Montgomery County, Maryland
Office of Internal Audit

HHS CONTRACT MONITORING:
HHS Has Strengthened Fiscal Monitoring of Contracts but More Improvements Still Needed

April 15, 2011

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MCIA-11-2

Highlights

Why MCIA Did this Audit

Montgomery County Department of Health and Human Services (HHS) manages over 660 contracts with total encumbrances of over $97 million in FY 2010. This represents about 13% of all County procurement funds. Since HHS relies on these contractors to provide a significant portion of the County's HHS Services, accountability over contracts is critical. In a recent risk assessment, MCIA had designated HHS contracting as high risk. This report assesses whether the internal control by HHS over the monitoring of cost reimbursement contracts is operating effectively and whether the Department has successfully implemented control changes it made between FY 2009 and FY 2010. We reviewed a sample of contracts from fiscal years 2009 and 2010 in each of the six main HHS Service Areas to determine whether contracts were monitored financially and operationally in accordance with HHS policies and whether such policies need further upgrading.

What MCIA Recommends

MCIA makes 15 recommendations to improve internal controls at HHS, in such areas as the treatment of indirect cost rates, development of a comprehensive review policy, file documentation, and training. HHS fully concurred with 12 recommendations and partially with 3.

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HHS Has Strengthened Its Fiscal Monitoring of Contracts but More Improvements Still Needed

What MCIA Found

HHS has considerably strengthened its fiscal contract monitoring procedures by implementing a Strategic Action Plan in FY 2010 which contained improved invoice documentation requirements and by expanding the training program for contract monitors and contractors.

However, based on our review of the contract monitoring process and our testing, HHS needs to further improve its policies and procedures for the review of its cost reimbursement contracts. We found deficiencies in internal control in the areas of indirect rate policy, contract invoice support and documentation, the utilization of the Department's contract monitoring plans, and in the role of the Contract Monitors in reviewing contracts. Additionally, there is a need for formal guidance in such areas as unallowable costs and delegation of approval authority.

HHS needs to upgrade and better document other policies and procedures as well. For example, HHS does not have a comprehensive policy document encompassing all relevant contract rules and regulations. Such a document is needed by staff to better manage the contract monitoring activity, and ensure a uniformity and continuity of review throughout HHS. We also identified internal control and policy exceptions which highlight the need for increased diligence in the contract monitoring function. Finally, we found that HHS-provided training could be further improved by using actual reviewed contracts in the training exercises and incorporating the latest changes in County and Department rules and regulations.

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Objective

This report summarizes the work performed by Cherry, Bekaert & Holland, L.L.P. (CBH) in an internal audit of contract monitoring at the Montgomery County Department of Health and Human Services (HHS). The scope of this engagement included HHS contracts from Fiscal Year 2010 and Fiscal Year 2009. The objectives of our audit were as follows:

- Review and test the effectiveness of HHS contractor monitoring policies and procedures, with an emphasis on financial monitoring of cost reimbursement contracts, to ensure that contractor performance is contractually compliant, contractors are being effectively tracked and that project changes and extensions are being properly managed by HHS.

- Review and test whether HHS contracting staff maintained proper documentation to evaluate contracts and whether effective controls are in place to assess contract compliance and contractor performance.

- Review changes made between FY 2009 and FY 2010 in fiscal monitoring practices to determine if supporting documentation was adequate to support contract expenditures and if the revised contract monitoring procedures were properly implemented and executed.

This internal audit report was performed in accordance with consulting standards established by the American Institute of Certified Public Accountants (AICPA) and generally accepted government auditing standards (GAGAS) established by the Government Accountability Office (GAO), as appropriate. Our proposed procedures, developed to meet the objectives stated above, were reviewed and approved in advance by Montgomery County Internal Audit (MCIA). Interviews, documentation review, and field work were conducted from June 2010 to November 2010.

Background

HHS has the primary responsibility for the delivery of public health and human services that attend to the needs of the citizens of Montgomery County. HHS provides services that protect the community's health, protect the health and safety of at-risk children and vulnerable adults, and address basic human needs including food, shelter, clothing and personal care.

The services provided by HHS are conducted through six main service areas:

- **Aging and Disability Services (ADS)** promotes choice and independence through access to information and consultation about County, state and federal programs for seniors and people of all ages with developmental, physical or other disabilities.

- **Behavior Health and Crisis Services (BHCS)** provides a comprehensive system of mental health and substance abuse treatment services to children, youth, adults and families. BHCS also monitors services to families with public health insurance including outpatient mental health clinics, psychiatric rehabilitation and residential rehabilitation programs.

- **Children, Youth and Families (CYF)** promotes opportunities for children to grow up safe, healthy and ready for school, and for families and individuals to be self-sufficient. The mission is realized through protective, prevention, intervention and treatment services for children and their families, and through education, support and financial assistance for parents, caretakers and individuals.

- **Community Affairs** provides programs to support expanding access to County services, improving quality of services, increasing individuals'/families' independence and reducing health disparities.

- **Public Health Services (PHS)** to protect and promote the health of County residents by monitoring health status and implementing intervention strategies to contain or prevent disease, developing and implementing programs and strategies to address health needs, providing individual and community health education.

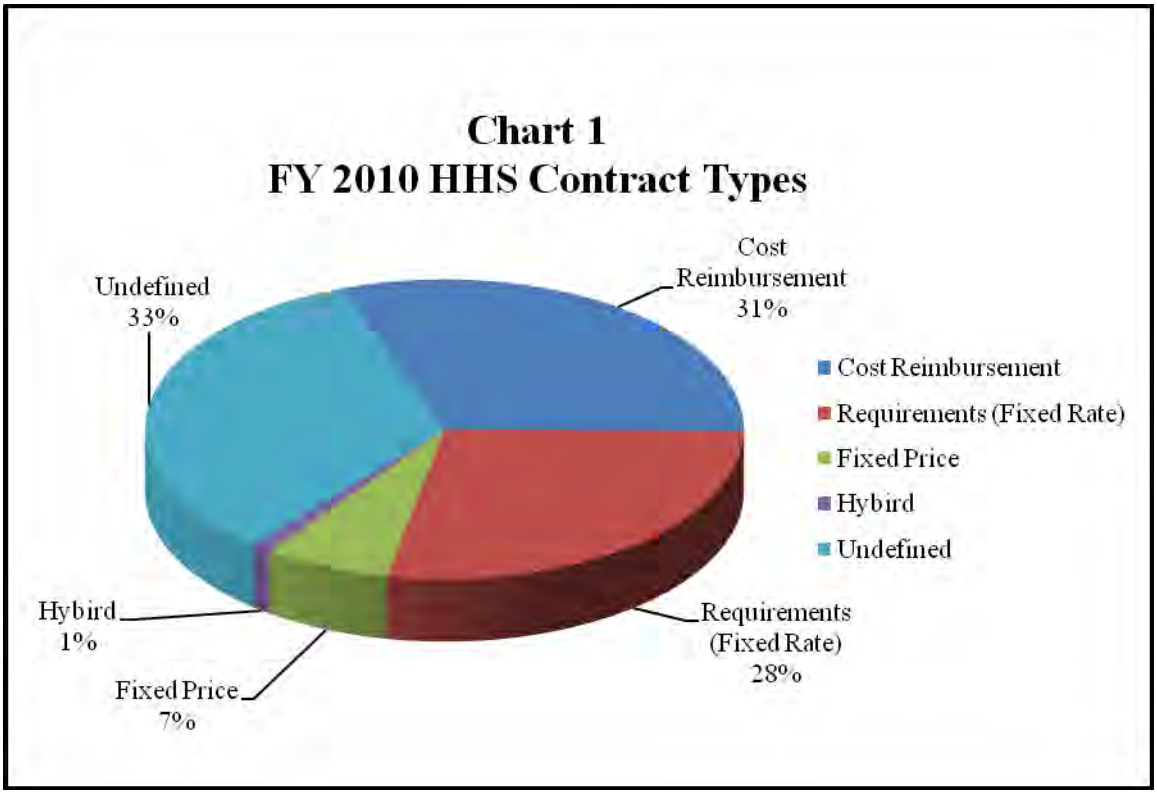
- **Special Needs Housing Services (SNH)** provides oversight and collaborates with public and private agencies to develop and implement County strategies to remedy and prevent homelessness and increase supportive, accessible and affordable housing for special needs populations.

HHS relies on contractors to provide a significant portion of the department's services. HHS is one of the County's largest sources for contracts. Based on information through FY 2010, HHS spent approximately 16% of all County funds designated for procurement.

HHS has procured over $90 million of services annually through contracts in both FY 2009 and FY 2010, mostly through cost reimbursable contracts. Table 1 shows the breakdown of HHS' FY 2010 by contract type. HHS awarded 660 contracts with total encumbrances of $97 million; and payments of almost $82 million.

Table 1- Summary of FY 2010 HHS Contracts

Contract Type	Contracts	% Contracts	Total Encumbered	% Encumbered	Total Payments
Cost Reimbursement	203	31%	51,792,573	53%	47,229,357
Requirements (Fixed Rate)[1]	184	28%	19,948,782	21%	14,515,988
Fixed Price	45	7%	11,531,086	12%	10,422,872
Hybrid	7	1%	830,775	1%	794,271
Undefined[2]	221	33%	13,001,657	13%	8,745,244
Grand Total	**660**		**$97,104,874**		**$81,707,732**



In fiscal year 2009 the Office of the Inspector General (OIG) and the Office of Legislative Oversight (OLO) issued separate reports related to HHS contracting activities. In general, these reports found that there were weaknesses in the controls over invoice support, a lack of policy guidance, and ineffective employee training programs. Each of the reports is briefly summarized below to provide historical context for the developments at HHS.

[1] A requirements contract is for an indefinite quantity of goods, construction, or services to be furnished at specific times, or as ordered, at fixed unit prices. See Code of Montgomery County Regulations ("COMCOR") §11B.00.01.04.4.2.
[2] These are contracts that HHS has not yet determined to be any of the other contract types listed above.

OLO Report 2009-1 Department of Health and Human Services Contract Execution and Monitoring Process

The purpose of the review was to enhance the County Council's understanding of how HHS contracts are executed and monitored, and to identify potential improvements needed to processing times and oversight practices. Other items contained in the report included a summary of how HHS monitors contract performance; discussion about using different contract monitoring strategies (like monitoring plans, site visits, and written monitoring reports); and a review of practices to incorporate performance measures and collect performance outcome data.

OLO's recommendations called for the County Council to discuss the following with HHS:

1. Consider changes to County law governing contracts to increase efficiency in the procurement process.
2. Update and formalize HHS contract monitoring guidelines.
3. Assess the adequacy of HHS training for Contract Monitors and consider implementation of a Children, Youth and Family Services Workgroup recommendation to train vendors.
4. Develop an interim technology and data management plan for HHS procurement process pending full implementation of the County's Enterprise Resource Planning (ERP) initiative.

OIG February 18, 2009 Review of County Contracts with the Institute for Family Development

The OIG found that HHS failed to comply with contract monitoring policies and requirements. OIG said this resulted in HHS approving but not verifying the validity and appropriateness of $900,000 of payments during fiscal years 2007 and 2008, involving about 70 invoices, to an HHS contractor.

Another OIG report[3] conducted during the same period stated that the same contractor's "inability to provide accounting records and supporting documentation sufficient to justify expenses included on invoices submitted to HHS raises significant concerns about internal control deficiencies, possible fraud, waste, or abuse."

We considered OLO and OIG report findings when we designed our audit program.

HHS Strategic/Action Plan for Improving Contract Monitoring

In response to the findings and recommendations published in the OLO and OIG reports, HHS took steps to address the deficiencies and errors described in the above reports. The culmination of the efforts by HHS management is a multi-year plan, issued in May 2009, designed to provide improvements to multiple aspects of the department's activities. The plan is referred to as the *HHS Strategic/Action Plan for Improving Contract Monitoring* and components of it began to be implemented as of May 2009. The strategic action plan's focus over the 6 – 12 months following issuance was to concentrate on several key areas including (1) restructuring to decrease the number of Monitors while increasing involvement of HHS Fiscal and Compliance Teams, (2) enhancing communication, (3) providing additional training, and (4) providing better tools, including revising HHS guidelines to strengthen their fiscal component.

Appendix H provides descriptions of the contract monitoring roles within HHS. We considered these roles in the development of our audit program and built our testing procedures considering them.

[3] OIG- January 20, 2009- Review of County Contracts with the Institute for Family Development (Centro Familia)

HHS Policies and Procedures in place during FY 2009 and FY 2010

Most of existing HHS guidance related to contract monitoring is contained in a document titled *Program Monitoring Guidelines*. In 2003, the HHS Contract Management Team (CMT) hired a consultant to evaluate the HHS contract monitoring function. In conjunction with the CMT, the consultant issued HHS Program Monitoring Guidelines, which are mandatory. The March 2004 revised edition currently serves as standards for contract monitoring within HHS. According to HHS management the Guidelines are still applicable to current HHS activities. HHS has other limited policy and procedure guidance in the form of emails, memorandums, and training slides, all maintained in different areas of the department. Some HHS policies have been uploaded to the department's intranet; however, it contains only a portion of the total HHS guidance and documentation.

The General Conditions of Contract between the County and Contractor[4], which is standard language included in all HHS contracts, provides that:

> "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."

HHS Interim Monitoring Plan

In July 2009, HHS implemented changes to the invoicing process that required all vendors to submit fiscal supporting documentation with their invoices. Because of the economic downturn, HHS decided to adjust the schedule and priorities of its plan somewhat for the remainder of FY 2010. HHS outlined the details of what is referred to as the *Interim Monitoring Plan* in a memo to the County's Chief Administrative Officer dated December 2009, The plan provided that HHS conduct hybrid monitoring for all vendors while piloting policies and procedures for full on-site monitoring effective from December 2009 until June 2010.

The pilot program mentioned above, which is commonly referred to as the "5 Plus Program", is described in Appendix A and involves a process of rotating documentation review for certain contractors. The HHS Compliance team is responsible for creating invoice submission requirements according to a defined schedule. The schedule provides that a contractor having at least five HHS cost reimbursement contracts, only needs to submit invoice support for a portion of its contract invoices in a particular month. This process is intended to reduce workload and documentation for HHS's larger contractors.

Scope and Methodology

We performed our review of HHS contract monitoring in two phases. Phase I consisted of project planning with limited testing and Phase II involved substantive testing over a substantial group of transactions. The results of the procedures performed in Phase I were used as the basis for developing the approach for Phase II testing. We designed the testing to provide coverage over the six main HHS service areas: Office of Community Affairs, Aging & Disability Services, Behavioral Health & Crisis Services, Children, Youth and Family Services, Public Health Services, and Special Needs Housing.

[4] This contract language is included as an attachment to HHS contracts.

Our scope of work performed was limited to active HHS contracts in place for the period July 1, 2008 to June 30, 2009 (FY 2009) and July 1, 2009 to June 30, 2010 (FY 2010). The HHS operating procedures tested were those in effect through June 30, 2010.

Methodology for Phase I Testing – Approach

We reviewed background information on HHS contracting policies and procedures including review of budgetary documents, regulations, statutes and other available documentation. We conducted interviews with key HHS officials responsible for management and administration of HHS contracts in order to gain an understanding of the contracting process as well as to identify internal controls in place in the existing process. We also conducted interviews with individuals from other County departments involved in the contracting process. For a listing of interviews conducted and documents reviewed, please see Tables 2 and 3 in Appendix B. We documented the existing process for contract authorization and approval by determining: key classes of contracts, key activities flow, critical program controls, vital systems used in the process, and significant risks

Sampling Methodology for Phase I Testing – Data Gathering

HHS provided electronic files as requested as of the end of FY 2009 and FY 2010 containing the data fields listed below.

Table 4 Data Fields in Contract Listings

CMT Contract #	Purchase Order #	Encumbered Amount
Vendor Name	Contract Type	Services Area
Source Selection	Inception Effective Date	Contract Monitor

Sampling Methodology for Phase I Testing – Sample Design

The Phase I sample criteria were selected after we considered the inherent level of risk, volume, and value of each contract type/source selection. The sample selection covers testing of both FY 2009 and FY 2010 files in order to assess differences between the periods. We determined that the sample size of four contracts selected for Phase I testing was sufficient based on the objective of ascertaining whether internal controls over contract monitoring have been implemented and are properly designed. Two invoices were tested for each contract selected. Based on the approach established for the Phase I sample, the following sample criteria were used:

- One FY 09 cost reimbursement type arising from a Request For Proposal ("RFP")[5]
- One FY 10 cost reimbursement type arising from a Council Grant[6]
- One FY 10 requirements type arising from an Open Solicitation[7]
- One FY 10 fixed price type arising from a RFP

[5] Contracts from RFPs are competitively awarded by requesting proposals from vendors to provide the County a specific service identified in the RFP. Evaluation factors must include factors related to the technical quality of the proposal or the ability of the vendor, or both, and includes price.

[6] A contract which may be awarded without competition if the CAO determines that contract award serves a public purpose and a proposed contractor or subcontractor has been specifically identified in a grant accepted by the County or has been identified in a grant or appropriation resolution approved by the Council.

[7] Under an open solicitation, the County accepts applications for a contract on a continuing basis and awards a contract to each applicant who meets pre-established objective qualifications. An open solicitation allows the County to receive and act on an application for a contract award on a continuing basis.

Sampling Methodology for Phase I Testing – Sample Selection

The sampling methodology resulted in the selection of four contracts. One contract was selected from each of the following service areas: Public Health, Community Affairs, Aging and Disabilities, and Children Youth and Families. The contract from Public Health was from FY 2009; all the others were from FY 2010.

Phase I Testing – Outcomes

We found several areas which it was noted that documentation and communication of procedures could be improved. Based on the results of Phase I testing, we determined that cost reimbursable contracts represented the greatest risk to HHS and that Phase II would focus solely on this type of contract. We also determined the contract documentation, HHS personnel, and procedures to be tested in Phase II.

Sampling Methodology for Phase II Testing – Sample Design

As noted above, we focused the Phase II testing on cost reimbursable contracts, and given the change in HHS processes from FY 2009 to FY 2010, we determined that the majority of contracts selected would be from FY 2010. The contracts were then selected from the six HHS service areas in proportion to the contract volume of each service area, including contracts from contractors participating in the "5 Plus Program" (See Appendix A). We determined the sample size for Phase II using the Phase I testing outcome as a benchmark. The details of the Phase II sample design are:

- *Contract Files*- we tested a total of 30 contracts, distributed across all six HHS service areas and involving FY 2009 and FY 2010. The populations sampled consisted of all cost reimbursable contracts arising from RFPs and Council Grants. See Table 5 below for a summary of the Phase II contract sample distribution.

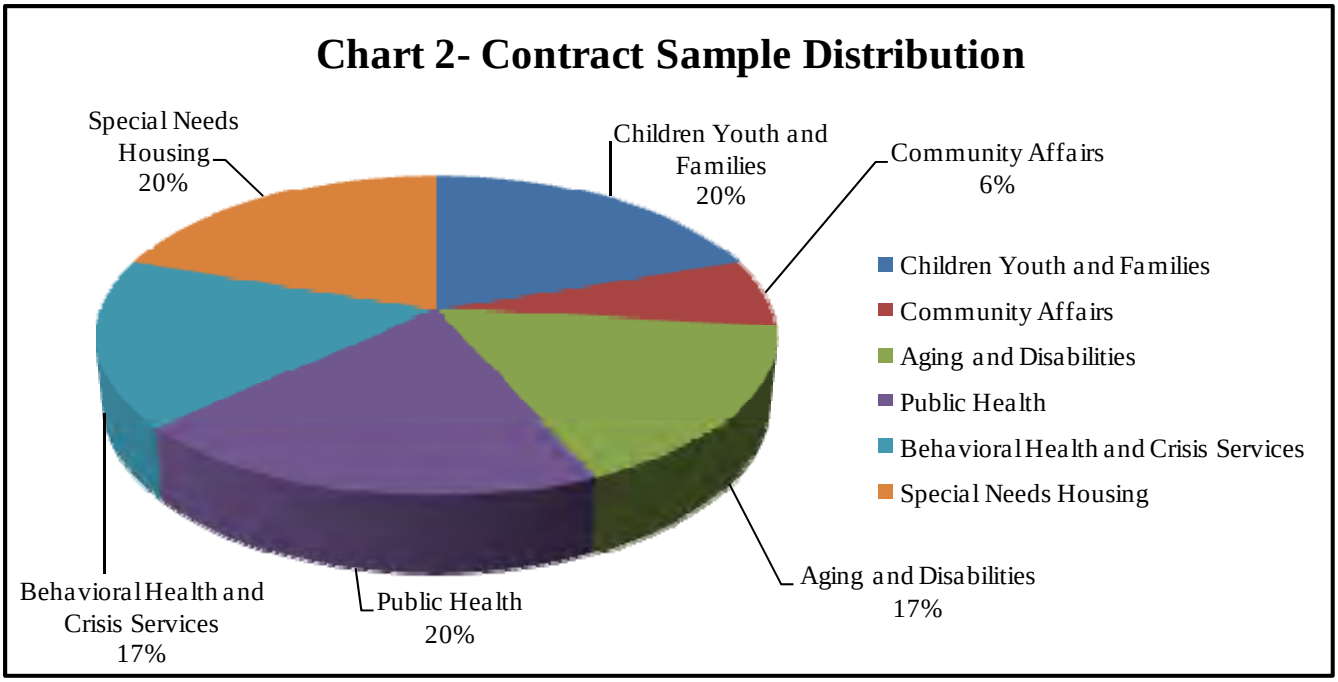


Table 5 - Summary of Phase II Contract Sample Distribution

Service Area	FY 10	FY 09	Total
Children Youth and Families	5	1	6
Community Affairs	1	1	2
Aging and Disabilities	4	1	5
Public Health	5	1	6
Behavioral Health and Crisis Services	4	1	5
Special Needs Housing	5	1	6
Total Number of Contracts	**24**	**6**	**30**

a. FY 2010- 24 contracts were tested from FY 2010 including two CYF contracts belonging to contractors in the "5 Plus" Program. The contracts for this FY were selected according to the distribution described in Table 5 above.

b. FY 2009- six contracts were tested from FY 2009. The contracts were selected one from each of the service areas.

- *Invoices*- a total of 52 invoices were tested. See Table 6 below for a summary of the Phase II invoice testing sample distribution.

1. Contractor Site
   a. For traditional contractors[8], we tested two invoices during FY 2009 for each of the contracts selected for testing in FY 2009. Additionally, three invoices were

[8] "Traditional Contractor" is defined as all contractors who are not in the 5 Plus pilot program. Basically this term covers the majority of HHS contractors.

judgmentally selected from the FY 2009 contracts tested. We tested FY 2009 invoices by reviewing invoice support maintained at the contractor sites.

b. For "5 Plus" contractors, we tested one invoice during FY 2010 from each contractor by performing a contractor site visit. The invoices selected for review during a contractor site visit were chosen from the months in which the contractor was not required to submit full invoice support for the contract tested.

2. Contract Monitor Site
   a. For traditional contractors, we tested a minimum of one invoice for each of the contracts selected for testing in FY 2010. Additionally, nine invoices were judgmentally selected from the FY 2010 contracts tested. We tested the FY 2010 invoices by reviewing invoice support maintained by the Contract Monitors at HHS.

   b. For "5 Plus" contractors, we tested one invoice during FY 2010 for each contractor by reviewing the invoice support maintained by the Contract Monitor. The invoices selected for review at the Contract Monitor site visit were chosen from the months in which the contractor was required to submit to HHS full invoice support for the contract tested.

Table 6- Summary of Invoice Testing Locations and Periods

Location Tested	FY 10	FY 09	Total
Traditional Contractors:			
Contract Monitor Site	33	0	33
Contractor Site	0	15	15
"5 Plus" Contractors:			
Contract Monitor Site	2	0	2
Contractor Site	2	0	2
Total Number of Invoices	**37**	**15**	**52**

Sampling Methodology for Phase II Testing – Sample Selection

The selections from the HHS contract listings resulting from application of the Phase II sample criteria are summarized above in Table 5. The resulting sample contained six contracts from FY 2009 and twenty four contracts from FY 2010.

Methodology for Phase II Testing – Approach

We conducted interviews with Contract Monitors for each of the contracts in the Phase II sample in order to assess: the Monitor's understanding of their role/responsibilities, extent of their participation in contract

monitoring training, their understanding of which policies/practices are currently in place related to contract monitoring, as well as to discuss contract specific information.

For each executed contract we reviewed whether the: (1) compensation method is one approved by management, (2) contract had legal review prior to signature approval, (3) contract contained a Right to Audit clause, (4) contract had cost/price analysis performed (if applicable), and (5) contract was approved by all required individuals. We also reviewed these other contract documents for existence and required approval: Purchase Orders (PO), Amendments, Contract Action Worksheets (CAW), Correspondence, Certificate of Insurance Review Forms, and Program Monitoring Review Forms.

As explained earlier, we tested invoices at one of two locations, the contractor's site or the Contract Monitor site at HHS. Table 7 provides the details of which elements of the invoices were tested.

Table 7- Invoice Testing Procedures by Location

Procedures	Invoice Testing Location	
	Contractor Site	Contract Monitor Site at HHS
• Invoice appeared to be clerically accurate,	X	X
• Required support was provided with invoice[9]	X	X
• Reviewed support for indirect/fringe costs and compare to contract document and budget	X	
• Reviewed support for indirect/fringe costs and compared to the contract document and budget (if rates were over established thresholds check that Compliance group was involved in review)		X
• Reviewed support for instances of unallowable costs[10]	X	X
• Checked if the invoice was signed by contractor and by Contract Monitor[11]	X	X
• Checked if invoice certification form was signed by Contract Monitor and their supervisor		X
• Determined if the voucher was approved by Contract Payment Group (Fiscal)	X	X

Results

Our review found that HHS has made considerable progress in its contract monitoring between FY 2009 and FY 2010. This is evidenced by process changes and training HHS has implemented and the reduction in the dollar volume and number of exceptions we found in our contract testing for FY 2010. However, we identified several areas where additional improvements or enhancements are needed in the monitoring of contracts, such as consolidating existing policies and procedures into a comprehensive written policy document, including a more detailed policy on indirect cost rates; documenting better the monitoring work completed; and improving training.

Based on our review we identified findings in eight areas.

[9] In accordance with requirements described in HHS guidance, see Appendix C
[10] In accordance with requirements described in HHS guidance, see Appendix E
[11] This step was performed subsequent to contractor site visit by reviewing Contract Monitor's files.

1) Controls around the review and approval of contractor invoice supporting documentation improved in FY 2010

Prior to FY 2010, the department's expectation was that contractors would maintain, at their place of business, support for their invoices in terms of documentation justifying the expenditures billed to the County. This support was to be available to HHS upon request. Because contractors were not required to and generally most did not submit any invoice support to HHS prior to FY 2010, there was a greater risk that the County would approve payments for unjustified or incorrect contract expenditures. Based on our review of FY 2009 invoices, summarized in Table 8 below, we found that almost half of the invoices tested contained exceptions relating to invoice support. Our results are consistent with the findings of OIG reports[12,13] conducted during the same timeframe.

Starting in FY 2010, HHS took measures to improve invoice documentation review and approval. HHS increased efforts to require supporting documentation be submitted with contractor invoices. The department started to use an invoice review certification form which needs to be signed by both the Contractor Monitor and their supervisor. This certification form contributes to enhanced accountability related to contract monitoring because the Monitors became even more explicitly responsible for the oversight of contract expenditures. We found a significantly lower exception rate with the FY 2010 invoices that we tested, the results of which are summarized in Table 8 below.

We found that in general, the steps taken by HHS to strengthen fiscal contract monitoring subsequent to FY 2009 have been largely effective as the percentage of error transactions and the dollar amount of errors has declined. HHS has developed effective guidance (see Appendix C) which established the requirements for supporting documentation of common expenditure categories. However, it appears that there is still uncertainty concerning how contractors and Contract Monitors interpret these documentation requirements. The quality of invoice review by Contract Monitors can be further improved. We found, based on the errors summarized in Table 8 below, that the guidance provided to Contract Monitors by HHS appears to contain a degree of ambiguity. For Contract Monitors that do not have a strong fiscal background, reviewing of certain types of contract expenditures, those that require more judgment, could lead to a greater chance that they approve unjustified or inadequately supported costs.

[12] OIG Report- Review of Allegations of Improper Payments by HHS, February 18, 2009
[13] OIG Report- Review of Allegations of Improper Payments by Department of Health and Human Services, July 3, 2008

Table 8 - Exceptions Summary from Invoice Attribute Testing

Attribute Tested	FY 2009	FY 2010		Total Exceptions	Total Exception Amount
	Contractor Site	Contract Monitor Site	Contractor Site		
Invoice Calculations incorrect	0	1	0	**1**	**$100**
Direct Expense Support missing	4	3	0	**7**	**$28,591**
Program Reports missing	0	2	0	**2**	**n/a**
Unallowable Costs included	1	0	0	**1**	**$143**
Payroll Support not present	8	6	0	**14**	**$65,168**
Invoice- Contractor Signature missing	0	0	0	**0**	**n/a**
Invoice- Monitor Signature missing	0	0	0	**0**	**n/a**
Invoice Cert. Form- Monitor Signature missing	0	0	0	**0**	**n/a**
Invoice Cert. Form- Supervisor Signature missing	0	0	0	**0**	**n/a**
Voucher Approved by Fiscal	0	0	0	**0**	**n/a**
Indirect Rate 10% threshold guideline followed	0	1	0	**1**	**n/a**
Fringe Rate 25% threshold guideline followed	0	1	0	**1**	**n/a**
Total Exceptions	**13**	**14**	**0**	**27**	
Total Exception Amounts	**$70,884**	**$23,118**	**$0**	**$94,002**	**$94,002**
Total Invoiced Amount	**$138,423**	**$1,103,733**	**$202,843**	**$1,444,999**	
% Exception($) of $ Invoiced	**51%**	**2%**	**0%**	**7%**	
Number of Invoices Tested	**15**	**34**	**3**	**52**	
Number of Invoices with Exceptions	**7**	**13**	**0**	**20**	
% Invoices with Exceptions	**47%**	**38%**	**0%**	**38%**	

Invoice Calculations

We tested whether the amounts presented on the face of the invoice were mathematically accurate. Out of 52 invoices tested, only one (1.9%) invoice contained errors in invoice calculations. Invoice calculations do not appear to be an issue.

Direct Expense Support

Using HHS provided guidance (see Appendix C) we reviewed the supporting documentation justifying contract expenditures provided with the invoice, or maintained at contractor site. Out of 52 invoices tested involving $1.4 million, we found 7 exceptions amounting to $28,591, or 2.04% of dollars tested. Our testing of FY 2009 and FY 2010 invoices resulted in finding exceptions totaling $25,702 and $2,889 respectively. The 7 exceptions involved the following:

- Three (5.77%) invoices were being issued using annual average amounts in budget instead of actual expenditures.
- Four (7.69%) invoices were missing support for non-personnel, direct operating expenditures.

The dollar amount of exceptions as well as the exception frequency for FY 2010, while reduced, indicates that HHS still needs to make further improvements to its invoice documentation procedures.

Program Reports

We reviewed the contract language for each contract included in our sample to determine if there was a requirement for the contractor to submit programmatic reports along with the invoices. These reports would contain information evidencing what services had been performed over a certain period of the year; for example the number of patients seen during the month being invoiced. For the contracts containing this language we tested

whether the appropriate reports were sent with the invoice according to the contractual requirements.[14] Out of 52 invoices tested, we found that two (3.85%) invoices were missing contractually required program reports.

Unallowable Costs

Using HHS provided guidance, included in HHS training materials (see Appendix E), we reviewed the supporting documentation for contract expenditures provided with the invoice, or maintained at contractor site for instances of unallowable costs being invoiced to the County. Out of 52 invoices tested, we found that only one (1.92%) invoice included items ($143) that per HHS guidance we deemed unallowable.

Payroll Support

Again using HHS provided guidance (see Appendix F), we reviewed the supporting documentation for payroll expenditures provided with the invoice, or maintained at contractor site. Out of 52 invoices tested, we found that 14 (26.92%) invoices did not have adequate support for payroll expenditures. The payroll support we reviewed did not display a clear manner of how contractor personnel were allocated to the contract. Other examples of inadequate support that we noted were: missing or improperly authorized timesheets and missing proof of payment.

Contractor Signature on Invoice

We reviewed each invoice tested for evidence of the contractor's signature on the face of the invoice. Out of the 52 invoices we tested, we found no instances of an invoice missing the required contractor's signature. Controls over invoice approvals were determined to be operating effectively.

Contract Monitor Signature on Invoice

We reviewed each invoice tested for evidence of the Contract Monitor's signature on the face of the invoice. Out of the 52 invoices we tested, we found no instances of an invoice missing the required Contract Monitor's signature. Controls over invoice approvals were determined to be operating effectively.

Contract Monitor Signature on Invoice Certification Form

Starting in FY 2010, HHS required that all Contract Monitors complete an Invoice Certification Form when they reviewed invoices submitted by contractors. This form is used for documenting that the Monitor is certifying with his/her signature that the work has been performed at the level expected, the vendor is in compliance with all reporting and service requirements stated in the contract, the invoice is correct and is in line with the budget, if applicable, and that the invoice should be paid.

We reviewed each invoice tested in FY 2010 for evidence of the Contract Monitor's signature on the Invoice Certification Form. Out of the 37 invoices we tested, we found no instances of an Invoice Certification Form missing the required Contract Monitor's signature. There were no errors discovered relating to Invoice Certification Form approvals.

Contract Monitor's Supervisor Signature on Invoice Certification Form

Starting in FY 2010, HHS starting requiring that all Contract Monitors complete an Invoice Certification Form when they reviewed invoices submitted by contractors. We reviewed each invoice tested in FY 2010 for evidence

[14] Testing whether the contractor performed the services as required by the contract is outside the scope of this review.

of the supervisor's signature on the Invoice Certification Form. Out of the 37 invoices we tested, we found no instances of an Invoice Certification Form missing the required supervisor's signature. There were no errors discovered relating to Invoice Certification Form approvals.

Voucher Approved by Fiscal (Contract Payment Group)

We reviewed the payment files maintained by HHS Fiscal for each invoice tested for evidence of proper approval of payment vouchers. Out of the 52 invoices we tested, we found no instances of a voucher missing the required approval by Fiscal. The approval of vouchers by HHS Fiscal does not appear to be an issue.

Indirect Rate Threshold

Starting in FY 2010, HHS established general thresholds for reviewing indirect rates[15], (see Appendix G). The thresholds required that Contract Monitors forward instances of contractor indirect rates exceeding the threshold to the Compliance team for additional review. Out of the 37 invoices we tested, we found that one (2.70%) invoice had an indirect rate exceeding the threshold. Based upon inquiry of the Compliance team we determined that they were not provided the invoice for further review. The results of our review indicate that there are minor exceptions relating to compliance with indirect rate threshold guidance.

Fringe Rate Threshold

Similarly, starting in FY 2010, HHS established general thresholds for reviewing fringe rates[16], (see Appendix G). The thresholds required that Contract Monitors forward instances of contractor fringe rates exceeding the threshold to the Compliance team for additional review. Out of the 37 invoices we tested, we found no instances of fringe rates exceeding the threshold. There were no errors discovered relating to compliance with the fringe rate threshold guidance.

2) Positive changes implemented to redefine the role of the Contract Monitor but contractors indicate that they are receiving inconsistent and conflicting guidance

HHS is to be commended for acting aggressively and positively to redefine and clarify the role of Contract Monitors. Additionally, based on the interviews we conducted, Contract Monitors were able to describe their role in the contract monitoring process adequately. We also found that Contract Monitors were using standard forms established by HHS for monitoring contracts.

However, some guidance provided to multi-contract HHS contractors by different Contract Monitors was inconsistent. Contractors with multiple HHS contracts told us they receive different policy interpretations and ambiguous directions from their Contract Monitors. For example, a contractor indicated that they received different guidance from Contract Monitors relating to indirect expenses.

Contract Monitors have a wide range of backgrounds and skill sets. Most of the current HHS Contract Monitors have programmatic backgrounds rather than fiscal backgrounds. We noted that, without assistance, some Contract

[15] An indirect rate represents the ratio between the total indirect costs and the benefiting direct costs after removing unallowable costs and capital expenditures.The rate is calculated by dividing the total indirect costs by the benefiting direct costs (total indirect/benefiting direct).

[16] A fringe rate represents the ratio between the total fringe benefit costs and the benefiting salary costs, the rate will typically be applied as a percentage of actual personnel expenses when invoiced. The rate is calculated by dividing the total fringe costs by the benefiting salary costs (total fringe/benefiting salary).

Monitors lack the technical skills to conduct fiscal monitoring on their contracts effectively. These Monitors were relying on assistance from other HHS personnel, those with stronger financial and monitoring qualifications. This was the case for multiple aspects of monitoring including: performing fiscal monitoring duties, reviewing support for invoice expenditures and participating in program site visits. We also noted that those providing assistance are involved in negotiations with contractors regarding budgetary matters.

Having multiple people working on different monitoring activities for a particular contract can be beneficial. However, there should be controls in place to ensure that there are not gaps in the monitoring activities for each contract. In some instances it was not immediately clear who was accountable for certain aspects of monitoring a contract, invoice review for instance. There should be better documentation to indicate which individuals are responsible for each of the monitoring activities for a specific contract.

3) There is no HHS policy which addresses indirect expenses related to contracted services

While HHS has developed a practice for reviewing indirect costs, HHS does not currently have a comprehensive policy addressing indirect costs and rates related to contracted services. As a result, there is the potential for errors in calculations and the possibility that the County is being overcharged due to indirect costs being invoiced.

Although indirect costs represent only a portion of the total contract expenditures incurred for contracts tested, these costs ranged from five to seventeen percent of the contract value. The inherent complexity surrounding indirect costs creates the potential for a wide range of interpretation and application of these issues. For this reason, it is important that HHS formally establish a policy providing guidance and rules in this area. The process of documenting indirect rates is a significant activity because it impacts the monitoring of contract expenditures.

Once the rate is established with HHS there is no requirement for additional documentation to be submitted by the vendor with each invoice to justify the indirect expenditures. Adequate documentation of rates also ensures that if there are County personnel changes, someone previously not familiar with the contract would be able to gain an understanding of what the rates are and how they were determined. It would also set forth the criteria under which the County would accept a federally established indirect rate. Therefore, the initial indirect documentation review represents a key control in ensuring that contract expenditures are valid and appropriate.

Based on our early discussions with HHS personnel during the planning phase of the audit, we found that the department did not have a formal policy covering indirect costs and rates. In February 2011 HHS advised us that it has developed a preliminary draft policy. In January 2011, HHS hired a new Chief Operating Officer and new Chief of Financial Operations who are to review the preliminary draft policy. HHS told us that after these officials review and approve the preliminary draft, it expects to issue the policy by June 30, 2011.

Considering the lack of formal policy, we asked the Contract Monitors to describe how they manage indirect costs on their contracts. Three of the 26 Contract Monitors interviewed indicated that they typically do not request supporting documentation from contractors to establish the basis for indirect costs or rates included in their contracts. Nine of the 26 Contract Monitors interviewed indicated that they typically do request such supporting documentation from contractors. Of the Contract Monitors interviewed, seven stated that they normally rely on other County personnel (HHS Compliance team for example) for assistance with reviewing indirect rates and requesting support from contractors. Also, seven Contract Monitors did not have contracts with indirect rates; so therefore, this subject was not applicable to them. The responses from the Contract Monitors further illustrate the need for HHS to establish a procedure with guidance and direction as to how monitors should manage indirect costs and contractor documentation requests in the future.

In February 2011 HHS told us it is considering adopting the Federal Office of Management and Budget (OMB) Circular A-87 and Circular A-122 for indirect and fringe rates guidance. It was noted that, for educational purposes, HHS will consider providing federal examples from these Circulars to Contract Monitors to improve

their understanding of indirect rate and fringe rate definitions and calculations for contractors. Additionally, HHS plans to develop simple budget review procedures for contract monitors to follow for consistent review and application.

In addition, a Contract Monitor reported that there were instances in which contractors are calculating indirect rates inconsistently when compared to other contractors. This was confirmed by our audit, as we also noted several instances of inconsistent indirect rate calculations during our testing. For example, one contractor calculated their indirect rate estimating the percentage of its operations dedicated to the County's program and used this percentage to multiply by the total indirect expenses to determine the indirect expenses for that contract. Another contractor totaled all program related expenses and divided the total of their management and general expenses by the program expenses to determine a rate which they used as a basis for negotiating with the County.

At the beginning of FY 2010, HHS management communicated a rule-of-thumb providing indirect rate and fringe rate thresholds for Contract Monitors to use in the review of contracts. The practice HHS put in place stated that for contracts with an indirect rate over 10% and/or a fringe rate over 25%, there should be an additional review by qualified HHS personnel (HHS Compliance team). For contracts that have indirect/fringe rates below the threshold, HHS indicated that no further review by the Monitor was necessary. We believe, however, that this lack of review increases the potential for waste, fraud and abuse. The reason being that there is no evaluation of whether invoiced amounts relating to indirect expenses below the thresholds are valid expenditures incurred and allocated by the contractor. Additionally, we noted that when HHS Compliance personnel conducted an additional review of a contractor's indirect rates, there was no standardized method to communicate the results of that review to both the Contract Monitor and the contractor.

We also observed problems with the indirect rate calculation within the budget form prepared by the contractor to arrive at the contract compensation structure. HHS uses a budget form, which becomes an attachment to a contract after it is approved, to provide a framework for establishing a contract's compensation structure. The Contract Monitor works in conjunction with the contractor to establish the budget for each contract on an annual basis. Approved contract expenditures are itemized in sections for personnel, operating expenses, indirect expenses, and capital items. The contractor must track contract expenditures and only invoice the County based on what is provided for in the budget document.

During our testing, however, we observed that the HHS FY 2010 budget form does not clearly explain the basis for the indirect cost calculations or provide adequate instructions as to how this item is supposed to be calculated. We have included an FY 2010 budget form in Appendix D and have added notation to indicate what deficiencies were noted on the form related to indirect costs. The ambiguity in the current budget form can lead to different results as Contract Monitors complete the form. Expenses absorbed under one contract for similar items may not be absorbed for those same items on another contract.

4) There is no comprehensive policy document encompassing all applicable HHS rules and procedures related to Contract Monitoring

The majority of current HHS guidance related to contract monitoring is maintained in a document titled Program Monitoring Guidelines. Based on information obtained from the Office of Legislative Oversight report 2009-1, we noted that in 2003, HHS CMT hired a consultant, a former HHS employee, to evaluate the HHS contract monitoring function. In conjunction with the CMT, he drafted the HHS Program Monitoring Guidelines, which currently serve as standards for contract monitoring in HHS. These guidelines are considered mandatory. This document has not been updated since 2004 and has become outdated. It does not address the latest changes from the HHS Strategic Action plan. We also noted that revising this document was listed as one of the goals described in the HHS Strategic Action Plan, though not yet completed. The goal of the revisions is to ensure consistent

application of policies and procedures and to provide individuals involved in monitoring direct access to the correct and relevant policy document(s) and address current policy gaps.

During the audit we were provided with multiple sources of HHS guidance including emails, training slides, interim policy documents, and more formalized procedural documents. At times, it was difficult to determine which policy was applicable to certain areas of our review and in some cases, described below; we noted that there was no current applicable policy.

For example, HHS does not have a policy establishing certain categories of costs as unallowable; though there was some guidance provided in HHS training slides (see Appendix E). The lack of a clear policy describing what costs HHS considers unallowable creates the potential for the County to be invoiced for items that are typically considered unallowable. We found 1 case of unallowable costs amounting to $143 during our invoice testing (see Table 8 above.)

Another example involves the lack of formal policy related to delegation of signature authority within HHS. During our testing, we noted several instances of HHS employees signing a document "for" someone else. Typically, they would be signing for the individual officially authorized to approve the document. See Table 9 below for details related to our signature review. Without guidance establishing the procedure for documenting authority that has been delegated by authorized individuals, it is not clear if the individuals signing certain documents are in fact authorized to sign those documents. Also, there is the potential for an unauthorized individual to unjustifiably approve high dollar transactions or obligate the County to incur significant expenditures. We found that the Office of Procurement within the Department of General Services has an established policy covering this area, which HHS could leverage to develop a policy for its employees.

Table 9- Document Signature Review Results Summary

Document	Number Tested	Document Signed by Designated Individual	
		Exceptions	Error Rate
Amendments	44	0	0%
Budgets	27	2	7%
Contract Action Worksheet	30	1	3%
Grand Total	**101**	**3**	3%

Finally, concerning the comprehensive policy issue, the CMT has developed a repository (referred to as the "CMT Toolbox") for HHS policies and documents used by Contract Managers. The Toolbox has been designed to be inward-facing[17] and it was created exclusively for the use of the CMT. This repository appears to be a successful way of organizing documents and making them accessible to users. The CMT Intranet website has been designed as the resource for Contract Monitors. This outward-facing[18] resource is where documents and policies are currently stored for Contract Monitors. Considering that the Toolbox is currently only accessible to Contract Managers it does not include certain documents that are relevant to Contract Monitors. For example, the

[17] This resource was created and used by an exclusive group of individuals and its functions are limited to the activities of that group.
[18] This resource was created and maintained by the CMT but its main users are individuals outside of the CMT

Toolbox does not contain the invoice documentation table included in Appendix C and discussed at the Fiscal Monitoring Workgroup.

HHS could expand the Toolbox to include policies and documents for Contract Monitors. While the current version of the Toolbox contained applicable policy and sample documents and is a very useful tool, we did find that navigating the various folders within the repository was cumbersome. For example, we found the Toolbox does not contain an index, standardized sections, predefined naming criteria and sequential numbering. This could be easily rectified by the CMT modifying the logical information structure contained within the Toolbox.

Regarding addressing the issues discussed above, HHS advised us that it is in the process of developing comprehensive contract monitoring guidelines. It stated it plans to complete this task by June 30, 2011.

5) Documentation of cost/price analysis was not maintained and there appears to be no consistent method for how to create and maintain contract files

Although required, the County did not maintain documentation for 15 of the 30 pre-award cost/price analyses that the procurement office performed for the contracts we reviewed. These 15 contracts required review since they exceeded the threshold of $100,000 for competitively bid contracts or $50,000 for non-competitively bid contracts. When contracting for services, the County Procurement Regulations require procurement to determine that the price paid for goods and services by the County are fair and reasonable. Procurement may require a department to follow contract cost and pricing principles[19] and submit cost and pricing data for any competitively negotiated contract that exceeds $100,000 (or $50,000 for non-competitively negotiated contracts) for the term of the contract. This data is used by a procurement specialist to perform a cost/price analysis.

According to procurement personnel, when procurement performs a cost/price analysis for a contract, the documentation of that analysis is not maintained or is maintained for only a short period, such as three months. Aside from being a good internal control, the maintenance of supporting documents for key decisions is often required by auditors, including state and federal auditors for County programs that are state or federally funded. Moreover, the current practice is not compliant with the current document retention policy of the County which the County Attorney's Office has indicated is five years.

Table 10- Summary of Exceptions from Contract Award Document Testing

Document	Complete	Compensation Method Approved	Right to Audit Clause	Legal Review	Cost/Price Analysis
Original contract/grant/agreement	0	0	0	0	All[20]
Total Exceptions	**0**	**0**	**0**	**0**	**All**

Except for errors noted related to cost/price analysis support, we found minimal exceptions in our review of contract file documentation. For each of the contracts selected in the sample, we reviewed the executed

[19] The Contract Costs and Pricing Principles are used prior to executing a contract or contract modification to help ensure the price the County pays for goods and/or services is fair and reasonable. The three main principles involved are fair and reasonable price determination, price analysis, and the requirement for Certified Cost or Pricing Data, see COMCOR §11B.00.01.10.

[20] Based on our review it was determined that the County is not maintaining documentation of this analysis and therefore any items tested for this attribute would result in an exception.

contract documents to determine whether the contract was complete, the compensation method was approved by management, included a right to audit clause, had legal review and cost/price analysis (if applicable). We found no exceptions for any of the documentation that was available for review, see Table 10 above for a summary of the results of this testing.

Based on our review of the contract files we determined that in the majority of contracts tested, key documents were maintained and properly approved in accordance with HHS policies. There were two exceptions noted during our review; however the overall exception rate was only 1%. Considering that we reviewed over 200 documents maintained in contract files, we have determined that internal controls are operating effectively over contract file documentation. See Table 11 below for a summary of the results of our contract file review.

Table 11 - Exceptions Summary from Contract File Testing

Document	Number Tested	Contained in file	Properly Approved	
		Exceptions	Exceptions	Error Rate
Amendments	45	0	0	0%
Budgets	30	0	1	3%
Certificate of Insurance Review Form	30	0	1	3%
Contract Action Worksheets (CAW)	30	0	0	0%
Original contract/grant/agreement	30	0	0	0%
Purchase Orders	45	0	0	0%
Total Exceptions	**210**	**0**	**2**	**1%**

As described earlier, the budget form becomes an attachment to a contract and provides a framework for establishing a contract's compensation structure. Based on the nature of the services provided in the contract, all approved contract expenditures are itemized into sections for personnel, operating expenses, indirect expenses, and capital items. The resulting budget will dictate what expenditures the contractor will be able to invoice the County for and therefore it controls what activities can occur as the services are performed. HHS uses a standard template for the budget form and updates it periodically. The template for FY 2010 (See Appendix D) provides a recommended layout for how all budget items should be arranged and presented.

We found that some contracts awarded in FY 2010 were not using the most current HHS budget format. The CMT maintains the current budget template and revises the template as needed. Changes to the budget template are typically effective beginning at the start of the next FY. We found that in some instances older budget formats were still being used on some contracts. This creates inconsistencies among contracts because the template used determines what budget information is incorporated into the contract, as an attachment, as well as what budgetary data is documented in the files for each contract. We found that three (12.5%) of the FY 2010 contracts were using an old budget format. The discrepancies caused by inconsistent budget formats for FY 2010 contracts are exacerbated by the extent of changes made to the budget template for FY 2010. For example, a section was added to incorporate information specifically for indirect expenses.

While we found few missing documents in contract files, HHS does not have a standard for documenting basic contract information (condensed contract information such as a listing of all modifications including

date, amount and nature) in contract files, such as contract briefs described in guidance from the Defense Contract Audit Agency ("DCAA"). We found inconsistencies in the contract files maintained by Contract Monitors we reviewed and some of the files were disordered and difficult to review. Among other problems, such inconsistencies can cause difficulties to maintain consistent contract documentation when a change in Contract Monitors occurs.

6) Contract Monitoring Plans and Program Monitoring Review Forms are not consistently maintained by CMT and there is no documentation of the evaluation to determine the monitoring effectiveness for each contract

We found that Contract Monitoring Plans developed by Contract Monitors are not consistently maintained by the CMT. According to the 2004 *Program Monitoring Guidelines*, Contract Monitors must submit a Contract Monitoring Plan to the CMT for each new contract within 60 days of the execution of the contract. The CMT is responsible for maintaining the plans for each contract. Of the 30 contract files we reviewed, we found that the CMT did not have Contract Monitoring Plans for 25 (83.33%) of the contracts. For those we could review, there was no data field on the standard Contract Monitoring Plans template to indicate the date of the plan; therefore, it is difficult to determine whether the plan was current and filed within the 60 day requirement. We also noted that the difficulties in complying with timeliness requirements were also discovered in the 2008 OLO review (*OLO Report 2009-1*, Chapter VI). OLO reported that the CMT and program staff were not submitting monitoring plans within the recommended timeframe.

Additionally, we found no documentation of the CMT's evaluations of how effectively contract monitors oversee each contract. The *Program Monitoring Guidelines* state that the CMT should perform an evaluation to assess the effectiveness of monitoring for each contract. There is no evidence in the CMT files documenting that the CMT staff are evaluating the effectiveness of program monitoring for HHS contracts. HHS management told us that the CMT is performing these evaluations but not documenting them. Also, the *Program Monitoring Guidelines* do not specify how frequently the CMT should assess the effectiveness of a contract's monitoring. To enhance controls, the guidelines should establish definitive timeframes and benchmarks for the CMT to complete and document its evaluations.

We also noted in our testing that the CMT does not consistently maintain Program Monitoring Review forms submitted by Contract Monitors. The purpose of Program Monitoring Review forms is to provide documentation of program site visits conducted by Contract Monitors. HHS policy requires this form be submitted to the CMT in order for a contract to be renewed at year-end, and therefore the CMT is to receive the forms in order to process renewals. However, we found that the forms do not appear to be maintained after that processing. The Program Monitoring Guidelines require Contract Monitors to submit Program Monitoring Review forms to the CMT by the 15th of the month following the site visit. The frequency of site visits for a particular contract will be established in the annual Contract Monitoring Plan. We found that 8 of the 30 (26.67%) contract files maintained by the CMT were missing the appropriate Program Monitoring Review forms for the FY tested. The CMT does not have a means of tracking the status of Program Monitoring Review forms to determine if the forms for certain contracts have already been provided or are still outstanding for a given fiscal year. The combination of these factors results in the deterioration of the department's ability to have consistent effective oversight of the monitoring process because without these forms there is no historical record of past monitoring performance.

7) Training provided to Contract Monitors can be further improved

While HHS has recently made improvements in its training program, our audit disclosed that the training provided to Contract Monitors did not describe in sufficient detail how contract monitoring should be performed. Contract Monitors were left to interpret the guidance included in the training. Because the

Monitors have a wide range of backgrounds and experience this appears to lead to inconsistent application of the HHS guidance. In that regard, several Contract Monitors commented on the length of the training and the depth of the material covered in the training. The Monitors indicated that the training helped with their general understanding, but when confronted with issues unique to their contracts, the training coverage was inadequate. The Contract Monitors suggested areas of improvement such as follow-up training sessions with fewer Contract Monitors and covering contracts of similar size and type. They added that in these follow-up trainings, each Contract Monitor's specific issues could be discussed which would provide them with solutions and concrete examples from which they could build their knowledge.

8) Other items noted during the audit

Formal Approach for "5 Plus Program" Evaluation

As we previously stated, during the second half of FY 2010 HHS began a pilot program ("5 Plus Program", see Appendix A) for contractors with multiple HHS cost reimbursable contracts. Based on a schedule established by HHS, the contractors in this program would only be required to submit full invoice documentation for a portion of their contracts in a particular month. We found however that HHS has not established milestones relating to how and when this program will be evaluated. HHS should perform a timely evaluation to help it decide whether or how to continue or expand the program.

Submission of Invoices by Contractor

Contractors currently submit all invoice documentation to HHS in hard copy. The quantity of documentation for each invoice can vary from very little to hundreds of pages. HHS does not have a mechanism by which contractors can submit invoice support documentation electronically. There could be efficiency improvements gained by providing contractors an option to submit invoice support documentation electronically.

Definition of Contracts in HHS Contract Listing

The FY 2010 contract listing, see Table 1, which was provided to us by HHS contained a large number of contracts which did not have a defined contract type, meaning that the record did not indicate if the contract was fixed price, requirements, cost reimbursement, or other. There were 660 contracts, totaling encumbrances of $97.1 million, included in the FY 2010 listing, of which 221 (33.48%), totaling encumbrances of $13 million (13.38%), had undefined contract types. The contract listing should contain all relevant information applicable to each HHS contract, including the contract type. If the contract listing does not appropriately identify what type a particular contract is, there could be the potential for misapplication of policies and rules unique to certain contract types.

Recently the Department told us that it had developed a database to track contracts. However, HHS also noted that the Office of Procurement is the official repository for all County contracts. There are certain contracts from other County departments that HHS utilizes for purchasing computer supplies and equipment that may not be reflected in the CMT database but are reflected in the Office of Procurement database. The Department anticipates that the new Enterprise Resource Planning (ERP) system will have a complete list of HHS contracts in the future. According to the Department, it is working with the Office of Procurement to ensure that the Oracle database has a complete list of all HHS contracts to include all written contracts as well as all direct purchase orders.

Conclusions

HHS implemented many important changes to its fiscal contract monitoring procedures in FY 2010 that have enhanced internal controls and contractor compliance. However, our audit disclosed that weaknesses still exist

and controls need to be further strengthened. We believe that the recommendations described below will provide HHS an effective means of addressing the issues outlined in this report, including the problems, though considerably reduced, with the documentation support of FY 2010 contractor invoices.

Recommendations

We are making fifteen recommendations to improve internal controls over HHS contract monitoring. CBH recommends that the Director of HHS should:

1) Establish a formal indirect rate policy for contracted services that addresses the following items:

   - A definition of what HHS considers indirect and fringe costs. Specific items in overhead which are classified as indirect should be explicitly defined.
   - Instructions on how to complete budget template items relating to fringe and indirect expenses. In addition, the budget template needs to be updated to address complex items such as the indirect cost section in the FY 2010 budget format.
   - Details of how indirect rates should be calculated along with case examples.
   - A standardized approach to reviewing contractor submitted support for indirect costs (for initial budget or invoices) including:
     - The documents which HHS should require from contractors.
     - The analysis HHS staff should perform.
     - How the analysis is to be documented.
     - The criteria by which HHS will accept federally approved rates.
     - Having individuals responsible for reviewing and approving indirect rates establish a formal process to communicate review results to Contract Monitors and contractors.
     - Use of the most current budget format.

2) Consolidate all applicable HHS Contract Monitoring rules, policies and procedures into one comprehensive standardized policy document. This document should include standardized formatting, sequential numbering, definitions, index and references to other applicable County guidance. All other current HHS guidance (emails, memorandums and Program Monitoring Guidelines) should be consolidated into this comprehensive policy document.

   - In addition, the CMT should incorporate all relevant sections from the existing Program Monitoring Guidelines into the comprehensive document.
   - The policy should also merge existing, important guidance that is contained solely in training presentations into the comprehensive policy document.

3) Develop a central repository encompassing all Contracting Monitoring policies, procedures, examples, templates, checklists, and training documents. The CMT Contract Manager Toolbox, which was originally designed as a resource exclusive to Contract Managers, should be used as a foundation for this repository, which should have the objective of assisting both Managers and Monitors with contract monitoring.

   - The repository should have a standardized format and sequential numbering structure.
   - The repository should also include information listing what additional resources are available for assistance, for example, a list of individuals with specific knowledge pertaining to various aspects of Contract Monitoring.

4) Develop, as part of the comprehensive policy, an unallowable cost policy describing what contract expenditures are considered unallowable. HHS may seek to coordinate this effort with the Department of General Services.

5) Develop a formal signature authority policy establishing procedures for how authority to approve all key documents can be delegated within HHS and how that delegation of authority is documented. HHS should create a signature authority matrix detailing the thresholds for delegation, using a similar format and structure of Procurement's policy/matrix.

6) Periodically review the contract listing maintained by the department to update missing or incorrect information and better classify contracts by type.

7) Develop standardized contract briefs containing the summary information contained in the contract. We suggest using the standard DCAA format as a basis for developing an appropriate contract brief format for HHS.

8) Have the CMT change the Contract Monitoring Plan template to add a "Date" data field in order to ensure that compliance with timeliness requirements can be tested.

9) Implement a procedure to ensure documentation of the CMT's evaluation of how effectively contract monitors are monitoring contracts.

10) Have the CMT develop and assign specific responsibility for tracking the status of program monitoring reports.

11) Develop a procedure designed to ensure that contractors with multiple HHS Contract Monitors are receiving consistent and clear instruction from their respective Contract Monitors.

12) Enhance or redesign the existing training program to provide instruction on the application and implications of upcoming HHS policy revisions (once developed). The program should be designed with the goal of increasing involvement of participants. Effectiveness could be enhanced by providing actual examples or cases involving key aspects of program and fiscal monitoring.

13) In partnership with the Department of General Services, develop a process to ensure that documentation of Cost/Price analysis is maintained according to the County's file retention policies

14) Consider developing a mechanism by which contractors can submit invoice support documentation to HHS electronically.

15) Establish and implement an evaluation plan, with milestones, for upcoming strategic decisions relating to the "5 Plus Program" Pilot.

HHS Comments and MCIA Evaluation

We provided HHS with a draft of this report for review and comment on March 14, 2011. HHS responded with comments on April 7, 2011 that are set forth in Appendix I. Of the 15 recommendations in our draft report, HHS concurred with 12 and partially concurred with all or parts of the other 3. We have additional comments regarding several of these partial concurrences.

With respect to our recommendation no. 1 dealing with how indirect cost rates should be calculated and case studies, HHS said it would consider adopting the federal circulars we cite. In that regard, we encourage HHS to decide (1) how it will utilize Federal OMB Circulars A-87 and A-122 and (2) whether to base indirect rates on the sum of direct salary, fringe and direct operating costs or to base the indirect rate on direct salaries alone. Additionally, we feel that providing Contract Monitors with examples will improve the quality of HHS's review activities. With respect to our recommendation no. 6 on HHS periodically reviewing its list of contracts, we believe HHS needs to be vigilant in making sure that the next updates to the ERP system include the complete list of HHS contracts.

Regarding our recommendation no. 13 on the need to retain documentation of cost/price analyses, we strongly support HHS' response. HHS stated that it will now be requesting a copy of the analysis from the Department of General Services for its contract files to ensure that this information is maintained for the required length of time for audit and legal requirements.

Appendix A: Description of "5 Plus Program"

An example of the notification which was sent to contractors participating in the "5 Plus Program" is presented below.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isiah Leggett
County Executive

January 22, 2010

Uma S. Ahluwalia
Director

[Name of Contractor]

SUBJECT: DHHS Interim Contracting Monitoring

Dear [redacted]:

As part of our continuing efforts to streamline the contract monitoring process, the Department of Health and Human Services (DHHS) has identified opportunities to maximize efficiencies by implementing monitoring plans specifically tailored for those organizations that have five (5) or greater cost reimbursement contracts. Under these special monitoring plans, you will no longer be required to submit fiscal support documentation with each contract invoice, each month. Instead, you will be notified by e-mail on the first business day following month end, which contracts must have supporting documentation for that month. Please note that you must retain fiscal supporting documentation for all of your contracts and provide this documentation upon request.

As part of this process, an accountant/auditor (fiscal monitor), [redacted] from the DHHS fiscal team has been assigned to work with your contract monitor(s) to review your invoices and the accompanying fiscal support documentation. These changes will be in effect for your ***January*** 2010 invoice. Please provide the name, e-mail address, and phone number of the individual in your organization that you wish to receive the notification to me by *January 26*, 2010. My e-mail is sherry.d.white@montgomerycountymd.gov.

As a reminder, for direct (operating) expenditures, you must provide the types of documents listed in the "Table of Support Documentation" provided at the July 2009 vendor training. Proof of purchase is required for all transactions; however, you do not need to submit proof of payment for those transactions that cross billing cycles (such as credit card payments, utility payments, etc) as these transactions will be tested during future site visits. Additionally, you do not need to submit copies of leases or other agreements which have previously been provided and remain unchanged.

We look forward to partnering with you to achieve our common goal in continuing to provide excellent public services to our County residents with improved fiscal responsibility and accountability.

Sincerely,

Sherry D. White, MBA, Ph.D.
Chief Operating Officer

Appendix B: Scope and Methodology

Interviews Conducted

We conducted an entrance meeting with the HHS Director, as well as other key personnel responsible for contract monitoring and administration on June 18, 2010. Table 2 below lists all of the personnel by title that participated in interviews during our audit of HHS contract monitoring:

Table 2 – Interview Listing

Position Title	Process Role
CMT Team Leader	Leads a team that manages the procurement process in the Department by assuring adherence to the County's established procurement regulations and policies
Cost/Price Analyst	Performs cost/price analysis
HHS Senior Contract Auditor	Plans and performs major contract audits and prepares reports and recommendations to improve financial program efficiency, revises procedures to comply with applicable laws and regulations and advises management concerning accounting for and safeguarding assets
Chief Operating Officer	Oversees the Department's procurement management process.
HHS Director	Assures the integrity of contract management in the Department of Health and Human Services
Division Chief of Procurement	Oversees the Procurement Operating and Procurement Services
Manager III – Accounts Payable – Department of Finance	Responsible for review and approval of payments for goods and services to the County
Controller – Department of Finance	Oversees Accounts Payable, General Accounting and Payroll
Manager	Supervises Contract Monitor by providing further review and assistance as necessary
Administrative Service Coordinator	Coordinates procurement action requests to the CMT and disseminates information related to contractual and monitoring processes from the Contract Management Team to Contract Monitors
Fiscal Monitor	Supports Contract Payment Group and Compliance Group
Contract Payment Group Leader	Oversees requisitions approval and the invoice payment process and claims process
Fiscal Team Leader	Oversees revenue medical billing and federal claiming, state reporting benefits issuance and accounting team, Contract Payment and Purchase Card Management
Contract Manager	Manages the procurement process in the Department by assuring adherence to the County's established procurement regulations and policies
Contract Monitors	Assures contractual accountability and oversight for all individual program services
Contractor Personnel	Provides contracted services to the County

Documentation Reviewed

Documentation which was reviewed as part of the audit is presented in Table 3:

Table 3 – Document Review Listing

Document Reviewed	Purpose
HHS Strategic/Action Plan for Improving Contract Monitoring	• A multifaceted set of strategies to guide HHS' efforts with regard to reforming their contract monitoring processes over the next year
Fiscal Contract Monitoring Decision	• To convey the Fiscal Contract Monitoring Workgroup's report and recommendations • Finding and recommendations from the fiscal monitoring workgroup intend to standardize contract monitoring practices for all Departments with cost reimbursement contracts
HHS Interim Monitoring Plan	• To adjust the HHS Strategic/Action Plan for Improving Contract Monitoring in light of the economic environment and to commit to maintaining the core of enhancing fiscal monitoring by conducting a hybrid monitoring for all vendors while piloting policies and procedures for full on-site monitoring for the remainder of FY 2010
Notification of New Documentation Requirements	• To establish a pilot program for Contractors with multiple HHS contracts with the goal being to minimize reporting requirements by implementing a rotating schedule for submitting supporting documentation
Training – July 2009 Contract Payment Support Documentation	• Focus on understanding the types of contracts, how contract type, budget, and deliverables relate to the contract payment process; and, Contract payment supporting documentation requirements
Training - May 2010 - FY 2010 Year-End	• To gain a basic understanding of the FY10 HHS Year-End Financial Closing Process and FY10 Year-End Deadlines for County, HHS, and State
Training – Contract Cost & Price	• Describe indirect versus direct contract costs and explains how indirect rate calculations should be performed
Contract Monitoring Training (Active Monitors)	• Database which tracks the training for all Contract Monitors at HHS
COMCOR – Procurement Regulations	• Implement portion of the County code based on specific regulations in the code
Montgomery County Code – Procurement	• Establishing a system for purchasing goods and services and authorizing the County executive to adopt regulations to implement the law
Program Monitoring Guidelines – 2004	• Serves as standard for contract monitoring at HHS
Budget Guidelines – 10% Indirect and 25% Fringe	• Redefined the scope for reviewing indirect and fringe rates
Procurement Signature Delegation Authority	• Describes the delegation of signature authority for Procurement operations (including dollar limits)

Review of Related Audit Reports

We evaluated Montgomery County audit reports issued by OLO and OIG related to HHS contracting to develop a background and understanding of current practices and possibilities. The reports are listed in Table 12.

Table 12– Other Audit Reports Reviewed

Title	Date Issued
HHS Contract Execution and Monitoring Process (*OLO Report 2009-1)*	September 23, 2008
OIG Report- Review of Allegations of Improper Payments by HHS	February 18, 2009
OIG Report- Review of Allegations of Improper Payments by Department of Health and Human Services	July 3, 2008

Table 13- Changes in HHS Monitoring

Key Initiatives	Effective Dates
New Training Requirements	June, 2008
HHS Strategic/Action Plan for Improving Contract Monitoring	July 1, 2009
HHS Interim Monitoring Plan	December 1, 2009 to June 30, 2010

Appendix C: HHS Table of Support Documentation from HHS Guidance

HANDOUT 4

TABLE OF SUPPORT DOCUMENTATION

The category of expenditures listed in the following table can represent either direct or indirect costs depending on whether or not the expenditure is contract specific or organization costs that can not be reasonably attributed to a specific contract. If these expenses are listed as **direct** expenses (or if indirect and rate is not being used), supporting documentation must be provided each month. Also, be aware some funding sources may have specific requirements.

Category	Documentation	Comments
Consultants	Copy of consultant agreement specifying work performed, hours, and rate (provided at contract execution and updated if changes occur)	Consultants should be listed as operational costs not personnel Consultants do not receive fringe benefits
Temporary workers	A copy of the invoice showing rate and hours worked. Proof of payment.	
Staff Development	Purpose; registration form and proof of payment.	
Local Travel	Name of staff and mileage log which should include place of origination and destination, purpose of travel and travel dates. Google (or other similar) printout showing mileage can be used in place of the mileage log but additional information regarding the purpose and travel dates should also be included.	It is recommended that organizations use the IRS mileage rate and pay employees accordingly.
Non-Local Travel	Copy of airline ticket and proof of payment. Copy of detailed hotel portfolio and proof of payment. Copy of restaurant bill and proof of payment. Additionally, request the name of others included on the restaurant bill, if appropriate and state the program purpose of paying for a meal for a number of guests.	The County does not reimburse for meals included in the conference fee.
Meetings and Conferences	If meeting or conference, copy of registration and cancelled check or other documentation of payments (such as a corporate credit card).	The County does not reimburse for meals included in the conference fee.
Rent	Copy of Rental agreement.	Copy provided with first invoice of fiscal year. Any changes in space must be

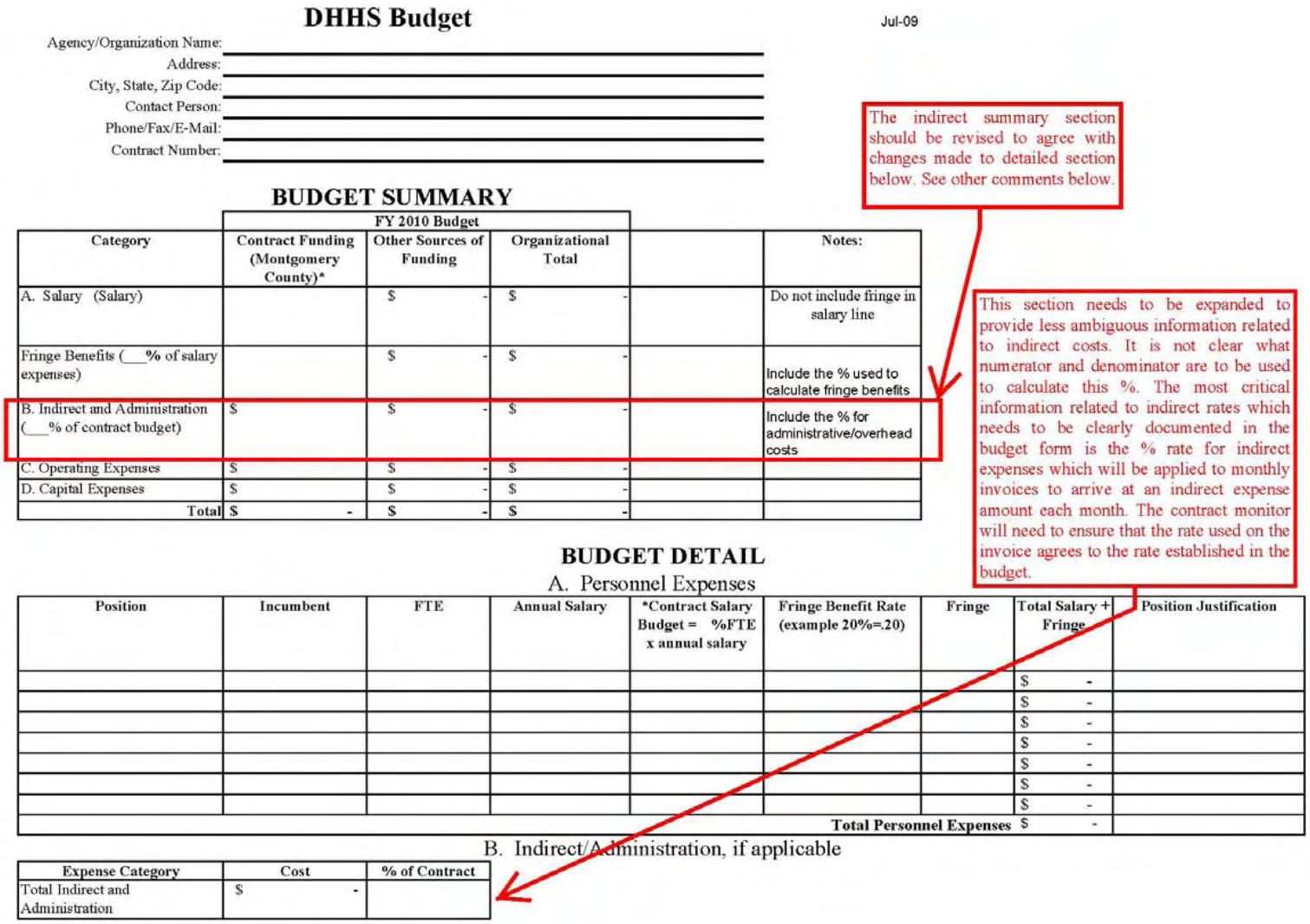
1

	Monthly (or other time period) invoice. Invoice must reflect proration, if appropriate. Proof of payment	approved and a new copy of the lease agreement forwarded to DHHS contract monitor
Utilities	Copy of utility bills with appropriate contract proration noted. Proof of payment	
Maintenance	Copy of receipts for equipment repair and other types of maintenance Proof of payment	
Equipment	Copy of invoice/receipt Proof of payment	
Supplies	Copy of invoice (or store receipt) with non-contract related supplies annotated and subtracted Proof of payment	
Food (client/customers)	Copy of invoice or receipt with purpose of the purchase noted.	
Insurance	Insurance—invoice with cost appropriately prorated per contract, if applicable Proof of payment	
Postage	Receipt with purpose noted	
Printing	Copy of invoice. Program Purpose. Proof of payment A copy of the "product"	
Stipends/scholarships	Name of person receiving stipend/scholarship, amount, award letter or other proof of payment;	
Incentives	Type and purpose of incentive Invoice. Proof of purchase.	
Gift Cards	Copy of receipt or other proof of purchase annotated with the purpose of the gift cards.	Gift cards are negotiable items and thus considered high risk for potential abuse. Procedures for obtaining, distributing, securing and reconciling gift cards must be on file. DHHS staff will review procedures during site visits.

		If possible, contractors should use avoid using gift cards and use alternate methods for purchases.
Communications (cell phone; phones; pagers)	Copies of bills with appropriate contract proration, if appropriate. Program purpose for cell phone and call detail for each cell phone.	
Cleaning	Invoice Proof of payment	
Activities	Purpose of activity Cost Invoice, if available Proof of Payment	
Other	Copy of invoice with purpose noted Proof of payment Copy of agreements, if appropriate	

Appendix D: HHS FY 2010 Budget Form

An example of a FY 2010 budget form with our notation describing deficiencies that relate to indirect costs.



DHHS Budget

Jul-09

Agency/Organization Name: _____
Address: _____
City, State, Zip Code: _____
Contact Person: _____
Phone/Fax/E-Mail: _____
Contract Number: _____

The indirect summary section should be revised to agree with changes made to detailed section below. See other comments below.

BUDGET SUMMARY

Category	FY 2010 Budget: Contract Funding (Montgomery County)*	Other Sources of Funding	Organizational Total		Notes:
A. Salary (Salary)		$ -	$ -		Do not include fringe in salary line
Fringe Benefits (___% of salary expenses)		$ -	$ -		Include the % used to calculate fringe benefits
B. Indirect and Administration (___% of contract budget)	$	$ -	$ -		Include the % for administrative/overhead costs
C. Operating Expenses	$	$ -	$ -		
D. Capital Expenses	$	$ -	$ -		
Total	$ -	$ -	$ -		

This section needs to be expanded to provide less ambiguous information related to indirect costs. It is not clear what numerator and denominator are to be used to calculate this %. The most critical information related to indirect rates which needs to be clearly documented in the budget form is the % rate for indirect expenses which will be applied to monthly invoices to arrive at an indirect expense amount each month. The contract monitor will need to ensure that the rate used on the invoice agrees to the rate established in the budget.

BUDGET DETAIL

A. Personnel Expenses

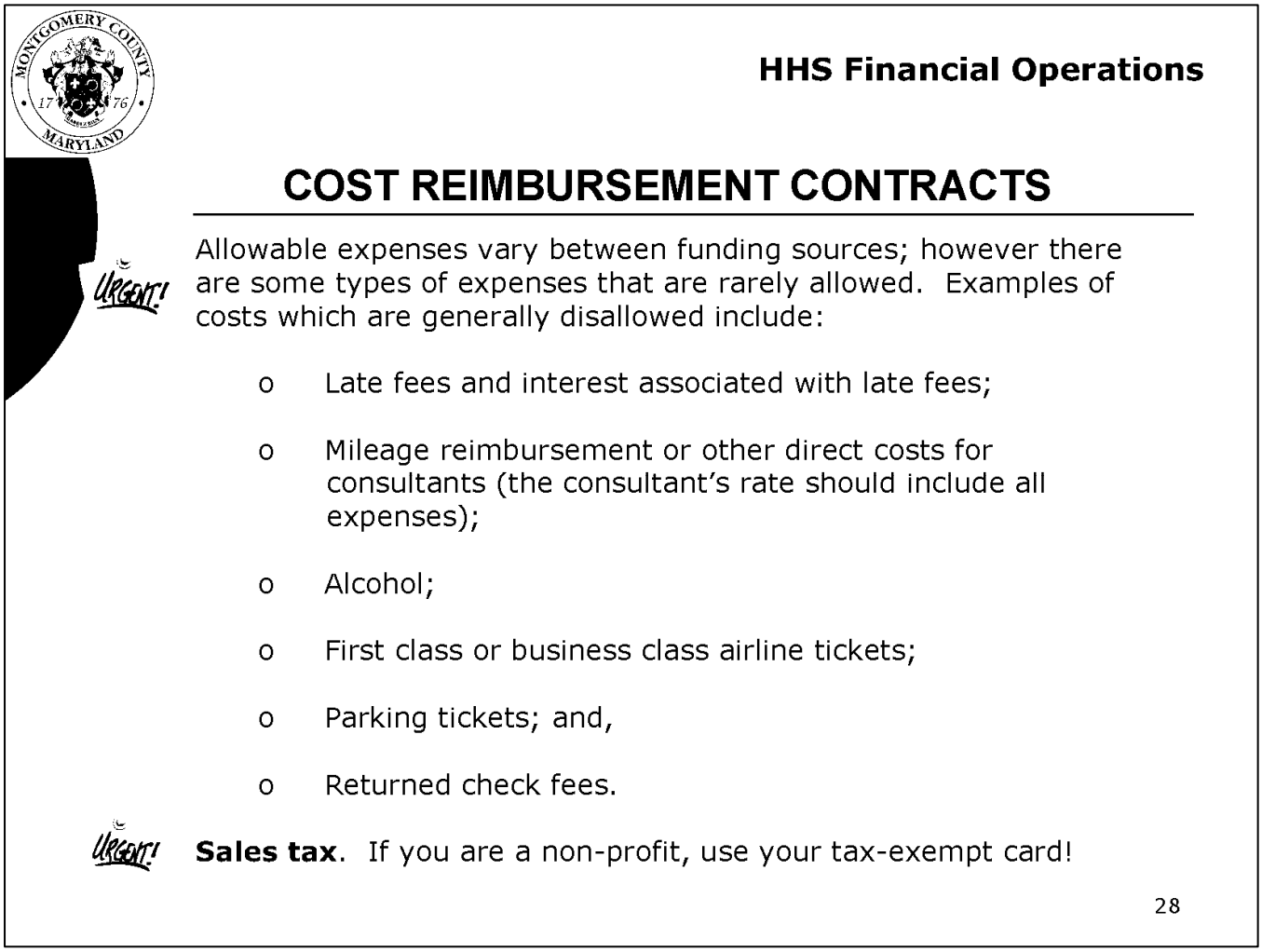
Position	Incumbent	FTE	Annual Salary	*Contract Salary Budget = %FTE x annual salary	Fringe Benefit Rate (example 20%=.20)	Fringe	Total Salary + Fringe	Position Justification
							$ -	
							$ -	
							$ -	
							$ -	
							$ -	
							$ -	
							$ -	
					Total Personnel Expenses		$ -	

B. Indirect/Administration, if applicable

Expense Category	Cost	% of Contract
Total Indirect and Administration	$ -	

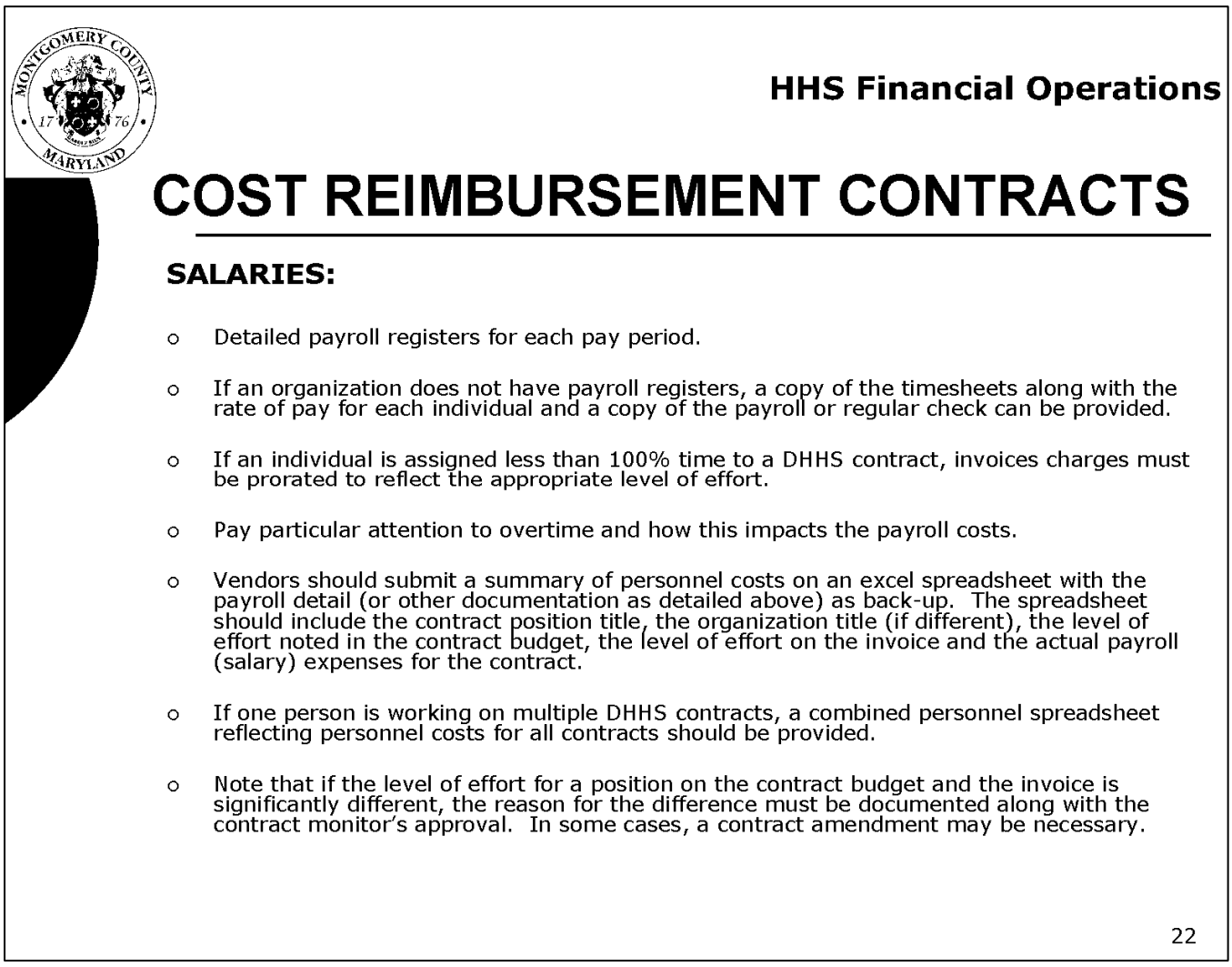
Appendix E: Invoice Review Guidance- Unallowable Costs

HHS guidance relating to unallowable costs as outlined in the June/July 2009 training slides is provided in Appendix E.



Appendix F: Invoice Review Guidance- Salary Expenditures

HHS guidance relating to salary and personnel costs as outlined in the June/July 2009 training slides is provided in Appendix F.



Appendix G: Email from Chief Operating Officer of HHS establishing Indirect/Fringe rate Thresholds

HHS guidance relating to indirect and fringe rates as described in a July 2009 email from the CFO is provided in Appendix G.

-----Original Message-----
From: White, Sherry D. (HHS)
Sent: Friday, July 17, 2009 1:54 PM
To: #HHS.CMSNotify
Cc: #HHS.SeniorLeadership; [redacted]
Subject: Contract Clinics

Hello, In follow-up to the June monitor training, below is additional information on the "contract clinics" we discussed. These clinics will be an opportunity for you to discuss various aspects of your contract(s) with individuals in Financial Operations (CMT, Fiscal, and Compliance). I would expect that the remainder of July and into August will focus mainly on budget clean up. This will greatly facilitate the payment review process. [redacted] will be forwarding information to individual monitors in some cases where we have identified the contract as needing additional budget work so that we can get the personnel, indirect and direct costs lined up. In addition, to the information that [redacted] sends, please schedule a contract clinic if:

Personnel

- The contract budget personnel category is not broken out for salary and fringe (so that we can get a fringe rate as discussed in our training).
- Personnel includes consultants
- The fringe rate in the approved contract budget exceeds 25%

Indirect rate

- Exceeds 10% of the contract value (personnel + direct costs)
- Needs to be broken out from direct costs

Given the volume of the contracts, this is where we will focus our initial efforts at cleaning-up the contract budgets. **Hopefully we will be able to do much of this in combination with the 1% increase that we need to do for non-profits!**

The following individuals will be available to assist you.

Fiscal/Compliance	CMT
[Names of HHS staff in Fiscal/ Compliance]	[Names of HHS staff in CMT]

Assistance setting up Excel Spreadsheets for tracking
[redacted]

Beginning in August, we will also be available to assist you, if needed, as you review payment support documentation.

Outlook calendars for the individuals listed above are up-to-date. Meetings will be held in the office of the person you are meeting with. If you need both Fiscal/Compliance and CMT at the same meeting, Jeri's office can accommodate up to 4 people, as can mine. However, in the interest of best utilizing resources, please do not include more than one person from CMT and one person from Fiscal/Compliance in each meeting.

Bring a copy of your contract (s), including the budget to the meeting.

Sherry
Sherry D. White, MBA, Ph.D.
Chief, Financial Operations

Appendix H: HHS Contract Monitoring Roles[21]

Descriptions of the contract monitoring roles for HHS Contract Monitors, CMT, Fiscal, and Compliance groups are described below.

Role	Mission	Services
Chief, Financial Operations	*Mission: To assure the effective management and financial integrity of HHS programs, activities, and resources.*	1. Develop, implement and monitor policies in the areas of program analysis and evaluation, finance and accounting, internal controls and strategic planning 2. Assure development and distribution of essential contractual management processes and procedures for the Department. 3. Assure quality, accuracy and integrity of work products coming from the CMT.
Contract Management Team ("CMT")	*To effectively manage the procurement process in the Department by assuring adherence to the County's established procurement regulations and policies*	The CMT provides technical assistance and manages document packaging and work flow for all of HHS contract documents and related contract actions. The CMT also serves as HHS' primary liaison to the County Government's procurement and payment network outside of HHS including the Office of Procurement, the Office of the County Attorney, and the Division of Risk Management in the Department of Finance. The CMT staff perform the following services: 1. Prepare, review, and recommend approval for most procurement actions. 2. Coordinate with The Office of Procurement and County Attorney to execute contract actions. 3. Provide technical assistance to all HHS staff with regard to procurement processes and issues. Technical assistance may include guidance in selecting the appropriate solicitation type; how to deal with non-performing vendors (including Corrective Action Plans); and guidance on what documents are required for contract renewal. 4. Issue notice to proceed (NTP) to vendors. 5. Prepare and process all contract actions including Solicitations, Amendments, Delivery Orders and contract renewals. 6. Prepare memos to the Office of Procurement for all contract actions. The Department generates more than 1,200 contract actions per year, from approximately 500+ active contracts.
Service Area Chiefs	*Mission: Assure appropriate levels of contract monitoring within respective service area.*	1. Ensure preparation and submission of accurate, complete and timely CAWs. 2. Ensure adherence to procurement processes. 3. Ensure adherence to monitoring policies and requirements. 4. Respond to inquiries related to contractual violations in a timely manner.
Fiscal	*To provide budgetary and fiscal oversight for vendor payment*	County regulations require that each vendor invoice have an address that matches the address in the vendor database, a contract number and a purchase order number. After vendor

[21] OLO Report 2009-1 *Department of Health and Human Services Contract Execution and Monitoring Process*
In addition, definitions provided by HHS during February 2011

Role	Mission	Services
	requests generated by contract monitors in all HHS service areas.	invoices are submitted and reviewed by HHS service area Contract Monitors and Fiscal Managers, they are forwarded to the HHS Fiscal Team for review. Fiscal Team staff perform the following services: 1. Submit draft solicitations (such as an RFP), new contracts, contract renewals and other procurement actions (always submit procurement action request with a Contract Action Worksheet – CAW) 2. Review requisitions generated by the CMT to create pre-encumbrances 3. Review/process vendor invoices submitted for payment. 4. Verify that the contract number and purchase order numbers are valid, 5. Invoice charges add up, 6. Invoice has staff and vendor signatures.
Contract Monitor (Program Staff)	*To assure contractual accountability and oversight for all individual program services*	The Contract Monitor is the person primarily responsible for the contract monitoring function. The Contract Monitor is the gatekeeper for the timely flow of invoicing and contract payments. Contract Monitors also have a responsibility related to contract records management. Contract Monitors perform the following services: 1. Submit CAWs for all new solicitations, new contracts, contract renewals and all other contract actions to their Administrative Service Coordinator. 2. Monitor vendor performance. 3. Keep a copy of each contract, along with all amendments, POs, invoices, and other pertinent documents, in an official Monitoring File. This Monitoring File may be reviewed during audits by the HHS Fiscal Team staff, Compliance Unit, the Office of the Inspector General, DHMH or other auditing authorities. 4. Read each contract carefully and completely, paying particular attention to the deliverables listed in the Scope of Services. 5. Be cognizant of the expiration date of each of contract, and submit a CAW to renew at least 6 weeks prior to expiration. 6. Submit Monitoring Reports to the CMT. 7. Review and approve invoices prior to submission to Fiscal Team for payment. 8. Advise vendors not to begin services prior to execution of contract and PO. 9. Provide technical assistance and support to vendors to improve performance. 10. Notify and consult with the CMT to resolve contractual disputes, and to advise of potential problems. 11. Participate in HHS Contract Training.
Compliance Team	*To ensure that the HHS Contractor complies with the*	1. Develops and recommends policies and procedures to Senior Management to ensure that Contractor complies with the fiscal terms and conditions of its contract.

Role	Mission	Services
	Fiscal terms and conditions of its contract(s) with the County and assists Contract Monitors in their contract fiscal oversight and coordinates with Contract Monitor, CMT and Fiscal Team on contract fiscal issues on at needed basis.	2. Acts as a liaison between CMT and Contract Monitor on contract fiscal issues. 3. Provides recommendations for contract budgets and/or the related indirect and fringe rates to Contract Monitor and the CMT. 4. Prepares the annual matrix for vendors with greater than five HHS contracts and prepares and sends monthly notification to the Contractor for the contract selected to provide the required supporting documentation for its invoices. HHS has elected for contractors with five or greater contracts to have random invoice monitoring where contractor is required to submit invoice documentation on a random basis throughout the fiscal year. 5. Compliance Manager Acts as a consultant in resolving contract fiscal issues with Contractor, CMT and Contract Monitor and prepares correspondence for Senior Management in outlining contract fiscal issues for resolution with Contractor. 6. Compliance Team performs random management reviews of the supporting documentation submitted by Contractors for their invoices to determine the adequacy of the documentation to support expenditures. These reviews will include reviewing the budget and any supporting documentation related to indirect and fringe rates.

Appendix I: HHS Responses to Contract Monitoring Review

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isiah Leggett
County Executive

Uma S. Ahluwalia
Director

MEMORANDUM

April 7, 2011

TO: Larry Dyckman, Manager
Office of Internal Audit

FROM: Uma S. Ahluwalia, Director

SUBJECT: Response to the Office of Internal Audit's Report on Contract Monitoring

Attached for your review is the Department's response to the Office of Internal Audit Report Contract Monitoring dated March 14, 2011.

If you have any questions regarding this response, please contact Jonathan Seeman, Chief, Financial Operations, at 240-777-4520.

USA:kr

Attachments

Office of the Director

401 Hungerford Drive • Rockville, Maryland 20850 • 240-777-1245 • 240-777-1295 TTY • 240-777-1494 FAX
www.montgomerycountymd.gov/hhs

Office of Internal Audit's Recommendation

1. *Recommendation: Establish a formal comprehensive indirect cost rate policy that addresses the following:*

    a. *A definition of what DHHS considers indirect and fringe costs. Specific items in overhead which are classified as indirect should be explicit defined.*

DHHS Response: Partially Concur. There is a draft policy currently under review in the Department. Not all overhead parameters can be explicitly pre-defined, however DHHS will consider incorporating some broad definitions in the draft policy.

b. Instructions on how to complete budget template items relating to fringe and indirect expenses. In addition, the budget template needs to be updated to address complex items such as the indirect costs section in the FY 2010 budget format.

DHHS Response: Concur. DHHS has revised the budget form and considered the auditor's recommendations on the calculation of indirect and fringe costs. Please see attached revised budget form for your reference.

c. Details of how indirect rates should be calculated along with case examples.

DHHS Response: Partially Concur. It is the responsibility of Contractors to develop their indirect and fringe rate methodology.

DHHS is considering adopting the Federal OMB Circulars A-87 and Circular A-122 for indirect and fringe rates guidance. These Federal guidelines do not recommend one standard methodology for Contractors to adopt but allows for a number of indirect cost methodologies.

The Department will determine whether to continue calculating the indirect rate based on the sum of the direct salary, fringe, and direct operating costs; or to base the indirect rate as a factor of direct salaries alone.

For educational purposes, DHHS will provide examples for Contract Monitors to have a better understanding of indirect rate broad definitions and calculations. Additionally, DHHS plans to develop simple budget review procedures for contract monitors to follow for consistent review and application.

d. A standardized approach to reviewing contractor support for indirect costs for initial budget or invoices including:

- *The documents which DHHS should require from contractors.*

DHHS Response: Partially Concur. The Department can provide a recommended list of financial records or other types of information that the Contractor should provide to DHHS to evaluate their proposed rate such as their methodology, most current general ledger, Contractor's most recent audited financial statements, and income tax returns, etc. However, additional documents may be required to support the fringe and indirect rates so a comprehensive list is challenging to develop. Contractors, also, have a variety of fringe rate calculations and costs included. The draft indirect and fringe policy will dictate the costs that will be allowable under the fringe rate. The

Department may require proof of the Employer's benefit package in assessing the allowability of any fringe costs.

- *The analysis that DHHS staff should perform.*

DHHS Response: Concur. The Department is considering the appropriate roles of the respective areas such as CMT, program service areas and Compliance Team staff with regard to the review of indirect and fringe costs.

The Department will have certain parameters established for further reviewing indirect and fringe rates such as contracts valued at $100,000 and above and indirect rates of 10% or fringe rates of 25% and above.

- *How the analysis is to be documented.*

DHHS Response: Concur. Documentation of the in-depth analysis of the fringe and indirect rates by the Compliance Team should be located in CMT's, Contract Monitor's and Compliance Team files.

Compliance Team will develop a form that states that the Compliance Team is recommending approval or disapproval of the proposed rates to the Chief of Financial Operations. The rate review packet, including this form, will be distributed by the Compliance Team to CMT, Contract Monitor and Contractor. The documentation of the rate will be kept separately since it may contain Contractor's proprietary information that the Contractor may not want shared. Achievement of this goal is also dependent on the ability to fill certain vacancies in the Compliance Unit thereby providing adequate staffing to fulfill these duties.

- *The criteria by which DHHS will accept federally approved rates.*

DHSS Response: Concur. The indirect and fringe policy will address the criteria for the federally approved rates.

- *Having individuals responsible for reviewing and approving indirect rates establish a formal process to communicate review results to Contract Monitors and contractors.*

DHHS Response: Concur. See 1.d.

- *Use of the most current budget format.*

DHHS Response: Concur. The Department will remind Contract Monitors of the most current budget format for Contractors to use.

2. *Recommendation: Consolidate all applicable DHHS Contract Monitoring rules, policies and procedures into one comprehensive standardized policy document. This document should include standardized formatting sequential numbering, definition, index and references to other applicable County guidance. All other current DHHS guidance (emails, memorandums and program Monitoring Guidelines) should be consolidated into this comprehensive policy document.*

- *In addition, CMT should incorporate all relevant sections from the existing Program Monitoring Guidelines into the comprehensive policy document.*
- *The policy should also merge existing, important guidance that is contained solely in training presentation into the comprehensive policy documents.*

DHHS Response: Concur. The Department is in the process of finalizing our comprehensive Contract Monitoring Guidelines to merge all the materials captured in

the training presentation and any other relevant information into one document. We anticipate completing this task by June 30, 2011.

3. *Recommendation: Develop a central repository encompassing all Contracting Monitoring policies, procedures examples, templates, checklists and training documents. The CMT Contract Manager Toolbox, which was originally designed as a resource exclusive to Contract Managers, should be used as a foundation for this repository, which should have the objectives of assisting both Managers and Monitors with contract monitoring.*

   - *The repository should have a standardized format and sequential numbering structure.*
   - *The repository should also include information listing what additional resources are available for assistance, for example, a list of individuals with specific knowledge pertaining to various aspects of Contract Monitoring.*

   DHHS Response: Concur. DHHS has already developed a central repository for all Contract Monitoring information. It is located on the DHHS intranet website, under the Financial Operations Webpage (FOW). The FOW has procedures, such as 'Instructions for completing the RFS form's; templates, such as the CAW form and the RFS form; checklists, such as the RFP checklist; and all the power point presentations from the DHHS Contract Training Classes. In addition, the FOW has a link to the CMT Webpage, which contains a link to examples, and a list of individuals with specific knowledge pertaining to various Contract Monitoring needs. The FOW has a standardized format, which is in compliance with Countywide formatting for websites. DHHS updates the FOW as new policies are established and new training classes are held. DHHS will add the Program Monitoring Guidelines/Handbook for Monitors to this website as soon as it is completed and approved.

4. *Recommendation: Develop as part of the comprehensive policy, an unallowable cost policy describing what contract expenditures are considered unallowable. DHHS may seek to coordinate this effort with the Department of General Services.*

DHHS Response: Concur. The comprehensive Contract Monitoring Guidelines policy will specify the unallowable contract expenditures. The Department will attempt to coordinate with the Department of General Services as well as the Department of Finance on defining unallowable expenditures as a policy issue. In June and July 2009, DHHS conducted several Contract Monitor and Contractor training sessions where the following unallowable costs were identified:

- ***Late fees and interest associated with late fees***
- ***Mileage reimbursement or other direct costs for consultants***
- ***Alcohol***
- ***First class or business class airline tickets***
- ***Parking tickets***
- ***Returned check fees***

The Department is considering adding other unallowable costs to the new Policy and Procedures Manual that are referenced in the Federal OMB Circulars.

5. *Recommendation: Develop a formal signature authority policy establishing procedures for how authority to approve all key documents can be delegated within DHHS and how that delegation of authority is documented. The Department should create a signature authority matrix detailing the thresholds for delegation, using a similar format and structure of the Department of General Services policy/matrix.*

   DHHS Response: Concur. When DHHS develops its policies and procedures for Contract Monitoring, the Department will define in its matrix the thresholds for signature authority for Contract Action Forms, Contract Amendments and Contract Budgets.

6. *Recommendation: Periodically review the contract listing maintained by the department to update missing or incorrect information and better classify contracts by type.*

   DHHS Response: Partially Concur. The Department anticipates that the new ERP system will have a complete list of DHHS contracts in the future. The Department is working with the Department of General Services to ensure that the Oracle database has a complete list of all DHHS contracts to include all written contracts as well as all direct purchase orders.

   CMT's Contract Managers are required to review the data in the database on a weekly basis to ensure that the information is complete and accurate such as contract type and other types of contract information tracked. The Department will continue to improve the information contained in the database.

7. *Recommendation: Develop standardized contract briefs containing the summary information contained in the contract.*
   DHHS Response: Concur. The Department will develop a summary document for the CMT contract file that will include, but not be limited to, the following information:
   a. Full legal name of vendor
   b. Contract Number
   c. Service Area
   d. Effective date of contract
   e. Expiration date of contract
   f. Option end date of contract
   g. Contract Monitor
   h. Summary of Scope/Service Description
   i. Source Selection such as Council Grant or RFP
   j. Contract type (i.e., Cost Reimbursement, Fixed Price or Requirements)

8. *Recommendation: Have CMT change the Contract Monitoring Plan template to add a "DATE" data field in order to ensure that compliance with timelines requirements can be tested.*

   DHHS Response: Concur.

9. *Recommendation: Implement a procedure to ensure documentation of CMT's evaluation of how effectively contract monitors are monitoring contracts.*

   DHHS Response: Concur. Financial Operations will be working on a procedure to effectively track and review contract monitoring. There are internal discussions on how to

best ensure that each new contract have a monitoring plan in place within sixty days of contract execution by assisting the contract monitors in its development.

10. Recommendation: Have CMT develop and assign specific responsibility for tracking the status of program monitoring reports.

DHHS Response: Concur. Financial Operations will be working on a procedure to effectively track the status of program monitoring reports.

11. Recommendation: Develop a procedure designed to ensure that contractors with multiple DHHS Contract Monitors are receiving consistent and clear instruction from their respective Contract Monitors.

DHHS Response: Concur. The Department agrees that the Contractors should receive consistent and clear instructions from their Contract Monitors. The development and implementation of a comprehensive handbook guide for Contract Monitors will be helpful in resolving some of the auditors' findings.

12. Recommendation: Enhance or redesign the existing training program to provide instruction on the application and implication of upcoming DHHS policy revisions once developed. The program should be designed with the goal of increasing involvement of participants. Effectiveness could be enhanced by providing actual examples or cases involving the aspects of program and fiscal monitoring.

DHHS Response: Concur. The Department agrees that an enhanced or redesigned training program to provide instruction on the application and implication of DHHS policy would be a useful tool in increasing the Contract Monitor's ability to monitor their contracts more effectively. However, with limited resources available, this intensive training approach may be challenging to develop and present to all Contract Monitors. This is something that DHHS will consider in developing future trainings.

13. Recommendation: In partnership with Department of General Services, develop a process to ensure that documentation of Cost/Price analysis is maintained according to the County's file retention policies.

DHHS Response: Partially Concur. The Department will coordinate with the Department of General Services to determine the feasibility of developing a procedure in which Procurement maintains their Cost/Price Analysis. The Department will request a copy of this analysis for their contract files after the Department of General Services approves the vendors for both cost reimbursement and fixed cost contracts to ensure that the information is maintained for the required length of time for audit or other legal requirements.

14. Recommendation: Consider developing a mechanism by which contractors can submit invoice support documentation to DHHS electronically.

DHHS Response: Concur. The Department is currently in the preliminary stages of working with the Department of General Services to develop a pilot program for Contractors to submit their invoices electronically for payment.

15. Recommendation: Establish and implement an evaluation plan with milestones, for upcoming strategic decisions relating to the "5 Plus Program" Pilot.

DHHS Response: Concur. The Compliance Team is currently reviewing two contractors across all their DHHS contracts for any contract issues. The Compliance Team will attempt to analyze at a macro level for any trends among this Contractor group such as do the Contractors increase their expenditure level during the months where documentation is <u>not</u> required to be submitted to DHHS with their invoices, as well as other identifiable trends. The Compliance Team will present this analysis to DHHS senior leadership for the consideration of the continuation of this policy for random invoice supporting documentation submission for Contractors with five plus cost reimbursement contracts.

ATTACHMENTS:

A. Roles and Responsibilities (refers to Recommendation 3 and is incorporated in Appendix H)
B. Screen Print of the DHHS Intranet Information for Contract Monitors (refers to Recommendation 3)
C. Revised Budget Form March 2011 (refers to Recommendation 1d)

ATTACHMENT A

Definitions of Roles and Responsibilities of CMT, Service Areas and Compliance Team

Chief, Financial Operations
Mission: To assure the effective management and financial integrity of DHHS programs, activities, and resources.

Responsibilities:

1. Develop, implement and monitor policies in the areas of program analysis and evaluation, finance and accounting, internal controls and strategic planning
2. Assure development and distribution of essential contractual management processes and procedures for the Department.
3. Assure quality, accuracy and integrity of work products coming from CMT.

D. Contract Management Team
Mission: To effectively manage the procurement process in DHHS by assuring adherence to the County's established procurement regulations and policies.

Responsibilities:

1. Prepare, review, and recommend approval for most procurement actions.
2. Coordinate with The Department of General Services and County Attorney to execute contract actions.
3. Provide technical assistance to all DHHS staff with regard to procurement processes and issues. Technical assistance may include guidance in selecting the appropriate solicitation type; how to deal with non-performing vendors (including Corrective Action Plans); and guidance on what documents are required for contract renewal.
4. Issue notice to proceed (NTP) to vendors.
5. Prepare and process all contract actions including Solicitations, Amendments, Delivery Orders and contract renewals.
6. Prepare memos to the Department of General Services for all contract actions. The Department generates more than 1,200 contract actions per year, from approximately 500+ active contracts.

E. Service Area Chiefs
Mission: Assure appropriate levels of contract monitoring within respective service area.

Responsibilities:

1. Ensure preparation and submission of accurate, complete and timely CAWs.
2. Ensure adherence to procurement processes.
3. Ensure adherence to monitoring policies and requirements.
4. Respond to inquiries related to contractual violations in a timely manner.

F. Monitors (Program Staff)
Mission: To assure contractual accountability and oversight for all individual program services.

Responsibilities:

1. Submit CAWs for all new solicitations, new contracts, contract renewals and all other contract actions to their Administrative Service Coordinator.
2. Monitor vendor performance.
3. Keep a copy of each contract, along with all amendments, POs, invoices, and other pertinent documents, in an official Monitoring File. This Monitoring File may be reviewed during audits by the Fiscal Team staff, Compliance Unit, the Office of the Inspector General, DHMH or other auditing authorities.
4. Read each contract carefully and completely, paying particular attention to the deliverables listed in the Scope of Services.
5. Be cognizant of the expiration date of each of contract, and submit a CAW to renew at least 6 weeks prior to expiration.
6. Submit Monitoring Reports to CMT.
7. Review and approve invoices prior to submission to Fiscal Team for payment.
8. Advise vendors not to begin services prior to execution of contract and PO.
9. Provide technical assistance and support to vendors to improve performance.
10. Notify and consult with the CMT to resolve contractual disputes, and to advise of potential problems.
11. Participate in Contract Training.

G. Compliance Team

Mission: To ensure that the Contractor complies with the Fiscal terms and conditions of its contract(s) with the County and assists Contract Monitors in their contract fiscal oversight and coordinates with Contract Monitor, CMT and Fiscal Team on contract fiscal issues on at needed basis.

Responsibilities:

1. Develops and recommends policies and procedures to Senior Management to ensure that Contractor complies with the fiscal terms and conditions of its contract.
2. Acts as a liaison between CMT and Contract Monitor on contract fiscal issues.
3. Provides recommendations for contract budgets and/or the related indirect and fringe rates to Contract Monitor and CMT.
4. Prepares the annual matrix for vendors with greater than five contracts and prepares and sends monthly notification to the Contractor for the contract selected to provide the required supporting documentation for its invoices. has elected for contractors with five or greater contracts to have random invoice monitoring where contractor is required to submit invoice documentation on a random basis throughout the fiscal year.
5. Compliance Manager Acts as a consultant in resolving contract fiscal issues with Contractor, CMT and Contract Monitor and prepares correspondence for Senior Management in outlining contract fiscal issues for resolution with Contractor.
6. Compliance Team performs random management reviews of the supporting documentation submitted by Contractors for their invoices to determine the adequacy of the documentation to support expenditures. These reviews will

include reviewing the budget and any supporting documentation related to indirect and fringe rates

ATTACHMENT B

Department of Health and Human Services

Financial Operations

Home | Training | Forms | ERP | Newsletters | Site Map

Forms

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Checklists Contract Monitoring

Contract Action Worksheet (CAW)

Instructions for Completing RFS Form Request For Services (RFS)

Procurement Freeze Exemption Request

Sample FY11 Non-Renewal Vendor Letter

Non-Procurement MOU Process and Routing Instructions

FY11 Budget Form

FY12 Budget Form

Fringe and Indirect Rates Calculations

Sample Invoices: Cost Reimbursement Fixed Price Requirements

Invoice Review Certification

P-Card Forms: Application Form Modification Form

ATTACHMENT C

DHHS Contract Budget

Apr-11

Vendor/Organization Name: _____
Address: _____
City, State, Zip Code: _____
Contact Person: _____
Phone/Fax/E-Mail: _____
Contract Number: _____
Service Area: _____

BUDGET SUMMARY

Category	FY 2012 Budget Contract Expenses
A. Salary Expenses	$0.00
Fringe Benefits (___**%** of salary expenses)	
Total Personnel (Salary + Fringe)	$0.00
B. Direct (Operating) Expenses	$0.00
C. Capital Expenses	$0.00
Subtotal of Contract Expenses	$0.00
Indirect/Administration (__% of Subtotal of Contract Expenses)	
Total Contract Budget:	**$0.00**

BUDGET DETAIL

A. Salary Expenses and Fringe Benefits

Position	Incumbent	Annual Salary	Full Time equivalent (FTE), this contract	Expenses to this Contract	Fringe Benefit Rate	Fringe Benefits	Justification for Position
				$ -		$ -	
				$ -		$ -	
				$ -		$ -	
				$ -		$ -	
				$ -		$ -	
				$ -		$ -	
			Total Salary Expenses		**Total Fringe**	**$ -**	

B. Direct (Operating) Expenses

Expense Category		Cost	Justification of Costs
Consulting (if more than one consultant, list each one on a		$ -	
Staff Development		$ -	
Travel		$ -	
Rent		$ -	
Utilities		$ -	
Maintenance		$ -	
Telephone Bill		$ -	
Other Communications		$ -	
Equipment (up to $5,000)*		$ -	
Maintenance		$ -	
Supplies		$ -	
Insurance		$ -	
Postage		$ -	
Printing		$ -	
Other Expenses (list)		$ -	
		$ -	
Total Direct Expenses		**$** -	

C. Capital Expenses, if applicable (greater than $5,000)*

Description		Cost	Justification of Costs
		$ -	
		$ -	
		$ -	
Total Capital Expenses		**$** -	

Approved by: (for the Vendor)

Signature Date

Name (please print):_____

Title:_____

Approved by: (Monitor, for the Dept. of Health and Human Services)

Signature Date

Name (please print):_____

Title:_____

Budget Revision Approval

Approved by: (for Financial Operations, DHHS)

Signature Date

Name (please print):_____

Title:_____

*Equipment includes items up to $5,000. Items greater than $5,000 are capital expenses.