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## Introduction

East Sussex College currently manages a network of sub-contractors who deliver a range of qualifications. These partnerships enable the college to meet the needs of employers and students across a broad range of sectors and a wide geographical area that complements existing provision undertaken by the college's delivery teams.

The college is committed to the high-quality delivery of a range of courses to meet wider community need, in line with the funders' priorities and identified skills gaps. The college 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. Procurement exercises are conducted in accordance with the Public Contracts Regulations 2015 (or as 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 student needs.

Subcontracted delivery is procured to:

- Enhance the opportunities available to young people and adults
- Fill gaps in niche or expert provision, or provide better access to training facilities
- Support better geographical access for students

The college focuses the majority of its recurrent funding on meeting the needs of residents, employers and communities in East Sussex. For certain provision this natural geographic span increases to include the South East and Coast to Capital Local Enterprise Partnerships (LEPs).

The college recognises that it needs to continue to reduce the volume of delivery that it subcontracts and is committed to this in line with Education & Skills Funding Agency (ESFA) and the FE Commissioner's expectations, reducing the number of contracts it offers outside of the Coast to Capital and Southeast LEP areas in 2023/24.

This will be achieved via a managed process of reduction, in line with the tendering processes with only existing partners that are outlined in the rest of this policy, working with those partners that are outside of these areas to manage their exit from the college's supply chain in a careful and considerate way.

The college will also continue to support partners in the delivery of national niche sectors such as Glass Fenestration, where there is a direct need by employers for growth within the sector.

## Implementation

As part of its annual cycle of business the Governing Board's summer Finance Committee agrees the annual volume of subcontracted available via funding stream. Existing and new supply chain partners are invited via the college's dynamic purchasing system to submit a bid through a series of mini tenders. The college will use its supply chain to optimise the impact and effectiveness of service delivery to students and/or employers.

The college will ensure that supply chain management activities comply with the principles of best practice in the skills sector. In particular it 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 supply chain fees and charges will be at the point of registration to the dynamic purchasing system or an addendum to the current contract.

The college at all times undertakes fair and transparent procurement activities by conducting robust due diligence procedures on potential subcontractors to ensure the subcontractor is a legally, financially and educationally sound organisation to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on student lives. The revised due diligence process is in line with the subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) 2022-2023<sup>1</sup>.

The due diligence process will include a number of pre-award activities along with a review of the evidence gathering from the college subcontractors.

#### **Pre-award process**

- Defined college roles ensuring clear leadership with a 'contract management senior responsible owner'. These processes are aligned with, among others, wider organisational governance processes, operational boards and risk structures.
- Well defined policies and processes with a clear contract management plan focusing on outputs and a 'whole life' approach to performance.
- An education rationale approved by the Governing Board's Curriculum & Standards Committee, review appropriately authorised through the organisation's governance structure.
- Development of professional contract management guidance.

#### **Contract due diligence evidence**

- Statutory accounts and company credit checks via Companies House.
- External Quality Assurance (EQA)/inspection reports and historic quality information including prior achievement rates.
- Evidence of awarding body status, including sanctions.
- CVs for delivery staff (including Disclosure and Barring Service (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 college staff or Governing Board members.

Subcontractors are required to notify the college 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.

## **Conflict of interest**

The college will carry out mandatory controls at regular intervals both internally and externally to ensure that there remains no conflict of interest.

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<sup>1</sup> <https://www.gov.uk/government/publications/subcontracting-funding-rules-for-esfa-funded-post-16-funding-excluding-apprenticeships/subcontracting-funding-rules-for-esfa-funded-post-16-funding-excluding-apprenticeships-2022-to-2023#:~:text=From%20the%202022%20to%202023,are%20exempt%20from%20this%20rule.>

## Decision process

The procurement process will be a clear contract management plan and will determine a shortlist of potential delivery partners identified within the subcontracting run down process who will have each submitted a completed Supplier Selection Questionnaire (SSQ). They are invited to complete this SSQ and to submit it, together with any requested supporting information, to Tenet Education Services DPS system 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 will include input from a budget holder, senior responsible owner (SRO) and contract manager. 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, including but not limited to quality, delivery, quantities and that price meets the initial proposal within the partner tender.

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

## Contracting

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

- Sub-contractor profile – based on completed GRID lite profile (the college's revenue tracking software)
- Sub-contractor duty (and KPIs)
- College duty
- College service offer
- College management and service charges based on due diligence results
- Contract volume and value

Once agreed by both parties the college will issue the subcontractor with a contract, performance management plan, relationship charter and joint statement.

The contract will reflect the relevant funding agency rules and updates for that contract year. All contracts are legally binding and will need to be signed by all parties prior to the commencement of delivery along with a performance management framework and KPIs.

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 its funding agency relationship manager within 10 days of the investigation being complete.

## Quality assurance

Any subcontracted activity is a fundamental part of the provision. The quality of the provision will be monitored and managed through the college's quality assurance processes and procedures, as amended in order to fully encompass all sub contracted activity. The college reserves the right to obtain claw back for under delivery or other reasons specified in the full contract.

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 subcontractors. This will be achieved through the sharing of effective good practice.

- Subcontractor performance will be assessed using clear, objective, and meaningful metrics linked where appropriate to funding agency rules.
- A clear process to handle operational problem resolution and resolve issues as quickly as possible as stated under Quality Audit requirements.
- Regular and routine feedback is given to subcontractors on their performance
- The subcontractor has clear contact points for service both within the subcontractor organisation and ESCG.
- A clear understanding of requirements for delivery and involvement in the assessment of subcontractor performance where relevant along with escalation rules where issues arise.
- Formal performance reviews with subcontractors, documented and minuted with formal improvement plans agreed where necessary.

The college provides for all its partners the following services and support in order to strengthen operational performance, development of continuous improvement within their relationship and support quality of teaching and learning:

- 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, equity, diversity & inclusion (EDI), funding rules and audit compliance (including completing college paperwork and utilising internal online systems to track students' progress, attendance and progression);
- Training for the observation of teaching, learning and assessment to enable partners' staff to undertake graded observations following the college's policies and procedures.
- A dedicated relationship management team 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 college teaching and quality staff.
- Access to a range of electronic tools to monitor students' 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 Individualised Learner Record (ILR) compliant and safely stored and uploaded onto ESFA systems.
- Access to the college's quality and CPD<sup>2</sup> 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.

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<sup>2</sup> No funding is retained for any college CPD training accessed by subcontractor staff delivering on Study Programmes/Adult Education Budget (AEB)

- Administrative support for processing additional funding applications, follow ups and payments, such as the invoicing for the 5% non-levy employer fee, incentive for small and medium-sized enterprises (SMEs) taking on 16-18 apprentices.
- Administrative and relationships support with identified end point assessment (EPA) centres and employers.

## 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 the college.

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
- Equity, diversity & inclusion
- 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

## Performance monitoring

Subcontractor performance will be monitored on an on-going basis and will also include attendance at review meetings that will be scheduled at quarterly intervals throughout the year. Should subcontractors fail to deliver the data consistently, the college reserves the right to withhold funding until sufficient evidence is provided.

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:

- Weekly check in call and monthly conference calls and/or visits
- Examining management information systems and claims
- scheduled support and unannounced visits
- Desktop auditing of e-portfolio systems

At point of sign up a Companies House check/Google Maps search will be undertaken on all employers taking on any apprenticeship frameworks/standards with a value of £10K+ to reduce risk of fraud against funding.

Review will include:

- 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
- Reviewing contract performance
- The contract renewal decision-making process

The level of contract management and service provided by the college to the subcontractor 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 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.

The college will work with its subcontractors to ensure that all students 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, the college reserves the right to terminate the contract to protect the students.

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.

## Subcontractor fees and charges

The college has robust processes and procedures in its MIS and finance departments to effectively monitor the financial payments in relation to its subcontracted provision. These processes include clear payment mechanisms, (including incentive payments, penalties and non-standard charges).

The management fee (cost of services) retained by the college is calculated as a percentage of the contract value agreed with the subcontractor. The typical percentage of fees retained by the college to manage subcontractors is 20%.



The actual management fee is calculated using risk assessment of the following factors:

- Track record of the subcontractor with regard to meeting achievement and funding targets
- Track record of delivery and outcomes within specific sector
- Length of time on Register of Apprenticeship Training Providers (RoATP)
- Length and history of previous contract relationship with the college
- Financial standing of the subcontractor
- Anticipated demands of the contract on the college's resources
- Contract size with regards to both funding and student numbers

The range of services will be negotiated and agreed with each subcontractor before contracts are signed ahead of each contract year (outlined in Annex 1). This will include:

- The college's rationale for subcontracting with each partner
- The services the college will provide when subcontracting to them; the associated costs when doing so; how each cost is reasonable and proportionate to delivery of the subcontracted teaching or learning; how each cost contributes to delivering high quality learning.

These will be included in an overview document with each contract, agreed and signed with each subcontractor before the commencement of each contract year.

This policy is available to current and potential subcontractors via the college's website and is annually reviewed and approved by the Governing Board's Finance Committee in the summer term of each year.

## Paying subcontractors

Payments to subcontractors follow the ESFA's payment terms for current funding rules for each individual programme type they are subcontracted to deliver – 16-18 Study Programmes or apprenticeships. All other contracts outside of study programmes and apprenticeships will be agreed on an individual basis.

Subcontractor payments are calculated each month using returned ILR data and the college's GRID software and remittances are issued monthly with payment due by working day 16 to each partner.

No payments are made where the activity exceeds the maximum contract value unless a contract variation agreement has previously been signed.

## Annex 1: subcontractor services provided

### Management costs

- 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 online systems to track students progress, attendance and progression);
- Training on audit compliance for reviews, Ofsted preparation
- A dedicated relationship management team that is available to provide day to day support and guidance on funding rules, compliance, delivery issues, EPA support/intervention and undertake, as a minimum, eight – ten weekly site visits, teaching and assessor observations, weekly paperwork compliance check and technical support.
- Compliance checks to include student eligibility, prior learning and programme suitability.
- 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.
- Regular company house/credit checks on employers engaging with apprentices on standards to a value £10,000+
- Access to the MIS team and offering a range of electronic tools to monitor students progress, attendance and progression
- Business development and joint bidding opportunities to link with regional or national employers.

### Monitoring quality

- Training for the observation of teaching, learning and assessment to enable partners staff to undertake graded observations following college policies and procedures.
- 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 can tap into support from teaching and quality staff.
- Ongoing support on partners own monitoring visits and training towards Ofsted visits/outcomes.
- Contingency planning for intervention or supporting partners with additional requirements to improve quality of delivery and monitoring.

### Additional support activities

- Access and support to the college Grid Lite process which allows partners to plan profiles in each contract year for each delivery sector and update these accordingly.
- Monthly starts to profile tracker to allow partners an overview of numbers enrolled against profiled starts.
- Weekly PED report to view all students on programme against predicted end date. Both parties can drill down student by student for progress or students at risk.
- Weekly outstanding review report to ensure that each partner is fully aware of late reviews and any returned for non-compliance.
- Access to the college's quality, MIS and finance teams for any queries on monthly payment returns, student issues (either 1:1 meetings or group workshops).
- Detailed and comprehensive ILR return report for funding/achievement.

### Direct delivery

- As the lead provider the college considers the quality of delivery to the employer and student to be extremely important. To that end, it will ensure that robust processes are in place to manage the delivery of all apprenticeship programmes both on standards and frameworks. This is managed through an initial introduction to the employer and student via a welcome email that identifies that the college is directly linked to their chosen training provider and its part in the delivery process, with opportunities for contacting the college directly.
- A dedicated website 'Apprenticeships in One Place' (AiOP) for apprentices and employers with the objective of an integrated approach to tracking partner's apprentices to assure quality and compliance of the ESFA funding rules.
- Carry out detailed quality calls/on-line surveys to both the employer and the student to ensure confidence that they are receiving good quality delivery and are on track.
- Build a relationship with the employer's recommended EPAO Awarding Body.
- Blended delivery of in-person workshops and online courses throughout the duration of the apprenticeship programme to support directed learning & self-study of knowledge, skills and behaviours and a contribution to 20% OTJ in areas such as health & safety, safeguarding and Prevent and wellness support.
- Engage with the employer where necessary to ensure the student is supported to participate with their programmes.
- An experienced WBL standards verifier and compliance officer will carry out unannounced remote 'desktop' audits.
- Using reviews as the college's 'window' into the student's progress at a 10-12 week point; the college monitors the quality of the detail of these reviews which include personal development targets, stretch and challenge and skills, knowledge & behaviours.