

Chapter 4: The Contract Document

Topic: Overview

Summary

A subrecipient contract details the obligations and duties of the Subrecipient throughout the duration of the contract as well as governing the use of program income even after the end of the contract. Contracts are legally binding agreements. It is important for the Contract Manager to clearly articulate the responsibilities and expectations of the Subrecipient in the contract, as this is the measure by which monitoring, evaluation, and future funding will be determined.

Procedures & Key Information

See the following sections under “The Contract” chapter for detailed information.

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Topic: Contractor Letters

Summary

A letter from the PHB Director to each subrecipient initiates the contracting process each year. The Contractor Letter includes the funds budgeted for each Subrecipient. The Contractor Letters are typically sent out late in the budget process; otherwise there is a possibility that the final budget numbers may change.

Procedures & Key Information

After the bureau has finalized the Contractor Letter, each Contract Manager is responsible for sending out the letters to their Subrecipients. This is generally done via email. Attachments may vary from year to year. Contract managers will receive all of the appropriate attachments.

Attachments include:

- **Contractor Proposal Format & Content** – This is a checklist of required proposal components including insurance certificate, EEO certification, and business license or exemption.
- **Contractor Proposal Cover Sheet** – This includes questions regarding cost reasonableness, program income, and subcontracts.
- **Contract Renewal Draft Contract** – This is an electronic version of the current year's contract for the Subrecipient to use as a template to update the coming year's contract.
- **Budget Proposal Worksheet**
- **Federal Compliance Letter** – This includes information on the A-133, the indirect cost allocation plan, and FFATA requirements.
- **PHB Guiding Principles of Equity and Social Justice**
- **Participant Demographic Report**

Sample contractor letter and attachments are included in Appendix A.

Contractors have approximately three weeks to complete and submit their annual proposal. Contractor proposals are a vital step in annual bureau processes. In the absence of an RFP, this serves as an application. This is essential for contractors receiving federal funds. As a government agency distributing federal funds, transparency and fairness are critical.

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Topic: Constructing Subrecipient and Omnibus Contracts

Summary

PHB is moving toward standardization across contracts. Although there is a wide range of funded activities such as emergency shelters, homebuyer assistance, case management and lead remediation, the format of each contract is essentially the same. There are two basic contract templates – the basic *Subrecipient Contract* template and the *Omnibus Contract* template. The former is for a single contract-funded program, while the latter is used for multiple programs funded within a single contract. An Intergovernmental Agreement (IGA), a contract with another governmental entity, will follow the Omnibus format.

All contracts will contain the following:

- Scope of Services
- An Explanation of PHB’s Commitment to Equity Agenda
- Performance Measures/Outcomes/Outputs
- Reporting Requirements
- Compensation
- Boilerplate
- Signature Page
- Exhibits
 - Budget
 - Invoice template
 - Quarterly Report Form
 - Participant Demographics Report (only for subrecipients that do not use Servicepoint)
 - PHB Guiding Principles of Equity and Social Justice
 - Other exhibits as necessary

Procedures & Key Information

Contract Managers are responsible for working with subrecipients to draft the contract that will ultimately be executed between the City and the subrecipient. The Contract Manager should refer to the following resources in drafting the content of the various contract sections described above:

- Samples of previously-executed PHB contracts. [See Appendix B.]
- Prior year’s contract with subrecipient (if such exists)
- The entirety of the content of the Subrecipient Contract Management Manual

One exception to this process is the boilerplate section of the contract. The Contract Specialists in the F&A department will insert this language verbatim into the contract. The boilerplate language is discussed further below.

The following provides section-specific guidance in developing a subrecipient contract.

Scope of Services:

A well written scope of work can do more for the success of the contract than any other part of the contracting process. A good scope of work is clear, complete, and logical enough to be understood

by the subrecipient and the PHB personnel who will administer it. Because it describes the details of performance, it is the yardstick against which the subrecipient's performance is measured.

A scope of services sets forth requirements for performance of work to achieve program or project objectives. Since it defines the scope of work to be performed, its precision has a direct effect on efficient contract administration. This section must delineate the entire scope of services to be performed and specify all the tasks. The scope may also define how the job is to be accomplished. When objectives are not well described and defined, misunderstandings are likely. If a term could be misunderstood, the Contract Manager should include a definition so that both parties have the same frame of reference. The Contract Manager should avoid using words or phrases whose meaning is open to interpretation, such as "should" or "may". Ambiguous contract language can lead to unsatisfactory performance, delays, and increased costs.

Performance Measures:

Performance measures gauge the results of completed work, assist in defining whether subsequent changes are necessary to the original scope of services, and assist the Contract Manager in monitoring the progress of the work.

The Contract Manager should establish relevant and well-defined outputs and outcomes to measure contractor performance. It is important to distinguish between outputs and outcomes. In general, outputs are services the subrecipient provides to program participants, while outcomes measure the results of these services. A subrecipient may provide a homebuyer fair as an output, and the outcome might be that X number of households follow up with a homebuyer education class. Or an organization provides foreclosure prevention counseling to X number of clients (an output), and Y number of clients obtain permanent loan modifications and remain in their homes (an outcome). Most contracts list both outputs and outcomes.

See supplemental material in Appendix D.

Reporting Requirements:

Performance reporting is a system of planning and reporting that is oriented toward achieving results. Reporting is designed to help clarify program goals and directions; communicate the priorities of the organization and thus PHB; monitor progress and make continuous improvement; support budgeting and resource allocation decisions; and provide information to Commissioners, the public, media, and others about the work PHB funds. Most contracts require either monthly or quarterly reporting.

Reporting on performance is not an end in itself, but an important part of effective management and accountability. Reports on activities and achievements provide important information to allow for the best possible decision-making in the next planning cycle.

As part of PHB's Equity Agenda and to better support its strategic plan and budget PHB has refined its data collection and reporting systems. This has enhanced PHB's ability to work with data and to drive decision-making that supports PHB and community goals. Beginning in FY 12-13 every Subrecipient contract will include a new Participant Demographics Report. This new format is compatible with HMIS and aligns with what Multnomah County is asking of its contractors. The new report will allow for greater flexibility in reporting people who identify as multi-racial. In addition to PHB requirements, Subrecipients with federally-funded contracts will continue to collect racial and ethnic data according to federal guidelines.

PHB has developed equity access goals that are a vital tool in PHB's efforts to distribute resources to communities with the highest needs and the least historical access to those resources. Each Subrecipient will develop access goals by race and ethnicity to be incorporated into their contract.

See supplemental material in Appendix D.

Compensation:

The section on compensation should include: requirements for back-up documentation; time allotted for disbursement of funds; the amount of the contract; the frequency with which invoices shall be submitted; net payment terms (i.e., time allotted for disbursement of funds); process for requesting budget changes; and special instructions (e.g., whether funds may be used to purchase non-expendable personal property or equipment or how to handle program income). It should also include a provision that PHB reserves the right to withhold reimbursement for invoices if the subrecipient does not submit regular and timely reports (normally quarterly reports.)

The City of Portland's standard for net payment terms is 30 days. This means that an invoice will be paid 30 days after the close of the billing period or the date on the invoice. Invoices are due 15 days after the close of the billing period. June invoices, because of the end of fiscal year, are due sooner, typically 5-10 days after the end of the Fiscal Year. June invoice due dates are determined by the F&A department based on City requirements.

Boilerplate:

Contract Specialists add the boilerplate language to the draft contract based on the funding source. PHB currently has the following boilerplates:

- CDBG: Community Development Block Grant funds
- COUNTYGF: General Fund provided to Multnomah County
- EDIreg: Subrecipient agreement using EDI funds
- ESG: Emergency Solutions Grant funds
- GF: City of Portland General Fund
- HOME: HOME Entitlement funds
- HOPWA: Housing Opportunities for Persons with AIDS funds
- HOPWA Clark County: HOPWA funds provided to Clark County
- IGA GF: General Fund provided to another government agency
- LEAD: Lead Grant funds

The boilerplates can be found on the PHB shared directory at:

[K:\Operations\Finance\Contracts\Boilerplates\](#)

Contract Managers that need boilerplates for new funding sources, or would like to make changes to current boilerplates for specific Subrecipients, must work with the City Attorney's office and PHB compliance staff.

Signature Page:

Every contract must include a signature line for the City of Portland (either PHB Director or the Commissioner, if it exceeds \$100,000), Contractor and City Attorney. A signature line for City Auditor must be on all contracts exceeding \$100,000.

Exhibits:

PHB requires four contract exhibits (1) the contract budget, (2) a template for the invoice, (3) the Participant Demographics Report (if the subrecipient is not reporting data via Servicepoint) (4) PHB's Guiding Principles of Equity and Social Justice. For samples of these exhibits, see Appendices A7, B1-B5, A3 and A2, respectively.

The Contract Manager and the nature of the contract determine whether there are additional exhibits. Some common exhibits include: Quarterly and Year-End Progress Reports; a breakdown of personnel by FTE; HMIS specifications; and specific funding requirements such as the HOPWA Rent Calculation Sheet or the Lead-Based Paint Notification Documentation Form.

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Topic: Ordinances

Summary

An Ordinance is a formal document by which the Council conducts its legislative, quasi-judicial and most administrative business. Once passed by City Council, ordinances hold the force of law. An ordinance is required when a subrecipient contract exceeds a \$100,000 threshold; contracts for less can be executed with the bureau director's signature.

Contract managers are responsible for drafting ordinances as necessary and for working with Business Operations staff to file the ordinance for City Council.

Procedures & Key Information

The City of Portland Auditor's office has developed a drafting manual for writing ordinances. This guide can be found on the Finance & Accounting section of the PHB employee website at:

www.tinyurl.com/92atgqd

Additionally, the PHB Finance & Accounting department has developed a "Drafting & Filing Council Documents" training. This resource is available at tinyurl.com/8jwtcqb.

Last, it is important to insert language into ordinances filed to execute subrecipient contracts that grants the bureau director the authority to execute changes up to 25% of the contract total. If unable to find this language, the Contract Manager should contact the F&A department for assistance.

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Topic: Amendments

Summary

An amendment is a formal change to a subrecipient contract that has been fully executed. Amendments can add, remove, or update the terms of the contract, such as total compensation, scope of services, reporting requirements, or contract period. Contract managers are responsible for taking the lead in executing amendments whenever they are necessary (as described below).

Procedures & Key Information

The following applies to signature authority for contract amendments.

- **For contracts exceeding \$100k:**
 - Amendments increasing compensation by more than 25% require an ordinance be filed with City Council to execute the amendment.
 - Amendments increasing compensation up to 25% can be executed with the bureau director's signature (provided the original authorizing ordinance contains that provision).
- **For contracts up to \$100,000**, amendments increasing compensation can be executed with the bureau director's signature, unless total revised compensation exceeds \$100,000. In this case, the restrictions above apply.
- **All other contract amendments can be authorized by the Contract Manager.**

Keep in mind, however, that while the signature authority as described above varies in executing amendments, two other administrative processes remain unchanged – the budget amendment form process and the contract routing process.

- A budget amendment form is required for any change to contract compensation. See more detail in the “The Subrecipient Contract Cycle/Budgeting Phase” chapter.
- For any contract amendments that require authorization by the bureau director or the City Council, the contract routing process applies. Once the contract or amendment is finalized, it must be routed for review and approval by the Program Manager-in-charge, Executive Team member-in-charge, Finance & Accounting Manager, and Bureau Director

Sample contract amendments are included in Appendix C.