

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Office of Contracting and Procurement



**Testimony on the Subcontracting Requirements Exemption for Contracts for Health
Benefits to District Employees Amendment Act of 2025**

of

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to

The Committee on Executive Administration and Labor

The Honorable Anita Bonds, Chairperson

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Council of the District of Columbia

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Good morning, Chairwoman Bonds and members of the Committee on Executive Administration and Labor. I am Nancy Hapeman, Chief Procurement Officer of the District of Columbia. I am joined here by my colleagues Charles Hall, Director of the DC Department of Human Resources and Bob Dorsey, Chief of Staff at the Department of Small and Local Business. Thank you for the opportunity to testify regarding the Subcontracting Requirements Exemption for Contracts for Health Benefits to District Employees Amendment Act of 2025. This legislation is essential to ensuring continuity, statutory compliance, and operational accuracy in the District's employee health benefits procurement and contract administration.

To provide context, the Office of Contracting and Procurement attempted to re-compete the administration of health benefits for District employees in 2023 and again in 2024, but both solicitations were cancelled. To prevent any lapse in coverage while the procurement was reset, the existing contracts with Aetna, CareFirst, Kaiser, and UnitedHealthcare were extended for one year, through December 31, 2025.

Prior to issuing a new solicitation, a significant administrative challenge arose regarding mandatory subcontracting requirements. For several reasons, including the pricing structure of healthcare contracts and the operating nature of the industry, health insurance contractors cannot feasibly meet the District's standard mandatory subcontracting requirements. Consequently, the Department of Small and Local Business Development approved an adjustment of the subcontracting requirement to 0.50 percent. This adjustment recognizes that the District's healthcare benefits contributions are shared between the District and its employees, and that the vast majority of the spending directly covers employee healthcare.

However, even with this adjusted goal, the District identified a critical risk of offeror noncompliance tied to the submission requirements for subcontracting plans at the time of proposal closing. This risk is directly informed by the Contract Appeals Board decision in the protest of Conduent State Healthcare, LLC. In the Conduent decision, the Board strictly ruled that an offeror must submit a fully compliant subcontracting plan prior to the District accepting the submission of the proposal. If a proposal fails to include a compliant plan at the time of submission, it must be rejected as non-responsive. Furthermore, a contracting officer cannot allow an offeror to amend or cure a non-compliant subcontracting plan during post-submission negotiations, or without the prior consent of the Director of the Department of Small and Local Business Development post-award, meaning the plan must be fundamentally compliant from the moment it is submitted.

The Contract Appeals Board opinion creates an impossible operational hurdle for health benefits contracting. Because of the unique nature of these procurements, offerors simply cannot provide finalized, accurate subcontracting plans with exact dollar volumes at proposal closing. Key variables are inherently unknown at that stage and are only finalized after proposal submission and subsequent evaluation.

Anticipating the need for a legislative solution to resolve this conflict, a refreshed solicitation was issued in May 2025, which closed in June and yielded five proposals. The proposals were evaluated under standard procurement criteria, and awards were issued to the highest-rated offerors to ensure comprehensive coverage and continuity for employees and retirees. The contract structure uses a multi-year base term with optional renewal periods, aligning with related health care arrangements, supporting long-term stability, and reducing the administrative burden of frequent re-solicitations. To allow these awards to move forward, the Council enacted emergency and temporary legislation, which successfully enabled the District to award the current contracts.

However, that emergency legislation has expired and the temporary legislation will expire on April 5, 2026. Moving forward, permanent legislation must be enacted to facilitate the timely execution of future benefits contracts. The proposed legislation provides a targeted exemption that allows the submission of subcontracting plans prior to the commencement of the performance year. Under this framework, contractors' plans are finalized by calculating their exact requirements based on the specific benefits plan types they are awarded, the Department of Human Resources' good-faith enrollment estimates for each awarded plan, the final negotiated premium rates, and each contract's estimated not-to-exceed amount.

This legislation maintains rigorous oversight and compliance with the District's small business goals while aligning our procurement timing with operational realities. It enables the District to award accurate, implementable contracts without risking procurement protests or disrupting the employees and retirees who rely on uninterrupted healthcare coverage. Thank you for the opportunity to testify, and we welcome any questions you may have.