

87298

DATE: August 31, 2021

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, M.D.
Commissioner of Health

RE: Authorization to enter into an agreement with the Westchester Medical Center Advanced Physician Services, P.C. to perform COVID-19 screening testing services in public and private schools for students, teachers and staff in grades kindergarten through grades 12 as part of the County's ELC Program for an amount not to exceed \$350,842 at the rates set forth in Schedule "A" commencing retroactively on September 1, 2021 and terminating on December 31, 2021 with the County having the option, in its sole discretion, to renew the term of the agreement for an additional 7 month period from January 1, 2022 to July 31, 2022.

Pursuant to a Resolution approved by your Honorable Board on July 1, 2021, the County entered into an agreement with the Health Research, Inc., dated August 2, 2021, pursuant to which the County was awarded a grant to fund the ELC Reopening Schools: Support for Screening Testing to Reopen & Keep Schools Operating Safely Grant program for the period from July 1, 2021 through July 31, 2022 in the amount not-to exceed \$15,800,820 (the "ELC Program").

Authorization is now sought to enter into an agreement with the Westchester Medical Center Advanced Physician Services, P.C. (the "Contractor") to perform COVID-19 screening testing services in public and private schools for students, teachers and staff in grades kindergarten through grades 12 as part of the County's ELC Program for an amount not to exceed \$350,842 at the rates set forth in Schedule "A" commencing retroactively on September 1, 2021 and terminating on December 31, 2021 (the "Initial ELC Program Term") unless terminated sooner, with the County having the option, in its sole discretion, to renew the Agreement for an additional 7 month period from January 1, 2022 to July 31, 2022 on the same terms, conditions and price as the Initial ELC Program Term, subject to the availability of funds, acceptable past performance, the County's determination that an extension is in its best interest, and subject to the prior approval of the Westchester County Board of Acquisition & Contract (the "Agreement").

The proposed Agreement will promote the public health, safety and general welfare of County residents by ensuring a safe environment for students, teachers and staff as they re-enter the classroom when schools re-open.

The goal and objective is to minimize the spread of COVID-19 in schools and maximize in-person learning days, which is important for the health, development and well-being of children. Screening testing is an important part of a multi-layered approach to keep schools open and operating safely as it allows for the early detection and isolation of pre-symptomatic and asymptomatic individuals, therefore minimizing the spread of COVID-19.

The proposed Agreement will be tracked and monitored by WCDH by requiring the following from the Contractor:

- Daily sign-in and sign-out sheets for each team (template to be provided) to be submitted within 24 hours of event
- Daily summary report from each team (template to be provided) to be submitted within 24 hours of event

The Agreement is exempt from the Westchester County Procurement Policy (the “Policy”) pursuant to Section 3(a) viii thereof, which exempts contracts for medical and health related services.

In addition, Section 13 of the Westchester County Procurement Policy specifies that each procurement that is funded, in whole or in part, by federal funds shall be made in accordance with any and all applicable federal laws, regulations, rules, guidance, instructions, or grant terms. The procurement that is the subject of the proposed Agreement complies with 2 C.F.R. 200.320(f)(2), which allows for non-competitive procurement when “[t]he public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.” In the instant case, a public exigency and emergency exists for the Agreement because the County’s ELC Program must be implemented before school opens in person instruction in the Fall, which cannot be delayed by having to publicize and issue a formal RFP.

Accordingly, the attached resolution is submitted for your consideration.

SA/RAN
Attachment

RESOLUTION

Upon a communication from the Commissioner of Health, be it hereby

RESOLVED, that the County of Westchester (the “County”), acting by and through the its Department of Health, is authorized to enter into an agreement with Westchester Medical Center Advanced Physician Services, P.C. (the “Contractor”) to perform COVID-19 screening testing services for students, teachers and staff in public and private schools in grades kindergarten through grades 12 (K-12) as part of the ELC Program, to be paid at the reimbursement rates as specified in Schedule “A”, for the not to exceed amount of \$350,842 for a term commencing retroactively on September 1, 2021 and terminating on December 31, 2021 (the “Initial ELC Program Term”) unless sooner terminated, with the County having the option, in its sole discretion, to renew the Agreement for an additional 7 month period from January 1, 2022 to July 31, 2022 on the same terms, conditions and price as the Initial ELC Program Term, subject to the availability of funds, acceptable past performance, the County’s determination that an extension is in its best interest, and subject to the prior approval of the Westchester County Board of Acquisition & Contract (the “Agreement”); and, be it further

RESOLVED, that this Agreement is subject to County Appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the “State Budget”) proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his duly authorized designee be and hereby is authorized and empowered to execute all appropriate contracts or documents necessary to effectuate the purposes of this resolution in the manner prescribed by law.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
263	27	W037	4380	G037	\$350,842

Budget Funding Year(s) 2021 Start Date 09/01/21 End Date 12/31/21

(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

\$ 350,842

Federal Aid 100% Federal Pass thru funds from HRI, NYSDOH

(must match resolution)

Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/02/2021 - RAYMOND SULKY, SECRETARY