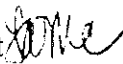


ACTION

MEMORANDUM

September 7, 2018

TO: County Council

FROM: Linda McMillan, Senior Legislative Analyst 

SUBJECT: **Resolution to Amend Resolution 18-1144, Section G, for the FY19 Designation of Entities for Non-Competitive Contract Award Status: Ayuda, Inc., HIAS, Inc. and KIND, Inc. (Kids in Need of Defense)**

PURPOSE: Authorize CAO to enter into three contracts for screening and direct legal representation for low-income County residents in deportation proceedings.

The Chief Administrative Officer (CAO) has forwarded a recommendation to amend the miscellaneous provisions of Section G of Resolution No. 18-1144, FY 2019 Designation of Entities for Non-Competitive Contract Award Status. **An amendment to a resolution can be introduced and acted upon in the same Council session and does not require the Council to waive its rules of procedure.** A resolution to amend the non-competitive list is attached at ©2-3. The memo from the CAO is attached at ©1. The contracts will be awarded to:

Ayuda Inc.	\$144,000
HIAS	\$103,000
<u>KIND</u>	<u>\$123,000</u>
	\$370,000

Background

The Council appropriated \$370,000 as a part of its FY19 Operating Budget actions to increase the amount of funding provided to support organizations providing legal services to County residents, with the specific purpose of providing increased resources for legal screenings and direct legal representation for low-income County residents in deportation proceedings. The following provision was included in Resolution 18-1144.

77. This resolution appropriates \$370,000 to the Department of Health and Human Services that must only be used to fund one or more contracts to provide screening services or direct legal representation to a low-income County resident in a noncitizen deportation or removal proceeding. Any organization accepting and spending these funds must adhere to the exclusion from representation requirements that are included in Section H of this resolution. The exclusions in Section H apply only to the use of these County funds and place no restriction on an organization's use of other public or private funds for legal representation or the provision of pro-bono legal representation.

Each contractor must comply with the requirements that these funds must be used for low-income County residents who are not excluded under Section H (©4-6). As noted, there are no restrictions on who an organization may serve using other funds.

In order to expedite the awarding of funds, the CAO permitted the Department of Health and Human Services (DHHS) to post a solicitation, provide applicants about 2 weeks to submit proposals, review proposals, and then recommend one or more non-competitive awards. This process allowed for competition but did not follow the lengthier requirements of a Request for Proposal. Each applicant was asked to provide the following:

1. A description of the organization's experience with providing direct legal representation of people in non-citizen deportation or removal proceedings, including the number of years of experience and number of clients.
2. A description of the organization's experience screening people in non-citizen deportation or removal proceedings, including the number of people screened.
3. A description of the organization's experience serving clients who are detained pending deportation or removal proceedings, including the types of services provided.
4. A description of the populations the organization intends to offer services to with these funds. State the ability of the organization to communicate effectively in the preferred languages of those who will receive services.
5. Information on the cost of screening (if separate) and expected cost per client for legal representation.

Summary of Proposals

Council staff is providing the following summary information from the applications that are recommended to receive awards.

1. Ayuda \$144,000

Ayuda's application says it has provided culturally specific, holistic legal, social, and language access services to immigrants in the District of Columbia (D.C.) region for 45 years. Its attorneys, social workers, and case managers are annually managing about 3,100 cases on behalf

of vulnerable, low-income immigrants in the D.C. region. In 2017, Ayuda's Immigration Program provided direct legal representation to about 2,070 immigrant clients, about 25% of them were undergoing deportation or removal proceedings.

Ayuda provides screening through weekly in-person consultations. Appointments are filled within hours of being offered. In 2017, Ayuda provide 973 screening of residents in the D.C. region. About 50% of the clients were in deportation or removal proceedings. In 2017, Ayuda served over 200 clients through its low-barrier walk-in clinics.

Ayuda specializes in serving low-income immigrants in the D.C. region who are not detained. However, many clients have been released from detention. Ayuda estimates that in less than 5% of their cases they will continue to represent someone who is detained when Ayuda has initiated representation prior to detention.

Ayuda provides a holistic approach by providing social services and other services including case management, therapy, support groups, protection order and family law representation, and emergency financial assistance through other sources of funding.

All legal staff members of Ayuda's immigration team are fluent in both English and Spanish. Additional languages on staff include French, Arabic, Portuguese, American Sign Language (ASL), and others. Ayuda's strategic plan includes a goal of expanding services to additional linguistic communities and it has begun to make strides to serve Arabic and Amharic speaking communities.

Ayuda submitted an application for about \$262,000. While the contract is not finalized, it is expected that the award of \$144,000 will allow Ayuda to screen about 100 and represent about 33 residents.

In addition to this funding, Ayuda is receiving \$50,000 in FY19 for interpretation and translation services through the Community Grants programs.

2. HIAS

\$103,000

HIAS' application states that it has provided representation to asylum-seekers in the United States and around the world for over 135 years. HIAS expanded to the D.C. area in 2016 when it moved its headquarters to Silver Spring. Demand for removal defense services has outweighed capacity to provide representation to all Montgomery County residents that inquire about services. From July 2017 to July 2018, HIAS served 65 Montgomery County residents with full legal representation. HIAS also provides in-house immigration counsel at the Guatemalan Consulate where it provides Know-Your-Rights and screenings. From July 2017 to July 2018, 75 Montgomery County residents were served through these programs.

HIAS provides full legal representation to asylum seekers and other vulnerable immigrants who are detained pending deportation or removal proceedings, preparing the application, supporting evidence, and legal brief.

HIAS says the vast majority of its clients are women, children, and families from Central America. An additional part of its cases are professionals seeking asylum from all parts of the world. HIAS attorneys speak English, Spanish, French, Portuguese, and Russian. Volunteer language interpreters are available for additional languages.

HIAS submitted an application for about \$103,000. While the contract is not finalized, HIAS expects to conduct between 210 and 420 screenings, depending on the time required for each. Direct representation for legal defense will be provided to 18 clients.

HIAS does not receive any additional County funding through the Community Grants programs.

3. KIND (Kids in Need of Defense) \$123,000

KIND's application states that it works to ensure that no refugee or immigrant child faces deportation or removal proceeding alone in Maryland. In Maryland, KIND does this through direct representation and in partnership with over 30 law firms, corporate legal departments, law schools, and bar associations. It further says that it currently provides representation to 92 unaccompanied minors in Montgomery County.

KIND has screened 1,538 Maryland residents. Staff conducts an intensive intake with the child to determine eligibility for potential forms of relief from deportation.

Nationally, KIND receives referrals from a network of resources and KIND's Seattle office works with children while they are in the custody of the Office of Refugee Resettlement (ORR). In Maryland, KIND generally serves children after they are released from ORR custody, KIND clients in Maryland are rarely detained during KIND's work with them. More recently, KIND has been working with children who were separated from their parents at the border, including over 100 separated children detained in ORR custody in New York.

KIND provides direct legal representation with staff attorneys as well as pro bono legal representation from volunteer attorneys. Since 2008, KIND has placed 738 Maryland residents with pro bono counsel and trained over 2,000 pro bono attorneys. KIND's Baltimore office has an in-house Social Services Coordinator to provide a comprehensive model of legal and social services. The majority of KIND's full-time legal staff is Spanish-English bilingual and there is also a list of volunteer translators.

KIND submitted an application for \$370,000. While the contract is not finalized, it is expected that the award of \$123,000 will allow KIND to represent at least 60 children.

In addition to this funding, KIND is receiving \$50,000 in FY19 for legal services through the Community Grants programs.



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

MEMORANDUM

Timothy L. Firestine
Chief Administrative Officer

August 30, 2018

TO: Hans Riemer, President, County Council

FROM: Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: Decision Memorandum - Amendment to the Fiscal Year 2019 Operating Budget Resolution 18-1144, Section G, Fiscal Year 2019 Designation of Entities for Non-Competitive Contract Award Status

Attached is a request to amend the Fiscal Year (FY) 2019 Operating Budget Resolution 18-1144, Section G, and the FY19 Designation of Entities for Non-Competitive Contract Award Status, for the Department of Health and Human Services (DHHS).

DHHS will establish a new contract in the amount of \$144,000 with Ayuda, Inc. to read: "Provide legal assistance to County residents in non-citizen deportation or removal proceedings."

DHHS will establish a new contract in the amount of \$103,000 with HIAS, Inc. to read: "Provide legal assistance to County residents in non-citizen deportation or removal proceedings."

DHHS will establish a new contract in the amount of \$123,000 with KIND, Inc. dba Kids in Need of Defense to read: "Provide legal assistance to County residents in non-citizen deportation or removal proceedings."

The contracts will be funded from existing FY19 appropriations for DHHS, and no additional appropriation is needed for these contracts.

I have determined that the establishment of a contract with these entities serves a public purpose and is in the public interest. Therefore, I recommend that the Council amend the Miscellaneous Provision in Section G of Resolution 18-1144 for the FY19 Designation of Entities for Non-Competitive Award.

TLF:hpv

Attachment: Amendment to Section G, FY19 Designation of Entities for Non-Competitive Contract Award

c: Uma S. Ahluwalia, Director, Department of Health and Human Services
Bonnie A. Kirkland, Assistant Chief Administrative Officer
Cherri Branson, Director, Office of Procurement
Jennifer A. Hughes, Director, Office of Management and Budget
Ken Silverman, Chief of Staff to the Council President

Resolution No: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

SUBJECT: Amendment to Fiscal Year 2019 Operating Budget
Resolution 18-1144, Section G, Fiscal Year 2019 Designation of Entities for
Non-Competitive Contract Award Status: Ayuda, Inc., HIAS, Inc., and KIND, Inc. (Kids in
Need of Defense

Background

1. Section 11B-14 (a) (4) of the Montgomery County Code states that “a contract may be awarded without competition if the Chief Administrative Officer makes a written determination that the contract award serves a public purpose and proposed contractor has been identified in a grant or appropriation resolution approved by the Council.” The result of this action is to amend the Fiscal Year (FY) 2019 Designation of Entities for Non-Competitive Contract Award status resolution to include the entities listed below.
2. The Chief Administrative Officer has determined that funding for the contracts with these entities serves a public purpose and that such an expense would be in the public interest.
3. The Department of Health and Human Services will fund the contracts with the entities listed below from existing appropriations for FY 2019.
4. The Department of Health and Human Services will establish contracts with Ayuda, Inc.; HIAS, Inc.; and KIND, Inc., dba Kids in Need of Defense, for the provision of services as stated in the amended FY 2019 Designation of Entities for Non-Competitive Contract Award.

ACTION

The County Council for Montgomery County, Maryland, approves the following action:

The Council approves an amendment to the Designation of Entities for Non-Competitive Contract Award and thereby amends Resolution 18-1144, Section G, FY 2019 Designation of Entities for Non-Competitive Contract Award. The Chief Administrative Officer has recommended these actions and stated that these actions serve a public purpose and are in the public interest.

The FY 2019 Designation of Entities for Non-Competitive Contract Award Status resolution is amended to reflect:

1. DHHS will establish a new contract in the amount of \$144,000 with Ayuda, Inc. to read, "Provide legal assistance to low-income County residents in non-citizen deportation or removal proceedings."
2. DHHS will establish a new contract in the amount of \$103,000 with HIAS, Inc. to read, "Provide legal assistance to low-income County residents in non-citizen deportation or removal proceedings."
3. DHHS will establish a new contract in the amount of \$123,000 with KIND, Inc., dba Kids in Need of Defense, to read, "Provide legal assistance to low-income County residents in non-citizen deportation or removal proceedings."

Each contract must comply with Budget Provision No. 77 of Resolution 18-1144, Approval of and Appropriation for the FY 2019 Operating Budget of the Montgomery County Government, including the exclusions contained in Section H.

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Section H

FY19 Requirements for Use of \$370,000 for Legal Representation for County Residents in Deportation Proceedings

This appropriation must only be used to fund one or more contracts to provide screening or direct legal representation of a County resident in a noncitizen deportation or removal proceeding with the following restrictions:

Legal representation must only be provided to Montgomery County residents from households with incomes at or below 200% of the Federal Poverty Level or with a financial hardship. County funds must not be used to provide legal services beyond eligibility screening to any client who has a final criminal conviction for the following Maryland statutes (or an analogous statute from another jurisdiction) under the exclusions from representation described below unless the individual has a potentially meritorious claim for immigration relief from removal in the form of a claim to United States citizenship or eligibility for a U Visa.

Exclusions from Representation

I. Definitions

- *Post-Conviction Relief* means representation of a defendant to vacate a conviction under the Post-Conviction Procedure Act, specifically under Maryland Code §§ 7-101, 7-103, 7-108 or through a *Coram Nobis* Petition, to include drafting and filing petitions.
- *Final Criminal Conviction* means a conviction in criminal court as a result of a finding of guilt by a judge or jury or the entry of a guilty plea.

II. Post-Conviction Relief

County funds must not be used to represent someone in post-conviction or *Coram Nobis* relief work in the criminal system.

III. Exclusion of Representation of Defendants with Certain Final Criminal Convictions

Unless otherwise provided herein, County funds must not be used to represent an individual who has a final criminal conviction for the following Maryland statutes (or an analogous statute from another jurisdiction).

LIST A

- Criminal Law §2-201 Murder in the First Degree
- Criminal Law §2-203 Murder in the First Degree – Sentence of Imprisonment for Life without the possibility of Parole
- Criminal Law §2-204 Murder in the Second Degree

Criminal Law §2-205 Attempt to Commit Murder in the First Degree
Criminal Law §2-206 Attempt to Commit Murder in the Second Degree
Criminal Law §2-209 Manslaughter by Vehicle or Vessel (gross negligence)
Criminal Law §3-303 Rape in the First Degree
Criminal Law §3-304 Rape in the Second Degree
Criminal Law §3-305 Sexual Offense in the First Degree
Criminal Law §3-306 Sexual Offense in the Second Degree
Criminal Law §3-309 Attempted Rape in the First Degree
Criminal Law §3-310 Attempted Rape in the Second Degree
Criminal Law §3-403 Robbery with a Dangerous Weapon
Criminal Law §3-405 (c) Armed Carjacking
Criminal Law §3-502 Kidnapping
Criminal Law §3-503 Child Kidnapping
Criminal Law §3-601 Child Abuse of a Minor in the First Degree
Criminal Law §3-602 Sexual Abuse of a Minor
Criminal Law §9-804 Participation in Criminal Gang
Criminal Law §9-805 Criminal Gang
Criminal Law §11-303 Human Trafficking
Criminal Law §11-305 Abducting a Child under 16 for Prostitution

LIST B

Criminal Law §2-503 Homicide by motor vehicle or vessel while under the influence of alcohol
Criminal Law §2-504 Homicide by motor vehicle or vessel while impaired by alcohol
Criminal Law §3-202 First Degree Assault
Criminal Law §3-203 Second Degree Assault with Finding of DV pursuant to §6-233
Criminal Law §3-203(c) Felony Assault on a Law Enforcement Officer
Criminal Law §3-307 Third Degree Sex Offense
Criminal Law §3-324 Sexual Solicitation of a Minor
Criminal Law §3-402 Robbery with a sentence of 5 years or greater
Criminal Law §3-405 Carjacking
Criminal Law §9-404 First Degree Escape
Criminal Law §3-604 First Degree Abuse of a Vulnerable Adult
Criminal Law §3-701 Extortion
Criminal Law §§3-802-805 Stalking/Harassment/Telephone/Email Misuse with Finding of Domestic Violence pursuant to Criminal Law §6-233
Criminal Law §3-1001 Threat of Mass Violence
Criminal Law §4-106 Wear Body Armor in Drug Traffic Crime/Crime of Violence
Criminal Law §4-107 Possession/Use of body armor
Criminal Law §4-402 Possession of Machine Gun
Criminal Law §4-204 Use of a Handgun During a Crime of Violence
Criminal Law §4-305 Possession of High Capacity Magazines
Criminal Law §4-404 Use of Machine Gun in Crime of Violence
Criminal Law §4-405 Use of Machine Gun for Aggressive Purpose
Criminal Law §4-503 Manufacture or Possession of destructive device

Public Safety §5-133 Possession of a Handgun by a Prohibited Person
Criminal Law §5-613 Drug Kingpin
Criminal Law §5-612 Volume Dealer
Criminal Law §5-621 Use or Possession of a Handgun During the Distribution of CDS
Criminal Law §6-103 Arson- Second Degree
Criminal Law §6-202 First Degree Burglary
Criminal Law §§10-302-306 Hate Crimes except §10-304 as it involves property crimes
Criminal Law §11-208 Possession of Child Pornography
Criminal Law §5-602 Distributing, possessing with intent to distribute, or dispensing
controlled dangerous substance (only if the controlled dangerous
substance is heroin, fentanyl, or carfentanyl)
Criminal Law §8-301 Identity Fraud
Criminal Law §8-801 Financial Crimes Against Vulnerable Adults
Criminal Law §7-104 Theft Over \$100,000
Criminal Law §9-306 Obstruction of Justice
Criminal Law §9-101-102 Perjury/Subordination
Criminal Law §9-303 Witness Intimidation/Retaliation
Criminal Law §6-203 Burglary, 2nd Degree
Criminal Law §6-204 Burglary, 3rd Degree
Transportation §21-902 Two or more findings of guilt for driving under the influence or
impaired.

IV. Exceptions to List B Exclusions Based on Years since Conviction or Status as Veteran

- a. Except for an individual with a final criminal conviction for an offense on List A, County funds may be used to represent an individual with a final criminal conviction for an offense on List B if ten years have passed since the individual was released from incarceration and the individual completed the period of probation without a subsequent criminal conviction for any offense or a finding of violation of probation.
- b. Except for an individual with a final criminal conviction for an offense on List A, County funds may be used to represent an individual with a final criminal conviction for an offense on List B if the individual is a veteran of the United States Military who has not received a dishonorable discharge.