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|  | Montgomery County Government Department of Health and Human Service | No. | POL.AD.60660.0 01.2014 |
| | Background Investigations for DHHS Contract Vendor Workforce Members | Effective Date | 7/1/2016 |
| | | Sunset | 12/31/2021 |
| | | Revision Letter | A |
| | | Uma S. Ahluwalia, Director of Health and Human Services | <i>Uma S. Ahluwalia</i> |

1.0 Purpose

The Montgomery County Department of Health and Human Services ('DHHS') is responsible for providing public health and human services that help address the needs of our community's most vulnerable children, adults and seniors. Over one third of our services are provided by community partners that contract with the County. The need for accurate and thorough background investigations of those entrusted to perform services on behalf of DHHS is fundamental. The purpose of this policy is to clarify the requirement for and process of background investigations of individuals providing services to DHHS clients through County contracts.

This policy is designed to protect Montgomery County residents that receive DHHS services from contractor Workforce Members who may subject service recipients to abuse, exploitation, neglect, and /or permit self-neglect.

2.0 Scope/Applicability

This Policy applies to all Vendors that have contracts with or receive grants from Montgomery County Maryland by and through the County Department of Health and Human Services.

3.0 Definitions

- 3.1 Abuse means the sustaining of any physical injury as a result of cruel or inhumane treatment or as a result of a malicious act by any person.
- 3.2 Applicant means a current, former, or prospective Workforce Member who is being considered for a position with a Vendor that provides services under a DHHS contract, including an individual not currently employed by DHHS and current Workforce Members seeking transfer opportunities to different positions.
- 3.3 Covered Staff means a Workforce Member or applicant who performs work in a Vulnerable Population Program or has a Sensitive Position or a Special Trust Position.
- 3.4 Conviction means a guilty verdict, a guilty plea or a plea of Nolo Contendere ("No Contest") of a felony or misdemeanor offense, other than a minor traffic offense, unless relevant to the position applied for.
- 3.5 Disqualifiers mean something in the background that automatically disqualifies the Applicant from being hired. When disqualifiers are not specified by applicable regulation,

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the Hiring Authority must determine whether information about the Applicant should disqualify the Applicant from providing services under the County Contract.

- 3.6 Exploitation means any action which involves the misuse of the funds, property, or person of a recipient of DHHS services. Of particular concern are those service recipients classified as Vulnerable Adults or minor(s).
- 3.7 Financial Background Check means the process of gathering and reviewing financial records, court records, records from a credit reporting agency (credit report), or records collected by a third party vendor engaged to obtain and provide financial records.
- 3.8 Fingerprint Based Criminal Background Check means the process of gathering and reviewing criminal background records or reportable-event information furnished by a criminal justice agency or third party vendor engaged to obtain and provide criminal background records relating to an individual's criminal background.
- 3.9 Hiring Authority means an individual employed by the Vendor with the authority to make hiring decisions.
- 3.10 Motor Vehicles Administration (MVA) Records Check means the process of gathering and reviewing motor vehicle and/or driver's license records or information, including motor vehicle records from any state where the individual has resided.
- 3.11 Neglect means the willful deprivation of adequate food, clothing, essential medical treatment or facilitative therapy, shelter, or supervision.
- 3.12 Privileged Access means rights to computer or application systems that have been granted to an individual beyond that of a typical user that can bypass, modify, or disable technical or operational security controls. Examples may include the ability to install software; install or modify system processes; create or modify system configurations; create or modify system access controls; and/or view or control the screen of the user through remote access technologies in order to assist the user.
- 3.13 Promotion means job advancement, title enhancement, and/or pay increase action or process that constitutes a change in work to a Sensitive Position or Special Trust Position.
- 3.14 Reference Check means the process of contacting individuals, including current and former employers, companies, educational institutions or individuals, directly or through a third party vendor, that may reasonably be relied on to provide relevant background information regarding an Applicant's fitness for employment.
- 3.15 Self – Neglect means the inability of a vulnerable adult to provide themselves with the services:
- 3.15.1. That are necessary for the vulnerable adult's physical and mental health; and
 - 3.15.2. The absence of which impairs or threatens the vulnerable adult's well-being.
- 3.16 Sensitive Position includes any position that:
- Has unsupervised access to clients served under a County contract; or
 - Has direct, ongoing contact with service recipients; or
 - Has unsupervised access in the care or supervision of minors; or

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- Has unsupervised access in the care or supervision of vulnerable adults; or
 - Is part of a drug and alcohol treatment program; or
 - Has access to "select agents or toxins" or "controlled substances" as defined under state and federal law; or
 - Has access to County buildings and facilities; or
 - Has access to private homes, residences and other facilities where clients reside; or
 - Has access to other secured facilities as determined by DHHS; or
 - Serves a Vulnerable Population Program; or
 - Drives a vehicle that will transport individuals receiving services under a DHHS contract; or
 - Has information technology responsibilities that meet the criteria for Privileged Access; or
 - Handles money regularly or possesses significant fiduciary responsibility.
- 3.17 Special Trust Position is a position that includes responsibilities that require special privileges or elevated access to systems.
- 3.18 Unsupervised Access means direct contact with a minor or vulnerable adult that is outside of the visual or auditory abilities of a covered staff person.
- 3.19 Volunteer refers to an individual who is not an employee or an Applicant, and who is providing a service to DHHS without expectation of remuneration.
- 3.20 Vulnerable Adult means an adult who lacks the physical or mental capacity to provide for the adult's daily needs. (COMAR §14-101 (q))
- 3.21 Vulnerable Population Program means a program that includes activities which include but are not limited to:
- 3.21.1. Working or assisting with programs serving minors or vulnerable adults;
 - 3.21.2. Working or assisting in residential care facilities;
 - 3.21.3. Working or assisting in private homes;
 - 3.21.4. Spending the night in a situation where minors are present; or
 - 3.21.5. Unsupervised access to minors and vulnerable adults.
- 3.22 Workforce Member means an employee, volunteer, trainee, and other person who conducts work for a DHHS Vendor, or the Vendor's subcontractor, and is under the direct control of the Vendor or subcontractor, whether or not they are paid by the Vendor or subcontractor.

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4.0 Policy

Background investigations are mandatory for each Workforce Member that applies for or holds a position with a Vulnerable Population Program.

The Policy of DHHS is as follows:

- 4.1 Vendors must conduct a background investigation for each Applicant that will work on, or be paid by, a contract with DHHS. This requirement includes positions of Covered Staff, Sensitive and Special Trust positions.
- 4.2 Vendors must conduct a background investigation on each Applicant and Workforce Member that receives a promotion and returning Workforce Member that has had a break in service of more than 120 days.
- 4.3 Many DHHS contracts are based on funding from the State and Vendors may be subject to State of Maryland requirements (COMAR). Vendors must follow applicable provisions of COMAR regardless of the contents of this policy. Nothing in this policy should be interpreted in a manner that would prevent vendors from meeting any of their legal requirements.
 - 4.3.1. Any local, state or federal requirements that you believe are inconsistent with this policy must be brought to the attention of the Contract Monitor and Program Manager as soon as practicable.
- 4.4 This policy requires mandatory background investigations for each Vendor Workforce Member who is appointed, promoted, or has a personnel action change to a Sensitive or Special Trust Position.
- 4.5 Any background investigation should be relevant to the work performed by the Vendor's Workforce, for the DHHS contract. This is determined by the Hiring Authority.
- 4.6 Background investigation will have a look back period of seven years. Vendors who use a private agency to conduct a background examination, should require that the private agency conduct a check in each locale in which the vendor knows or has reason to believe that the applicant worked or resided in the last seven years.
- 4.7 Vendors shall have internal policies and procedures that guide their hiring practices as related to each Applicant and Workforce Member with documented criminal history, especially if the history reflects prior convictions of a felony.
- 4.8 DHHS requires that the investigations are required only once every five years for Workforce Member unless there is a break in employment of greater than 120 days. If there is a break in employment of greater than 120 days, the entire background investigation must be performed again.
 - 4.8.1. Where Vendor is able to receive automatic updates (e.g., CJIS) it is recommended that the Vendor request receipt of automatic updates.
- 4.9 On occasion, a Vendor may decide to permit an Applicant to join its workforce when the Applicant has a conviction of a serious crime. The Vendor shall have policies that articulate its position on the hiring decision.

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- 4.10 If an Applicant is transferring from another county, State or Federal government and claims that he/she has previously submitted fingerprints for another employer the Vendor shall have policies that articulate its positions on transfer or acceptance of other kinds of background investigations.
- 4.11 Violations of this policy may result in sanctions up to termination of the DHHS contract with Vendor.

5.0 Responsibilities

- 5.1 Hiring Authorities will review and evaluate background investigations to determine employment suitability. Hiring Authorities will request background investigations of current Workforce Members and subcontractors if a background investigation has not already been done or if the Workforce Member through Promotion is entering a position that requires a background investigation.
- 5.2 A DHHS Contract Monitor may review vendor files on a random basis for applicable background examination compliance.

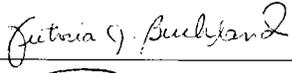
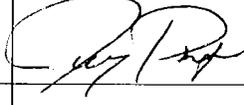
6.0 Procedures

Each Applicant for a position that provides services as part of a Vulnerable Population Program under a DHHS contract must have a background investigation completed before starting work on a DHHS contract.

- 6.1 The results of the background investigation are confidential and should be treated as such.
- 6.2 Each Vendor must have a Cover Sheet for each Workforce Member's background investigation file. Any computer-based checks should be printed and placed in the Workforce Member's files. All other files must be maintained and accessible for review by DHHS.
 - 6.2.1. Files maintained at an off-site secure location MUST be accessible for review by DHHS. DHHS reserves the right to access and review the original documentation of background investigations.
 - 6.2.2. It is not necessary for the Vendor to duplicate files that are stored at another secure location, but the Hiring Authority should retain a summary of the results, which include a document indicator for any off-site files.
- 6.3 Vendors should maintain a tracking spreadsheet that contains the status of each Workforce Member background investigation.
- 6.4 The DHHS Contract monitor may request additional information where necessary.

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7.0 Document Approvals

| Role | Position | Name of Approver | Approval Signature | Date Approved |
|------------------------------------|--|-------------------|---|---------------|
| Owner | Acting Chief Operating Officer | Victoria Buckland |  | 5/19/2016 |
| Policies and Procedures Department | Policy and Operational Risk Manager | Joy Page |  | 5/19/16 |
| Final Approver | Director of Dept. of Health and Human Services | Uma S. Ahluwalia |  | 5/19/16 |

8.0 Revision History

| Effective Date | Rev Letter | Document Author | Description of Change |
|----------------|------------|----------------------|-----------------------|
| 07/01/2016 | A | Victoria J. Buckland | Initial Release. |
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