

Category: Purchase of Service (POS) Contracting Standards

Issue: Timely Execution of POS Contracts

Definitions: Execution of Contract: A POS contract is considered executed when it has been signed by the authorized representative of the State contracting agency and the provider and has been approved by the Attorney General's Office

SCA - acronym for "State contracting agency"

Finding: A POS contract includes the terms, conditions and responsibilities of the parties to the contract, including the service and performance expectations associated with provider delivery of health and human services. It also enables payment for services based on the terms included in the contract. Sound business and contract management practice involve having these terms and conditions in place prior to the commencement of service delivery, while recognizing that service continuity for recipients is important consideration as well. Late contract execution can also lead to late payments and potential cash management issues for providers. While some SCA's have a strong record of timeliness of contract execution, there are factors that have resulted in a number of POS contracts not being executed in a timely manner, including:

- Delays and/or inefficiencies in internal and external funding approval processes
- Difficulties in reaching an agreement as to the scope of services or program budgets
- Delays regarding federal grant notices
- Submittal of incorrect forms by providers or provider delays in submitting required information
- Cumbersome or paper-based contract assembly and execution processes
- Delays with or issues raised during Attorney General review of contract

Some of these reasons for delay, along with others, are unavoidable in certain instances, but most can be addressed by SCAs, along with providers, making the necessary adjustments in their contracting processes and practices.

- Standard Policy:**
1. State POS agencies, each year, shall seek to execute at least 95% of their POS contracts not later than 15 days prior to the planned start date of a new contract or the day following the expiration date of a contract to be extended by amendment.
 2. In order to ensure timely execution of POS contracts, SCA's shall submit approval requests for new contracts, or contracts to be extended by amendment, to OPM by such date that will enable the execution of the contract to occur not later than 15 days prior to its planned start date; however, the Secretary of OPM, or his or her

designee, may require an agency that has been consistently or significantly below the 95% standard in number 1 to submit such approval requests not later than 105 days prior to the planned start date of the contract. Allowable exceptions to this requirement may include late federal notices of grant awards, emergency service needs of clients requiring new or amended contracts, and other similar events or situations that an agency is not able to reasonably anticipate.

3. The submittal of a request to OPM for a new contract, or for extending a contract by amendment, should occur only after all internal SCA funding and approvals to commence the contracting process are received.
4. After the required information is submitted to OPM, OPM shall review and act upon requests in accordance with the requirements outlined in its Procurement Standards
5. The Secretary of OPM shall in November of each year seek information from and monitor SCA performance with respect to the 95% timely contract execution requirement.

Effective Date: This policy shall be effective immediately