



Issue Date: March 2023

Review Cycle (Years): Annually

Next Review Date: 15th March 2024

Person Responsible: Chief Finance and Operating Officer

**SUBCONTRACTING FEES AND CHARGES POLICY
APPROVAL/CONSULTATION REQUIREMENTS**

WHO BY	REQ?	DATE	WHO BY	REQ?	DATE
SLT	Y <input checked="" type="checkbox"/>	06-03-23	Corporation	Y <input type="checkbox"/>	
Health-Safety Comm.	Y <input type="checkbox"/>		Finance-Resources Comm.	Y <input checked="" type="checkbox"/>	16-03-23
Trades Union	Y <input type="checkbox"/>		Audit Comm.	Y <input type="checkbox"/>	
Education-Standards Comm.	Y <input type="checkbox"/>		Remuneration Comm.	Y <input type="checkbox"/>	
POLICY LOCATION: Internal <input checked="" type="checkbox"/> (Sharepoint) External <input checked="" type="checkbox"/> (Website)					
Related Documents: •					

1 AIM AND SCOPE OF THE POLICY

1.1 This policy applies to all subcontracting activity supported with funds supplied by the Education and Skills Funding Agency (ESFA), or any successor organisations. This policy was previously called the Subcontracting Policy.

2 CONTEXT

- 2.1 The Corporation Board and the Accounting Officer (senior responsible person) must be satisfied that all subcontracting undertaken by the College meets its strategic aims and enhances the quality of the offer to learners.
- 2.2 The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential and existing subcontractors to ensure compliance with the AELP / AoC Common Accord at all levels and to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on learner lives.
- 2.3 Supply chain management activities comply with the principles of best practice in the skills sector. In particular, they will be guided by the principles given in the LSIS publication "Supply Chain Management – a good practice guide for the post-16 skills sector" (Jan 2013) and the ESFA publication "Providing external assurance on subcontracting controls" (March 2017).
- 2.4 Subcontracting work must meet the requirements laid out in relation to subcontracting in the latest versions of the relevant ESFA funding documents.

3 RATIONALE FOR SUBCONTRACTING

- 3.1 Subcontracting work must meet the requirements laid out in relation to subcontracting in the latest versions of the relevant ESFA funding documents.
 - 3.1.1 To work with providers who effectively reach priority learners in the community and who can demonstrate positive employment outcomes.
 - 3.1.2 To provide access to, or engagement with, a new range of customers.

- 3.1.3 To support another provider to develop capacity/quality
- 3.1.4 To provide niche delivery where the cost of developing direct delivery would be unsustainable.

3.2 The rationale for subcontracting a particular piece of work is outlined in the contract provided to each subcontractor.

4 DUE DILIGENCE

- 4.1 All proposals for subcontracting must adhere to strict due diligence guidelines to assess need, suitability and risk.
- 4.2 The adherence to the guidelines assures the Board that appropriate checks have been conducted in line with those stipulated in the ESFA Subcontracting Funding Rules.
- 4.3 Completion of the due diligence checklist in Annex 1 is required for all subcontracting proposals including a submission of all evidence referred to therein.
- 4.4 All due diligence requires SLT approval.

5 SUBCONTRACTOR FEES

- 5.1 The College retains a management fee which covers a proportion of the direct costs associated with operating and quality assuring subcontract provision and which provides a contribution towards indirect costs such as finance, student support, IT and other curriculum support costs.
- 5.2 The management fee for all subcontracting partnerships will be set at 20% in order to reflect the time and resources required to set up and monitor a partnership. A higher rate may be charged on an exceptional basis with the specific approval of the **Chief Finance & Operating Officer and the VP Curriculum Innovation, Quality and Performance**.
- 5.3 The subcontractor fee of 20% of the gross contract value covers the following specific costs incurred by the college:
 - 5.3.1 Preparation of all subcontract documentation and processes (5%)
 - 5.3.2 Provision of funding guidance and support relating to eligibility of learners and provision (5%)
 - 5.3.3 Course set-up in College system (3%)
 - 5.3.4 Preparation of funding submissions from subcontract hardcopy / electronic data (2%)
 - 5.3.5 Design and provision of templates to capture learner data (1%)
 - 5.3.6 Quality framework, including support for improving the quality of teaching, learning and assessment (4%)
- 5.4 Where a higher exceptional management fees is charged the breakdown will be specified within the contract with the subcontractor.
- 5.5 This list of specific charges outlined above is reviewed each year by the senior leadership team to determine whether it is reasonable and proportionate. Careful consideration will

be given to whether these charges contribute positively to an improvement in the quality of teaching and learning delivered by the subcontractor. Changes will be made if required.

- 5.6 These specific costs are included in the contract issued to each subcontractor and are discussed during the first contract management meeting to ensure that the subcontractor agrees that the costs are reasonable and proportionate and understands how they contribute to delivering high quality learning.

6 PAYMENT TERMS

- 6.1 The College will make payment to the subcontractor within 30 days of the date of an invoice which incorporates a valid claim for payment, such claim being the part of the price due to the subcontractor for each programme or fraction of a programme completed in the preceding payment period.

7 SUPPORT PROVIDED TO SUBCONTRACTORS

- 7.1 The College is fully committed to working with providers who are able to provide subcontracted delivery of the highest quality. We work closely with our subcontractors to improve the quality of their teaching and learning where necessary. This supports includes:-
- 7.1.1 Regular visits to the subcontractors, and a structured contract management process.
 - 7.1.2 Provision of curriculum planning advice and funding updates.
 - 7.1.3 Observation, and joint observation (announced and unannounced), of learning activities with feedback provided.
 - 7.1.4 Training sessions, including observation training.

8 COMMUNICATION OF THE SUBCONTRACTOR FEES & CHARGES POLICY

- 8.1 The Subcontractor Fees & Charges Policy is published on the College website at www.coventrycollege.ac.uk and is sent to all subcontractors. The policy will be discussed with potential subcontractors during the due diligence process. The policy is discussed with current subcontractors during the first contract management meeting of the academic year.

9 REPORTING

- 9.1 An annual report will be presented to Board detailing what subcontracting has taken place for the previous year and what is expected to be subcontracted in the forthcoming year, and termly progress reports will be presented. An annual report confirming the College's compliance to the funding rules will be presented to the Audit Committee.

10 RESPONSIBILITIES

- 10.1 The **Chief Finance & Operating Officer and the VP Curriculum Innovation, Quality and Performance** will be responsible for:-
- 10.1.1 The due diligence processes and checks
- 10.2 **The Director of MIS and their team** will:-

- 10.2.1 Carry out all internal audits relating to document control.
 - 10.2.2 Lead on all internal audits relating to each partner organisation.
 - 10.2.3 Provide each partner with up to date ESFA requirements.
 - 10.2.4 Accurately completing the ESFA subcontractor declaration form in a timely manner.
 - 10.2.5 Ensure all associate paperwork is obtained in a timely manner and made available for SLT review.
 - 10.2.6 Agree audit dates with every partner and share with each centre responsible for curriculum audit.
 - 10.2.7 Create a centralised location for all partner files.
 - 10.2.8 Monitoring financial performance of each partner against minimum levels of performance (MLP) and key performance indicators (KPI's).
 - 10.2.9 Agreeing monthly payments to partner.
 - 10.2.10 Overall responsibility of ensuring every invoice submitted by partners is accurate against ILR drawdown.
 - 10.2.11 Making monthly ILR claims for starts, on programme payments and completions. Ensuring that employer contribution payments are accurately recorded on the ILR and subsequent ILR return to the ESFA.
- 10.3 **The Head of Finance and their team** will be responsible for:-
- 10.3.1 Drawing up and agreeing all partnership contracts, secondment agreements, service level agreements and any subsequent amendments obtaining input to service specifications from delivery teams.
 - 10.3.2 Agree funding splits that provide value for money.
- 10.4 **The Curriculum and Quality teams** will be responsible for:-
- 10.4.1 Agreeing lines of communication for every partner.
 - 10.4.2 Monitoring on-programme learners.
 - 10.4.3 Monitoring early leavers and achievements.
 - 10.4.4 Monitoring other arising issues on an ad hoc basis.
 - 10.4.5 Learner interviews.
 - 10.4.6 Verification of portfolio evidence.
 - 10.4.7 Observation of learner activities on site.
 - 10.4.8 Validation of schemes of work.
 - 10.4.9 Validation of assessment.
 - 10.4.10 Internal verification – formative and summative.

- 10.4.11 Evaluating course reviews.
- 10.4.12 Evaluating learner and employer feedback
- 10.4.13 Ensuring the quality cycle and associated processes are applied to partner provision.
- 10.4.14 Direct observation of initial guidance.
- 10.4.15 Monitoring overall performance of each partner.
- 10.4.16 Carrying out a minimum of one direct observation of a teaching and learning observation per partner per year and provide feedback in a written format.

10.5 **The Exams team** will be responsible for:-

- 10.5.1 Claiming qualifications where registered through the College centre.
- 10.5.2 Carrying out spot checks relating to tests or exams that form part of the delivery.
- 10.5.3 Ensuring that invigilation is carried in accordance with awarding organisation requirements.
- 10.5.4 Ensuring that copies of all learner certificates are copied and retained.

10.6 **The Director of Human Resources** will be responsible for:-

- 10.6.1 Ensuring all enhanced Disclosure and Barring Service (DBS) checks are completed by the subcontractor and any outcome causing concern is shared with the appropriate partner.
- 10.6.2 Ensuring all associate documentation is retained.
- 10.6.3 Ensuring that all partner staff complete any relevant safeguarding, Prevent or other applicable training with the subcontractor.

10.7 **The Designated Safeguarding Lead** will be responsible for:-

- 10.7.1 Ensuring that all subcontractors have appropriate safeguarding policies and procedures in place to keep children and vulnerable adults safe.
- 10.7.2 Ensuring that appropriate annual staff and learner training is in place which covers all aspects of the safeguarding and Prevent statutory duties.

11 **REVIEW OF THE POLICY**

- 11.1 The above policy will be reviewed by the relevant parties annually, or as required.

Due diligence checklist for lead providers and subcontractors



About this checklist

This checklist is based on the effective practice of existing partnerships and information available publicly via the [website](#) of the Education Skills Funding Agency (ESFA)

The ESFA requires that all arrangements between lead providers (those with a direct contract from the Education Skills Funding Agency), and subcontractors are **confirmed in legally binding contracts**. All contracts, whether or not they are called service level agreements or contracts, need to include some mandatory clauses. Legally binding agreements should be drafted and/or checked by your legal adviser/s. You should also check tax and accounting implications of contracting and subcontracting with your accountant.

This checklist identifies key factors to consider before entering into a contract. They are drafted from the point of view of the lead provider. However, they also tell subcontractors what they should expect to have reviewed and checked by any potential lead provider. Subcontractors may like to consider to what extent the lead provider itself complies with the conditions in the due diligence checklist.

Lead providers should carry out due diligence **before** they enter into a contract. The scope and depth of due diligence should be proportionate to the size of the contract and to any other risk factors identified by the lead provider, such as the latest Ofsted inspection grade of the potential subcontractor or its previous performance, either in terms of learner outcomes or finance.

It is the responsibility of the lead provider to satisfy itself that the sub-contractor has been selected fairly through an open and transparent process and has sufficient capacity, capability, quality and business standing to deliver the provision that it being sub-contracted.

Checklist: Due Diligence

Factor to consider and check	Review information provided and report suitability against each factor	If already checked, comment
<p>1. What is the subcontractor's financial health – previous accounts, cash flow and solvency? Evidence of latest accounts must be provided.</p> <p>Are there any unsatisfied county court judgements against the subcontractor?</p>		
<p>2. Does the legal status (sole trader; limited liability company or partnership; charity; public body etc) of the subcontractor and its governance have implications for the proposed contract and its delivery?</p>		
<p>3. Has the subcontractor disclosed all contracts it holds and has held with the Education Skills Funding Agency; and, in the case of terminated agreements, the reasons for the termination of those agreements? Provide details of these agreements.</p>		
<p>4. Has the subcontractor disclosed the names of its directors (or trustees) and senior managers together with details of their previous appointments, particularly with organisations who hold or have held funding agreements with the Education Skills Funding Agency?</p>		
<p>5. Has the subcontractor sufficient capacity to deliver its commitments under the proposed contract whilst still meeting its other commitments?</p>		

Factor to consider and check	Review information provided and report suitability against each factor	If already checked, comment
<p>6. Is the subcontractor a party in any litigation which might affect its ability to deliver the proposed contract? For example, any action in the civil or criminal courts, or in an employment tribunal?</p>		
<p>7. To what extent do the lead provider's business strategies (e.g. for growth, diversification) match those of the subcontractor?</p>		
<p>8. Does the subcontractor comply with health and safety legislation?</p> <p>Has it carried out health and safety risk assessments covering the proposed subcontracted learners?</p>		
<p>9. Has the subcontractor declared to the lead provider reportable injuries, diseases and dangerous occurrences covered by the RIDDOR regulations, together with the actions they have implemented to prevent reoccurrences? This should cover the previous three years as it is a specific ESFA requirement.</p>		
<p>10. Does the subcontractor comply with legislation on employment (including the use of volunteers)?</p>		
<p>11. Does the subcontractor comply with legislation on immigration?</p>		

Factor to consider and check	Review information provided and report suitability against each factor	If already checked, comment
<p>12. Does the subcontractor have a policy on equality and diversity which goes beyond compliance with legislation?</p> <p>Does this policy promote diversity and make a commitment to raising achievement for all learners?</p> <p>Does the policy cover all groups: gender; ethnic origin; age (where appropriate); disability; transgender; ex-offenders; any others identified as underachieving?</p>		
<p>13. Does the subcontractor have policies for safeguarding young people and vulnerable adults?</p> <p>Do these policies include staff recruitment and vetting, training of all staff and learners, dealing with allegations and concerns, whistle-blowing, and checking employers and workplaces where appropriate and based on assessment of risk?</p> <p>Has the contractor confirmed that their staff have completed this training?</p>		
<p>14. Does the subcontractor ensure that all staff who have direct contact with learners are DBS checked every 3 years? Please provide details including DBS number for inclusion on the Colleges register.</p>		
<p>15. Does the subcontractor have a policy for preventing and dealing effectively with bullying and harassment?</p>		

Factor to consider and check	Review information provided and report suitability against each factor	If already checked, comment
<p>16. Does the subcontractor comply with data protection legislation (including notifying the Information Commissioner's Office that they process personal information)?</p> <p>Does it have appropriate data protection and security systems for the exchange of personal and financial data with the lead provider?</p> <p>Does the subcontractor have systems to ensure compliance with the Skills Funding Agency's requirements for data collection and the keeping of records?</p>		
<p>17. Does the subcontractor intend to subcontract any part of the provision to another provider? 'Second level subcontracting' requires the approval of the ESFA?</p>		
<p>18. Does the subcontractor have appropriately qualified and trained staff to deliver the proposed contract effectively from its start?</p>		
<p>19. Does the subcontractor have the physical resources to deliver the proposed contract effectively from its start?</p>		
<p>20. Does the subcontractor have appropriate learner support arrangements, including support for learners with disabilities and learning difficulties?</p> <p>Does this support include access to, or referral to, counselling or other specific help?</p>		

Factor to consider and check	Review information provided and report suitability against each factor	If already checked, comment
21. Does the subcontractor have information, advice and guidance arrangements for learners?		
22. Does the subcontractor have a policy on promoting the health and well-being of learners?		
23. Does the subcontractor have a policy and processes for dealing effectively with complaints and compliments ?		
24. Does the subcontractor have a clear policy on learner discipline and sanctions ?		
25. How effective are the subcontractor's arrangements for communicating with learners ?		
26. How effective are the subcontractor's arrangements for communicating with employers ?		
27. Does the subcontractor have a policy on environmental sustainability ?		
28. Has the subcontractor a track record of implementing, reviewing and improving policies ? Does this review focus on the impact of policies on learners?		

Factor to consider and check	Review information provided and report suitability against each factor	If already checked, comment
29. Does the subcontractor have appropriate quality assurance arrangements : audits, self-assessment reports and improvement plans, internal and external verification of assessment?		
30. Does the subcontractor have at least a satisfactory Ofsted grade for any aspect of its overall performance or for the sector-subject area(s) of the proposed sub-contracted provision?		
31. Can the subcontractor provide evidence and verification (for example, references) to support the assertions it makes?		
32. Has the subcontractor taken advice from its legal adviser(s) and accountant(s) about the proposed contract and the implications of subcontracting?		
33. Does the subcontractor understand fully all clauses in the proposed contract? Has it reviewed all the implications of them?		