

Subcontract Approvals Frequently Asked Questions (Revised 10/2022)

Pursuant to Section 4-13(a) of the PPB Rules, and consistent with the terms of the Standard Human Services Contract (“Contract”) and Fiscal Manual¹, a contractor may enter into third-party agreements, subject to Department of Homeless Services (“DHS”) approval.

In instances where this FAQ conflicts with the Contract, the City Contract shall take precedence.

Q: Our organization uses vendors, not subcontractors. Is a subcontractor approval form required?

A: Yes. The Fiscal Manual now refers to these terms collectively as third-party agreements and DHS approval is required.

Q: When does the Department require submission of a Subcontractor Approval Form- 65A?

A: For third-party agreements that are greater than or equal to \$25,000 and are under direct reimbursable line, the Contractor shall submit a Subcontractor Approval Form – 65A to the Department. The Contractor shall not enter into any subcontract for an amount greater than \$25,000 without prior approval by the Department.

For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated. For third-party agreements that cover multiple contracts, one 65A Form can be used if the Contractor provides a schedule of contracts the request for approval covers.

DHS understands that for third-party agreements entered into prior to FY2023, preliminary approval may not have been obtained. DHS will be reviewing Form 65A’s retroactively. Approvals of the third-party agreements is required for purposes of payment and fiscal year closeouts. DHS will withhold payments connected with third-party entity usage if the Contractor fails to obtain subcontractor approval.

Q: How can I submit Subcontractor Approval Forms – 65A’s to the Department?

A: Submissions of all Subcontractor Approval Forms – 65A’s, logs, bids, etc. must be emailed to subcontractorapprovals@dss.nyc.gov. To expedite requests, the subject line of the email must include the **contract number - organization’s name - subcontractor**. In order to avoid processing delays, the Department strongly recommends that all required information is provided all at once so that the Department can provide its final approval. Sending information in piecemeal will delay the approval process.

Q: What is required when submitting a Subcontractor Approval Form- 65A?

A: When submitting a Subcontractor Approval Form-65A:

For third-party agreements valued greater than \$25,000 (Department approval is required):

1. Entity must be active in the City’s Payee Information Portal (PIP),
2. Contractor must list the proposed subcontractor in the PIP,
3. Entity must be registered in PASSPort,

¹ This FAQ is intended to be read with the Fiscal Manual. In case of any conflicts, please refer to the FAQ for guidance .

4. Contractor must submit completed Subcontractor Approval Form-65A,
5. Contractor must submit completed Subcontractor Log, and
6. Contractor to submit at least three (3) bids/estimates for third-party agreements that are \geq \$25,000. If the lowest bid is not selected, a justification letter, address to the ACCO, as to why the lowest bid was not selected, must be submitted.

For third-party-agreements valued less than \$25,000:

1. Entity must be active in the City's Payee Information Portal (PIP),
2. Entity to be registered in PASSPort, (individual consultants are excluded)
3. Contractor must submit a monthly Subcontractor Log

Q: Is the Contractor required to list the proposed subcontract information into the City's Payee Information Portal?

A: Yes. Before submission of the Subcontractor Approval Form-65A to the Department, the Contractor shall list the proposed subcontractor in the City's Payee Information Portal (www.nyc.gov/pip) and provide the following information: maximum subcontract value, description of subcontractor work, start and end date of the subcontract, and the subcontractor's industry. Note that entry of the third-party data into PIP is contract specific and must match what is indicated on the 65A.

Q: Does the Department need to approve subcontracts that are less than \$25,000?

A: No. The Department does not need to approve third-party vendors whose total subcontract value does not exceed \$25,000.00 in the aggregate. The Department will request a log listing all such third-party vendors. However, once a third-party agreement total increases to \$25,000 or more, the prime contractor is responsible for following the procedure for submitting a Form 65A.

Q: Are written bids/estimates required?

A: Yes. At least three written bids/estimates are required for third-party vendors including, but not limited to, IT Consultants, medical services, contracted security, food service, building maintenance, extermination and contracted temp services that are greater than or equal to \$25,000. As a general rule, the Department will review only those bids that are direct line item reimbursable under the specific contract(s).

Q: What is preliminary approval?

A: Under the Procurement Policy Board Rules, the Department shall notify the Contractor within 30 days whether preliminary approval has been granted. If preliminary approval is granted, the Contractor shall provide such documentation as may be requested by the Department to show that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the required work, including, the proposed subcontract, bids and/or any of the items listed in PPB Rule 4-13(d)(3).

Notwithstanding the requirements of the PPB Rules, the Department strongly recommends that Contractors provide all information as part of their submissions for approval so that the Department can provide a final approval in lieu of the delineated two step approval process in order to prevent delay in payments and risk to the Contractors.

Q: How long is the subcontractor approval process?

A: Upon receipt of all relevant documentation, please expect a minimum 30-day turnaround time for approval of third-party vendors. If the proposed subcontractor is not approved, the Contractor may submit a Form 65A for another proposed subcontractor, unless the Contractor decides to do the work.

Q: For how long is my subcontractor approved?

A: Subcontractors are approved based on the contract dates indicated on the Form 65A. However, the Department reserves the right to limit the approval based on circumstances including but not limited to: 1) the last time the work has been competitively bid by the Contractor; 2) capacity of the third-party vendor; 3) the Department determined that there was a fault in the underlying selection process for the third-party vendor and the Department allows time for a transition period; and 4) the Department in its determination, determined that the length of the third-party agreement is unreasonably long.

Q: Are bids required if utilizing a subcontractor that is part of the Essensa network?

A: No. Essensa is a New York-based Group Purchasing Organization that offers membership to non-profits working with New York City. (New York City Department of Homeless Services Human Service Providers Fiscal Manual, January 2022, p. 53-54). Proof that the subcontractor is an Essensa member, i.e. Essensa Contract ID, will suffice.

Q: My organization has been utilizing the same third-party vendors for years and are content with the services rendered. Do we still need to solicit bids/estimates?

A: Yes. The Department strongly recommends that the terms of third-party agreements either match the term of the underlying shelter agreement (if the third-party agreement is site specific) or 3-5 years (if the third-party agreements covers multiple agreements). The Department as part of the approval process may limit the length of approval if the term of the shelter agreement and the third-party agreement do not coincide with each other.

Q: My proposed subcontractor was identified in the contract proposal and is integral to the success of my program. Are we still required to submit bids?

A: No. Please note that contractors, in this instance should be performing some competitive process prior to submitting proposals, in accordance with their own by-laws.

Q: Is approval of third-party agreements required on emergency contracts?

A: Yes. The Department will provide an expedited review in those instances.

Q: Do second tier third-party agreements require Department approval?

A: Yes. A second-tier subcontractor is an entity that is contracted by the third-party vendor as part of service provision. For example, if demolition is needed for repair work, a demolition contractor may be hired by the third-party vendor. The subcontractor would then hire a second-tier subcontractor to perform the demolition work.

Please note that the Contractor should not enter into agreements with second tier contractors for security, maintenance, food or temporary staffing.

Q: How do I know when my proposed subcontractor is approved?

A: Subcontractors are approved for work on a human service contract when the Department approves the subcontractor in PIP or in written communication with the Contractor. The Contractor should not engage a subcontractor until the Department has approved that subcontractor. The Contractor is responsible for listing all payments made to subcontractors in PIP.

Q: At sites where meals are cooked, multiple vendors are used for meat, dairy, produce, etc., and bidding is done on a weekly basis. Are we required to have a contract in place for all of our contracts for FY23 and if so, can we have contracts with each of these vendors?

A: For unprepared foods, the Department will not require submission of Form 65As. However, contractors have the affirmative obligation to keep all contracting paperwork and pricing on file and provide such information upon Department request or for audit purposes. This information is extremely important to determine budget allocations for multiple sites.

Q: The thresholds for requiring bids are too low. For our large providers that may mean having to bid out quite a lot more than they currently would. This put large providers at a disadvantage by increasing their risk and adding costs. It also makes providers less nimble and able to be responsive to agency requests to add capacity quickly in emergencies given the substantial financial risks associated with doing so under these rules that may disqualify billing for services with their partners.

A: The need to provide 3 bids for third-party agreement over \$25,000 is a contractual requirement. The third-party agreements can be aggregated across multiple contracts. In emergency situations, such as the need to add capacity, the contractor should contact the Department for advice and/or direction. In addition, Contractors are required to follow their own by-laws when engaging third-party vendors. Such by-laws would have to be consistent with the New York State Not for Profit Corporation Law and procurement of third-party vendor should still be consistent with your City contracts.

Q: Are phone bids deemed an acceptable form for a bid?

A: Any third-party agreements that exceeds \$25,000 should be procured by written solicitation.