

East Sussex College Group (ESCG) T/A ESCG Subcontractor and Supply-chain fees and charges policy 2019/20

Introduction and Scope

The purpose of this document is to define the basis on which 'provision subcontracting' arrangements will be managed. The policy applies to all supply chain activity supported with funds supplied by the Skills Funding Agency and Education Funding Agency or any successor organisation. It is not subcontracting the delivery of a service as part of the delivery of a programme (for example, buying the delivery of part of an apprenticeship framework or outreach support). Where appropriate, ESCG will contract with other parties to deliver programmes and activities funded by the government through its funding bodies. The organisation with which it contracts will be subject to the requirements set out below.

About East Sussex College Hastings

East Sussex College Hastings is part of the East Sussex College group (ESCG) and currently manages a network of 30 sub-contractors who deliver a range of qualifications. The College's partnership with our network of sub-contractors enables ESCG to meet the needs of employers and learners across a broad range of sectors and a wide geographical area that complements existing provision undertaken by ESCG delivery teams.

Rationale for subcontracting

ESCG is committed to the high quality delivery of a wide range of courses to meet its wider community's needs, in line with the funders' priorities and identified skills gaps. ESCG maintains a national training consortium in order to increase its reputation nationally and will ensure this through competitive procurement via a Dynamic Purchasing System (DPS) in order to ensure competition, transparency and value for money, this procurement will be conducted in accordance with the Public Contracts Regulations 2015 (or as may be amended) through the application of a 'Light Touch' process, whilst ensuring that delivery is through high quality partners with the experience and expertise to meet specific employer and learner needs.

Current Subcontracted delivery has been used previously to:

- Provide immediate provision to meet a specific identified need whilst reviewing the expansion of direct capacity.
- Providing access to, or engagement with, a new range of customers.
- Support growth.
- Provide niche delivery where the cost of developing direct delivery would be inappropriate / not cost viable.

Reasoning for offering partnering opportunities

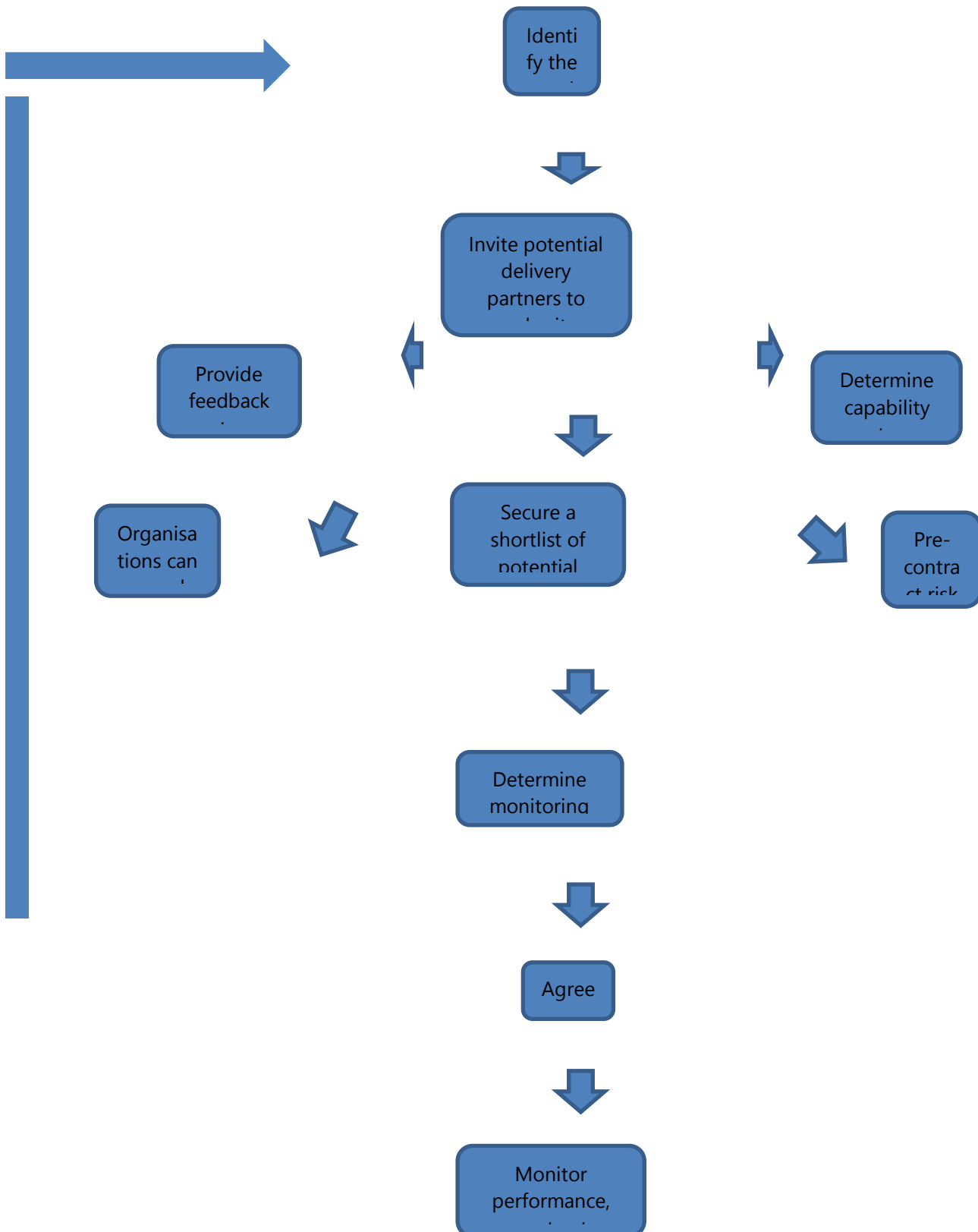
Focuses the majority of its recurrent funding on meeting the needs of residents, employers and communities in East Sussex, with specific focus upon Hastings Borough and Rother District. For certain provisions this natural geographic span increases to include the South East and Coast to Capital Local Enterprise Partnerships (LEPs). This is supported, on the whole, by ESCG internal delivery.

The Subcontracting Policy is now a mandatory requirement that must be in place prior to participating in any sub-contracting activity and the content of this policy has been

developed in line with AoC/ AELP Common Accord, the ESFA Funding rules / Financial Memorandum recommendations and the LSIS Supply Chain Management document. ESCG acknowledges their support in its development.

Subcontracting Process Overview

To ensure clarity from the outset ESCG has ensured that it has robust systems in place that are consistent and highlights roles and responsibilities; this will remove any risk of confusion and uncertainty from the outset and is shown in the diagram below:



Identification of need to sub-contract

Contract review

Following the college's annual business development cycle between Dec-Feb of each year ESCG is able to review the provision and partner mix to identify any potential spare capacity or areas of growth. Existing and new supply chain partners will be invited via our Dynamic Purchasing System submit a bid through a series of mini tenders.

The Policy

The College will use its supply chains to optimise the impact and effectiveness of service delivery to the end user. The college will therefore ensure that 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-76 skills sector" (Nov 2012 and subsequent iterations). Reference to the Supply chain fees and charges will be at the point of registration to the Dynamic Purchasing system or an addendum to the current contract.

Due Diligence

The college will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential subcontractors to ensure the subcontractor is a legally, financially and educationally sound organisation and is compliant with the 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.

The examples of levels of documentation as part of the DD process will include:

- Statutory accounts and company credit checks
- EQA/Inspection Reports
- Evidence of Awarding Body status, including sanctions
- CVs for delivery staff (including DBS numbers)
- An overview of the other subcontract values and prime contractors each partner contracts or is planning to contract with, by funding stream
- Declarations of business standing of the Directors and any conflicts of interest with ESCG staff or Corporation members

Subsequently subcontractors should notify ESCG of any changes in circumstances or personnel related to the contract immediately. This process will be repeated on an annual basis with a specific focus upon financial and quality related performance updates.

Decision Process

The procurement process will determine a shortlist of potential delivery partners who will have each submitted a completed Supplier Selection Questionnaire (SSQ). You are invited to complete this SSQ and to submit it, together with any requested supporting information, to Tenet Education Services by the due date for return in accordance with the procedures set out in 'Submission Instructions'.

The procurement processes and base documentation will form the main decision making process to select a sub-contractor. Decisions will also be determined by the responses to the key questions requested in any of the 'mini' tenders to check potential partner's delivery plans against local and regional priorities.

ESCG will be looking for flexibilities that develop and deliver an offer that meets the needs of local people, employers and the wider community.

The costs/benefits of an internal solution (investment) vs an external solution (sub-contract) will also be considered as will the leverage that subcontracted work can provide to key College and/or government growth targets, especially Apprenticeship delivery.

Contracting

Based on approval and through discussion or negotiation, both ESCG and the subcontractor will agree the contract financial value and learner numbers by funding stream(s). The following core contract components will be agreed:

- Sub-contractor profile
- Sub-contractor duty (and KPIs)
- College duty
- College service offer
- College management and service charges based on due diligence results
- Contract volume and value.

The contract will reflect the in-year Agency Funding Rules and updates. All contracts are legally binding and will need to be signed by all parties prior to the commencement of delivery.

The ESCG will declare to the Agency all subcontractor arrangements. This will normally be twice a year but if volumes or values change a revised submission will be made between these formal submission dates.

During the contracting year if there is any evidence of a subcontractor's irregular financial or delivery activity the College will carry out an investigation and will report the outcome of the investigation, in writing, to the Funding Agency relationship manager within 10 days of the investigation being complete.

Second-level Subcontracting

Second level subcontracting is not permitted under any circumstances. Any subcontractor found to be second level subcontracting risks having their contract terminated.

Other Requirements

All subcontractors holding contracts with an overall value of £100,000 must be listed on the Register of Training Organisations and/or Register of Apprenticeship Training Organisations (RoTP) before ESCG will enter into a subcontract with them.

ESCG will only subcontract for delivering funded provision to legal entities. If the legal entity is a registered company, it must be recorded as 'Active' on the Companies House database.

ESCG will be increasing the utilisation of its funding through both direct delivery and subcontractors in 2019/20. Subcontractor growth will however be contracted on a limited basis, where delivery is employer led and in line with Governmental / LEP priorities and only when the best interests of the College's local and wider communities are served through the use of partners.

Quality Assurance

Any subcontracted activity is a fundamental part of ESCG provision. The quality of the provision will be monitored and managed through the existing College QA processes and procedures, as amended in order to fully encompass all sub contracted activity.

This Policy positions subcontracted provision as a part of College activity to enable continuous improvements in the quality of teaching, learning and assessment for both the college and its subcontractor's. This will be achieved through the sharing of effective good practice.

Publication of information relating to subcontracting

In compliance with the Education and Skills Funding Agency and other agency funding rules that apply, ESCG will publish its Subcontracting Fees and Charges policy and actual end-of year sub-contracting fees and charges on its website before the start of each academic year (and in the case of actual end of year data, as required by ESFA).

The typical percentage range of fees retained by ESCG in 2019/20 to manage subcontractors will be **20%**. This has been calculated to include the costs of managing and administering the subcontracting arrangements, the electronic and paper systems used within the relationship and the additional value offered to partners in terms of CPD and support to ensure compliance and improve and enhance the quality of teaching and learning.

There may be some slight differences in fees charged for or the support provided to different subcontractors. These are for a variety of reasons but could include the use of College premises for delivery, specific delivery by ESCG staff on elements of partner's programmes and additional support measure put in place to manage under performance by partners.

In return for the fees charged ESCG provides the following services and support:

- Access to the whole College CPD programme that includes opportunities for subcontractors staff to develop new course materials, improve teaching and learning practice and refresh knowledge of safeguarding, EDI, funding rules and audit compliance (including completing College paperwork and utilising College on-line systems to track learners progress, attendance and progression);
- Training for the observation of Teaching, Learning and Assessment to enable partners staff to undertake graded observations following ESCG policies and procedures;
- A dedicated Relationship Management Team that is available to provide support and guidance and undertake, as a minimum, six – eight weekly site visits, teaching and assessor observations, weekly paperwork compliance check and technical support;
- Help to complete a Self-Assessment Review (SAR) that feeds into the wider college SAR and identifies areas of effective practice and areas of improvement

for which partners are able to tap into support from ESCG staff in Teaching and Quality;

- Access to a range of electronic tools to monitor learners progress, attendance and progression;
- Access to the college's planning and monitoring software to enable partners to effectively plan and monitor the provision that they deliver.
- Administrative support to ensure all paperwork is audit and ILR compliant and safely stored and uploaded onto ESFA systems;
- Access to the College's Quality and CPD services that provide 1:1 support and training for teaching and delivery staff that are graded 3 or 4 with targeted action plans to improve their practice;
- Access to College staff to deliver specific or specialised provision and use of College premises for open events, hot-desking and course delivery;
- Business Development and joint bidding opportunities to link with regional or national employers.
- Administrative support for processing additional funding applications, follow ups and payments; such as the invoicing for the 5% Non-levy employer fee, incentive for SMEs taking on 16-18 apprentices.
- Administrative and relationships support with identified EPA centres and employers.

Payment

The standard payment terms are monthly in arrears based on actual delivery recorded on the College ILR. Full details of payments are included within Section 12 of the contract between ESCG and subcontractors. These are summarised below:

- The College will make the payments to the Partner calculated and payable in accordance with Schedule 2 of the Contract.
- Payments will be made within 30 days to ensure compliance with the ESFA mandatory requirements as set out in the Procurement Policy note (Action Note 07/10 25th March 2010, Office of Government Commerce).
- If there are errors in audit of a sample of the evidence provided by the Partner to support the payments the College reserves the right to recover from the Partner an amount based on the error rate identified and the total value of this Agreement.
- Such amounts may be recovered by making deductions from future payments due to the Partner under this Agreement.
- If the funding money is withdrawn from the College by the ESFA retrospectively the College reserves the right to withdraw funding from the Partner.

This policy has been shared with all current partners and is available to download alongside the documentation potential partners complete on the www.sussexcoast.ac.uk website.

This policy is reviewed on an annual basis and agreed by the Corporation, via the Finance & Human Resources Subcommittee in May each year to allow for any alterations in ESFA funding rules to be included but before contracting with subcontractors occurs. This enables the College to ensure partners are fully aware of these changes in addition to any alterations in our policy. Potential sub-contractors will be directed to it as the starting point in any relationship

Performance Data

Subcontractors will provide a range of data, at the frequencies specified in the contract at Schedules 1-3 and those specified in the Partner KPI Areas with Targets and Thresholds agreed at contract negotiation and identified within Schedule 1. Should Subcontractors fail to deliver the data consistently, ESCG will impose financial penalties.

Robust Quality Audit Requirements

Subcontractors will be required to demonstrate that they have robust quality audit arrangements in place which are, consistent with the requirements related to the audit activities undertaken by ESCG.

They will be required to maintain, review, update and follow their policies and procedures in line with national legislation and as appropriate to the nature of their contract in the following areas:

- Health & Safety
- Equality & Diversity
- Safeguarding and Prevent
- Sustainability
- Quality Assurance, including performance monitoring and development of:
 - Teaching practice
 - Initial assessment
 - Additional learning support
 - Information, advice and guidance
 - Self-assessment
 - Service standards

- Performance management information
- Data protection/GDPR
- Staff recruitment and development
- Modern Slavery
- Financial management

Contract Monitoring and Review

Subcontractor performance will be monitored on an on-going basis and will also include attendance at Principal Performance Review meetings (PPR) that will be scheduled at quarterly intervals throughout the year.

Where performance falls below the standard required, subcontractors will be issued with a notice to improve. Support will be provided to help subcontractors develop and enhance the quality of their delivery. If a subcontractor fails to meet the necessary improvements within the agreed timescales, it may be necessary to implement contract termination procedures.

Monitoring will include:

- having monthly conference calls and/or visits
- examining MIS and claims
- scheduled support visits.
- Desktop auditing of e-portfolio systems

Review will involve:

- quarterly formal meetings
- an examination of all aspects of the contract
- planning future actions.
- Review of monthly Profile targets against original GRID application
- Price negotiation justification

Evaluation will include:

- annual assessments/audits
- looking at contract performance
- the contract renewal decision-making process.

The level of contract management and service provided by the College to the sub-contractor will be determined at approval stage, but could be increased in year as performance levels are reviewed.

If during in year monitoring there is any evidence of a subcontractor's irregular financial or delivery activity the College will carry out an investigation and will report the outcome of the investigation, in writing, to the Funding Agency relationship manager within 10 days of the investigation being complete.

If a subcontractor is found to be subcontracting to a second level the contract will be stopped and a decision will be made to determine actions or whether the College should seek obtain approval in writing as this should only be sought in advance of contracting each year.

Contract Termination

ESCG will work with its Subcontractors to ensure that all learners receive high quality, safe and inspiring training, with all the necessary support for individuals to achieve their aims and progress on to employment.

Should a Subcontractor consistently fail to improve any element of its performance which is deemed to be unsatisfactory or inadequate, or consistently fail to engage in training or with the quality support systems which are in place, ESCG reserves the right to terminate the contract to protect the learners.

If contract termination procedures are implemented, subcontractors are contractually required to co-operate fully with this process. Failure to comply with the requirements will result in significant penalties.