

87444

DATE: September 8, 2021

TO: Board of Acquisition and Contract

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

RE: Authorization to (i) rescind the resolution approved on September 2, 2021 authorizing the County to amend its agreement with The Execu Search Group, LLC for Registered Nurses and Nurse Practitioners at rates not-to-exceed those specified in The Execu Search’s New York State Office of General Service’s (“NYSOGS”) Contract # PS67885 and (ii) to authorize the County to enter into an agreement with The Execu Search Group, LLC to perform COVID-19 screening testing services in public and private schools for students, teachers and staff in grades kindergarten through 12 as part of the County’s ELC Reopening Schools Program for an amount not to exceed \$1,000,000 at the rates specified in Schedule “A” of the agreement 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.

By a resolution approved on September 2, 2021 (the “September 2nd Resolution”), your Honorable Board authorized the County of Westchester (the “County”), acting by and through its Department of Health (the “WCDH”), to amend the agreement with The Execu Search Group, LLC (the “Contractor”), dated December 4, 2020, as amended by the first amendment to the agreement, dated April 13, 2020, pursuant to which the Contractor agreed to provide the County with Registered Nurses and Nurse Practitioners to be vaccinators for community flu clinics, to collect COVID test samples and test them, to serve as COVID case investigators, and to possibly administer COVID vaccines, for a term commencing upon execution and continuing for a period of one (1) year thereafter for a not-to-exceed amount of \$600,000, to increase the scope of work to provide Patient Services Representatives, Medical and Clinical Laboratory Technicians, Licensed Practical Nurses (“LPN”) and Emergency Medical Technicians to perform COVID-19 screening testing services of students, teachers and staff in public and private schools in grades

kindergarten through 12 (“K-12”) as part of the ELC Reopening Schools Program to be paid at rates not-to-exceed those specified in the Contractor’s New York State Office of General Service’s (“NYSOGS”) Contract # PS67885 (the “NYSOGS Contract”), 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, in its sole discretion, having the option to renew the agreement, as amended, for a term 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 “Second Amendment”).

Subsequent to the passage of the September 2nd Resolution, the County has not entered into the Second Amendment.

In addition, subsequent to the passage of the September 2nd Resolution, the WCDH was informed by the Contractor that the job titles and rates of pay needed to perform the services for the ELC Reopening Schools Program differ than those specified in the NYSOGS Contract, and, therefore, rather than amend the NYSOGS Contract, it is necessary for the County to enter into a new agreement with the Contractor for the services needed to implement the ELC Reopening Schools Program.

Therefore, authorization is now sought to rescind the September 2, 2021 Resolution and authorize the County to enter into an agreement with the Contractor to perform COVID-19 screening testing services in public and private schools for students, teachers and staff in grades K-12 as part of the County’s ELC Reopening Schools Program for an amount not to exceed \$1,000,000 at the rates specified in Schedule “A” of the agreement commencing retroactively on September 1, 2021 and terminating on December 31, 2021 (the “Initial Term”) unless sooner terminated, with the County, in its sole discretion, having the option to renew the agreement for a term from January 1, 2022 to July 31, 2022 on the same terms, conditions and price as the Initial 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”).

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 Reopening Schools Program”).

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 of the proposed Agreement 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 the 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 proposed 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 Reopening Schools Program must be implemented before school reopen for 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

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/16/2022 - JOAN SCIARDI SECRETARY

RESOLUTION

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

RESOLVED, that the resolution approved on September 2, 2021 by the Westchester County Board of Acquisition and Contract authorizing the County of Westchester (the "County"), acting by and through its Department of Health (the "WCDH"), to amend the agreement with The Execu Search Group, LLC (the "Contractor"), dated December 4, 2020, as amended by the first amendment to the agreement, dated April 13, 2020, pursuant to which the Contractor agreed to provide the County with Registered Nurses and Nurse Practitioners to be vaccinators for community flu clinics, to collect COVID test samples and test them, to serve as COVID case investigators, and to possibly administer COVID vaccines, for a term commencing upon execution and continuing for a period of one (1) year thereafter for a not-to-exceed amount of \$600,000, to increase the scope of work to provide Patient Services Representatives, Medical and Clinical Laboratory Technicians, Licensed Practical Nurses ("LPN") and Emergency Medical Technicians to perform COVID-19 screening testing services of students, teachers and staff in public and private schools in grades kindergarten through 12 ("K-12") as part of the ELC Reopening Schools Program to be paid at rates not-to-exceed those specified in the Contractor's New York State Office of General Service's ("NYSOGS") Contract # PS67885 (the "NYSOGS Contract"), is hereby rescinded in its entirety; and be it further

RESOLVED, that the County, acting by and through its WCDH, is authorized to enter into an agreement with the Contractor to perform COVID-19 screening testing services for students, teachers and staff in public and private schools in grades K-12 as part of the ELC Reopening Schools Program, to be paid at the rates specified in Schedule "A" of the agreement, for an not to exceed amount of \$1,000,000 and for a term commencing retroactively on September 1, 2021 and terminating on December 31, 2021 (the "Initial 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 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 the Agreement is subject to County Appropriations; and be it further

RESOLVED, that the 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 |
|------|------|--|--------------------|---------------|-------------|
| 101 | 27 | 0010-5600-HSSN | 4998-02 | | \$1,000,000 |
| | | | | | |

Budget Funding Year(s) 2021 Start Date: 09/01/2021 End Date: 12/31/2021
 (must match resolution)

Funding Source Tax Dollars _____
 State Aid \$360,000 (36%)
\$1,000,000 Federal Aid \$640,000 (64%)
 (must match resolution) Other _____

APPROVED BOARD OF ACQUISITION CONTRACT - 09/16/2021 JOAN COCCARDO, SECRETARY