

Sub-contracting Policy

Incorporating Supply Chain Fees and Charges Policy

Responsible Senior Manager: Deputy Principal Finance & Facilities

Effective Date: August 2021

Related Policies: Child Protection & Safeguarding Policy
E&D Policy
Health & Safety Policy

Approved By: Finance & Estates Committee *

Next Review Date: Summer 2022

* Under delegated powers



European Union
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1. Introduction

HSDC (which comprises Havant, South Downs and Alton campuses) ('the College') is committed to high quality provision and an outstanding experience for all its learners, including those receiving their provision through one of our partners. Quality and achievement are key drivers to our provision and partners are required to adhere to our policies and procedures for the delivery of Teaching, Learning and Assessment (TLA) and engage positively in the process of continuous improvement and self-assessment.

The purpose of this document is to define the basis upon which the College will conduct any sub-contracting arrangements. It is a mandatory requirement for Colleges to have a sub-contracting policy in place before engagement in any sub-contracting activity. The organisations that the College contracts with will be subject to the requirements and conditions set out in this policy.

The Governing Body and Accounting Officer must be satisfied that all sub-contracting meets the College's strategic aims, enhances the quality of its offer to learners and is of a high quality and low risk.

This policy has been developed in line with AoC/AELP Common Accord, the Education and Skills Funding Agency (ESFA) Funding Rules and the College acknowledges their support in its development.

2. Scope

This document applies to all supply chain activity supported with funds supplied by the ESFA or any successor organisations.

The College recognises that it holds full accountability for the delivery of sub-contracted activity and that this cannot be assigned to the sub-contractors.

It is the responsibility of both the College and their sub-contractors to refer to the rules and guidance of the relevant funding agency (ESFA or relevant Combined Authority) and any future updates in all matters regarding the delivery of the contract.

Roles and responsibilities for the College and the sub-contractors are clearly defined from the outset and all sub-contractors are required to agree and sign a Contract for the provision of education or training services with the College.

3. 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:

- a. 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 ESFA Funding Rules.

- b. The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential sub-contractors to ensure compliance 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.
- c. As part of the due diligence process, potential sub-contractors will be assessed on financial health, health & safety policies, insurance cover, safeguarding arrangements (including Prevent), equality and diversity policies and references will be sought on previous contracts held. The College will ask for additional information and documentation as required to ensure the robust management of the sub-contracting process and delivery.
- d. The funding that is retained by the College will be related to the costs of the services provided. These services, and the levels of funding being retained for them, will be clearly documented and agreed by all parties. The rates of such retained funding will be commercially viable for both sides and will be negotiated and agreed in a fair and transparent manner. They will be proportionate to the actual services being provided and the levels of intervention and support the College need to offer in the management of the relationship.

Where disputes between supply chain partners cannot be resolved through mutually agreed internal resolution procedures, the College will submit to independent outside arbitration or mediation and abide by its findings. Contract documents will require both parties to agree that the achievements of supply chains are attained through adherence to both the letter and spirit of contracts or partnerships. Signatories therefore commit that all discussions, communications, negotiations and actions undertaken to build, maintain and develop supply chains will be conducted in good faith. The College will be flexible in its use of partnerships in delivering to its Adult Education Budget. The College will look to sub-contract a defined amount of Apprenticeship Provision, in line with the ESFA Funding Rules, to engage with the SME market with a particular target on Higher to Degree Apprenticeships within STEM subject areas, in line with LEP priorities.

Any sub-contractors will be contracted on a limited basis and only when the best interests of the College community are served through the use of partners. The College will only use sub-contractors when it believes it has the appropriate knowledge, skills and experience within the organisation to successfully procure, contract with and manage these sub-contractors. The College has established procedures relating to the safeguarding of learners, which would include ensuring that sub-contracting does not lead to inadvertent funding of extremist organisations.

3.1 Rationale for Sub-contracting

The College is committed to the high-quality delivery of a wide range of courses to meet its wider community needs, in line with the funders' priorities and identified skills gaps. Where appropriate a small percentage of that delivery is delivered through high quality partners with the experience and expertise to meet specific learner needs.

Sub-contracted delivery will be used to:

- Support the College's Strategic Objectives
- Enhance the overall quality of the College's provision
- Serve a local demographic need that would otherwise not be met
- provide immediate provision to meet a specific identified need whilst reviewing the expansion of direct capacity.

- provide access to, or engagement with, a new range of provision that the College is not equipped to deliver.
- support another provider to develop capacity/quality.
- grow provision mix and provide customers with niche or specialist provision where the cost of developing or capacity to develop are not feasible.
- support employers with a wide geographic requirement

The College will not sub-contract just to meet short-term funding objectives.

3.2 Financial Approvals for Sub-contracting

Any sub-contracting arrangement entered into is subject to due diligence and is signed off by the appropriate member of the Senior Leadership Team. The Deputy Principal Finance & Facilities and Deputy Principal or Principal will be required to sign-off contracts with sub-contracting partners in line with the financial regulations (see below).

SUB-CONTRACTING *	
Values	Required level of sign-off
Up to £100,000 with any one partner	Deputy Principal, Finance & Facilities, AND Deputy Principal Curriculum
Over £100,000 with a single partner (subject to OJEU where applicable)	Deputy Principal, Finance & Facilities, AND Deputy Principal Curriculum AND Principal
Up to £250,000 (subject to OJEU where applicable)	Principal AND Chair of the Corporation
Over £250,001 (subject to OJEU where applicable)	Finance & Estates Committee

*(sub-contracting is subject to a retained contribution to the College of between 10% to 20% depending on risk/admin/contract terms with a partner)

Contracts will determine clear start and end dates, exact or estimated learner numbers, content of delivery and related incomes and costs.

Contracts will be subject to change if where necessary in the contract period and in consultation with partners where such changes improve quality or respond to unexpected events.

3.3 Quality Improvement

All learners who are provided with education and training under a sub-contract remain the responsibility of the College. All learners and employers supported through sub-contracting arrangements are told about the College's and the Sub-contractor's roles and responsibilities in providing the learning.

Sub-contracted activity is recognised as a fundamental part of the College provision. The quality of the provision will be monitored and managed through the Head of Faculty – Adults in line with existing College Quality Assurance processes and procedures, as amended in order to fully encompass all sub-contracted activity. The Head of Faculty – Adults will ensure all Sub-contractor partners will work with our experienced Quality Improvement Team to ensure that delivery in our name meets our robust requirements for experience and achievement.

This Policy positions sub-contracted provision as a core part of College activity to enable continuous improvements in the quality of teaching, learning and assessment for both the

College and its sub-contractors. This will be achieved through the sharing of effective practice across the supply chain, for example through the Self-Assessment Report process.

The College will robustly manage and monitor all sub-contractors to ensure that high-quality delivery is taking place that meets the specific funding requirements for each programme delivered.

3.4 Publication of information relating to sub-contracting

In compliance with ESFA and other agency funding rules that apply, the College will publish its sub-contracting 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 the ESFA). This will only relate to 'provision sub-contracting' i.e. sub-contracted delivery of full programmes or frameworks. It will not include 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).

The College will ensure all actual and potential sub-contractors have sight of this policy, via the College website and signposted within their formal agreements, and any other relevant documents, specifically our formal Sub-contracting Agreement and Sub-contracting process (Annex A) which outlines:

- The percentage range of fees retained to manage sub-contractors, and how this range is calculated.
- The rationale used to determine the level of fee retained through each sub-contract, is a risk-based approach, this will be carried out based on due diligence, which will inform the levels of support required.
- The contributory risk factors that would result in differences in fees charged for, or support provided to, different sub-contractors which might include:
 - Previous track record
 - Success levels
 - Type of customers to be engaged
 - Type of provision to be undertaken
 - Contract duration
 - Proportion of College staff salaries required for the contract
 - College Overheads
 - Additional support
 - Facilities and room lettings

This information will be used to determine a detailed list of costs specific to each sub-contractor with information on how each cost is reasonable.
- Payment terms between College and sub-contractors – timing of payments in relation to delivering provision and timescale for paying invoices and claims for funding received.
- The support sub-contractors will receive in return for the fees charged.

The College will also provide the following information with the formal Sub-contracting Agreement, which sub-contractors will be required to read in full prior to signing off as a formal agreement of a relationship:

- The specific reason for sub-contracting with the sub-contractor
- A breakdown of services provided as part of the agreed management fee, specifically costs for quality monitoring activities and support activities
- A justification of costings and how each cost is reasonable and how it contributes to delivery of high-quality learning

3.5 Communication

This Policy will be reviewed each year and updated as required. It will be published on the College website. Potential sub-contractors will be directed to it as the starting point in any relationship.

3.6 Supply-Chain Fees and Charges Policy

Standard College management fee is 20% of all funding drawn down against the provision to be delivered. This figure represents the total cost that the College incurs in effectively identifying, selecting and managing and administering all sub-contracted provision. This includes the minimum amount of Quality Assurance activity that the College would attach to the lowest possible risk sub-contractor. The fee is in line with ESFA funding guidance.

The College reserves the right to cover additional costs which may be added to the standard management fee to cover the cost to the College of any additional support that the College deems necessary to ensure the quality of teaching and learning and the success rates of any sub-contracted provision. Additional costs are unusual and partners will be informed in writing prior to them being incurred. All contracting is done on an annual basis and agreements will be recalculated and negotiated each year at contract renewal, giving sub-contractors the opportunity to reduce their fees through continuous improvement.

3.7 Payments

Payments to sub-contractors will be made monthly in arrears based on actual delivery recorded on the latest Individual Learner Record (ILR) information.

The College reserves the right to withhold some monthly payment where errors or further clarification is needed to reconcile the ILR. Such amounts may be recovered by deductions from future payments to the partner under their agreement.

The College shall make payment to any sub-contractor within 30 days of receiving a valid claim for payment.

All sub-contracted provision is subject to a full legal agreement with the College and failure to meet robust quality requirements may result in the withdrawal of all funding.

3.8 Additional Support for Sub-contractors

The precise additional support given to each sub-contractor will be negotiated with that sub-contractor, but will be based on a 'risk approach' and may include:

- Additional site visits
- Additional lesson observations
- Additional tutor support
- More rigorous verification

3.9 Additional Charges per Learner

The College may also retain funding to cover the cost of any funded activity that it might undertake on behalf of the sub-contractor, such as:

- Awarding Organisation fees and charges
- Hiring of facilities/equipment within/from the College
- Internal Verification

Such payments will be agreed in advance and confirmed in writing.

3.10 Audit Requirements

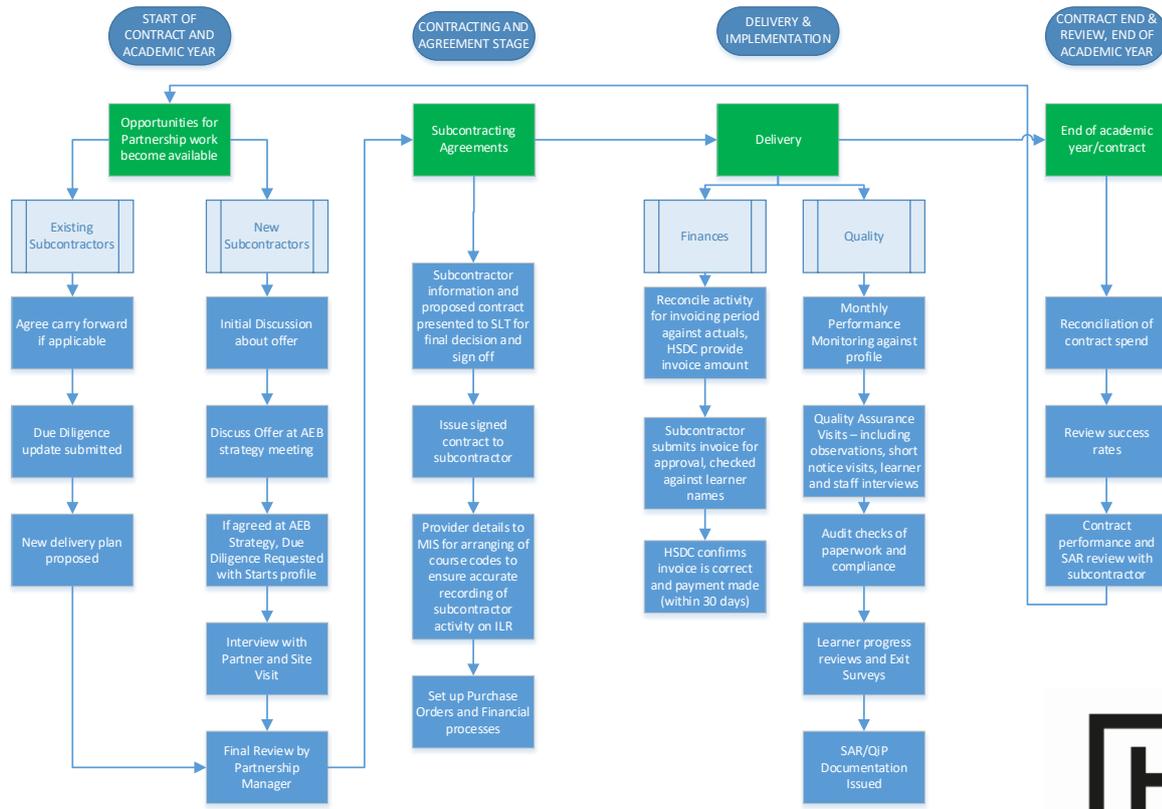
Sub-contractor arrangements are subject to external audit, including Ofsted and all funding agencies. Co-operation with these processes are explicit within the contracting agreement.

When the College enters into sub-contracts for the purpose of delivering provision under its ESFA Financial Memorandum with an aggregate value of £100,000 or more in any one year, it must obtain an annual report from its external auditors which provides assurance on the arrangements that the College has in place to manage and contract its sub-contractors.

3.11 Review of Sub-contracting Policy

This document is subject to regular review to ensure that the best interests of learners are met and that the College and all of its provision meet the full requirements of the funding bodies.

Annex A – Sub-contracting Process



Sub-contracting Process

