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## **HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY CONTRACTOR/SUB-CONTRACTOR BACKGROUND SCREENING REQUIREMENTS**

The purpose of this Contractor and Sub-Contractor Background Screening Requirement (“Requirement”) is to implement the applicable provisions of Title VII of the Civil Rights Act of 1964 (as amended) 42 U.S.C. § 2000e, Maryland State and Montgomery County Human Rights and Consumer Protection Laws, the U.S. Department of Housing and Urban Development (HUD) regulations governing Equal Opportunity (as each may be amended), and more generally to set forth the policy of the Housing Opportunities Commission of Montgomery County (HOC).

HOC works to protect the safety and welfare of residents and HOC property. Accordingly, HOC requires employees of its external contractors (“contractor”) or any of its sub-contractors (“Sub-contractor”) who are working on HOC projects, to pass a background screening to confirm their eligibility to provide services on HOC premises. HOC does not use this requirement to discriminate on the basis of age, race, color, creed, religion, ancestry, national or ethnic origin, gender, gender identity, sexual orientation, disability, genetic information, military status, veteran status, familial status or any other protected category under applicable federal, state or local law, ordinance, or regulation. HOC, its instrumentalities, and HOC-controlled affiliates apply this requirement as described in this document. All terms and conditions are offered equally to all prospective contractors and sub-contractors.

### **HOC REQUIREMENT**

Before a new contract is released for public bid, the Department or Division at HOC which created the contract submits a completed Project Information (PI) form to the Compliance Department. Compliance staff reviews the scope of work and funding source of each project to determine if the project is subject to this Background Screening Requirement. The Compliance Department completes its portion of the PI form and returns it to the Department or Division at HOC which created the contract. The relevant Department or Division then informs the Procurement Department of the appropriate background screening requirements so that they may be added to the bid proposal which is released to potential respondents.

Any contractor or sub-contractor awarded an HOC contract is required to conduct background screening on their personnel prior to assignment to HOC premises, job sites, projects, or property owned, leased, operated or otherwise under the control of HOC. This includes contractor personnel working on-site at an HOC location or off-site at the contractor’s offices or elsewhere if personnel may be required to perform work at an HOC location. This background screening requirement applies to contractor personnel regardless of whether the HOC site on which they work is occupied with residents or not. The contractor and subcontractor screening requirements will not apply if all contracted work is performed remotely and no personnel will be required to perform work at a physical HOC location.

All persons subject to background screening are required to be re-screened for every new contract that begins more than 90 days after the previous screening. HOC requires rescreening of contractor personnel prior to coming back to work on such projects so as to ensure that the person is in accordance with the requirements set forth in this document.

HOC will consider a pre-assignment background screening for a Contractor's and Sub-contractor's personnel acceptable if the outcome yields successful results within the ninety (90) days immediately preceding assignment of the individual personnel to HOC premises and the results of the personnel's background screening did not include any of the disqualifying factors listed further below. **Any Contractor or Sub-contractor subject to this requirement must make the results of the background screening available to HOC staff upon request.**

There are no exceptions to this requirement except as follows:

1. As may be permitted under applicable federal or state regulations governing the HOC Premises and/or the contractor's or sub-contractor's scope of work
2. If the contractors or any of its sub-contractors will not have contact with HOC premises, job sites, projects, or property owned leased, operated or otherwise under the control of HOC.

**Note:** If a contractor/sub-contractor is selected during an annual Quality Control (QC) review, upon request, the contractor or sub-contractor is required to submit a Pass/Fail result for their site/project personnel. The documents must come from the screening source and clearly identify the source of the pass/fail result. HOC will request the background screening company's search criteria to ensure that it meets HOC's standard specified within this requirement. HOC will not request the details of the background screening (i.e., criminal records, etc.). HOC will request the same personally identifying information that is typically provided on a payroll (i.e., name, last four digits of SSN or Employee ID) and a list of project/site personnel.

The Compliance Department works directly with the Information Technology (IT) Division and the Procurement Department to maintain a current list of all HOC contractors and subcontractors for whom QC reviews are conducted. This list is maintained on a calendar year basis to update the QC database used by Compliance to perform QC reviews. In so doing, Compliance ensures that QC reviews are performed only for the relevant contractors and subcontractors with whom contracts were signed during the calendar year under review.

## **HOC ELEMENTS OF CONTRACTOR BACKGROUND SCREENING**

Contractor and Sub-contractor employees are subject to screening in accordance with the following:

### **A. Construction/General Worker Position**

- Criminal Conviction History (county search);
  - Nationwide state and federal results for felony or misdemeanor records;
  - Nationwide Sex offender search;
  - Verification of Social Security Number; and
  - Verification of Immigration Status, including valid I-9 Form where applicable;
- Note:** HOC expressly prohibits any Contractor or Sub-contractor from employing any person on HOC premises who does not have valid authorization to work in the United States.

- Driving History (where permitted by law and if Contractor or Sub-contractor's personnel is required to operate a motor vehicle on HOC premises; does not include those persons who operate heavy equipment such as switch engines, forklifts, cranes, etc).

### **DISQUALIFIED PERSONNEL AND CONTRACTOR RESPONSIBILITY**

The following individuals are not eligible to work on HOC Premises, job sites, projects, or property owned, leased, operated or otherwise under the control of HOC:

- Persons convicted of a crime against or otherwise involving a minor at any time in the past.
- Persons convicted of a crime of violence or other serious crime against a person.
- Persons convicted of a felony in the past 10 years.
- Persons convicted of sex offenses.
- Persons convicted of a theft related crime or fraud within the prior 10 years.

In addition, the contractor or sub-contractor shall not include in the performance of its services on HOC premises, job sites, projects, or property owned, leased, operated or otherwise under the control of HOC, any other person who could reasonably be believed to present a risk of dishonest, dangerous or violent behavior, or who is otherwise unqualified to participate.

In the event a contractor or sub-contractor obtains, or is provided, supplemental criminal background information, including police reports and arrest information, after execution of any contract to which this requirement and procedure apply, which information potentially disqualifies a person previously deemed eligible to provide services, the Contractor or Sub-contractor shall promptly notify HOC of such matter. The Contractor or Sub-contractor and HOC shall take immediate action to review the matter and determine whether a waiver is appropriate as described below. However, during and until a waiver determination is made, the contractor or sub-contractor must immediately cease allowing the person to work on HOC premises. Additionally, the contractor and sub-contractor are required to inform HOC within forty-eight (48) hours of any arrest or a conviction of their personnel, while on contract with HOC.

A contractor or sub-contractor may be held liable to HOC or residents of HOC properties for any damage suffered by HOC or residents of HOC properties resulting from any Contractor or Sub-contractor employee that engages in criminal activity on any HOC premises, job sites, projects, or property owned, leased, operated or otherwise under the control of HOC. Furthermore, HOC reserves the right to seek indemnity from any contractor or sub-contractor for any liability or potential liability to HOC that may result from the criminal acts of contractor or sub-contractor employees, or as the result of any violation of this requirement by a contractor or sub-contractor.

### **WAIVER OF ASSIGNMENT FOR DISQUALIFIED PERSONNEL**

Assignment Waivers for individual contractor and sub-contractor personnel who failed HOC's background screening may be granted by HOC under special circumstances. Such evaluations are conducted on a case-by-case basis.

Requests for Assignment Waivers are submitted to the appropriate HOC manager, from the relevant Department or Division, and only with the prior written approval of the individual person for whom the waiver is requested.

Requests for Assignment Waivers are made by the contractor and/or sub-contractor on the prescribed form and include the following information:

- Name of individual for whom the waiver is requested;
- Date and description of the disqualifying offense;
- Date and nature of adjudication (convicted, no contest, deferred adjudication, etc);
- Reason for the waiver request;
- Statement that there is no alternative but to assign this individual;
- Description of services that the individual will provide;
- Effective dates for which the waiver is approved;
- Actions contractor and/or sub-contractor will take to ensure appropriate supervision of the individual; and
- Date and signature of the individual for whom the waiver is requested attesting that the information provided in the waiver is true and correct.

Requests for Assignment Waivers are approved by the appropriate HOC representative in writing. Waivers are granted for a period not to exceed 30 days, and are eligible for renewal for a maximum of 30 additional days, only upon written approval from HOC.

Assignment Waivers are not granted as a matter of routine. Rather, waivers are approvable only in exigent or emergent circumstances or in the event there is no alternative to obtaining the required skill or service(s) available necessary to complete the required work or service.

## **NON-COMPLIANCE**

HOC may terminate any contract with a contractor for a violation of this Requirement. Moreover, unless waived by HOC, contractors are obligated to terminate any contract with sub-contractors if the terms of this requirement are materially breached. HOC, in the reasonable exercise of its discretion, may elect not to terminate a contractor or sub-contractor for violations of this requirement. For example, HOC may elect not to terminate the contract in the event a violation occurs despite the good faith efforts of the contractor or subcontractor. Similarly, HOC may elect not to terminate the contract where HOC determines that a violation is outside the reasonable control of the contractor or sub-contractor and the contractor or subcontractor otherwise demonstrates good faith efforts to remain in compliance with the requirements of this Background Screening Requirement.

Any contractor that provides errors in reporting the correct background status of its or any of its subcontractors' personnel shall, as soon as is practicable upon discovery of the error, notify the appropriate HOC representative of the employee's correct status. The contractor would then take immediate steps to remove the individual from HOC's premises and replace the person with a qualified individual. If warranted, the contractor may subsequently submit a Request for Assignment Waiver to HOC if the individual's skills or labor are essential to completion of the work, service, or assignment.

## **COMPLAINT AGAINST HOC**

Any contractor or sub-contractor who wishes to receive information or file a discrimination complaint may do so by contacting HOC's Fair Housing and Equal Opportunity Officer at 240-627-9400. Any contractor or subcontractor may also contact any of the following Federal, State, or local human/civil rights agencies listed below to report housing discrimination or retaliation:

U.S. Equal Opportunity Commission Mid-Atlantic Office 131 M Street, NE Washington, DC 20507 (202) 663-4900 TTY: (202) 663-4494	Maryland Commission on Civil Rights William Donald Schaefer Tower 6 Saint Paul Street, Suite 900 Baltimore, MD 21202-1631 (410) 767-8600 Toll free: (800) 637-6247 TTY: (410) 333-1737 Fax: (410) 333-1841
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Upon request, copies of this document are available in an accessible format to persons with disabilities.