



Factsheet: subcontracting in the PALM scheme

This factsheet is to support Pacific Australia Labour Mobility (PALM) scheme employers to request approval for subcontracting arrangements used for the delivery of employer obligations under the PALM scheme deed.

Intent of subcontracting arrangements

A subcontracting arrangement is where some of the employer's obligations under the PALM scheme deed are provided by another entity. This other entity is known as a subcontractor.

Although a subcontractor may be engaged by a PALM scheme employer, as the approved party to the PALM scheme deed and guidelines, the employer remains responsible for ensuring that the obligations and requirements under the PALM scheme deed and guidelines are met.

What is the difference between a provider and a subcontractor?

The deed defines providers and subcontractors as follows:

'Provider' means any entity that is one or more of the following:

- an accommodation provider
- a transport provider
- a welfare and wellbeing provider.

'Subcontractor' means any party which has entered into a subcontract with the employer to perform a part (as determined by the department) of the obligations under the deed, and includes the party's personnel, successors and assigns as relevant.

An entity is a provider until such time as they enter into a formal agreement with an employer to perform part of their obligations. Once a formal agreement is established then a provider becomes a subcontractor for the purposes of the deed and guidelines.

What are the requirements?

A PALM scheme employer must first seek written approval from the Department of Employment and Workplace Relations before engaging a subcontractor. The employer must also inform the subcontractor that they will be providing services for workers under the PALM scheme.

The employer will need to outline the services that will be outsourced to a subcontractor when requesting a subcontracting arrangement and ensure the subcontracting agreement complies with the relevant deed and guidelines requirements.

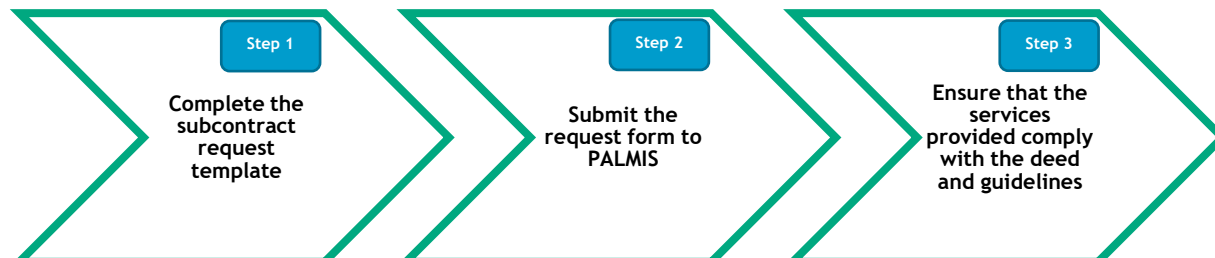
An approved subcontractor arrangement will remain viable for the duration of an employer's registration. If changes to the subcontracting arrangement are required, then a new subcontracting arrangement must be submitted to the department for approval.

What cannot be subcontracted?

PALM scheme employers **must not** subcontract any of their following obligations to:

- (a) select, employ and engage each worker directly and in accordance with Australia's workplace laws
- (b) employ each worker in accordance with terms and conditions consistent with the applicable approved offer of employment
- (c) ensure that each worker is employed for at least the minimum working hours and receives the correct rates of pay
- (d) ensure any deductions the employer makes from any worker's wages are in line with legislative and PALM scheme deed requirements
- (e) maintain appropriate records in relation to each worker, including by complying with record keeping obligations in accordance with Fair Work and PALM scheme guidelines
- (f) upon request by the department, demonstrate that any worker will gain/has gained, a reasonable net financial benefit
- (g) provide information, instructions, training and supervision to each worker.

Process for requesting a subcontracting arrangement



Note: subcontracting arrangements can only be submitted by PALM scheme employers. An employer may request a subcontracting arrangement at any point after they have signed a PALM scheme deed of agreement with the department. Requests cannot be made before the deed has been executed.

If the application is not from an approved PALM scheme employer, the person who submitted the request will be notified that the application will not be processed. For information on how to become a PALM scheme employer, see the [PALM scheme website](#).

Step 1: complete the subcontract request template

A PALM scheme employer must complete a request template to request the department's approval of a subcontracting arrangement. The template is at [attachment A](#) and available online on the 'Resources' page of [the PALM scheme website](#).

Employers must ensure all the required information is included. This includes attaching a copy of the legally binding subcontracting arrangement.



Step 2: submit request template to your relationship manager

Once an employer has completed the attached template, they must email the template request to the department. They may submit a subcontracting arrangement to their relationship manager with attached relevant documents via email.

Step 3: ensure the services provided comply with the deed and guidelines

If anything changes to affect the subcontractor's ability to provide services, the employer must inform the department and update their subcontracting arrangement to ensure continued compliance with the deed and guidelines requirements.

Before terminating a subcontracting arrangement, the employer must seek the department's approval through the attached template.



Attachment A

Template

This template is to support PALM scheme employers to meet their deed obligations in accordance with subcontracting arrangements under the Pacific Australia Labour Mobility (PALM) scheme.

The Department of Employment and Workplace Relations may request further evidence regarding the proposed subcontractor's:

- public liability insurance policy and certificate of currency
- professional indemnity insurance policy and certificate of currency
- financial viability
- fraud control plan
- working with vulnerable people accreditations.

Checklist for completing this template

- Please complete the template with sufficient details to enable the department to consider your request to enter/vary a subcontracting arrangement.
- Attach a copy of the legally binding subcontract agreement between yourself and the subcontractor,
- Sign the declaration at the end of this template confirming that the information you have provided is correct, that you have assured the subcontractor's financial viability and acknowledge that you remain responsible for meeting the obligations of the deed and guidelines.

Once completed, the authorised officer(s) of your organisation should sign the declaration on the last page. A copy of the completed template can then be uploaded to the PALMIS system.

Where more space is needed to fill in the required details in the template below, please attach additional pages.

Name of deed:
Legal name of the employer (as contracted to the department):
ABN/ACN:
Type of subcontracting request (please check appropriate box):
<input type="checkbox"/> proposal to subcontract a new organisation (complete section 1)
<input type="checkbox"/> proposal to terminate an approved subcontractor (complete section 2)
<input type="checkbox"/> proposal to replace an approved subcontractor (complete sections 1 & 2)



Section 1: details of proposal to subcontract a new organisation/replace an approved subcontractor

1. Legal name of proposed subcontractor:
2. ABN/ACN:
3. Registered business address (note a PO box is not acceptable within an official document):
State: _____ Postcode: _____
4. Proposed date of commencement of subcontracting arrangement:
Please detail the subcontractor servicing. Services may, including (but not limited to):
<ul style="list-style-type: none">• premises• facilities• equipment to be used by the subcontractor.
5. Location of services provided (specify placement sites):
<i>Please note that sites listed must match those listed in submitted your recruitment plan/s.</i>
6. Outline how the proposed subcontracting arrangements will provide enhanced outcomes for the workers:
7. Proposed contingency arrangements to ensure you meet your obligations as an employer under the PALM scheme deed and guidelines:
8. Details of the subcontractor's insurance cover, as appropriate to the subcontracting work to be performed?
9. The subcontractor understands that their services may be subject to the department's scheme assurance activities:
<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Any other relevant information:
11. Is or has the subcontractor previously been an employer either under the PALM scheme, Seasonal Worker Programme (SWP) or Pacific Labour Scheme (PLS)?

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable If yes, which program and when:
12. How will your organisation ensure that the services to be undertaken by the subcontractor will be consistent with your responsibilities under the deed? Include details of how your organisation will monitor the subcontractor's performance:
13. How will your organisation ensure that the subcontractor has attended and will undertake any training and information session as specified in the guidelines or as otherwise notified by the department?
14. How will you ensure that the subcontractor can meet their obligations in relation to the department's IT systems data access and data storage requirements?
15. How will you ensure that the subcontractor will comply with the department's security policies?
16. How will you ensure workers are aware of the process to lodge a complaint or voice concerns about a subcontractor? In addition, how will worker feedback be used to assist with continual improvement?
17. A fraud control plan must be provided to the department upon request. Outline the steps you have initiated to prevent subcontractors from engaging with fraud upon the Commonwealth:
18. Can you confirm the subcontractor meets the following legislation: a. <i>Workplace Gender Equality Act 2012 (Cth)</i> and/or: b. <i>Charter of the United Nations Act 1945 (Cth)</i> .
<input type="checkbox"/> Yes <input type="checkbox"/> No
19. How did you confirm that the subcontractor complies with any other relevant legislation, and in particular, any working with children laws within your jurisdiction?
20. Details of trained/skilled staff employed by the subcontractor to perform the services to be subcontracted:



Section 2: details of subcontractor you propose to terminate

1. Legal name of proposed subcontractor:
2. ABN/ACN:
3. Registered business address (note a PO box is not acceptable within an official document):
State: _____ Postcode: _____
4. Services currently subcontracted:
5. Location of services provided (specify placement sites):
<i>Please note that sites listed must match those listed in your recruitment plan/s.</i>
6. Provide reasons for the termination/replacement of the subcontracting arrangement:
7. Impact of proposed termination, including details of how the services will be managed to ensure the proposed termination will not negatively impact workers:
8. Any other relevant information:

Please sign the declaration on the following page then submit the completed template on PALMIS.

