



Division 07 **Fiscal Affairs**

**Chapter 11 – Preparation of Contracts for Administrative Review
Committee Approval**

March 2009

POLICY

This General Order shall establish guidelines for the preparation of contracts, deeds, Memorandums of Agreement, Memorandums of Understanding, Grant applications and awards and any legally binding document for Administrative Review Committee (ARC) approval and signature by the County Executive, Chief Administrative Officer or Deputy Chief Administrative Officer's, as outlined in Executive Order #49 – November 25, 1986.

These procedures provide guidelines on the manner to prepare and submit legally binding documents for the Fire Chiefs approval prior to submission to the ARC.

The Fiscal Affairs Office (301-883-7421) will be responsible for coordination of legal documents prepared for the Fire Chiefs signature. The office initiating the contract is responsible to work in coordination with the Fiscal Affairs Office for preparation of all necessary documents. The office initiating the contract is also responsible for administration and monitoring of the contract, MOU or other documents once executed by the CAO.

DEFINITIONS

Administrative Review Committee (ARC) – ARC functions to expedite paper and decision flow through the administrative bureaucracy. The ARC is comprised of a Chairperson and members from the Office of

Law, Office of Finance, Office of Management & Budget, Office of Central Services, who approve, disapprove or hold for further information to reach a conclusion as to whether the contract, MOU, MOA or other legal document is in the best interest of the County.

Vendor's Oath and Certification -as a prerequisite for the payment pursuant to the terms of a contract, there shall be furnished to the County a statement, under oath, that no member of the elected governing body of Prince George's County, or members of his or her immediate family, including spouse, parents or children, or any person representing or purporting to represent any member or members of the elected governing body has received or has been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political contribution, or any other similar form of remuneration and/or on account of the acts of awarding and/or executing the contract and that upon request by the County, as a prerequisite to payment pursuant to the terms of this contract, there will be furnished to the requester, under oath, answers to any interrogatories related to a possible conflict of interest as herein embodied. Any contract made or entered into where it is discovered that violation of the intent of this provision exists shall be declared null and void and all monies received by the contractor shall be returned to the County.

Corporate Acknowledgement – Whenever the County is contracting with a corporate



entity or partnership an acknowledgment must be executed in order to assure the County that the person signing the document on behalf of the entity has the authority to bind the entity to the terms and conditions of the Agreement.

Sole Source – A sole source is a determination by the Procurement Officer that only one vendor can provide the commodity or service needed. **Procurement law** governs its use and such purchases are regularly scrutinized to ensure compliance. When only one source exists which meets the requirements, a letter of Sole Source Justification must accompany the requisition. The Procurement Officer makes final determination of a sole source request.

Certificate of Personnel Director – verified and approval of Office of Human Resources Management (OHRM) Director whether or not request(s) for Personnel Services contracts are in line with County position classifications or County staffing policies. Insurance Certificate – Depending on the type of contract, insurance may be required. If insurance is required the contract must contain the proper insurance limits, that the County is the certificate holder, the insurance can't be canceled without at least 30 days notice to the County, the insurance is current. Types of insurance include; automobile, professional liability, workers compensation

Memorandum of Understanding (MOU) - A legal document outlining the terms and details of an agreement between parties, including each parties requirements and responsibilities.

Memorandum of Agreement (MOA) – a legal cooperative agreement is a document written between parties to cooperatively work together on an agreed upon project or meet an agreed upon objective. The purpose of an

MOA is to have a written understanding of the agreement between parties.

PROCEDURES

1. Submission of Documents for Fire

Chief's Signature: All contract packages shall contain the following:

- Summary Report Form with appropriate approvals.
- Justification memorandum to the Chief Administrative Officer for Walk Through Contracts only. (Attachment #1)
- Justification memorandum from Fire Chief to the Director of Public Safety/Homeland Security
- Justification memorandum from Director of Public Safety/Homeland Security to the Chief Administrative Officer
- Contract Tracking System Log Sheet (Attachment #2)
- ARC Transmittal Sheet (Attachment#3).
- Encumbrance of Funds form with Purchase Order number (**must** be original, three part form - P.G.C.Fonn#219(Rev.8/87)- available by Stores Request). The contractor's address and federal identification number or social security number **must** be included on this form. (Attachment #4)
- **Minimum of three (3) Signed** original documents.



- Approval as to Form and Legal Sufficiency executed by Associate County Attorney (Memorandum – Legal Review Attachment #5)
- Sole Source Justification or Certification from Personnel Director, if appropriate. (If Sole Source, address to current Director, Office of Central Services. If Personnel Certification, address to current Director, Office of Personnel and Labor Relations).
- Appropriate insurance certificate, **if applicable for the type of document.**
- Vendor's Oath and Certification Form, **if applicable for the type of document.** (Attachment #6)
- Corporate Acknowledgement Form, **if applicable for the type of document.** (Attachment #7)
- A completed Request for Taxpayer Identification Number and Certification (W-9 tax form) **if applicable for the type of document.** (Attachment #10)
- Contract Format: All contracts/legal documents shall be constructed utilizing the Prince George's County Administrative Procedure #120 (Attachment #8) and the Office of Law Contract Drafting Manual (Attachment #9)
- Once a contract/legal document has been approved by the appropriate Lieutenant Colonel/ Commander, it should be forwarded to Fiscal Affairs to signoff on available funds, enter the requisition in the system and identify the requisition number on the

Encumbrance of Funds form. Fiscal Affairs will then review for compliance with guidelines. Fiscal Affairs will forward the contract package to the Fire Chief for his review and signature. Once signed by the Fire Chief, the contract package is to be returned to Fiscal Affairs for copying and submittal to AR.C.

- To assist in preparation of contracts, Attachments are listed below.

REFERENCES

Administrative Review Committee (ARC)
Contracts User Guide

Administrative Procedure #120

Prince George's County Office of Law
Contract Drafting Manual

FORMS/ATTACHMENTS

Attachment #1- Request for Administrative Review Walk-Through and Memo's from CAO

Attachment #2- Contract Tracking System Log Sheet

Attachment #3- A.R.C Transmittal Sheet

Attachment #4- Encumbrance of Funds Form

Attachment #5 – Chief Administrative Officer Legal Review Memorandum

Attachment #6 – Vendor's Oath and Certification

Attachment # 7 – Corporate Acknowledgement



PRINCE GEORGE'S COUNTY, MARYLAND
FIRE/EMERGENCY MEDICAL SERVICES DEPARTMENT GENERAL ORDERS

Attachment #8 – Administrative Procedure
#120

Attachment #9 – Office of Law Contract
Drafting Manual

Attachment #10 - Request for Taxpayer
Identification Number and Certification (W-9
tax form

MEMORANDUM

To: All Department/Agency Heads

From: Dr. Jacqueline F. Brown [original signed]
Chief Administrative Officer

Date: August 2, 2007

Re: ARC Walk-throughs

As a result of numerous ARC walk-throughs, it is necessary for me to address all department/agency heads and remind you that the walk-through process should only be utilized for emergency situations. It is imperative that all departments/agencies work in a timely manner to ensure that contracts, grants, and MOUs, etc. are prepared early enough to be placed on the ARC weekly agenda. Utilizing the ARC walk-through process is indicative of poor planning and poor management. Please note: many walk-throughs are occurring as a result of deficient packages being submitted to ARC, which is not an acceptable explanation for being in a walk-through situation. Effective immediately, approval for walk-throughs will be dependent upon your written plan and strategy that will ensure me this will not happen again. As a reminder, blaming other agencies is not a plan.

cc: Michael D. Herman, Chief of Staff
Iris B. Boswell, DCAO for Budget and Finance
Howard A. Burnett, DCAO for Health and Human Services
David J. Byrd, DCAO for Governmental Operations/Environmental Services
Vernon R. Herron, DCAO for Public Safety and Director, Homeland Security
Pamela H. Piper, DCAO for Government Internal Support Services and Director,
Office of Central Services
Ralph E. Moultrie, Special Assistant to the County Executive
Cathryn Odom, ARC Chairperson



Contracts Tracking System

version 1.0

Logged in User: **theresa lloyd**
 Agency: **FIRE**
 Help: [Training Manual](#)
 Change Your Password: [Click Here](#)

[Home](#) [Contracts Information](#) [Reports](#) [Contractor/Vendor Info](#) [Administration](#) [LogOut](#)

View Contract

[General Information](#) | [Comments](#) | [Contractor Information](#)

[Printer Friendly Page](#)

General Info:

Currently Responsible:

Contract Info:

| | | | |
|--------------------|---------------------------------------|-------------------------|---|
| Contract Number | 1112-0485-2009 | Contract Sequence | |
| Contract / Grant | Contract | Grant Number | |
| Contract Type | MOU - Int | Agency | FIRE |
| Date/Time Started | 11/12/2008 10:18 AM | Department Contact | tcloyd |
| Agenda Date | | | |
| Disposition | ENTERED | Disposition Date | <input type="text" value="11/12/2008"/> |
| Fiscal Year | 2009 | Fiscal Year/Vendor Name | <input type="text" value="Prince George's FY"/> |
| Amount | <input type="text" value="\$0.00"/> | Credit | <input type="text"/> |
| MBE Certification | <input type="text" value="NA"/> | Purpose | <input type="text" value="MOU for the oversight of t"/> |
| Requisition Number | <input type="text"/> | Document Type | <input type="text" value="MOU"/> |
| Begin Term Date | <input type="text" value="9/1/2008"/> | End Term Date | <input type="text" value="6/30/2010"/> |
| Budget Date | <input type="text"/> | Finance Date | <input type="text"/> |
| Law Date | <input type="text"/> | Procurement Date | <input type="text"/> |

ARC TRANSMITTAL AND CHECKLIST

Attachment 3



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ARC Log Number

| | | | |
|-------------------|---|-----------|--|
| Requesting Agency | Fire/Emergency Medical Services (EMS) Dept. | Req No | |
| Contractor 1 | | Tax ID No | |
| Contractor 2 | | Tax ID No | |
| Purpose | | | |

| | | | | | | | |
|----------------------|------------|------------|-----------------|-----------|--|------------|--|
| Enc Amount: | | Max Amt: | | LTD Amt | | Start Date | |
| If ext/amend - Prior | ARC Log No | | Base ARC Log No | | | Stop Date | |
| Construction | | Call K | | MOU - Int | | Grant App | |
| Services | | Indp Cnslt | | MOU - Ext | | Grant Awrd | |
| Personal Property | | Temp Emp | | Use Ag | | Subgrant | |
| Real Property | | Debt | | Chg Order | | Other K | |

| Yes | No | N/A | (Explain all "No" responses in space provided.) | Fund | |
|--------------------------|--------------------------|--------------------------|---|---|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Purchase order or contract encumbrance - attached | Account | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Funding appropriated | Center | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Funding available identified | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Fiscal funding clause (agreements covering more than one fiscal year or w/incremental funding) | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Financial audit or other reporting requirements | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Referenced attachments provided, esp. project budget | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | One original and four legible photocopies (minimum) Original must be returned to ATF | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Signature tabs | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Original signature of agency head (Review and Approval), contractor and witness | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | RFP - If yes, give RFP No: <input style="width: 150px;" type="text"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Date of required pre-authorizations - attached | Other | OOL |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | DCAO <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> Purchasing Agent | <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> | ERC <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Sole Srce <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> OPLR Director | <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> | COMS <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> / <input style="width: 40px;" type="text"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Grant profile - attached (Pending update of Administrative Procedure 315) | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Independent contractor checklist - attached | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Construction (CIP) checklist - attached | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Corporate acknowledgement | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Vendor assurances - attached | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Oath and certification (PGC 701) <input style="width: 60px;" type="text"/> | Affirmation | <input style="width: 60px;" type="text"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | FLSA compliance (PGC 4318) <input style="width: 60px;" type="text"/> | Owner (PGC 3962) | <input style="width: 60px;" type="text"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Performance bond <input style="width: 60px;" type="text"/> \$ | Labor and materialmen bond | <input style="width: 60px;" type="text"/> \$ |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Indemnification clauses | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Current insurance certificates w/PGC as holder | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Workers compensation <input style="width: 60px;" type="text"/> \$ | Auto | <input style="width: 60px;" type="text"/> \$ |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Other <input style="width: 60px;" type="text"/> \$ | General | <input style="width: 60px;" type="text"/> \$ |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | Property | <input style="width: 60px;" type="text"/> \$ |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | Prof Liab | <input style="width: 60px;" type="text"/> \$ |

Explanation of any "No" responses or other remarks (e.g., deadlines). Use additional sheets if needed.

| |
|----------------------------------|
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|----------------------------------|

My signature below certifies this submission is complete and meets all County requirements:

| | | | |
|--------------------------------|---------------------------------------|-------------------|---------------|
| Signature of Dept/ Agency Head | | Contact name | Theresa Lloyd |
| Typed name | Lawrence H. Sedgwick, Jr., Fire Chief | Contact telephone | 301-883-7421 |
| Date | | ARC return date | |
| | | ARC release date | |

Signature of CAO/DCAO _____

MEMORANDUM

September 12, 2007

TO: All Department/Agency Heads

FROM: Dr. Jacqueline F. Brown [original signed]
Chief Administrative Officer

RE: Legal Review by the Office of Law

As we continue along the path of process improvement, working together is vital as we ensure our efforts to implement appropriate legal review successfully. The Office of Law is the County's official counsel for documents requiring review for legal sufficiency. Considering the time sensitive nature of certain documents, these requirements enable a timely process without compromising the thoroughness and detail of legal review. As such, it is imperative we adhere to the following requirements, effective immediately:

- All agencies and departments are hereby directed to submit all contracts, deeds, and other legally binding instruments that require the signature of the County Executive or his designee to the Office of Law for legal review ***at least sixty (60) days prior*** to the commencement of any negotiated performance period and without any third party execution.
- Grants documents and other legally binding instruments that do not originate from the County should be forwarded to the Office of Law for legal review ***no later than five (5) business days*** from the date of receipt.

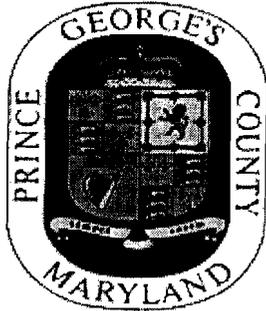
Cooperative adherence to these directives is necessary to allow the Office of Law to review documents and recommend corrective action for any noted deficiencies in an expeditious manner. We realize that situations may arise that will require an exception from these directives; in that event, please contact the Office of Law to coordinate the appropriate procedures.

In order to expedite the implementation of these directives, the Office of Law will coordinate scheduling of document drafting training sessions with departments and agencies within the next thirty (30) days.

All Department/Agency Heads

Page 2

cc: The Honorable Jack B. Johnson, County Executive
Iris B. Boswell, Deputy Chief Administrative Officer
David J. Byrd, Deputy Chief Administrative Officer
Howard A. Burnett, Deputy Chief Administrative Officer
Vernon R. Herron, Deputy Chief Administrative Officer
Pamela H. Piper, Deputy Chief Administrative Officer
Michael D. Herman, Chief of Staff
Stephanie P. Anderson, County Attorney
Ralph E. Moultrie, Special Assistant to the County Executive



**Prince George's County
Office of Law**

LEGAL REVIEW DIRECTIVE

The following directives issued by Dr. Jacqueline Brown, Chief Administrative Officer, are applicable to all requests for legal review of contracts:

1. REQUIRED SUBMISSION DATE FOR LEGAL REVIEW

- 60 DAYS SUBMISSION TO THE OFFICE OF LAW PRIOR TO THE COMMENCEMENT OF THE PERFORMANCE PERIOD
- 5 DAYS SUBMISSION TO THE OFFICE OF LAW FROM THE DATE OF RECEIPT FROM RECEIPT FROM THE AGENCY FOR GRANTS AND OTHER DOCUMENTS THAT DO NOT ORIGINATE FROM THE COUNTY
- AGENCY MUST CONSULT WITH THE OFFICE OF LAW IN ORDER TO ADJUST THE TIME FRAME

2. NO SIGNATURES BEFORE APPROVAL

- DOCUMENTS SHALL NOT BE SIGNED BY VENDORS PRIOR TO SUBMISSION TO THE OFFICE OF LAW FOR LEGAL REVIEW

3. OFFICE OF LAW REVIEW TIME FRAME

- 30 DAYS FROM THE DATE OF RECEIPT BY THE OFFICE OF LAW
- AGENCY MUST CONSULT WITH OFFICE OF LAW TO ADJUST TIME FRAME

Please complete the Agency Request for Contract Review Form with Agency submission of contract.



PRINCE GEORGE'S COUNTY OFFICE OF LAW
AGENCY REQUEST FOR CONTRACT REVIEW FORM

Agency/Department: _____ Contact Name: _____
Phone Number: _____
Alternate Contact Name: _____ Phone Number: _____

Submission Date: _____

Request for expedited review: ___ Yes ___ No
If yes, please attach explanation.

Contract Title: _____

Project Description: _____

Type of Contract: (Select one or more)

- Goods/Services Construction Non-monetary agreement
 Lease Change Order
 Grant Award Release of Liability
 Option Agreement Settlement Agreement
 Application Inter/Intra Agency Agreement
 Other (Specify: _____)

Required Attachments (if applicable):

- Original Agreement All Prior Amendments
 Office Central Services (OCS) Approval
 Procurement and award documents
 Vendor Proposal(s)
 Risk Management Insurance Review
 Legislative Resolution/Bill
 OHRM Approval Letter (Contracts with Individuals)
 OITC Review (IT and Telecommunications Contracts)
 Other (Specify: _____)

VENDORS OATH AND CERTIFICATION

Pursuant to Subtitle 10, Section 10A-110 of the Prince George's County Code, the Purchasing Agent requests as a matter of law that any contractor receiving a contract or award from Prince George's County, Maryland, shall affirm under oath as below. Receipt of such certification, under oath, shall be a prerequisite to the award of contract and payment thereof.

"I (We) hereby declare and affirm under oath and the penalty of making a false statement that if the contract is awarded to our firm, partnership or corporation that no officer or employee of the County whether elected or appointed, is in any manner whatsoever interested in, or will receive or has been promised any benefit from, the profits or emoluments of this contract, unless such interest, ownership or benefit has been specifically authorized by resolution of the Board of Ethics pursuant to Section 1002 of the Charter of Prince George's County, Maryland; and

I (We) hereby declare and affirm under oath and the penalty of making a false statement that if the contract is awarded to our firm, partnership or corporation that no member of the elected governing body of Prince George's County, Maryland, or members of his or her immediate family, including spouse, parents or children, or any person representing or purporting to represent any member or members of the elected governing body has received or has been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political contribution, or any other similar form of remuneration and/or on account of the acts of awarding and/or executing this contract, unless such officer or employee has been exempted by Section 1002 of the Charter of Prince George's County, Maryland.

Handwritten Signature of Authorized Principal(s):

Name: Signature of Judy Burk Title: Vice President – Patient Care Services

CERTIFICATION OF ASSURANCE OF COMPLIANCE REGARDING FAIR LABOR STANDARDS ACT

In accordance with the Fair Labor Standards Act of 1938 (29 USCS, Sections 201-216, 217-219, 557), the implementing rules and regulations thereof, a Certificate of Compliance with the Fair Labor Standards Act of 1938 is required of bidders or prospective contractors receiving a contract or award from Prince George's County, Maryland. Receipt of such certification shall be a prerequisite to the award of contract and payment thereof.

Certification of Bidder

I (We) hereby certify that our firm, as producer of the goods to be purchased by Prince George's County, Maryland, has complied with all applicable requirements of the Fair Labor Standards Act of 1938 (29 USCS, Sections 201-216, 217-219, 557).

Handwritten Signature of Authorized Principal(s):

Name: Signature of Judy Burk Title: Vice President – Patient Care Services

Name of Firm/Partnership/Corporation: Fort Washington Medical Center

Date: _____

CORPORATE ACKNOWLEDGEMENT

Bond No. Leave Blank
Contract No. Leave Blank

STATE OF MARYLAND:

COUNTY OF Prince George's

Tax I.D. #: (what is the tax id #)

On this _____ day of _____, 2008, before me the undersigned

Notary, personally appeared Name of the President or other Corporate Officer
(Print or Type Corp. Sec or other Officer)

and acknowledge as follows:

That he/she is the Title of the Person listed above of the
(Print or Type Title)

_____, a corporation in good standing in
(Print or Type Name of Corporation)

the State of Maryland and named as Principal in the attached instrument;

That _____ as _____
(Print or Type Name or Corp. Officer signing contract) (Print or Type Title)

of said corporation, being so authorized, did sign the foregoing instrument on behalf of the Principal;

That said signature is genuine and that said instrument was duly signed, sealed and attested to on behalf
Of the said corporation by authority of the following officers of said corporation:

Signature of Person from line 4 above
(Signature)

Title of person who signs from line 4 above
(Print or Type Title)

(Print or Type Name)

(Signature)

(Print or Type Title)

(Print or Type Name)

(Signature)

(Print or Type Title)

(Print or Type Name)

And that said acknowledgement of the said instrument is the free act and deed of the said corporation.

(SEAL)

Signature of Notary Public
Notary Public



Administrative Procedure 120

Administrative Procedure 120 outlines the process for review and execution of all deeds, contracts, and other legally binding instruments that require the signature of the County Executive or his designee. This Administrative Procedure provides guidelines to all departments regarding the preparation and submission of contracts and all related documents to the Administrative Review Committee (ARC). This includes applicable Administrative and Executive Orders, encumbrance of County funds and the application, acceptance and use of Federal, State and other grant funds.

SUBJECT: Administrative Review Committee (ARC)

PURPOSE: The purpose of the ARC is to expedite paper and decision flow through the administrative bureaucracy. The existence of the ARC and its procedures does not preclude sequential processing of documents through the involved departments ("walk-through" of actions) where more timely attention is required than would be obtained from their presentation at the next ARC meeting; all "walk-through" actions are to be recorded in the logs required herein as if they had been presented and acted upon at one of the regular ARC meetings.

SCOPE: These Procedures outline handling of all proposed purchases anticipated to be more than \$1,000 or greater in unit cost.

AUTHORITY: Administrative Directive #3 - 1-22-73

RESPONSIBILITY: Chief Administrative Officer (CAO)

PROCEDURE:

1. A group to be known as the Administrative Review Committee (ARC) chaired by Chief Administrative Officer (herein after referred to as the CAO) or the Deputy CAO for Administration; the Chairman shall have one vote in determining ARC recommendations. In addition to the Chairman, the heads of the following offices, or their designees, shall sit as voting members of the ARC: Office of Budget and Programming, Office of Finance, Office of Law. The Director of the Office of Central Services, or his representative, shall sit at each meeting and advise the ARC. The ARC shall meet weekly unless otherwise directed by the CAO. The names of the ARC attendees as well as the names of persons bringing business before the ARC shall be recorded.

2. Requisition Procedures

a. All proposed purchases anticipated to be more than \$1,000 (one thousand dollars) or greater in unit cost shall be reviewed by the ARC. All proposals of this type, normally taking the form of a requisition but not limited thereto, shall be recorded in a Requisition Log.

b. Prior to submitting purchase requisitions to the ARC for the commodities listed below, those requisitions are to be coordinated with the Office of Central Services.

1) Photo-copiers of all types.

2) Duplication equipment; including mimeograph machines, scanners and printing equipment.

- 3) Radio and telephone communications equipment.
- 4) Postage machines and related equipment.
- 5) Microfilm equipment.

c. The Office of Central Services will provide the following as applicable:

- 1) Assist the requesting agency in selecting the most economical equipment to do the job.
- 2) Assist the using agency in preparing the necessary technical procurement descriptions for the required commodities.
- 3) Assure that the requested items are in conformance with County policy and long-range plans in the areas of communications and Administrative Services which are the assigned responsibility of the Director of Central Services.
- 4) In those areas where a department's request is incompatible with long-range plans or the function for which the equipment is intended can be provided by the Office of Central Services, the requesting department and the ARC will be notified via memorandum and alternatives will be proposed.

d. Processing of these actions shall be as follows:

- 1) Department transmits requisition or other proposed purchase documents to ARC, original and four copies.
- 2) ARC Secretary assigns transaction number and records in Requisition Log. Example: R001-73 (all ARC requisition transactions shall be numbered consecutively through the current calendar year.
- 3) ARC reviews and
 - a) approves
 - b) disapproves
 - c) holds for review and report
- 4) If approved
 - a) Original is stamped "approved pending availability of funds and encumbrance thereof" and forwarded to Central Services for purchase order origination
 - b) Copy held by ARC Secretary

c) Finance notifies ARC Secretary concerning fund availability and encumbering purchase order number, which shall be recorded in the log under "Document Number".

d) If the Office of Finance disapproves, the item shall be reconsidered at the next scheduled ARC meeting.

5) If Disapproved, the original requisition shall be stamped "disapproved", dated, signed by ARC Chairman, and the original returned to the originating department with a copy to the Office of Central Services; one requisition copy shall be maintained in the ARC files.

6) In the event of a disapproval, the ARC rationale for such action shall be recorded in the log and written explanatory statement transmitted to the originating department.

7) If held for review by ARC member(s) the document shall be:

a) held for reconsideration at a subsequent weekly ARC meeting;

b) approved subject to release by a particular ARC member(s):

1) upon release by the holding member during the following week, the log shall show approval (and Procedure Number 4 above activated); 2) if holding member disapproves, the item shall be reconsidered at the next scheduled ARC meeting.

3. Contract Procedures

a. All agreements requiring the County Executive's signature (except for professional service contracts of \$1,000 or less) shall be noted in the contract log and acted upon by the ARC, including those agreements resulting from the Professional Service Contract Procedure (outlined below) and those for which execution has been delegated to the Central Services Director.

b. Some contracts result from earlier requisition for service; these contracts shall be recorded in the contract log and cross-referenced to the earlier posting in the requisition log. Agreements between County agencies shall be processed through the ARC as would any other contract and transmitted to the County Executive for his approval.

c. Processing of these actions shall be as follows:

1) Contract document transmitted to the ARC by originating department, original and four copies.

2) ARC Secretary assigns transaction number and records in Contract Log. Example: C001-73 (all ARC contract transactions shall be numbered consecutively through the current calendar year.) If a CIP (Capital Improvement Contract) Project is involved, the project number is logged under subject column.

3) ARC reviews and

a) approves

b) disapproves

c) holds for review and report

4) If approved, original and four copies shall be stamped "approved", dated, signed by ARC Chairman, and transmitted to the County Executive for his consideration and signature.

5) If signed by the County Executive, distribution shall be made to the involved departments. The original shall be maintained in ARC files. This procedure may be modified by the ARC Chairman.

6) If disapproved, the original and all copies are so stamped, dated, the original signed by ARC Chairman, and original and all copies save one transmitted to the originating department; one copy of disapproved contract(s) shall be maintained in the ARC file.

7) In the event of a disapproval, the ARC rationale for such action shall be recorded in the Contract Log and a written explanatory statement transmitted to the originating department.

8) If held for review by ARC member(s) the contract document shall be:

a) held for reconsideration at a subsequent weekly ARC meeting;

b) approved subject to release by a particular ARC member; 1) upon releasing by the holding member during the following week, the contract log shall show approval and the original and four copies of the contract shall be stamped "approved", dated, signed by the ARC chairman and sent to the County Executive for his consideration and signature; 2) if holding member disapproves, the item shall be considered at the next scheduled meeting.

9) Contracts resulting from the bidding process are reviewed to insure final check on legal and fiscal aspects of the document, bearing in mind the considerable time lapse which sometimes occurs together with funding or policy changes which may have developed in the interim.

4. Professional Service Contract Procedures

These procedures and the log related thereto are subsidiary to and supportive of the contract procedure described in the preceding section of this directive.

a. Departmental requests for services are assigned to this category by the ARC chairman based upon the following criteria:

1) It is likely that more than one organization or individual not only provides the service but also would be attracted to the possibility of contracting with the County for such a service;

2) The anticipated contract cost exceeds \$1,000 (one thousand dollars);

3) It is likely that not only the quality of the desired service(s) but also the attractiveness of its pricing might be enhanced. Assignment of a specific case to the Professional Services Log may result from a draft contract submitted to the ARC or from an operating department request that the ARC institute the following proceedings for the selections of an organization or individual to provide the services.

b. Processing of professional selection actions shall be as follows:

1) Originating department transmits contract or request for contractor selection, with scope of work statement, if possible, to ARC, original and four copies.

2) ARC Secretary assigns transaction number and records in Professional Services Log. Example: P001-73 (all professional service transactions shall be numbered consecutively through the current calendar year.)

3) ARC Chairman assigns three or more individuals to proposal analysis group; the group so appointed shall reflect, through its membership, the needs of the requesting department as well as best available County expertise relative to the services requested, together with a member of the Central Services Department's Purchasing Staff, who shall provide expertise regarding methods of proposal solicitation and analysis.

4) ARC Chairman assigns one member of the Proposal Analysis Group (PAG) as the key person for that group.

5) Under the leadership of the key person (who shall be responsible for any written reports required of the group) the proposal analysis group:

- a) develops a request for proposal (RFP) for the professional services sought;
 - b) develops a list of prospective service contractors;
 - c) solicits proposals from firms or individuals interested in providing the services;
 - d) receives, evaluates, and analyzes professional service proposals;
 - e) determines a best choice recommendation for transmittal to County Executive together with a priority listing of all remaining qualified professional service firms or individuals;
 - f) reports in writing to the ARC all proposal analysis group activities together with rationale for selection of professional service choices.
- 6) Upon receipt of proposal analysis group's written recommendation, the ARC evaluates and either approves for transmittal to County Executive or returns written report to proposal analysis group for further refinement or further selection activity.
- 7) ARC Chairman reviews proposal analysis group findings with Executive staff and, upon selection of a professional service firm or individual, asks proposal analysis group to seek a signed contract with the proposed contractor.
- 8) Document signed by proposed contractor is entered in the contract log and processed in accordance with paragraphs 3c 2), 4), 5) and 8) appearing above in the Contract Procedures section of this directive.

5. Other Contract Considerations

Some requirements and procedural standards shall be applied to all contract arrangements.

a. Amendments to existing contracts (including change orders in excess of \$1,000) shall be treated as new contracts; in the case of professional service contracts, the original Proposal Analysis Group (PAG) may be called together once again to determine an appropriate course of action with respect to the proposed modification.

b. In instances where administrative or operational problems warrant a study which could result in expenditure of County funds through contract or requisition, a Proposal Analysis Group (PAG) may be appointed to study and report upon the problem so identified; this practice is encouraged to especially resolve those

problems which may involve the cooperation of several departments and offices of the County government.

6. Functional Roles of ARC's Member Offices

a. Further clarification of the ARC's review and control functions may be derived from the following task descriptions specific to office directors (or their designees) sitting as members of the ARC; these functions augment each member's responsibility to critically examine all matters brought before the ARC.

b. Director, Office of Finance. As a voting member of the ARC, certifies availability of funds in accordance with Charter Section 823; initiates procedures which will permit the most prudent use of FAMIS to aid in making this certification. Processes encumbrances for the estimated cost of various expenditures proposed to the ARC prior to the approval by the ARC of such proposed expenditures.

c. Director, Office of Budget and Programming. As a voting member, reviews all items coming before the ARC to insure that they are consistent with the approved budget, including the policies, programs, and appropriations contained therein.

d. Director, Office of Law. As a voting member, reviews and checks all documents and/or proposals for legality under the Charter and laws of Prince George's County, as well as under the Constitution and Laws of Maryland and the United States; approves for legality all documents and/or proposals found legally sufficient. Recommends additions, deletions, and other alterations to all documents and/or proposals failing in legal sufficiency.

e. Director, Office of Central Services. As a non-voting member advises the ARC with respect to purchasing policies, practices, and the status of capital outlay budgets for each County agency. Advises the ARC regarding selection of proposed contractors, vendors, or contract professionals, and advises the ARC in regard to applicable procurement policy procedures and techniques. Serves as "RFP" representative to all appointed Proposal Analysis Groups (PAG); assists in the preparation of scope of work statements, the development of prospective contractor lists, and the evaluation of professional service proposals.

FORMS, REPORTS, SCHEDULES
MENTIONED

Requisition Log
Contract Log
Professional Log

INDEXING

Administrative Review Committee (ARC)
 purpose
 membership
 proposal analysis group
 request for proposal
 walk through actions
Committees
 Administrative Review Committee (ARC)
Contracts
 log, Administrative Review Committee
 procedures
 professional services
 review and approval
Log
 Administrative Review Committee logs
 contract logs
 requisition, Administrative Review
 Committee
Professional Services
 contracts for
Proposal Analysis Group
 responsibility
 relation with Administrative Review
 Committee
Purchases
 review of by Administrative
 Review Committee
Requisitions
 Administrative Review Committee
 coordination with Central
 Services
Walk through Actions
 Administrative Review Committee

**PRINCE GEORGE'S COUNTY
OFFICE OF LAW**



CONTRACT DRAFTING



**Prince George's County
Office of Law**

LEGAL REVIEW DIRECTIVE

REQUIRED SUBMISSION DATE FOR LEGAL REVIEW

- 60 DAYS SUBMISSION PRIOR TO THE COMMENCEMENT OF THE PERFORMANCE PERIOD
- 5 DAYS FROM THE DATE OF RECEIPT FOR GRANTS AND OTHER DOCUMENTS THAT DO NOT ORIGINATE FROM THE COUNTY

NO THIRD PARTY EXECUTIONS

REQUIRED ATTACHMENTS

- LEGAL CONSULTATIVE CHECKLIST
- ORIGINAL AGREEMENT AND OTHER RELATED DOCUMENTS

REVIEW TIME FRAME

- 30 DAYS FROM THE DATE OF RECEIPT BY THE OFFICE OF LAW

OTHER EXCEPTIONS

MEMORANDUM

To: All Department/Agency Heads

From: Dr. Jacqueline F. Brown [original signed]
Chief Administrative Officer

Date: December 22, 2006

Re: Preliminary Operations Review Checklist

As the Johnson administration moves into its second term, interagency collaboration will continue to enable the government to operate in an effective and expeditious manner. **Five core government agencies have been identified as the initial keys to getting things done in a proper manner.** Those agencies are: Office of Human Resources Management, Office of Management and Budget, Office of Central Services, Office of Information Technology and Communication, and the Office of Law.

Effective January 8, 2007 agency initiatives which require obligation of funds, staffing request, technology support, legal review, and/or a review of procurement regulations must be channeled through the five core agencies **prior** to receiving approval by the appropriate Deputy Chief Administrative Officer or Chief of Staff, and final approval by the Chief Administrative Officer. Please be advised that all procurement requests will follow the normal procurement process. The agency should indicate the timeline required for recommendation and response from each core agency and the priority placed on the request. In some instances a core agency will indicate that approval is not applicable. Any request that is not reviewed by all five core agencies will not be executed. Listed below are the responsibilities of the five core agencies:

1. Office of Human Resources Management (OHRM) will verify whether or not request(s) are in line with County position classifications or County staffing policies.
2. Office of Management and Budget will verify whether or not fiscal and staffing resources are budgeted to support the request(s).
3. Office of Information Technology and Communication will determine whether or not technology support is required and available, and what is involved in implementing the request(s).
4. Office of Central Services will verify whether or not the request is in compliance with contract and procurement policy and, where appropriate, with purchasing card policy and land acquisition and leasing policies.
5. Office of Law will review the request(s) for legal sufficiency and whether legal concerns and legal implications need to be addressed.

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All Department/Agency Heads

Memorandum – Preliminary Operations Review Checklist

Page two

Attached for your review is an example of the six-part Checklist form for agency generated projects and programs. The Checklist form should be sent simultaneously to the five core agencies for completion. The five core agencies review forms must accompany the documents for final execution. The six-part checklist form will be accessible from the Office of Central of Services.

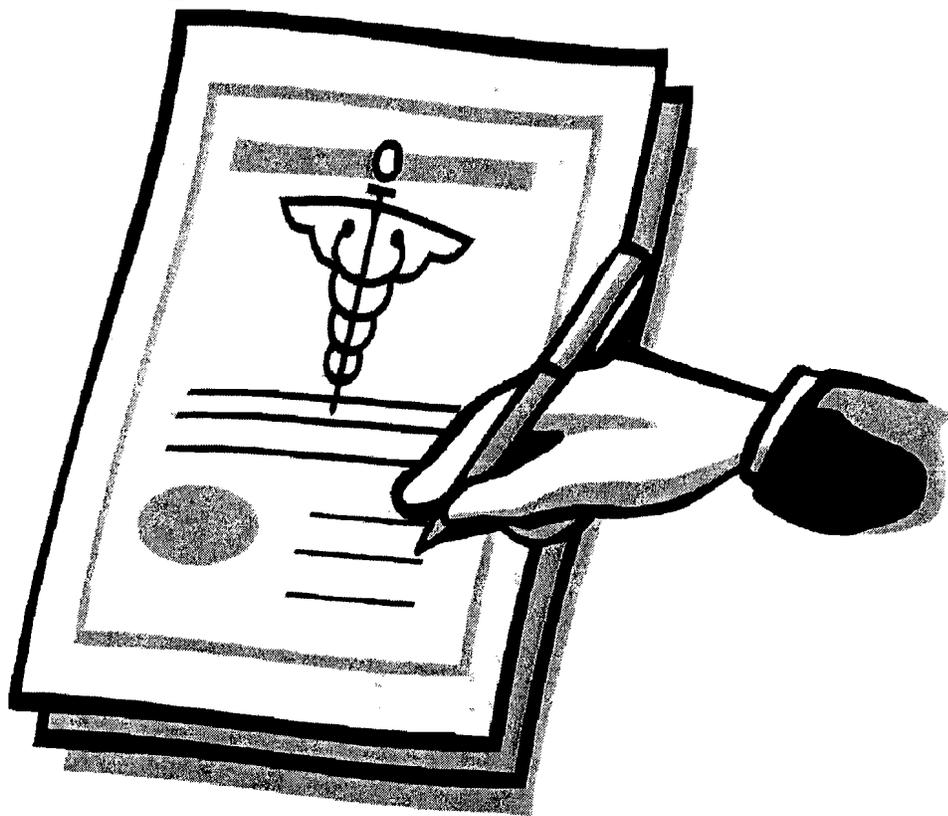
Working together we can accomplish great things! Thank you for your cooperation.

Attachment

(Example – Checklist for Agency Generated Projects and Programs)

cc: The Honorable Jack B. Johnson, County Executive
Michael D. Herman, Chief of Staff
Iris B. Boswell, DCAO for Budget and Finance
Howard A. Burnett, DCAO for Health and Human Services
David J. Byrd, DCAO for Governmental Operations/Environmental Services
Vernon R. Herron, DCAO for Public Safety and Director for Homeland Security
Pamela H. Piper, DCAO for Government Internal Support Services and Director,
Office of Central Services
Ralph E. Moultrie, Special Assistant to the County Executive
Donald Bridgeman, Director, Human Resources Management
Jonathan R. Seeman, Director, Office of Management and Budget
Tanya E. Gott, Acting Director, Office of Information Technology and Communications
David S. Whitacre, County Attorney, Office of Law

LEGAL SUFFICIENCY ANALYSIS



The Prince George's County Office of Law analyzes and evaluates all transactional documents submitted for legal review based upon the following criteria:

- * Contracting Authority
- * Procurement Authority
- * Contract Terms and Conditions



Contracting Authority

"PRINCE GEORGE'S COUNTY, MARYLAND"

LEGISLATIVE OVERVIEW:

CHARTER FOR PRINCE GEORGE'S COUNTY, MARYLAND

ARTICLE I. NAME AND RIGHTS OF THE COUNTY.

Section 101. Body Corporate and Politic.

~~Prince George's County as it now exists constitutes a body corporate and politic.~~ Under this Charter it shall have all rights and powers of local self-government and home rule as are now or may hereafter be provided or implied by this Charter and by the Constitution and laws of the State of Maryland. The County shall have all such powers as freely and completely as though they were specifically enumerated in this Charter, and no enumeration of powers in this Charter shall be deemed exclusive or restrictive.

Section 103. Name and Boundaries.

The corporate name shall be "~~Prince George's County, Maryland,~~" and it shall thus be designated in all actions and proceedings touching its rights, powers, properties, liabilities, and duties. Its boundaries and County seat shall be and remain as they are at the time this Charter takes effect unless otherwise changed in accordance with law.

ARTICLE IV. EXECUTIVE BRANCH

Section 402(8). Executive Power and Duties, in relevant part, states as follows:

All executive power vested in Prince George's County by the Constitution and laws of Maryland and this Charter shall be vested in the County Executive who shall be the chief executive officer of the County and who shall faithfully execute the laws. His powers, duties, and responsibilities shall include, but shall not be limited to: ... ~~(8) signing or causing to be signed on the County's behalf all deeds, contracts and other instruments, including those which, prior to the adoption of this Charter, required the signature of the Chairman or any member of the Board of County Commissioners, and affixing the County Seal thereto; (9) preparing and submitting to the County Council semi-annual reports of certain exempt positions consistent with Section 806 of this Charter;~~... (Amended, CB-80-1988, ratified Nov. 8, 1988; Amended, CB-58-2006, ratified Nov. 7, 2006)¹

¹ Pursuant to Executive Order No. 49-1986, the authority to execute agreements on behalf of the County is delegated to the Chief Administrative Officer and designated Deputy Chief Administrative Officers.



Contracting Authority County Contractors

Who can do business with the County?

Any legal entity or individuals that are authorized to do business in the State of Maryland and are in good standing with the State and the County.

Certification of Authority to Contract

Business entities and individuals seeking to execute contracts with the County must show proof of authority bind.

- * Corporate Acknowledgment
- * Limited Liability Entities (LLC/LLP)
- * Sole Proprietor's Affidavit



Procurement Authority

Acquisition of Goods, Services and Construction

Centralization of Contractual Authority:

Prince George's County Code, Sec. 10A-103:

(a) All rights, powers, duties, and authority relating to the acquisition of supplies, construction, services, printing, and insurance, and the management, control, warehousing, sale, and disposal of supplies now vested in or exercised by any County agency under the several statutes relating thereto, are the responsibility of the Purchasing Agent as provided herein.

(b) General Powers of the Purchasing Agent. The Purchasing Agent shall have power and authority over, and shall adopt regulations consistent with this Subtitle, governing the procurement, management, control, and disposal of any and all supplies, services, construction, insurance, and other items required to be procured by the County.

(c) No agency shall, during any fiscal year, expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose in excess of the amounts appropriated or allotted for the same general classification of expenditure in the budget for such fiscal year, or in any supplemental appropriation as hereinabove provided; and no such payment shall be made nor any obligation or liability incurred, except for purchases in an amount not to exceed One Thousand Dollars (\$1,000), unless the Director of Finance or his designee shall first certify that the funds for the designated purpose are available.

(d) Except as provided herein or pursuant to authorization by executive order of the County Executive, it shall be unlawful for any County official, elected or appointed, or any employee or person to make, alter, suspend, or terminate any contract or letter contract governed by this Subtitle on behalf of the County other than through the Purchasing Agent; and any such purchase, contract, or letter contract made or changed contrary to the provisions hereof may be declared void by the County.

(CB-1-1992)



**PRINCE GEORGE'S COUNTY OFFICE OF LAW
AGENCY REQUEST FOR CONTRACT REVIEW FORM**

Agency/Department: _____ Contact Name: _____
Phone Number: _____
Alternate Contact Name: _____ Phone Number: _____

Submission Date: _____

Request for expedited review: ___ Yes ___ No
If yes, please attach explanation.

Contract Title: _____

Project Description: _____

Type of Contract: (Select one or more)

- Goods/Services Construction Non-monetary agreement
 Lease Change Order
 Grant Award Release of Liability
 Option Agreement Settlement Agreement
 Application Inter/Intra Agency Agreement
 Other (Specify: _____)

Required Attachments (if applicable):

- Original Agreement All Prior Amendments
 Office Central Services (OCS) Approval
 Procurement and award documents
 Vendor Proposal(s)
 Risk Management Insurance Review
 Legislative Resolution/Bill
 OHRM Approval Letter (Contracts with Individuals)
 OITC Review (IT and Telecommunications Contracts)
 Other (Specify): _____

Prince George's County Office of Law
CONTRACT DRAFTING CHECKLIST

Document Title: Descriptive reference provided. (i.e. Amendment #1)

Introductory Paragraph:

Execution date is left blank.

Consistent use of party names:

“Prince George’s County, Maryland, a body corporate and politic, on behalf of ...(agency/department)”

Contractor’s legal name and address (Check the Maryland State Dept. of Assessment and Taxation website.)

All parties are defined in short form (hereinafter referred to as the “County”, “Contractor”, “Subrecipient.”)

Recitals: Use “WHEREAS” clauses to reference the following information:

Contractor’s appropriate experience, staffing, technical qualifications, and facilities.

Procurement process (RFB, RFA, IFA, IFB, etc.)

Prior agreements and execution dates.

Performance period extension options.

Justification for contract modification and or extension.

LIMITATIONS: Recitals should only be used to discuss the factual circumstances that induced the parties to enter into the contractual agreement. All performance obligations should be expressed as “Terms and Conditions” of the agreement.

Transitional Clause: “NOW, THEREFORE, in consideration of mutual agreements and promises contained herein, it is mutually agreed by and between the parties to this agreement as follows: ...”

Contract Provisions:

Scope of Services: Adequately describe the duties and tasks to be performed by the parties.

Term of Performance: Period of performance of services.

Extensions: The County generally negotiates to have the unilateral option to extend contracts.

Compensation: Express as a “total amount not to exceed _____ dollars.”

Fiscal Funding Clause: Compensation subject to continued availability of funding for contracts that extend beyond one fiscal year

Performance Measures: Do requirements satisfy any State or Federally mandated outcomes.

Insurance: All liability coverage limits should be approved by the Office of Risk Management.

Indemnification

Remedies: Are non-performance and default of contract remedies included?

Governing Law: Reference the laws of the State of Maryland and Prince George's County.

Non-Assignment

Termination

Notice

*DRAFT FOR TRAINING

Basic Contract Elements

Document Title

SERVICE AGREEMENT

BETWEEN

AND

PRINCE GEORGE'S COUNTY, MARYLAND

Introductory clause should always reference County and Contractor by legal name. By its legal name be used to reference the facts that induced the parties to enter in the agreement.

THIS AGREEMENT (the "Agreement"), is made this ___ day of _____, 2___ by and between _____ (hereinafter called the "Contractor"), and Prince George's County, Maryland, a body corporate and politic (hereinafter called the "County") on behalf of the Prince George's County _____ (AGENCY/DEPARTMENT).

Recitals should be used to reference the facts that induced the parties to enter in the agreement.

Recitals:

WHEREAS, the County issued a solicitation bid to secure offers for a _____; and

WHEREAS, the County has decided to award the contract therefore to the Contractor.

Witness Clause

WITNESSETH, that for and in consideration of their mutual promises and agreements as herein set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged by all parties, it is agreed between the Contractor and the County as follows:

General Terms and Conditions

1. **CONTRACT DOCUMENTS.** The contract between the parties (the "Contract") is set forth in the following documents, which are attached hereto, incorporated by reference, and shall be collectively referred to as the "Contract Documents":

- A. This Agreement and attachments;
- B. The County's Solicitation Bid Number _____ dated _____,
- C. Contractor's Technical Response dated and Price Bid dated _____

Both parties are bound to and will abide by all terms and conditions of the Contract Documents.

2. **SCOPE OF WORK.** The Contractor shall provide _____



3. **COMPENSATION.** The County shall pay the Contractor for services to be provided under this Agreement in an amount not to exceed \$ _____ (_____ Dollars).

4. **TERM OF PERFORMANCE.** This Agreement shall commence on _____, 2____ and terminate on _____, 2____. This Agreement may be extended at the County's sole option for () _____ additional _____ () year extensions.

5. **AVAILABILITY OF FUNDS.** This Agreement shall be deemed executory only to the extent that appropriations are available for the purpose of this service. The County's continuing obligation under the Contract, which envisions County funding through successive fiscal periods, shall be contingent upon actual appropriations for the following fiscal year. If the County is unable to secure appropriations for any fiscal year during the term of this Agreement, then the Contractor shall have the right to terminate this Agreement upon thirty (30) days written notice.

6. **TERMINATION FOR CONVENIENCE.** The performance of work under the Contract may be terminated by the County upon thirty (30) days written notice, or such time as mutually agreeable to the parties not to exceed thirty (30) days, in accordance with this clause in whole, or from time-to-time in part, whenever the County's Purchasing Agent shall determine that such termination is in the best interest of the County. The County will pay all reasonable costs associated with the Contract, which the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits, which have not been earned up to the date of termination.

7. **TERMINATION FOR DEFAULT.** If the Contractor fails to fulfill its obligations under the Contract properly and on time or otherwise violates any provision of the Contract, the County may terminate the Contract by written notice to the Contractor. The written notice shall specify the acts or omissions relied on as cause for termination. All finished services provided by the Contractor shall, at the County's option, become the County property. The County shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages or deduct from monies due the Contractor on this or other County contracts. Damages may include excess procurement costs.

8. **GOVERNING LAW; SEVERABILITY; AND ORDER OF PRECEDENCE IN CONFLICT AMONG CONTRACT DOCUMENTS.** The Contract shall be governed by and construed in accordance with the laws of Prince George's County and the State of Maryland. In

case any one or more of the provisions contained in the Contract Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of the Contract Documents which shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. In the event of a conflict between the terms and conditions of any of the Contract Documents, the controlling terms and conditions shall be in this order:

- A. this Agreement; then
- B. the Multi-Step Bid, then
- C. the Technical Response and Price Bid.

9. **INDEMNIFICATION.** The Contractor shall indemnify and hold harmless the County, their agents, officials, and employees, from any liability, damage, expense, cause of action, suit, claim or judgment arising from injury to person including death or personal property or otherwise which arises out of the act, failure to act, or negligence of the Contractor, its agents and employees, in connection with or arising out of the performance of the Contract. The Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connections therewith, and if any judgment shall be rendered against the County in any such action, the Contractor shall, at its own expense, satisfy and discharge same. The Contractor expressly understands and agrees that any performance bond or insurance protection required by the Contract or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, defend and hold harmless the County as herein provided

All County contracts should be reviewed by the Office of Risk Management for insurance sufficiency.

10. **INSURANCE.** The Contractor shall perform services with the degree of skill and judgment that is normally exercised by recognized professionals, paraprofessionals and voluntary service organizations with respect to services of a similar nature. The Contractor shall take proper safety and health precautions to protect the work environment, employees, the public and the property of others from any damages or injury resulting solely from the performance of work described herein. The County shall not be liable for any injuries to the employees, agents or assignees of the Contractor arising out of or during the course of employment relating to this Agreement. The Contractor has in force or shall obtain, and will maintain insurance in not less than the following amounts during the performance of the services called for in this Agreement:

Worker's Compensation Insurance: An insurance policy covering the Contractor's employees as required by Maryland law.

Commercial General Liability Insurance (CGL): An insurance policy covering the liability of the Grantee for all work or operations under or in connection with this Agreement and all obligations assumed by the Grantee under this Agreement with limits as follows:

1. Bodily Injury or Death:
 - a. \$1,000,000 each occurrence
 - b. \$2,000,000 each aggregate
2. Property Damage:
 - a. \$1,000,000 each occurrence
 - b. \$2,000,000 each aggregate

Comprehensive Automobile Liability Insurance covering bodily injury and property damage with limits as follows:

- 1. Bodily Injury:
 - a. \$1,000,000 each occurrence
- 2. Property Damage:
 - a. \$1,000,000 each occurrence

Professional Liability
\$1,000,000 each occurrence

Physical Sexual Abuse Liability Insurance
1. \$100,000 each person
2. \$300,000 each occurrence

The Contractor will furnish to the County "Certificates of Insurance," which shall list "Prince George's County, Maryland" as an **additional insured** and provide that the County shall be notified by the insurer at least thirty (30) days prior to cancellation or material change of any such coverage.

11. **SUCCESSORS AND ASSIGNS.** The terms and conditions contained in the Contract Documents shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

12. **ASSIGNMENT OF CONTRACT.** It is mutually understood and agreed that the Contractor shall not assign, transfer, convey or otherwise dispose of its right, title or interest in the Contract, or its power to execute any of the Contract Documents, to any other person, firm or corporation, without the previous written consent of the County's Purchasing Agent, but in no case shall such consent relieve the Contractor from the obligations, or change the terms of the Contract.

13. **PROJECT COORDINATOR.** The County will designate a Project Coordinator who shall be the liaison between the County and the Contractor during the term of the Contract and who shall be responsible for overseeing the successful and harmonious completion of the Contract.

14. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing and either delivered by hand or by courier, or deposited in the United States mail, postage prepaid certified or registered return receipt requested and addressed as follows:

To County: _____

With Copies to: _____

and
 County Attorney
 Office of Law, Room 5121
 14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772

To Contractor _____

15. **FURTHER ASSURANCES.** The parties agree that they shall at any time and from time to time prior to or after the execution of this Agreement, execute and deliver any and all additional writing, instruments and other documents and shall take such further action as shall be reasonably required or requested by the other party to effectuate the transactions contemplated by this Agreement.

16. **CAPTIONS.** The captions of this Agreement are for convenience and reference only, and in no way define or limit the interests, rights, or obligations of the parties hereunder.

17. **RECITALS.** The Recitals are expressly incorporated herein by reference.

18. **INTERPRETATION.** This Agreement shall be construed as a whole and in accordance with its fair meaning, and shall not be construed either for or against either party. any exhibits or attachments annexed hereto shall be deemed an integral part of this Agreement with the same force and effect as if set forth in full herein. All references made and pronouns used herein shall be construed in the singular or plural, and in such gender as the sense and circumstances require. References to all section numbers, subsection numbers, exhibits or attachments shall refer to such section, subsection, exhibit and attachment in this Agreement unless otherwise expressly provided.

19. **CUMULATIVE RIGHTS; WAIVERS.** Each and every right granted to a party hereunder, or in any other document contemplated hereby or delivered under or executed concurrently herewith, or by law or equity, shall be cumulative and be exercised at any time, or from time to time. No failure on the part of any party to exercise, and no delay in exercising, any right shall not operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right. the failure of any party at any time, from time to time to require performance by any other party of any term, condition or provision of the Contract Documents shall in no way alter or otherwise affect the right of such party at a later time to enforce the same. No waiver by any party of any condition, or of the breach of any term, covenant or provision contained in the Contract Documents, whether by conduct or otherwise, at any time or from time to time, shall be deemed to be or construed as a further or continuing waiver of such condition or breach or as a waiver of any other condition or of any other or subsequent breach of the same of any other term, covenant or provision.

20. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single Agreement.

21. **FINAL AGREEMENT.** This Agreement contains the final, entire agreement between the parties hereto, and shall supersede all prior correspondence and agreements or understandings with respect thereto. this Agreement shall not be modified or changed orally, but only by an agreement in writing, signed by the authorizing official of the party against whom enforcement of any such change is sought. For purposes of this section, authorizing official of the County shall be either the County Executive, Chief Administrative Officer, or the Deputy Chief Administrative Officer who executes this Agreement.

22. **CERTIFICATION OF SIGNATORIES/AUTHORIZED PERSONS.** The signatories executing this Agreement on behalf of the County and the Contractor warrant and represent that they have the legal authority to do so, and furthermore agree that each shall, upon request of the other party, furnish legally sufficient evidence of such authority.

23. **ATTACHMENTS.** The following documents are attached hereto and incorporated by reference:

- A - Contractor's Certificates of Insurance evidencing insurance coverage as required by the Contract Documents;
- B - Contractor's Proposal

IN WITNESS WHEREOF, the parties have signed, sealed and delivered these presents as of their own free act and deed as of the dates noted below.



CONTRACTOR:

Attest:

Name:
Title:

BY: _____
Name:
Title:

PRINCE GEORGE'S COUNTY, MARYLAND

WITNESS

BY: _____
Name:
Title:

Reviewed and Approval Recommended:

Agency Director DATE

Reviewed for Legal Sufficiency:

Office of Law DATE

DRAFT AMENDMENT

Document Title

AMENDMENT NO. 2

AGREEMENT FOR

BETWEEN

AND

PRINCE GEORGE'S COUNTY, MARYLAND

This Second Amendment made this _____ day of _____, 2____, by and between PRINCE GEORGE'S COUNTY, Maryland, a body corporate and politic, hereinafter referred to as the "County," on behalf of (agency/department) and _____ (hereinafter called the "Contractor") having a business address of _____.

Deleted: First

Use recitals to reference prior executed agreements.

Whereas, the parties entered into a contract pursuant to RFP No. S0_-0__ (the "Original Contract") on _____, 2____ related to advisory services for the County's in accordance with the scope of work and responsibilities as more particularly described in the Contract Documents, including, without limitation, Section III of the RFP; and

Deleted:

Whereas, the initial term of the Original Contract commenced on _____, 2____ and extended through _____, 2____ (ARC# _____); and Amendment #1 commenced on _____, 2____ (ARC# _____) and will terminate on _____, 2____; and

Deleted: The Contractor will perform ad-hoc work at the request of the County to include but not limited to wellness initiative and Medicare Part D subsidy. The Contractor has also agreed to perform additional services, as outlined in Amendment No. 1, to assist the County in meeting the requirements of pending accounting and reporting standards affecting Other Post-employment Benefits (OPEB) that are under consideration by the Governmental Accounting Standards Board (GASB). ¶

Whereas, the County is satisfied with the services and the County desires to continue its relations with the Contractor; and

Whereas, the Original Contract contains three additional one-year periods to renew; and

Change date of award

NOW, THEREFORE, the County and Contractor hereby mutually agree the Original Contract is amended as follows:

1. That all recitals set forth above are incorporated herein and are made part of this Amendment.

2. SECTION 4: TERM OF THE CONTRACT: The time of performance shall commence on _____, 2____ and end on _____, 2____.

3. SECTION 5: COMPENSATION: The County shall pay the Contractor compensation in an amount not to exceed \$ _____ (_____ dollars) for services to be performed during the extension period of _____, 2____ through _____, 2007. The pricing outlined in Attachment 1 of this Amendment No. 2, and dated _____, _____, will apply to these services.

Deleted: incurred

Deleted: contract for the se vices

Deleted: outlined in Section III of the RFP for the extension period

Deleted: ,

Deleted: , shall total

Deleted: services for any ad-hoc work and those associated with GASB

[Redacted Signature]

4. All other terms and conditions of the Original Contract and Addenda Nos. 1 and 2, dated _____, _____, and Contractor's Technical and Price Proposal (collectively, the "Proposal"), both dated _____, _____, remain unchanged and fully enforceable with respect to this Amendment.

5. The County and the Contractor agree that all other terms from the original Contract that were not otherwise amended herein shall remain in unchanged and fully enforceable with respect to this Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 on the date and year first written above.

[Redacted Signature]

CONTRACTOR:

BY: _____
Name: _____
Title: _____

Witness

COUNTY:

PRINCE GEORGE'S COUNTY, MARYLAND

Witness

BY: _____
Name: _____
Title: _____

Reviewed and Approved Recommended:

Director
Agency/Department

Reviewed for Legal Sufficiency:

Office of Law



General Contracting Terms Prince George's County Code

Section 10A-101 Definitions.

(a) The words defined in this Section shall have the meanings set forth below whenever they appear in this Subtitle unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular provision.

(1) **Agency** means any department, agency, board, commission, or any other unit of the County government or any agency which:

(A) Receives funding from County funds; or

(B) Is made subject to County procurement law by any local, State, or Federal law.

(2) **Award** means the decision by the Purchasing Agent or the Purchasing Agent's designee to execute a purchase agreement or contract after all necessary approvals have been obtained.

(2.1) **Best Value** means the combination of relevant quality, performance and other source selection factors, in addition to the price, that results in optimal return to the County in meeting the pre-determined objectives and requirements of a procurement.

(3) **Broker** means generally a person or business entity that operates predominantly as a middleman and sells goods and services on a pass-through basis, as set forth in the regulations.

(4) **Business** means any association, corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(4.1) **Certified sheltered workshop** means an agency that is:

(A) Organized under the laws of the United States or the State of Maryland;

(B) Certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

(C) Accredited by the Division of Vocational Rehabilitation of the Maryland Department of Education;

(D) Operated in the interest of individuals who have a mental or physical disability, including blindness, that constitutes a substantial handicap to employment and prevents the individual from engaging in normal competitive employment; and

(E) The net income of which does not inure wholly or partially to the benefit of any shareholder or other non-disabled individual.

(CB-76-2002)

(5) **Change order** means a written order signed by the Purchasing Agent or the Purchasing Agent's designee, directing the contractor to make changes which the Changes Clause of the contract authorizes the Purchasing Agent to order without the consent of the contractor.

(6) **Commission** means the Minority Business Opportunities Commission.

(7) **Conditional suspension** means an administrative action by the Purchasing Agent disqualifying a person for reasons of unsatisfactory performance or default on County contracts from either bidding or submitting proposals on County contracts, acting as a supplier of goods or

services on procurement, or acting as a subcontractor on a County contract until the disqualified person:

- (A) Complies with specified conditions;
- (B) Corrects specified defects affecting performance or ability to perform; or
- (C) Takes action to cure the conditions leading to the conditional suspension.

(8) **Construction** means the process of building, altering, or improving any public road, bridge, structure, building, or other public improvements of any kind to any public real property. It does not include the routine operation, repair, or maintenance of existing structures or buildings.

(9) **Construction management services** means services performed by a person who is experienced in construction and has the ability to evaluate and to implement plans and specifications as they affect time, cost, and quality of construction and the ability to coordinate the design and construction of a project, including the administration of change orders.

Contract means any written agreement or order for the purchase or disposal of supplies, services, construction, insurance, or any other item. It includes, but is not limited to, contracts of a fixed price, cost reimbursement, cost plus a fixed fee, or incentive type; contracts providing for the issuance of job or task orders; grants; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

(11) **Contract modification** means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

(12) **Contractor** means any business or person having a written contract with the County.

(13) **County-based business** means a business whose principal place of operation is located within Prince George's County. Principal place of operation shall be determined by factors as set forth in the regulations.

(14) **County funds** means any monies received by the County or appropriated or approved by the Council or to which the County may at any time have legal or equitable title.

(15) **Debarment** means the action whereby a prospective bidder or offeror or contractor is barred from participating in County procurement-related activities for a specified period of time pursuant to the requirements of this Subtitle.

(16) **Designee** means a duly authorized representative of a person holding a specified position. Such authorization shall be in writing.

(17) **Emergency** shall mean a situation resulting from unexpected or unanticipated events which requires immediate action to maintain or restore existing levels of essential public services; to preserve or prevent further deterioration of public property; to provide temporary food, clothing, or shelter to disaster victims; or to prevent damage to property or preserve life or safety.

(18) **Employee** means any classified or exempt service employee of the County and any County elected official.

(19) **Established catalog or market price** means the price included in the most current catalog, price list, schedule, or other form that:

- (A) Is regularly maintained by the manufacturer or vendor of an item;
- (B) Is either published or otherwise available for inspection by customers; and

(C) (i) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that time; or

(ii) States discounted prices at which sales are currently or were last made to local, state, or Federal agencies.

(20) **Evaluated bid price** means the dollar amount of a bid, after bid adjustments are made pursuant to the evaluation factors set forth in the Invitation For Bids, which measures the effective price to the County. Such price shall take into account factors which contribute to economy and effectiveness in the operation or use of the item being purchased, such as reliability, maintainability, useful life, and residual value.

(21) **Executive Director** means the Executive Director of the Minority Business Opportunities Commission.

(22) **Improper conduct** includes, by way of example and not limitation, intentional billing irregularities, allocating costs from firm fixed-price contracts to cost-reimbursement contracts, submitting false claims, causing competition to be restrained or limited, misrepresentation, involving falsely claiming to be a minority business enterprise, indictment for any of the above causes, or indictment for offenses specified in Division 6, Subdivision 8, when the indictment is the result of alleged misconduct in connection with a County bid, proposal, or contract.

(23) **Invitation for Bids** means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in Section 10A-112 of this Subtitle.

(24) **Letter contract** means the written preliminary contractual document that authorizes the contractor to begin a portion of the agreed-upon services immediately. A letter contract is always associated with a definitive contract and can never be the sole document used to complete a procurement.

(25) **Maryland-based business** means a business whose principal place of operation is located within the State of Maryland. Principal place of operation shall be determined by factors as set forth in the regulations.

(26) **Minority business enterprise** means any business enterprise:

(A) Which is at least fifty-one percent (51%) owned by one or more minority individuals, or, in the case of any publicly-owned corporation, at least fifty-one percent (51%) of the stock of which is owned by one or more minority individuals; and

(B) Whose general management and daily business affairs and essential productive operations are controlled by one or more minority individuals; and

(C) Which has been certified by the Commission as a Minority Business Enterprise pursuant to Section 2-452(j) of this Code.

(27) **Minority individuals** are those who have been subjected to prejudice or cultural bias because of their identity as a member of a group in terms of race, color, ethnic origin, or gender, without regard to their individual capabilities. Minority individuals are limited to members of the following groups:

(A) African Americans (Black Americans);

(B) Asian Americans;

(C) Hispanic Americans; and

(D) Females.

(28) **Negotiation** means contracting by any of the methods set forth in Sections 10A-113, 10A-114, and 10A-115.

(29) **Participation Agreement** means an agreement entered by the County and a developer pursuant to Section 10A-141 of this Subtitle wherein the County contributes funds for the construction of regional stormwater management facilities or road improvements to be constructed by or contracted by the developer.

(29.1) **Performance-Based Contracting** means utilizing objective criteria or measurements, as determined by the Purchasing Agent, for determining whether a contractor is adequately performing the requirements and specifications of the contract, in accordance with the authority granted to the Purchasing Agent under 10A-103 of this Subtitle.

(30) **Procure** means to buy, rent, lease, lease-purchase, or otherwise obtain any supplies, services, or construction. It includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, and preparation and award of contract. The term does not include the making of any grant or donation.

(31) **Procurement Officer** means any person authorized by the Director of the Office of Central Services, as Purchasing Agent, in accordance with procedures prescribed by regulations, to enter into and administer contracts and make determinations and findings with respect thereto. The term shall also include individuals subordinate to the Purchasing Agent acting within the limits of their delegated procurement authority. This authority shall be designated in writing by the County's Director of Central Services, in his/her capacity as Purchasing Agent, for such period of time as shall be stated in the written designation.

(32) **Proposal Analysis Group (PAG)** is an issue specific group which is responsible for the defining and drafting of Requests For Proposals, soliciting responses, evaluating responses, and recommending the top three evaluated providers to the Director of Central Services, as Purchasing Agent, for contracts for which competitive bidding is inappropriate.

(33) **Purchase request** means that mechanism whereby an agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitation, suggested sources of supply, and information supplied for the making of any determination and finding required pursuant to any applicable provision of this Subtitle.

(34) **Purchased item** means any supply, service, printing, insurance policy or coverage, construction, or any other item purchased by this County.

(35) **Purchasing Agent** means the Director of Central Services.

(36) **Request for Proposals** means all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in Section 10A-113 of this Subtitle.

(37) **Responsible bidder or offeror** means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good-faith performance.

(38) **Responsive bidder** means one who has submitted a bid under Section 10A-112 of this Subtitle which conforms in all material respects to the Invitation For Bid.

(39) **Service** means the rendering, by a contractor, of time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services. It includes, but is not limited to, the services provided by architects, engineers, accountants, physicians, consultants, and other professional persons.

(40) **Solicitation** means any request of the County to enter into a contract.

(41) **Supplemental agreement** means any contract modification which is accomplished by the mutual action of the parties.

(42) **Supplies** means all tangible and intellectual property except real property or any interest in real property.

(43) **Unsatisfactory performance** means establishing a record of poor performance or default on one or more contracts for construction, services, supplies, architectural and engineering services, construction-related services, or maintenance, including, but not limited to, overshipments, undershipments, providing damaged or defective goods, making unauthorized substitutions, billing errors, or service deficiencies. The term includes intentional failure, without good cause, to perform in accordance with the specifications or time limits provided in a contract, or a record of failure to perform, or of poor performance in accordance with the terms of one or more contracts, unless the failure to perform or the poor performance was caused by acts beyond the control of the person.

(44) **Using agency** means any County agency which utilizes any supplies, services, or construction procured under this Subtitle.
(CB-1-1992; CB-23-2005)

Form **W-9**
(Rev. January 2002)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

**Give form to the
requester. Do not
send to the IRS.**

| | | |
|---|---|---|
| Print or type See Specific Instructions on page 2. | Name | |
| | Business name, if different from above | |
| | Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶ <input type="checkbox"/> Exempt from backup withholding | |
| | Address (number, street, and apt. or suite no.) | Requester's name and address (optional) |
| | City, state, and ZIP code | |
| List account number(s) here (optional) | | |

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). **However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 2.** For other entities, it is your employer identification number (EIN). If you do not have a number, see **How to get a TIN** on page 2.

| | | | | | | | | |
|--------------------------------|--|--|--|--|--|--|--|--|
| Social security number | | | | | | | | |
| | | | | | | | | |
| or | | | | | | | | |
| Employer identification number | | | | | | | | |
| | | | | | | | | |

Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)

| | | |
|------------------|-----------------------------------|---------------|
| Sign Here | Signature of U.S. person ▶ | Date ▶ |
|------------------|-----------------------------------|---------------|

Purpose of Form

A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

If you are a foreign person, use the appropriate Form W-8. See Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 30% of such payments **after** December 31, 2001 (29% **after** December 31, 2003). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will **not** be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 2 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions on page 2 and the separate **Instructions for the Requester of Form W-9.**

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name. If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first and then circle the name of the person or entity whose number you enter in Part I of the form.

Sole proprietor. Enter your **individual** name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, **enter the owner's name on the "Name" line.** Enter the LLC's name on the "Business name" line.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Exempt from backup withholding. If you are exempt, enter your name as described above, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. For more information on exempt payees, see the Instructions for the Requester of Form W-9.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

Note: If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Part I—Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box.

If you are a **resident alien** and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see **How to get a TIN** below.

If you are a **sole proprietor** and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are an LLC that is **disregarded as an entity** separate from its owner (see **Limited liability company (LLC)** above), and are owned by an individual, enter your SSN (or "pre-LLC" EIN, if desired). If the owner of a disregarded LLC is a corporation, partnership, etc., enter the owner's EIN.

Note: See the chart on this page for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get **Form SS-5**, Application for a Social Security Card, from your local Social Security Administration office. Get **Form W-7**,

Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or **Form SS-4**, Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS Web Site at **www.irs.gov**.

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II—Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 3, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see **Exempt from backup withholding** above.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA or Archer MSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to give your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or Archer MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 30% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

What Name and Number To Give the Requester

| For this type of account: | Give name and SSN if: |
|---|---|
| 1. Individual | The individual |
| 2. Two or more individuals (joint account) | The actual owner of the account or, if combined funds, the first individual on the account ¹ |
| 3. Custodian account of a minor (Uniform Gift to Minors Act) | The minor ² |
| 4. a. The usual revocable savings trust (grantor is also trustee) | The grantor-trustee ¹ |
| b. So-called trust account that is not a legal or valid trust under state law | The actual owner ¹ |
| 5. Sole proprietorship | The owner ³ |
| For this type of account: | Give name and EIN if: |
| 6. Sole proprietorship | The owner ³ |
| 7. A valid trust, estate, or pension trust | Legal entity ⁴ |
| 8. Corporate | The corporation |
| 9. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 10. Partnership | The partnership |
| 11. A broker or registered nominee | The broker or nominee |
| 12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity |

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

