

Pursuant to RFP Section 3.3:

A prospective bidder has raised a question regarding background screening of employees who provide direct transportation services to Medicaid beneficiaries for employers subject to collective bargaining agreements. The RFP lacks a provision exempting or grandfathering existing employees from criminal record checks and checks with the adult abuse and child abuse registries. This may result in problems in a unionized workplace, where an employer cannot unilaterally change the terms and conditions of employment. The question whether a criminal record check requirement constitutes a change that must be negotiated with the union is currently in litigation before the Vermont Labor Relations Board, and a decision is expected this summer. Consequently, we have decided to modify the RFP as follows. For the term of this contract, a unionized workplace will be exempt from the background screening requirements for existing employees and for new hires unless the collective bargaining agreement permits compliance with these requirements or the union has waived negotiation with regard to such procedures. Depending on the outcome of pending litigation, the State may seek to amend this contract or to revisit the issue in future contracts.