Performance Plan, to the satisfaction of the Director, after considering relevant waivers and arbitration decisions, the Contractor is in breach of this contract. In the event of a breach of contract under this addendum, the Contractor must pay to the County liquidated damages equal to the difference between all amounts the Contractor has agreed under its Plan to pay minority owned business subcontractors and all amounts actually paid minority owned business subcontractors with appropriate credit given for any relevant waiver or arbitration decision. Contractor and County acknowledge that damages which would result to the County as a result of a breach under this addendum are difficult to ascertain, and that the liquidated damages provided for in this addendum are fair and reasonable in estimating the damage to the County of a breach of this addendum by Contractor. In addition, the County may terminate the contract. As the result of a breach under this addendum, The Director of the Office of Procurement must find the Contractor non-responsible for purposes of future procurement with the County for the ensuing three years.

MONTGOMERY COUNTY, MARYLAND
MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR
PERFORMANCE PLAN

Contractor's

Name: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTRACT NUMBER/PROJECT DESCRIPTION: _____

A. Individual assigned by Contractor to ensure Contractor's compliance with MFD Subcontractor Performance Plan:

Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

B. This Plan covers the life of the contract from contract execution through the final contract expiration date.

C. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is _____% of the total dollars awarded to Contractor.

D. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

I hereby certify that the business(s) listed below are certified by one of the following: Maryland Department of Transportation (MDOT); Federal SBA (8A); MD/DC Minority Supplier Development Council (MSDC); Women's Business Enterprise National Council (WBENC); or City of Baltimore.

A Certification Letter must be attached.

For assistance, call 240-777-9912.

1. Certified by: _____

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor :

This subcontractor will provide the following goods and/or services:

2. Certified by: _____

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor: _____

This subcontractor will provide the following goods and/or services: _____

3. Certified by: _____

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor: _____

This subcontractor will provide the following goods and/or services: _____

4. Certified By: _____

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

E. The following language will be inserted in each subcontract with a certified minority owned business listed in D above, regarding the use of binding arbitration with a neutral arbitrator to resolve disputes with the minority owned business subcontractor; the language must describe how the costs of dispute resolution will be apportioned:

F. Provide a statement below, or on a separate sheet, that summarizes maximum good faith efforts achieved, and/or the intent to increase minority participation throughout the life of the contract or the basis for a full waiver request.

G. A full waiver request must be justified and attached.

Full Waiver Approved:

Partial Waiver Approved:

MFD Program Officer

Date: _____

MFD Program Officer

Date: _____

Full Waiver Approved:

Partial Waiver Approved:

Avinash Shetty
Director
Office of Procurement

Date: _____

Avinash Shetty
Director
Office of Procurement

Date: _____

The Contractor submits this MFD Subcontractor Performance Plan (Plan Modification No. _____) in accordance with the Minority Owned Business Addendum to General Conditions of Contract between County and Contractor.

CONTRACTOR SIGNATURE

USE ONE:

1. TYPE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

2. TYPE CORPORATE CONTRACTOR'S NAME:

Signature

Typed Name

Date

I hereby affirm that the above named person is a corporate officer or a designee empowered to sign contractual agreements for the corporation.

Signature

Typed Name

Title

Date

APPROVED:

Avinash Shetty, Director, Office of Procurement

Date

Section 7.3.3.4(a) of the Procurement Regulations requires:
The Contractor must notify the Director, Office of Procurement of any proposed change to the Subcontractor Performance Plan.

Open Solicitation #1074957

ATTACHMENT E - APPLICATION FORM

Please review and complete the following information for the above-referenced service(s). **If your organization is a group practice or other incorporated entity, please provide the names and professional license number of all medical providers who will be providing services under this Contract along with the type of service(s) each person will be providing. A blank form is attached for this purpose.** You must notify the County if your practice's legal status changes. **In addition, please supply information about your billing contact/service below.**

Please review and complete the following information. By signing this form you are signifying that you have received a copy of this Open Solicitation and understand the requirements of this Open Solicitation.

Name of Firm or Individual

Contact Name/Authorized Signature

Address

City, State, Zip Code

Phone Number

Fax Number

Tax Identification Number (TIN)*

Email Address

*Note: If Applicant does not have a TIN, the County will request the Applicant's Social Security Number at the time of Contract award in order to make payments for services rendered by the Applicant in accordance with the resulting Contract.

Profit or Non-Profit (please check one) Profit ☐ Non-Profit ☐ [Indicate type of non-profit corporation, i.e., 503c(3)]

Please provide the required licensure information for each person and language proficiency, if applicable. Use additional copies of this page if necessary.

License(s)/Degree(s)

Language Proficiency

Open Solicitation #1074957

Please list all Providers who will be utilized to provide services under the County's contract with your organization. If more space is needed, please duplicate this form.

<u>Provider Name</u>	<u>Services(s)</u>	<u>License/Certifications</u>
_____	_____	_____
	_____	_____
	_____	_____
_____	_____	_____
	_____	_____
	_____	_____
_____	_____	_____
	_____	_____
	_____	_____

***Please indicate business days / hours you will be available to provide client services:**

***Please describe location of where client services will be provided:**

***What provisions will be made to ensure client confidentiality (HIPAA) during service provision and for client record retention?**

Open Solicitation # 1074957

Attachment F

Requirements for Services Contract

Addendum to The General Conditions of Contract Between County and Contractor

- A. This contract is subject to the Wage Requirements Law, found at Section 11B-33A of the Montgomery County Code (“WRL” or “11B-33A”). A County contract for the procurement of services must require the contractor and any of its subcontractors to comply with the WRL, subject to the exceptions for particular contractors noted in 11B-33A (b) and for particular employees noted in 11B-33A (f).
- B. Conflicting requirements (11B-33A (h)): If any federal, state, or County law or regulation requires payment of a higher wage, that law or regulation controls. For an existing County Contract, if an applicable collective bargaining agreement (CBA) that existed prior to May 10, 2016, governs the parties, then that CBA controls. If the term of the CBA mentioned in the preceding sentence ends during the Contract, the WRL will then control.
- C. A nonprofit organization that is exempt from the WRL under 11B-33A (b)(3), must specify, in each bid or proposal, the wage the organization intends to pay to those employees who will perform direct, measurable work under the contract, and any health insurance coverage the organization intends to provide to those employees. Section 11B-33A (c)(2).
- D. A contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor, to avoid the imposition of any requirement in 11B-33A. Section 11B-33A (c)(3).
- E. Each contractor and subcontractor covered under the WRL must: certify that it is aware of and will comply with the applicable wage requirements; keep and submit any records necessary to show compliance; and conspicuously post notices approved and/or supplied by the County, informing employees of the requirements in 11B-33A. Section 11B-33A (i).
- F. An employer must comply with the WRL during the initial term of the contract and all subsequent renewal periods, and must pay the adjusted wage rate increase required under 11B-33A (e)(2), if any, which is effective July 1 of each year. The County will adjust the wage rate by the annual average increase in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or successor index, for the previous calendar year and must calculate the adjustment to the nearest multiple of 5 cents. Section 11B-33A (e)(2).
- G. An employer must not discharge or otherwise retaliate against an employee for asserting any right, or filing a complaint of a violation, under the WRL. Section 11B-33A (i)(3).
- H. The sanctions under Section 11B-33 (b), which apply to noncompliance with nondiscrimination requirements, apply with equal force and scope to noncompliance with the wage requirements of the WRL. Section 11B-33A (i)(4).
- I. In the event of a breach of this contract as a result of a contractor’s or subcontractor’s violation of the WRL, the County may seek its available remedies, which include but are not limited to liquidated damages, withholding of payment, and recoupment of audit costs that are described below. The Contractor is jointly and severally liable for any noncompliance by a subcontractor. An aggrieved employee, as a third-party beneficiary, may, by civil action against the violating Contractor or subcontractor, enforce the payment of wages due under the WRL and recover from the Contractor or subcontractor any unpaid wages with interest, a reasonable attorney’s fee, and damages for any retaliation by the Contractor or subcontractor arising from the employee asserting any right, including filing a complaint under the WRL. Section 11B-33A (i)(5). Furthermore, the contractor expressly acknowledges that the County may assess liquidated damages against the Contractor in the event that it, as a covered employer, fails to pay the required wage, or violates the wage reporting or payroll records reporting requirement found at 11B-33A (g), including providing late or inaccurate payroll records.

(i) Liquidated Damages

The County may assess liquidated damages for any noncompliance by contractor or its subcontractor at the rate of 1% per day of the total contract amount, or the estimated annual contract value of a requirements contract, for each day of the violation. This liquidated damages amount in addition to the amount of any unpaid wages, with interest. The Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under the WRL are difficult to reasonably ascertain, and that the liquidated damages provided for in this paragraph is a fair and reasonable estimate of damages the County would incur as a result of contractor's or subcontractor's violation of the WRL.

(ii) Withholding of Payment

If the Director determines that a provision of the WRL has been violated, the Director must issue a written decision, including imposing appropriate sanctions and assessing liquidated damages (as outlined above) and audit costs (as outlined below), and may withhold from payment due the contractor, pending a final decision, an amount sufficient to: (a) pay each employee of the contractor or subcontractor the full amount of wages due under the WRL; (b) reimburse the County for audit costs; and (c) satisfy a liability of a contractor or subcontractor for liquidated damages.

(iii) Audit Costs

If the County determines, as a result of a WRL audit, that the Contractor has violated requirements of the WRL, the Contractor must reimburse to the County the cost incurred by the County in conducting the audit. Section 11B-33A (i)(2)(C).

- J. The County must conduct, and the contractor or subcontractor must comply with, random or regular audits to assure compliance with the WRL. Section 11B-33A (i)(2). The Director may conduct an on-site inspection(s) for the purpose of determining compliance. Some of the documents that may be required during an audit are listed on the Wage Requirements Law FAQ web page: <https://www.montgomerycountymd.gov/PRO/DBRC/wage-requirements-law.html>
- K. The Contractor is in breach of this Contract if the Contractor fails to submit timely documentation demonstrating compliance with the WRL to the satisfaction of the Director, including: the Wage Requirements Law Payroll Report Form (PMMD-183), which is required to be submitted by the 14th day of the month following the end of each quarter (January, April, July, October); documents requested in conjunction with a random or regular audit by the County; or, documents otherwise requested by the Director. Section 11B-33A (g)(2).

If a contractor or subcontractor fails to submit, or is late in submitting, copies of any payroll record or other report required to be submitted under the WRL, the County may deem invoices unacceptable until the contractor or subcontractor provides the required records or reports, and may postpone processing payments due under the contract or under an agreement to finance the contract.

For any questions, please contact the Wage Requirements Law Program Manager at 240-777-9918 or WRL@montgomerycountymd.gov.

Wage Requirements Law Certification

(Montgomery County Code, Section 11B-33A)

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Provide, in the spaces below, the contact name and information of the individual designated by your firm to monitor your compliance with the County's Wage Requirements Law, unless exempt under Section 11B-33A (b) (see Section B. below):

Contact Name		Title	
Phone Number		Fax Number	
E-mail Address			

In the event that you, the "Offeror," are awarded the contract and become a Contractor, please check ☒ the box(es) below that apply, and leave all of the other boxes blank.

☐ **A. Wage Requirements Compliance**

This Contractor, as a "covered employer", must comply with the requirements under Montgomery County Code Section 11B-33A, "Wage Requirements" ("Wage Requirements Law" or "WRL"). Contractor and its subcontractors must pay all employees not exempt under the WRL, and who perform direct measurable work for the County, the required gross wage rate effective at the time the work is performed. For employees who are not paid an hourly wage, Contractor's compliance with the WRL must be measured by dividing the amount paid to the employee each pay period by the number of hours worked by that employee during each pay period. A covered employer must not make any deduction for any item necessary for an employee to perform the essential job function unless the deduction is permitted by Executive Regulation. The offer price(s) submitted under this solicitation include(s) sufficient funds to meet the requirements of the WRL. A "covered employer" must submit, within 14 days after the end of each quarter (by the 14th of January, April, July, and October, for the quarter ending the preceding month), certified payroll records for each payroll period and for all employees of the contractor or a subcontractor performing services under the County contract governed by the WRL. The payroll records must contain a statement signed by the contractor or subcontractor certifying that the payroll records are correct and the wage rates paid are not less than those required by the WRL. These payroll records must include the following: name, address and telephone number of the contractor or subcontractor; the name and location of the job; and each employee's name, current home address, daily straight time and overtime hours, total straight time and overtime hours for the payroll period, rate of pay, fringe benefits by type and amount, gross wages, race and gender of the employee, and the employer and the employee share of any health insurance premium provided to the employee. The Contractor must ensure that **NO** Social Security number of any person, other than the last four digits, is included on the quarterly report. A sample, blank Payroll Report Form, for your use and completion, can be found at: <https://www.montgomerycountymd.gov/PRO/DBRC/wage-requirements-law.html>. The above must be submitted to the Division of Business Relations and Compliance, Attn: Wage Requirements Law Program Manager (preferably via email to WRL@montgomerycountymd.gov),

Each Contractor must: keep payroll records covering work performed on a contract covered by the WRL for not less than 5 years after the work is completed; and, subject to reasonable notice, permit the County to inspect the payroll records at any reasonable time and as often as the County deems necessary. If the Contractor or subcontractor fails to submit, or is late in submitting, copies of any payroll record or other report required to be submitted under the WRL, the County may deem invoices unacceptable until the Contractor or subcontractor provides the required records or reports, and may postpone processing payments due under the contract or under an agreement to finance the contract. A violation of the WRL, including the late submission or non-submission of the information noted above, may result in action by the County, including: (a) withholding contract payments, reducing payment amounts, or otherwise assessing damages against Contractor, in an amount sufficient to: (i) pay each employee of the Contractor or subcontractor the full amount of wages due under the WRL; (ii) reimburse the County for audit costs; or (iii) satisfy a liability of a contractor or subcontractor for liquidated damages; (b) terminating the contract; or, (c) otherwise taking action to enforce the contract or the WRL. Violation of the WRL may also result in a finding of non-responsibility for a future contract, or may form the basis for debarment or suspension.

B. Exemption Status (if applicable)

This Contractor is exempt from Section 11B-33A, "Wage Requirements," because it is:

- ☐ 1. Reserved – [Intentionally left blank].
- ☐ 2. a contractor who, at the time a contract is signed, has received less than \$50,000 from the County in the most recent 12-month period, and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Section 11B-33A (b)(1).
- ☐ 3. a public entity. Section 11B-33A (b)(2).
- ☐ 4. a non-profit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. Section 11B-33A (b)(3) (**must also complete item C below**).
- ☐ 5. an employer expressly precluded from complying with the WRL by the terms of any federal or state law, contract, or grant. Section 11B-33A (b)(7) (**must specify the law, or furnish a copy of the contract or grant**).

☐ C. Nonprofit Wage & Health Information

This Contractor is a non-profit organization that is exempt from coverage under Section 11B-33A (b)(3). The contractor must provide proof of its 501(c)(3) status (i.e.

Letter from the IRS). Accordingly, the contractor has completed the 501(c)(3) Non-profit Organization's Employee's Wage and Health Insurance Form which is attached. See Section 11B-33A(c)(2). (**must also complete box B.4. above**)

☐ D. Sole Proprietorship

Sole Proprietorships are subject to the WRL. In order to be excused from the posting and reporting requirements of the WRL, the individual who is the sole proprietor must sign the certifications below in order to attest to the fact that the Sole Proprietorship:

- (1) is aware of, and will comply with, the WRL, as applicable;
- (2) has no employee other than the sole proprietor; and
- (3) will inform the Montgomery County Division of Business Relations and Compliance if the sole proprietor employs any worker other than the sole proprietor.

Note: A schedule C from the employer's federal tax return may be required for verification purposes.

E. Sub-Contractors

It is the prime contractor's responsibility to ensure all of its subcontractors adhere to the WRL. All subcontractors are required to submit quarterly payroll reports. It is the prime contractor's responsibility to collect these payroll reports and submit them to wrl@montgomerycountymd.gov on a quarterly basis.

☐ I intend to use Sub-Contractors if I am awarded a contract as a result of this solicitation.

☐ I do **NOT** intend to use Sub-Contractors if I am awarded a contract as a result of this solicitation. If at any time during the course of the contract I use Sub-Contractors, I understand that I am responsible for their quarterly payroll reporting.

F. Independent Contractors

☐ I intend to use Independent Contractors if I am awarded a contract as a result of this solicitation.

If this box is checked, you must complete the Wage Requirements Law Independent Contractor Certification (PMMD193) in order for your bid/offer to be considered. It can be found at: <https://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-193.pdf>

☐ I do **NOT** intend to use Independent Contractors if I am awarded a contract as a result of this solicitation. If at any time during the course of the contract I use Independent Contractors, I understand and agree that I must complete the Wage Requirements Law Independent Contractor Certification (PMMD193). See above link.

Contractor Certification

CONTRACTOR SIGNATURE: Contractor submits this certification form in accordance with Section 11B-33A of the Montgomery County Code. Contractor certifies that it, and any and all of its subcontractors that perform services under the resultant contract with the County, adhere to Section 11B-33A of the Montgomery County Code.

Authorized Signature		Title of Authorized Person	
Typed or Printed Name		Date	

501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number		E-Mail	

Please provide below the employee labor category of all employee(s) who will perform direct measurable work under this contract, the hourly wage the organization pays for that employee labor category, and any health insurance the organization intends to provide for that employee labor category:

[illegible]

* IF NO HEALTH INSURANCE PLAN IS PROVIDED PLEASE STATE "NONE".

ATTACHMENT G
Open Solicitation # 1074957
REFERENCES
(Submit at least three)

You are requested to provide references to the County with your proposal. The three (3) references must be from individuals or firms for whom work of a similar scope has been performed within the last three years. Names for references shall be of individuals who directly supervised or had direct knowledge of the services or goods provided.

NAME OF
FIRM: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
CONTACT
PERSON: _____ PHONE: _____
EMAIL: _____ CELL PH _____

NAME OF
FIRM: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
CONTACT
PERSON: _____ PHONE: _____
EMAIL: _____ CELL PH _____

NAME OF
FIRM: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
CONTACT
PERSON: _____ PHONE: _____
EMAIL: _____ CELL PH _____

Frequently Asked Questions – Background Investigations for DHHS Contract Vendor Workforce Members effective July 1, 2016

1. When is the policy effective?

It is effective **July 1, 2016** for all new procurements regardless of the source selection process whether an RFP, sole source, grant designated, etc.

If your current contract contains the following or similar language below, the policy pertains to the current contract:

- a. Some contracts currently contain language that includes such as “The contractor’s staff must submit to a background and criminal check in accordance with State law, including Code of Maryland Regulations (COMAR) 12.15.02 and all relevant provisions of Title 5, Subtitle 5, Part VI of the Family Law Article, Annotated Code of Maryland (“Criminal Background Investigations for Employees of Facilities and Other Individuals that Care for or Supervise Children”. In this case, the provider must follow the COMAR provisions.
- b. Other contract language maybe inserted in the contract such as “The Contractor must comply with DHHS Background Clearance Policy requirements for Staff. Any and all staff and volunteers having contact with children must be appropriately screened for safety precautions, including background checks and must successfully pass criminal background checks, prior to providing services under the Contract”.

Providers will have until **Jan. 1, 2017** to have a background check policy in place and background checks completed for affected staff. Starting **Jan. 1, 2017**, contract monitors will begin requesting the provider’s background check policy and inspecting records to see if the background checks have been performed.

2. Who does the policy affect in the provider’s organization?

Background checks or investigations are mandatory for each covered staff who is a Workforce Member or applicant that performs work in a Vulnerable Population Program or has a Sensitive or a Special Trust Position. See Sections 3.16 and 3.17 for definitions.

3. What are the responsibilities of the contract monitor as it relates to the policy?

During the routine, provider site visit, the contract monitor should request the provider’s background check policy. Then, randomly, contract monitor should select a sample of Workforce members (employees, volunteers or other types of staff) and review the staff or volunteer files which contain the background check information to determine if the provider has conducted the proper background and CPS checks if applicable. The

Frequently Asked Questions – Background Investigations for DHHS Contract Vendor Workforce Members effective July 1, 2016

Covered Staff is a Workforce Member who works with a Vulnerable Population Program or occupies a Sensitive Position or Special Trust Position. See policy for Sensitive Position definition (Section 3.16) and a Special Trust position definitions (Section 3.17).

The contract monitor should only review the summary page that indicates that the background check was conducted by the employer. The background check details should not be viewed by the contract monitor. The contract monitor should note in their monitoring report the employee's name for the background check reviewed and document that required background checks **were or were not** conducted by the provider. If a background check **has not been conducted** on the workforce member by the provider, the contract monitor should observe during the site visit if the staff or volunteer is **supervised by another employee** who possess a background check on file during the time the individual is in contact with a vulnerable population as defined in Section 3.21 of the policy.

As indicated in question#1, some contracts already contain provisions for the required background checks and contract monitors may currently perform the reviews at the provider's site. It is not necessary for the contract monitor to review **the details of the background checks** nor to review all the workforce background checks unless other regulations such as COMAR dictate otherwise.

4. What are the responsibilities of the providers for background checks?

Provider are to establish a background check policy that covers Workforce members, Sensitive Position and Special Trust Position for their organization. Providers are to conduct the background checks at the time of hire. If there are issues with the background checks, the provider or hiring authority must decide if the issues will affect employment or volunteer status, and to have the summary background check information available to the contract monitor at the time of an **announced or unannounced** site visits.

Providers are considered the hiring authority for their staff and volunteers and are responsible for their organization's hiring decisions. If a background check contains some negative information, it is the responsibility of the **provider (hiring authority)** to determine if the information will affect the employment or volunteer status required to perform services for the County contract. The hiring authority should have personnel policies that govern their hiring decision-making process.

5. Does this policy apply to the provider's subcontractors?

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Yes, this policy applies to subcontractors in the same manner as the prime contractor or provider.

- 6. The provider is legally classified as a sole proprietorship and is required to obtain a background check. Background checks are normally only provided to employers or other interested third parties. In a sole proprietorship, the employee and provider are the same. How would the background check process work be handled for such entities since the sole proprietor would be prohibited from receiving the background check information?**

Sole Proprietorships would have the DHHS Policy and Risk Manager receive the background checks from the company performing the review. Sole Proprietor would be required by DHHS to sign a release form authorizing DHHS to receive the form. The DHHS Policy and Risk Manager will notify contract monitor or the DHHS Quality and Selection Committee if the background check is acceptable or unacceptable.

The DHHS Policy and Risk Manager would maintain the confidential background check documents in a location that has restricted access and is secure. DHHS is an HIPAA protected entity and must follow all precautions related to securing client information so there is no departure from regular business practices already in place.

A more defined process will be developed in the next several weeks.

- 7. Does DHHS recommend any companies to conduct background checks?**

DHHS does not recommend any vendors to perform background checks. Non-Profit Montgomery is putting together a list of companies that providers may use to perform their background checks and will distribute the list to its members.

- 8. Can a provider include the cost of background checks in their contract budget?**

Yes, a provider may include the cost of the background check for an employee or volunteer in their contract budget. However, the cost should be equivalent to the FTE of their contract. In other words, if the employee works 100% on the DHHS contract, then, 100% of the background check cost can be absorbed by the contract. If the individual

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works 50% on the contract, then, only 50% of the cost of the background check costs can be absorbed by the contract.

9. How often must providers conduct background checks?

Providers must conduct the background checks **every five (5) years** on their workforce member. If there is a break in employment of greater than **120 days**, the entire background check must be performed again by the provider.

10. For what period of time must the provider conduct the background checks?

The provider must go back **seven (7) years** when conducting the background checks.

11. Which background check policy does the provider follow if located in a MCPS school?

Those providers located in MCPS must follow the DHHS Background Check policy for contractors and volunteers. MCPS may request DHHS contractors to perform an on-line training and the DHHS contractors should comply with the training if applicable.

12. Where can I find the DHHS background check policy on the internet?

See link below.

<http://www.montgomerycountymd.gov/HHS/DoingBuswDHHS.html>

13. What type of background check should a provider conduct?

Providers should consult with their attorneys or human resource staff and develop a background check policy that are for Workforce members, Sensitive Positions and Special Trust Positions. See Sections 3.3, 3.16 and 3.17 for definitions for each type of classification.

Below is a sample which illustrates position classification and the type of background checks that a provider may conduct for their workforce members and other types of positions. **See Table I.**

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Also, in Table II below are **Background Check Requirements required by State law or regulation.**

Table I

Position Category	Type of Background Checks	Position Name
Workforce Member	<ul style="list-style-type: none"> • Criminal History- FBI & CJIS Checks • Validation of licenses if appropriate • SSN Trace • CPS Checks 	<ul style="list-style-type: none"> • Case Mgr. • Executive Director • Driver • Teacher • Assistant Teacher • Volunteer • Accountant • Certified Nursing Assistant • IT Specialist • Contractor
Sensitive Position	<ul style="list-style-type: none"> • Criminal History FBI & CJIS Checks • Credit Check • SSN Trace • CPS Checks if access to children 	
Special Trust Position	<ul style="list-style-type: none"> • Criminal History FBI & CJIS Checks • Credit Check • SSN Trace 	

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Table II**Background Check Requirements Mandated by State Law or Regulation**

Position	Type(s) of Background Check Required	Does law establish any employment “disqualifiers”.	State Law / Regulation
Positions that care for or supervise children	Criminal records	No	<ul style="list-style-type: none"> Family Law Article, 5-6-0-5-568 COMAR, 12.15.02
Noncertified school personnel	Criminal records	Yes	<ul style="list-style-type: none"> Education Article, 6-113
Certified school personnel	Criminal records	Yes	<ul style="list-style-type: none"> COMAR, 13A.12.01
School vehicle driver	Criminal record, driving records, drug test	Yes	<ul style="list-style-type: none"> COMAR, 13A.06.07
School vehicle attendant	Criminal records	Yes	<ul style="list-style-type: none"> COMAR, 13A.06.07
Positions that care for or supervise dependent adults	Criminal records	No	<ul style="list-style-type: none"> Health-General Article, 19-1901-19-1912 COMAR, 12.15.03
Law enforcement offices	Criminal records, credit history, drug test, military service verifications, reference checks	Yes	<ul style="list-style-type: none"> COMAR, 12.04.01
Correctional officers	Criminal records, credit history, drug test, military service verifications, reference checks	Yes	<ul style="list-style-type: none"> COMAR, 12.10.01
Firefighters, Rescue squad members, Paramedics	Criminal records	Yes (for paramedics)	<ul style="list-style-type: none"> Article 38A Fires and Investigations, 7A COMAR, 30.02.04
Drug and alcohol treatment program employees	Criminal records	Yes	<ul style="list-style-type: none"> COMAR, 10.47.01