

## **Sub-contracting Fees and Charges Policy 2019/2020**

### **1 Scope**

The policy applies to all provision subcontracting supported with funds supplied by the Education and Skills Funding Agency (ESFA) or any successor organisations.

The policy is a mandatory requirement that must be in place prior to participating in any sub-contracting activity from 1 August 2013. The content of this policy has been developed in line with AOC/AELP common Accord, the LSIS Supply Chain Management document alongside the relevant funding agency rules.

### **2 Purpose of Policy – Overarching Principles**

The College will use its supply chain 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-16 skills sector" (Nov 2012 and subsequent iterations).

The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential subcontractors. This is 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.

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.

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

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develop supply chains will be conducted in good faith in accordance with the Overarching Principle.

This policy is in line with the Equality Policy of Petroc.

### **3 Rationale for Subcontracting**

In line with Petroc's vision to raise aspirations, realise potential and deliver success, this policy outlines our approach to subcontracting and partnership activity.

Petroc engages with sub-contractors to better meet customer needs. Reasons are varied but could include to:

- provide immediate provision whilst expanding direct capacity into new geographical areas
- provide access to, or engagement with, a new range of customers
- provide niche delivery where the cost of developing direct delivery would be inappropriate
- provide specialist provision to meet industry and community need
- engage in new delivery models with specialist partners
- support other providers with the aim to serve the community more effectively
- ensure ability to deliver against a contract or project
- at the specific request of an employer for apprenticeship delivery

Petroc will seek to prioritise all sub-contracting activity within the Heart of the South West Local Enterprise Partnership area and wider South West region. However, if business needs require, we will sub-contract outside of this area.

Petroc is committed to developing a sustainable and reliable supply chain to enable proactive planning and response to managing funding and specific project contracts.

Following the introduction of the Common Accord document and the Supply Chain Management: A good practice guide for the post-16 sector, there are additional requirements for the management of supply chains. This policy is a mandatory requirement and sets out how Petroc will respond to the changes and effectively manage its supply chain.

The policy relates to all supply chain activity supported with funds supplied by the ESFA or any successor organisations, and any other appropriate funding streams whereby the College enters into a sub-contracting agreement with a supplier to deliver activity, although it is recognised that some amendments may need to be made to suit the funding need.

### **4 General Principles / Procedures**

The implementation of this policy will be managed by the Vice Principal Finance and Resources.

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The Vice Principal Finance and Resources will be supported by relevant specialist curriculum and support staff as required.

The process will be managed in an open, transparent and fair manner with all decisions and contract awards documented.

#### **4.1 Sub-contractor Approval and Due Diligence:**

**4.2** All potential sub-contractors will be subject to due diligence checks and will be required to meet the minimum standard as published in the ESFA Funding Rules for the relevant funding stream prior to any contract being entered into.

Signatories to contracts commit that all discussions, communications, negotiations and actions undertaken to build, maintain and develop supply chains will be conducted in good faith in accordance with the Overarching Principle

##### **4.2.1 Due Diligence Process**

The due diligence process ensures that minimum standards are met by any organisation before Petroc enters into a contractual arrangement.

This process will consider the organisational level due diligence that must take place which will include specific organisational details including relevant personnel background checks and a review of financial health, policies, insurance, staffing and overall quality.

Petroc will only sub-contract to a legal entity. If the organisation is a registered company they must be recorded as 'active' on the Companies House database.

A legal entity will not be approved if:

- it has an above average risk warning from a credit agency
- it has passed a resolution (or the court has made an order) to wind up or liquidate the company or administrators have been appointed
- its statutory accounts are overdue
- they fail to meet the minimum standards required through the due diligence process.

**4.3** In the event that any subcontractor is found to be using funds to support extremist activities or organisations the subcontracting relationship will be ceased immediately and any funds paid to the subcontractor will be recovered.

#### **4.4 Risk Management:**

At each stage of application the organisation will be risk assessed to take into account the results of the due diligence checks and give consideration to the specific contract being offered. The risk assessment will also be used to inform the management and monitoring arrangements as well as to assess any additional fees or charges that should be applied.

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#### **4.5 Sub-Contractor Management and Quality Assurance Monitoring:**

Each sub-contractor will have an identified main point of contact for administration and management which is specific to the contract being delivered.

Sub-contractors will be monitored for each contract based on contract requirements and partner risk assessment. As a minimum each sub-contractor will be subject to quarterly formal reviews and unannounced spot checks and audits during the life of the contract.

Petroc will manage and monitor sub-contractors to ensure that the following Quality Assurance standards are met:

- the sub-contractor is demonstrating value for money
- the sub-contractor is compliant with all contract requirements
- the sub-contractor is delivering a quality programme
- the sub-contractor continues to meet the due diligence requirements
- the sub-contractor is achieving the minimum standards of performance

Petroc will support the sub-contractor to improve their quality of teaching and learning through the observation process and the development of action plans and recommendations. Petroc may also provide access to relevant in house CPD training sessions to support the improvements.

Second-level sub-contracting will not be permissible without the prior written approval from the relevant funding agency. The confirmation of any approval will be provided by the College in writing to the Subcontractor.

#### **4.6 Fees and Charges:**

All fees and charges applied by Petroc will be transparent and calculation methods will be available to sub-contractors.

##### **4.6.1 Management Fees:**

We recognise that Subcontractors have different levels of capacity and skills and therefore we will tailor our management fee to suit the needs of the subcontractor to deliver quality provision.

The typical percentage range retained by Petroc is between 15% and 30%. This management fee is deducted from the funding income received for the agreed subcontracting services, before any payment is made to the subcontractor.

As part of our contract negotiations, we may adjust the payment structure to ensure this meets the needs of the subcontractor, learner and the outcomes of the due diligence and risk assessment processes. This may include variations on the fee retained as well as the method of payment which could vary from profile payments, milestone payments to achievement based payments.

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We will agree the management fee with our Subcontractor based on the due diligence and risk assessment undertaken as well as any historical information we hold about the partner and references received. If the organisation is new to working with us, the management fee will reflect the contract set up stage. All management fees will be reviewed at least annually.

The services and support provided for this fee includes the:

- provision of relevant paperwork/forms for activity
- administration processing of all learner activity onto the ILR
- provision of funding reports to confirm activity and performance
- processing of purchase order and payments to the sub-contractor
- monitoring of contract levels, performance and reviews of activity including, but not limited to, advice and guidance sessions, enrolment processes, teaching and learning and examinations

Further management charges may be mutually agreed between Petroc and the Sub-contractor.

#### **4.6.2 Additional Charges:**

Petroc will also have available a range of additional services that can be provided to a partner for a fee. These services may include, but not limited to:

- Internal Quality Assurance and Verification
- Registration and Certification with Awarding Body
- Additional Insurance Cover

Following the outcome of the risk assessment the additional services may become a mandatory part of any contract offered.

Further additional services may be mutually agreed between Petroc and the sub-contractor.

Additional services may be charged as a one off fee or as a percentage of contract value. This will be dependent upon the contract.

#### **4.7 Funding Retained**

Dependent on the type of sub-contracting arrangement, a sum of money, as described in the contract, may be held back and/or awarded at the completion and fulfilment of the contract value and terms and conditions.

#### **4.8 Payment Terms:**

Any payment due will only be approved once any contractual requirements with regards to evidence of activity is provided. The evidence requirements will vary between funding streams therefore, it is vital that the subcontractor understands the specific requirements within their contract. Once a payment has been approved as due, all invoices will be paid on a 30 day term from the date of the invoice in line with Petroc's Financial Regulations policy.

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#### **4.9 Communication:**

The policy is available publicly and is published on the Petroc.

The policy will also be publicised to all sub-contractors through contract negotiations and specific agreements.

Petroc will publish an annual summary of sub-contractors to show the actual level of funding paid and the amounts retained per partner per contract as requested by the ESFA.

#### **5 Exemptions to the Policy**

From May 2017, the Apprenticeship Funding and Performance Management Rules have passed the responsibility to Employers to decide which End Point Assessment Organisation (EAO) is used and to negotiate the fees. Whilst Petroc is responsible for the payment of the fees, the subcontracting to the EAO is therefore, exempt from this policy. Likewise, an Employer may stipulate a supply chain in the delivery of their apprenticeship programme along with the fees passed to any subcontractor in this arrangement, therefore, this is also exempt from the policy.

#### **6 Policy Monitoring and Review**

The Vice Principal Finance and Resources will be responsible for management of the Policy and all staff involved in the administration or management of sub-contractors will be responsible for the implementation.

Potential sub-contractors and partners will be directed to the policy as the starting point in any relationship. Although this policy only applies to activity outlined within section 1, it will be considered as a basis for any other sub-contracting arrangements.

The policy will be monitored and reviewed operationally by the Vice Principal Finance and Resources reporting to the Senior Management Team and to the College Governors.

The policy will be formally reviewed annually by the Vice Principal Finance and Resources or when a new contract is awarded to ensure the policy does not prohibit specific contract requirements or compliance.

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