

FY17 Discretionary Contract Guide

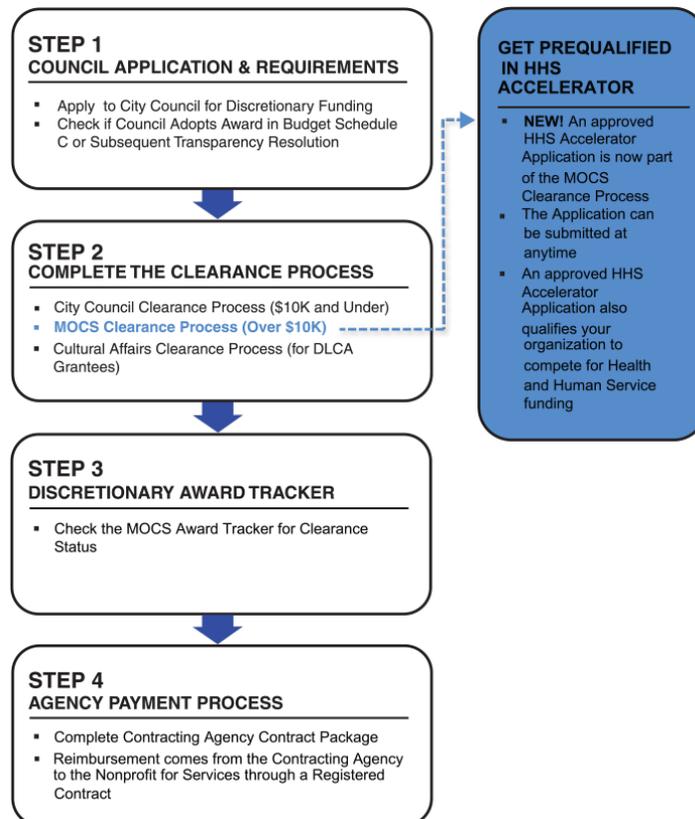
This checklist describes the steps a nonprofit organization can take to ensure timely processing of discretionary funding, or member items, designated by the City Council in the annual budget.

Each year the New York City Council awards discretionary funds to nonprofit organizations to meet local needs and fill gaps in City agency programs. This discretionary spending is a critical tool in meeting needs in our communities, and is therefore safeguarded by three layers of oversight to ensure the public trust is maintained: City Council, the Mayor's Office of Contract Services (MOCS), and the City agency that is designated by the Council to pay the nonprofit for the community services.

City Council Discretionary Requirements: The City Council details its Discretionary Award Clearance process and requirements in its [Discretionary Funding Policies and Procedures](#) manual found on their website. It is essential reading for any nonprofit that receives discretionary funding. If you have any questions, please email discretionary@council.nyc.gov.

MOCS' Role: MOCS oversees the additional transparency and vetting requirements the City Council adopted in 2009. If you have any questions, please email cbo@cityhall.nyc.gov.

Overview of the Discretionary Contracting Process



Step 1: Council Application and Requirements

- **Apply for City Council Funding in January to Mid-February – [City Council Online Application](#)**
 - If your organization is being funded for the first time, submit supplementary questionnaire to Council Finance.
 - Confirm that any participation fees for the funded program are minimal, do not discourage access, and are disclosed to Council Finance.
 - Submit a completed Conflict of Interest Disclosure and Authorization Fillable form to City Council after the online application is complete. Email the completed form to discretionary@council.nyc.gov.

- **On the City Council [website](#) in July*, review Schedule C of the Budget and additional Transparency Resolutions to see if your organization has been selected for funding:**
 - Verify your organization's EIN, legal name, City contracting agency, etc. is listed correctly in the allocated expense budget. If there are any discrepancies or anything has been omitted contact your Council Member, or contact discretionary@council.nyc.gov.
 - Confirm that the purpose of funds is a public purpose your organization can provide, i.e. that the service is open to all members of the public, regardless of race, creed etc. and does not promote a particular religion and matches what you had indicated on your application.
 - If your organization's award has an **asterisk on Schedule C**, the expense funding is **pending clearance** by Council and/or MOCS. *Continue below to complete the clearance process.*

Step 2: Complete the Clearance Process

Every nonprofit awarded discretionary funds is subject to City Council's initial review and clearance, and may also be subject to additional reviews by MOCS and/or DCLA depending on the combined amount of discretionary awards an organization receives from the City Council, and which City agency will be administering the award.

MOCS Role in Clearing Awards: Every single award must be reflected as cleared by MOCS to move on to the agency payment process. For clarification on what is required for a specific discretionary award, visit the [award tracker](#). The clearance of all discretionary awards is reported by MOCS to the Comptroller and City agencies to reflect compliance with legal and City Council requirements.

Discretionary Awards have different requirements depending on the cumulative dollar value of a nonprofit's contracts for the fiscal year. The two pathways outlined in this checklist are:

- Nonprofits receiving \$10,000 or **less** in cumulative discretionary funding.
- Nonprofits receiving **more** than \$10,000 in cumulative discretionary funding.

Cultural Development Fund Application for DCLA Grantees

Nonprofit cultural organizations that receive discretionary awards through the Department of Cultural Affairs (DCLA) must have applied to [DCLA's Cultural Development Fund \(CDF\)](#). Organizations that are found by DCLA to be eligible for a CDF award, whether or not a CDF award is received, may receive discretionary funding through DCLA. CDF eligibility, in conjunction with MOCS approval, serves as a prequalification review for discretionary awards through DCLA.

Nonprofits receiving less than \$10,000 in cumulative funding

City Council Clearance Requirements:

- All awards are initially reviewed by the City Council's Legal Division to ensure that awards are being made for public purposes. To see if the City Council has completed their review of your allocation you may check their [online database](#).
- Nonprofits are required to submit the [City Council Organization Qualification Application](#), [Conflict of Interest Disclosure and Compliance Certification](#), and the [Authorization Fillable form](#) to the Council for review. If the organization is new to City Council funding or newly incorporated, the City Council also requires nonprofits to complete and submit the [Supplementary Application Form](#).

If Status includes "Pending Council Clearance", email discretionary@council.nyc.gov with your award number(s) and legal name in the subject line to see what additional information the City Council needs to clear your allocation.

MOCS Clearance Requirements: Your organization must share a number of required documents with MOCS via the [HHS Accelerator System](#). Upload the requested documents to your vault and share them with MOCS. Organizations receiving less than \$10,000 in cumulative funds in one Fiscal Year are not required to complete the HHS Accelerator Application, and can use the Document Vault to share these documents with MOCS.

- **Check the MOCS Tracker**, <http://www1.nyc.gov/site/mocs/nonprofits/award-tracker.page>, to see what your organization is missing for clearance.
- **Doing Business Data Form** required for cumulative discretionary funding over \$5,000. A fillable form is available at <http://www1.nyc.gov/site/mocs/resources/forms.page>.
- **Proof of Charities Bureau Filing Compliance:** Submit a copy of the most recent CHAR500 filing to MOCS via your HHS Accelerator document vault.
 - The document should include your organizations most recent Char 500, most recent IRS 990 (if organization revenue is more than \$50,000), and most recent CPA Review Report/ CPA Audit Report/Financial Statements (if organization revenue is more than \$500,000).
- OR, if your organization is exempt from registering with the NYS Charities Bureau, upload and share via HHS Accelerator your [Certification of Exemption from Requirement to Register with the NYS Charities Bureau](#) form to MOCS.
- If your organization is not registered with the NYS Charities Bureau and not exempt from registration, your organization must register (file CHAR410) and file annually (file CHAR500) with the NYS Charities Bureau. Registration forms are available on the website of the [New York State Charities Bureau](#).



Nonprofits receiving more than \$10,000 in cumulative funding

Nonprofits receiving over \$10,000 in cumulative funding are subject to the following requirements:

City Council Clearance Requirements:

If Status includes "Pending Council Clearance", email discretionary@council.nyc.gov with your award number(s) and legal name in the subject line to see what additional information the City Council needs to clear your allocation.

MOCS Clearance Requirements: If an organization receives awards that add up to more than \$10,000 in a given year, that are not administered by DCLA, the organization must be prequalified through the [HHS Accelerator System](#). In addition to an approved HHS Accelerator Application, MOCS will also verify that your organization is in Compliance with the NYS Charities Bureau, has a current Doing Business Data Form, has completed the Conflict of Interest Disclosure and Compliance Certification form, and an Executive Staff Member or Board Member has attended the Capacity Building Training.

- Check the MOCS Tracker, <http://www1.nyc.gov/site/mocs/nonprofits/award-tracker.page>, to see what your organization is missing for clearance.
- The HHS Accelerator Prequalification Application:** The prequalification process is now completed through HHS Accelerator by submitting a Business Application and at least one Service Application to become a prequalified service provider. When your Business Application has been approved, MOCS will review your prequalification and make a final determination to prequalify your nonprofit for City Council discretionary allocations.
 - If your organization does not have a current approved HHS Accelerator Application, then apply to be a Prequalified vendor through completing a Business Application in [HHS Accelerator System](#).
- Proof of Charities Bureau Filing Compliance:** Submit a copy of the most recent CHAR500 filing to MOCS via your HHS Accelerator document vault. The document should include your organizations most recent Char 500, most recent IRS 990 (if organization revenue is more than \$50,000), and most recent CPA Review Report/ CPA Audit Report/Financial Statements (if organization revenue is more than \$500,000).
 - OR, if your organization exempt from registering with the NYS Charities Bureau. Upload and share via HHS Accelerator your [Certification of Exemption from Requirement to Register with the NYS Charities Bureau](#) form to MOCS.
 - If your organization is not registered with the NYS Charities Bureau and not exempt from registration, your organization must register (file CHAR410) and file annually (file CHAR500) with the NYS Charities Bureau. Registration forms are available on the website of the [New York State Charities Bureau](#).
- Doing Business Data Form** required for cumulative discretionary funding over \$5,000. The completed form should be shared with MOCS via your HHS Accelerator document vault. A fillable form is available at <http://www1.nyc.gov/site/mocs/resources/forms.page>.

- **Capacity Building Training:** Training must be completed by an executive staff member or a board member
 - Training is required every three fiscal years (July 1st to June 30th) not including the fiscal year in which you are trained.
 - For example if you are trained in fiscal year 2017, your training would count for fiscal years 2018, 2019 and 2020 and would expire July 1, 2020 at the beginning of fiscal year 2021.
 - Training is completed by and credited to the person who completed the training, and the organization must certify to the contracting agency that the trained person is still with the organization. If the staff member or Board member that completed Capacity Building Training leaves, the nonprofit must send a new board or executive staff member to complete training.
 - If you are not eligible for an exemption (see below) or a board member or senior staff member has not attended a Capacity Building Training in the last three fiscal years, visit <https://a002-oom03.nyc.gov/rsvp1> to register for the next Capacity Building Training. A board member or senior staff member may also fulfill the requirement by completing the training online: <http://mocs.houltoninstitute.com> and using the access code DOEJ-KAJM

Exemptions from Capacity Building Training

- If your organization holds contract(s) with NYC valued at over \$1 million *your organization is exempt from the training requirement.*
- If your organization is a large organization (annual revenues of over \$10 million) that provides internal trainings on legal compliance, internal controls, and board governance, *your organization may apply for an exemption from the training requirement by emailing a description of trainings and the most recent IRS 990 to cbo@cityhall.nyc.gov.*

Fiscal Conduits

- Is your organization serving as a fiscal conduit?
 - Yes No
 - If yes, is your organization prequalified to provide Fiscal Conduit services? Fiscal Conduits must become prequalified vendors through HHS Accelerator by submitting a Business and Service application: <http://www1.nyc.gov/site/hhsaccelerator/>
 - Once a nonprofit is approved by HHS Accelerator, MOCS will conduct a review to see what kind of fiscal conduit a nonprofit can serve as: Citywide or Neighborhood. MOCS will be in contact with fiscal conduits when they have been approved, or if additional information is needed for their application.

What is a Fiscal Conduit?

“Smaller organizations that lack administrative capacity to handle the requirements of the City contracting process may receive their discretionary allocation(s) via a fiscal conduit. The role of a fiscal conduit is to provide administrative and technical assistance to the organization on whose behalf it serves as a conduit. This may include assistance with required paperwork, review and submission of vouchers to the City funding agency, receipt and disbursement of contract payments, oversight of program and program documentation, bookkeeping and auditing, and capacity building consultations and trainings.” *New York City Council Discretionary Funding Policies and Procedures*

- Citywide Fiscal Conduit may serve up to 25 subcontractors and must provide technical assistance.
- Neighborhood Fiscal Conduit may serve up to 10 subcontractors in the same borough and service areas.



Step 3: Discretionary Award Tracker

Your award must be Cleared on the [MOCS Discretionary Award Tracker](#) to register a contract or grant and be paid.

- Check the MOCS Tracker, <http://www1.nyc.gov/site/mocs/nonprofits/award-tracker.page>, to see what awards for your organization are now cleared.
- Agencies typically reach out to newly cleared nonprofits within three weeks of their clearance from MOCS.

Step 4: Agency Payment Process

City Council will assign each discretionary award to a City Agency, which will oversee registration with the Office of the Comptroller and payment for services delivered through the registered contract or grant.

- Organizations that have never received funding from the City must enroll in the City's system of record, the [Payee Information Portal](#).

City agencies typically reach out to newly cleared nonprofits within three weeks of their clearance from MOCS. Please check the [Discretionary Award Tracker](#) to find out if your organization's awards are cleared.

- If the status is 'Cleared - Contact Contracting Agency', and your contracting agency is DYCD, visit [DYCD](#) to complete your contract paperwork.
- If the status is 'Cleared,' and your contract is with another agency, contact the City agency to get guidance on [how to get started](#).

Expect registration to take at least 30-120 days once you submit the required information to the City agency, depending on the size of the contract or grant and the completeness of your contract package.

Payment can be made based on a registered contract or grant, and only according to the City agency's fiscal manual. Organizations should review the basic [NYC contracting requirements](#).

In addition, City Council prohibits discretionary awards from being substantially subcontracted, so do not plan to subcontract more than 30% of a discretionary award. Subcontractors are all reviewed by the City Council, this review may add up to an additional 30 days to the registration process for discretionary contracts.

Additional Notes:

- All subcontractors must be approved by your contracting Agency prior to beginning services.
- We encourage regular use of the [MOCS Discretionary Award Status Tracker](#) to make sure any new awards or Council changes are cleared throughout the year.