



Skills Funding
Agency

Subcontracting to a Second Level: Seeking Written Approval from the Skills Funding Agency

Information for Lead Providers

November 2013

Of interest to lead providers

Introduction

- 1 Our Funding Rules for 2013/14 confirm that any second-level subcontracting (that is, where a subcontractor further subcontracts to another legal entity) must have our written approval and be declared on the Declaration of Subcontractors' form. Second-level subcontracting will only be allowed with the express consent of the Chief Executive, and then only in exceptional circumstances.
- 2 When completing the Declaration of Subcontractors' form, you must indicate if you are subcontracting to a second level. By completing this form, you are informing us that you have entered into such an arrangement. However, you must obtain our written approval **before** entering into a second-level subcontracting arrangement. If you wish to maintain the arrangement beyond the current academic year, you must obtain our approval to subcontract to a second level at the start of each academic year.
- 3 This paper outlines the information we need from you to enable us to review a request to subcontract delivery of education and training to a second level.

Process

- 4 You should seek our written approval to subcontract to a second level **before** entering into such an arrangement. If you have already started second-level subcontracting arrangements for 2013/14, you must seek our retrospective permission to enter into those arrangements.
- 5 You must submit the request in writing, on your organisation's letterhead. In your request, we need you to supply the following information about your proposed second-level subcontracting arrangements.
 - a The full legal name and UKPRN of the subcontractor that is using the second-level subcontractor.
 - b The exceptional circumstances that have led to the need for the second-level subcontracting (please see below for further information about 'exceptional circumstances').

- c The full legal name and UKPRN of the proposed second-level subcontractor.
 - d The elements of delivery that you are proposing to subcontract to a second level
 - e The value of the contract between the subcontractor and the second-level subcontractor and the number of learners affected.
 - f How the proposed delivery model demonstrates value for money.
 - g The processes and controls that you and your first-level subcontractor have in place for carrying out the effective management of second-level subcontractors. These must reflect the end-to-end subcontracting process and good practice specified in [Supply Chain Management – a good practice guide for the post-16 skills sector.](#)
 - h Where the proposed second-level subcontracting arrangement is new, your request must include the following areas.
 - developing the business case
 - establishing the selection process
 - assessing the capacity and capability
 - managing performance
 - contracting fees
 - risk assessment
 - i Where the proposed arrangement is ongoing, your request must include the following areas.
 - managing performance
 - contracting fees
 - risk assessment
- 6 The following circumstances may be considered exceptional.
- a Where we have put in place a policy change that has affected subcontracting (for example, Minimum Contract Level).

- b Where you and your subcontractor need a second-level subcontractor to deliver niche provision.
 - c Where you have a hybrid delivery model that requires specific delivery from a variety of sources.
 - d Where we have instigated contract termination. This will help any affected subcontractors to establish new contractual arrangements so that the potential impact on learners is minimised.
- 7 When complete, you should email your request to your Skills Funding Agency provider performance adviser.
- 8 We will consider your request, taking into account data and information available within and outside the Skills Funding Agency. Examples of these are:
- a Companies House and Charity Commission databases to check that the proposed second-level subcontractor is a bona fide legal entity
 - b the UKRLP website to check the supplied UKPRN
 - c the Subcontracting Register to determine the current commitments of the proposed second-level subcontractor and establish if they are contracted to deliver at least £100,000 each year, in which case they also need to be listed on the Register of Training Organisations.
- 9 We will consider the processes and controls you and your first-level subcontractor have in place for managing second-level subcontractors. We will also consider whether the rationale for the proposed second-level subcontracting fits the criteria of 'exceptional circumstances' and whether the arrangement offers value for money.
- 10 We may approach other providers that currently have or have previously had a declared relationship with your proposed second-level subcontractor to seek factual information on their track record, including quality of delivery.
- 11 We will, under normal circumstances, respond to your request within 14 days of receipt.

12 We reserve the right to decline your request. If we do decline it, we will explain why. If we decline your request, you must instruct your subcontractor not to enter into a contract with the proposed second-level subcontractor. If the second-level subcontractor has already been engaged, their contract must be terminated. Where the contract is terminated, you must ensure that any affected learners are protected and that their continuity of learning is maintained.



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