

MASTER SUBCONTRACTS

Procedures for requesting Sub-Contract Agreements

A Contractor or Grantee is an entity or individual that has entered into a fully executed contract (signed by the state and the Contractor) with the Department of Children's Services (DCS) to provide a specific service(s) to or on behalf of DCS. The Contractor/Grantee is responsible for the delivery of the services detailed in the contract with DCS. However, a Contractor/Grantee may enter into a sub-contracting relationship with another entity or individual, herein referred to as the Sub-Contractor, for the provision of a portion of the services that are to be delivered by the Contractor.

Section D.5 of the contract executed between DCS and the Contractor states the following:

Fee-for service

"Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "**Conflicts of Interest,**" "**Nondiscrimination,**" and "**Records**" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed."

Grants

"Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this contract pertaining to "**Conflicts of Interest,**" "**Lobbying,**" "**Nondiscrimination,**" "**Public Accountability,**" "**Public Notice,**" and "**Records**" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall be the prime contractor and shall be responsible for all work performed."

(Note: the "Confidentiality" and Health Insurance Portability and Accountability Act (HIPAA) clauses must also be included

There are three different sub-contracting forms that can be utilized when submitting a sub-contract request. The form to be used is based on the type of contract you may have with the Department:

1. **Performance Based Subcontract (PBC)/PBC Sub-Contract Roster** - Sub-contract agreement between two DCS PBC Contractors for out-of-home residential care and treatment [Residential, Group Care, Foster Care and/or In-Home] - (CS-0969);
2. **Non-PBC Subcontract** - Sub-Contract agreement between a PBC Contractor and an entity/agency that does not contract directly with DCS for out-of-home residential care and treatment) [Residential, Group Care, Foster Care, In-Home] - (CS-0971); and,
3. **Individual Subcontract-** Sub-Contract agreement between a DCS Contractor/Grantee and an individual and/or entity for clinical, in-home, PATH, Home Studies and other non-residential services (CS-0970).

The following guidelines have been established for the sub-contracting of services.

I. **Sub-contract Requirements:**

- a. All sub-contracts **must** be approved in accordance with Section D.5 Subcontracting of the *Pro Forma Contract/Grant* between the Department of Children's Services and the Contractor/Grantee. All Sub-contracts must include the clauses identified in D.5 and the Confidentiality and HIPAA clauses;
- b. Sub-contract requests shall be submitted to the DCS Contracts Management Unit for consideration. A sub-contract request may be submitted for the **full term** of the Contractor's/Grantee's contract;
Note: The Department cannot post-date a sub-contract approval. An approval of a sub-contract request will be effective from the date the sub-contract request was received by the DCS Contracts Management Unit;
- c. The Contracts Management Unit will respond to a sub-contract request within **five (5)** working days of receipt of a **completed** form (associated documents attached, form signed and dated by an Executive Director of the Contractor/Grantee) **unless** the request requires further approval by the Internal Contracts Committee (see I.e. below);
- d. A Request for a Sub-Contract between a PBC Contractor and a **new** residential Non-PBC Sub-Contractor (see definition below, Item III) **must** have an approval from the DCS Network Development, Child Placement & Private Providers (CPPP) Unit prior to submittal of the sub-contract request (see the Provider Policy Manual, Core Section I. Expansion of Services Protocol);
- e. Services with a Sub-Contractor shall not begin without the prior written approval of DCS Contracts Management;
- f. Contractors/Grantees shall not sub-contract for **all** of their services;
- g. Contractors/Grantees may not subcontract with an agency or individual for services if such entity has had a contract terminated by DCS for failure to satisfactorily perform, or for cause, or has failed to implement a corrective action plan approved by DCS or any other governmental entity after having received due notice;
- h. Contractors/Grantees using Sub-Contractors for providing any type of direct services to children and/or families may utilize the Master Subcontract Template provided by the DCS Contracts Management Unit or some similar document that complies with the terms of the executed contract between DCS and the Contractor and in accordance with Section D.5 Subcontracting of their contract. Confidentiality & HIPAA clauses are also required;
- i. The Contractors/Grantees with whom DCS has contracted directly shall remain the prime Contractor/Grantee and shall ultimately be responsible for all work performed. In addition, the Contractor/Grantee is responsible for monitoring and reviewing the sub-contractor's performance and outcomes;
- j. All Sub-Contractors must meet standard state licensing contract requirements and hold a valid license for the period of the sub-contract and conform to the DCS and/or Private Provider Manuals. The Contractor/Grantee may add any additional information to the contract template it deems necessary to protect its interest;

- k. The Contractor/Grantee shall maintain the fully executed sub-contract document in the Contractor's/Grantee's files and shall make these available to the Program Accountability & Review (PAR) upon request;
- l. The Contractor/Grantee shall negotiate a rate and term with the Sub-Contractor;
- m. The Contractor/Grantee completes the subcontract request using the appropriate form and relevant documents. See each section below for the pertinent information required for each type of sub-contract request. **Submit all sub-contract requests via e-mail to the Contracts Management Director.**

The Contracts Management Unit will review and approve/disapprove the request. No placements and/or use of the Sub-Contractor are permitted prior to an explicit written approval from the Contracts Management Unit;

- n. State employees shall not be Sub-Contractors;
- o. Contractors/Grantees shall be responsible for certifying that the Sub-Contractor receives the appropriate training pursuant to the terms of the DCS contract and relevant policies;
- p. Background check requirements will follow the guidelines detailed in the DCS &/or Provider Policy Manuals as they are amended from time-to-time; and,
- q. PBC Providers only - The Sub-Contractor must submit any Serious Incident Reports (SIR) as required by the Provider Policy Manual (PPM).

II. **PBC provider Sub-contracting with a PBC provider for out-of-home residential/group home and foster care services –**

Agencies providing *out-of-home residential/group home and foster care* services to children in the custody of the state and who has a direct Performance Base Contractual relationship with the Department may utilize the following process to enter into a sub-contract relationship with another PBC provider. These procedures exclude sub-contracting arrangements with individuals and agencies for specialized services under other contracts:

- a. The PBC provider, referred to as the PBC Contractor shall report to the Department the names of all PBC providers they have entered into a sub-contracting arrangement. The PBC Contractor shall utilize the form titled "**Performance Based Contract**" (CS-0969)- and list each PBC provider they intend to Sub-Contract;
- b. The PBC Contractor may utilize the Sub-Contract template provided by DCS or some other similar document with all the required clauses for the sub-contract agreements with the PBC Sub-Contractor. A Copy of the agreement shall be attached to the Sub-Contract request and a copy maintained on file and available to Program Accountability & Review (PAR) for review; and,

III. **PBC Provider Sub-contracting with a Non-PBC Sub-Contractor for residential, group home, in-home and/or foster care services:**

- a. The PBC Contractor shall report to the Department the names of all entities with whom the PBC Contractor intends to enter into a sub-contract arrangement for out-of-home residential care and treatment including in-home services. The PBC Contractor shall utilize the form titled "**Non-PBC Subcontract**" (CS-0971);
- b. The PBC Contractor may utilize the Sub-Contract template provided by DCS or some other similar document with all the required clauses for sub-contract agreements with the Sub-Contractor. A Copy of the agreement shall be maintained on file and available to Program Accountability & Review (PAR) for review;

- c. Ensure the Resource Home Eligibility Team (RHET) receives from the Sub-Contractor a list of all their current direct care staff for review and determination of compliance. This process should be completed prior to submitting a request for a sub-contract agreement;
- d. The PBC Contractor shall complete the sub-contract request and attach the following information:
 - 1. Completed subcontract form (CS-0971) signed and dated confirming through signatory that all background checks, in-house school, education approval (if applicable), accreditation and credentials have been reviewed by the Contractor and are on file;
 - 2. Copy of the signed sub-contract agreement;
 - 3. Monitoring plan which details how the PBC Contractor will monitor the Sub-Contractor;
 - 4. Organizational chart for the Sub-Contractor;
 - 5. Copy of the Sub-Contractor's DCS and/or Tennessee Department of Mental Health and Substance Abuse Services License(s);
 - 6. Training Plan; and,
 - 7. Description of Sub-Contractor's services.

IV. **Other Sub-Contract arrangements:**

- a. The Contractor/Grantee shall report to the Department the names of all individuals or entities **(excludes out-of-home residential treatment/group care, in-home or foster care services)** with whom the Contractor/Grantee intends to enter into a sub-contract arrangement. The Contractor/Grantee shall utilize the form titled "**Individual Sub-Contract**" (CS0970). Attach to the form a copy of the sub-contract contract/agreement for approval/disapproval by the DCS Contracts Management Unit ; and,
- b. The Contractor/Grantee is required to utilize the Sub-Contract template or some other similar document with all the required clauses for sub-contract agreements with the Sub-Contractor.