

SUBCONTRACTING PROCEDURE

1. INTRODUCTION

East Kent Colleges Group (the Group) will occasionally require the services of a subcontracting partner to bridge identified gaps in provision for learners. This procedure details the operational steps that the Group will take to ensure that all activities with subcontracting partners are managed appropriately and professionally and in accordance with the Education and Skills Funding Agency's (ESFA) funding conditions and regulations.

The Chief Innovation and Skills Officer is responsible for ensuring that the ESFA's principles and rules for working with subcontractors are adhered to, that Group staff are trained and competent in the selection, due diligence and ongoing management of subcontractors and for investigating and resolving any contractual disputes. The respective college services/operations teams are responsible for the day-to-day operational administration of all stages of the relationship with subcontractors.

This Procedure will be reviewed on an annual basis according to business need and any changes from the ESFA.

2. PROCEDURES

2.1 Approval for using subcontractors

There is a Group-wide annual process of subcontracting approval, with final Governor approval of the curriculum rationale, budget and delivery for the succeeding academic year. There may be additional requirements for in year subcontracting with new partners or contract increases with existing subcontractors. Principals and the Managing Director are responsible for identifying any in year curriculum rationale needs for their respective provision, scoping the work and identifying the potential contract value. In all such cases, the Principal/Managing Director will complete a two stage process as outlined in Appendix 1 –(Subcontracting Approval process) and submit it to the Group Leadership Board approval.

2.2 Due diligence and selection of subcontracting partners

Once approval has been obtained for subcontracting, the Group Leadership Board will notify the relevant Principal or Managing Director of EKC Training, who will then instruct their nominated SLT representative to carry out due diligence on a selection of potential subcontracting partners. A rigorous two stage due diligence process will be undertaken to ensure that subcontractors are appointed as follows:

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Approving Body: GLB / Audit Committee

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Stage 1 Gateway

- The proposed provision does not compete with that which is already in existence within the Group
- The proposed provision meets an identified need

Stage 2 – Guiding Principals

If the above Gateway conditions are met, EKCG will enter into a contract to support education and training where one or more of the following guiding principles applies:

- Delivers provision which engages hard to reach learners with the ultimate aim of progression into employment or mainstream education via one of our six colleges/EKC Training.
- Provides expertise in terms of niche delivery and/or facilities.
- Provides employer choice and meet diverse needs of employers.

2.2.1 Due diligence - stage 1

The relevant Principal/Managing Director will undertake an initial desktop due diligence exercise (appendix 2) to determine if a subcontractor passes basic checks. The subcontractor is scored based on an analysis of risk and this will determine if they can be progressed to stage 2 of the due diligence process. N.B. If a scoring of 3 is given for any or all of the cells highlighted in red on the checklist, this automatically gives the subcontractor a high-risk rating. The relevant SLT member will take the following actions based on the outcome of the checks:

- Low risk – proceed to stage 2 of due diligence
- Medium risk – refer to relevant Principal/MD
- High risk – do not proceed to stage 2 of due diligence. Inform relevant Principal/MD

2.2.2 Due diligence - stage 2

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If the subcontractor passes the initial due diligence check, the relevant SLT member will send the subcontractor a detailed due diligence questionnaire (appendix 3) and any other necessary documentation for completion. Prior to sending the due diligence questionnaire, the Business Unit's College Services/Operations team will update the footer of the document with the name of the subcontractor. When the questionnaire and all relevant documentation has been returned, the College Services/Operations team will request references (appendix 4) and collate and check the information provided by the potential subcontracting partner for completeness, quality and currency. Scores will be given (2 = fully met, 1 = partially met, 0 = not met) to determine whether the subcontractor qualifies as a potential partner of the Group. When the due diligence process is complete and the outcome is determined, the results will be passed to the relevant Principal/MD for a final decision as to which subcontracting partner will be selected and the percentage that the subcontractor will pay for the management fee.

The relevant SLT member will advise any subcontractors who are not successful during the tender or due diligence stages that they will not be awarded a contract. Similarly, they will liaise with the successful subcontractor(s) to establish a draft contract.

2.3 Contract award and sign off

The working relationship of the Group and any subcontracting partner will be governed by a legally binding contract and the agreed terms are those set out in a standard contract for services (appendix 5). The contract template and schedules will be populated by a College Services/Operations Assistant. The contract will quantify the management fee that the Group will charge the subcontractor; the fee will be charged at between 15% and 20% dependent on the subcontractor's risk rating and the likely level of intervention that they will need to deliver the contract.

It is vital that the contract and the schedule of services and payments accurately reflect what is being commissioned to the subcontractor. The relevant Principal/MD will therefore verify that the contract is correct before it is sent for signature.

The Business Unit's College Services/Operations team will send two copies of the contract to the subcontractor for signature. When both signed copies are returned, they will then be signed by the Chief Executive Officer (for contracts up to £150,000) or the Chair of the Governing Body (for contracts over £150,000). The contract will then be processed as follows:

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- One hard copy of the signed contract will be sent to the subcontractor via registered post
- One hard copy will be scanned and saved by the College Services/Operations team. One scanned copy will be sent to Finance, along with a copy of the subcontractor's completed due diligence questionnaire so that the account can be set up on the Group's finance system.
- The College Services/ Operations Assistant will then send the hard copy and the scanned copy to the Chief Executive Officer's EA who will file the hard copy in the corporate filing system, save the scanned copy in Teams under the Contracts Teams site and input the contract details on the master contracts record.

2.4 Quality Assurance and monitoring

Once the subcontractor has commenced delivery, they will be subject to the following quality assurance processes to ensure that the requirements of the contract are being delivered:

2.4.1 Monitoring

This will be undertaken by the relevant SLT member or other appropriate delegated person using appendix 6. The monitoring plan will be documented in the schedule of services as part of the contract and will be based on the subcontractor's risk profile e.g. if their risk profile is medium, they may be subject to additional monitoring.

2.4.2 Spot checks

These are unannounced checks of the subcontractor's provision. Records of spot checks are documented on appendix 7 and will be undertaken by the relevant SLT member or other appropriate delegated person. If any actions have been identified at previous monitoring visits, these should be included in the spot check to determine progress made to date.

2.4.3 Meetings

These are quarterly, planned meetings between key contracts from the Group and the subcontractor to verify that delivery is progressing as planned, to discuss and resolve any issues and to provide support to the subcontractor where necessary. A meeting agenda template can be found in appendix 8.

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In addition, the Group will ensure that it meets and interviews a sample of students and staff during the course of the programme. They will scrutinise the following evidence:

- marketing material
- copies of registers
- learning agreements
- registration documents for awarding bodies
- visit notes from external moderators
- evidence of certification

2.4.4 Annual due diligence for continuing provision

All subcontractors will be subject to an annual desktop due diligence check (appendix 9) to ensure that their delivery continues to meet minimum expected standards.

2.4.5 Issue management

If the results of monitoring, spot checks, meetings or annual due diligence indicate any issues, these will be escalated to the relevant Principal/MD, remedial actions will be agreed with the subcontractor and additional monitoring and spot checks may be implemented. In cases where quality issues or disputes are serious enough to necessitate suspension of payments to the subcontractor, the relevant SLT member will notify the Finance team so that a hold can be put on further payments until such time as the issue is resolved to the Group's satisfaction.

2.5 Contract close out

On completion of a contract, the subcontractor will return all records to the Group as follows:

- Learning agreement
- Copies of certification
- Copy of registers
- Learner initial assessment
- Proof of eligibility
- Learner formative and summative assessments
- Learner evaluations
- Risk assessments
- Supported learning plans

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The Group will archive the documentation in accordance with archiving and retention procedures.

Associated policies and procedures

- EKC Group's Financial Regulations