



East Coast College

Supply Chain Fees and Charges Policy

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Supply Chain Fees and Charges Policy

1. Introduction and Purpose

The Supply Chain Fees and Charges Policy (the Policy) is a mandatory requirement of the Educational and Skills Funding Agency (ESFA) funding rules for all Lead Providers (i.e. those who hold a direct funding contract with the ESFA) who subcontract government funded activity to a third party, partner provider. This relates to the ESFA's definition of Provision Subcontracting. The ESFA imposes guidance in this area and as such the Policy is directly influenced by this guidance which is contained in the Funding Rules 2018-19 document.

The Policy is required to set out the College rationale for subcontracting funding to Partner providers and the approach taken to determine the fees and charges made for this area of work.

The ESFA further require the Policy to outline how its terms will support the raising of standards in teaching and learning as well as the typical fees charged for this and the services provided by the College in return for such fees. Within this, the Policy is required to outline payment terms and how these operate.

The Policy must detail how, when and where the Policy is communicated to the College's subcontracted Partners and the schedule for the Policy review.

2. Scope

Following approval by the Corporation, the Policy will be communicated via the Deputy Chief Executive to all relevant staff at the College and to all subcontracted Partners as part of the planning and contracting process for the new academic year.

The Policy will be available to Partners via the Assistant Principals in their position of contract management and published on the College website

3. Definitions

The Policy relates to Provision Subcontracting, which is the subcontracting of the delivery of full qualifications and or frameworks/ standards by the College to a third party delivery partner.

For the purposes of the Policy the following definitions shall apply

- The College shall mean East Coast College
- The subcontractor shall mean a legal entity that the College has subcontracted its provision to
- The partner shall mean the subcontractor
- The learner shall mean anyone undertaking learning on a programme that is delivered under a subcontract with the College
- The parties shall mean the College and the subcontractor

4. Requirements and Responsibilities

The College is required to provide clear and accurate details on the list of services it will provide to the subcontractor and the associated costs for doing so.

Within each subcontracting contract, there will be a list of individually itemised, specific costs for managing the subcontractor, specific costs for quality-monitoring activities and specific costs for any other support activities offered to the subcontractor. The contract will also highlight how each of the costs will in turn provide a positive impact on high quality delivery of learning.

Responsibility for the Policy is described below:

4.1. The Corporation

- Approval of the Supply Chain Fees and Charges Policy on an annual basis
- Approval of the annual subcontracting plan

4.2. The Senior Management Group

- Deputy Chief Executive, writing and reviewing the Supply Chain Fees and Charges Policy
- Deputy Chief Executive and Deputy Principal, ensuring the application of the Policy and overseeing the delivery of the services to partners for the fees charged

4.3. Director- Commercial and Partnerships

- Contract managing the College's partners and partnership provision, including the assessment of quality and the delivery of quality support services
- Maintaining a due diligence review of partners which informs partner selection processes and the exposure/ risk per partner

4.4. MIS Team

- Maintaining records of partner delivery on the College's student record system in relation to evidence provided
- Reporting partner outturns to the ESFA and internally to inform contract management and Partner payments

4.5. Finance Team

- Agreeing a payment timetable to partners
- Making accurate payments to partners that are timely in accordance with the funding rules

4.6 Contract Manager

- A Contract Manager, or Contracting Manager oversees all aspects of a company's contract negotiations, obligations and implementation.
- Their duties include negotiating contracts, advising management and supervising the implementation of contracts for optimal efficiency.

5. Strategy

In line with the College's Partnership Strategy, the College will partner with a group of select external training organisations to optimise the impact and effectiveness of service delivery to learners. The College will therefore ensure that supply chain management activities comply with the principles of best practice in the skills sector.

The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on subcontractors to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on learners lives.

Selected partners will share the College's educational aspirations and outcomes will benefit learners, employers, the College and the partner. Partner relationships will be collaborative and the parties will work together to contribute to the College strategic developments in the long term. .

6. Rationale for Subcontracting

The College will reduce/expand its partner base within year and on an annual basis to meet these strategic objectives and in line with ESFA guidance.

The College will engage with partner external training organisations to meet the following key subcontracting objectives:

- enhances the opportunities available for learners
- fills gaps in niche or expert provision or provides better access to training facilities
- supports better geographical access for learners
- offers an entry point for disadvantaged groups; or
- gives consideration of the impact on individuals with shared protected characteristics, where there might otherwise be gaps

Formal subcontracting will be reviewed annually, and revised in line with government guidance and governing body approval.

1. Selection/ review

East Coast College has to ensure that there is

1: A clear educational rationale/business case for subcontracting which aligns to the college's corporate and operational strategies. The business case needs to set out the policy, business and operational objectives including consultation with stakeholders and undertaking research to determine the education rationale. This rationale must consider the expectation ESFA has for colleges to reduce their subcontracted provision (where there was previous high allocations awarded). The business case is to

be presented and approved at executive/board level for sign off.

2: The education rationale meets one or more of the following aims:

- enhances the opportunities available for learners
- fills gaps in niche or expert provision or provides better access to training facilities
- supports better geographical access for learners
- offers an entry point for disadvantaged groups; or
- gives consideration of the impact on individuals with shared protected characteristics, where there might otherwise be gaps

3: The drafting process for the specification and requirements. This drafting process is concerned with breaking down the overall scope documented as part of the educational rational /business strategy into more detail and then, progressively, and iteratively, refining into schedules of detailed requirements, ensuring that the objectives for subcontracting will be met and the subcontractor will meet the requirements of this standard along with the requirements laid out in the funding rules.

4: There is a procurement strategy that would cover the pre-qualification, qualification, and tendering procedures. As part of the strategy, whether this is new or an existing process, the college would need to decide what pre-qualification is required in respect of the criteria resulting in a Pre-Qualification Questionnaire (PQQ) being produced for those expressing an interest.

5: That the PQQ is sufficient to collect, but not limited to, the following information: organisation, including ultimate parent details including identity, ownership and background, principal activities (past and present), organisational chart, contractor/sub-contracting approach, professional/commercial affiliations, legal, financial, capability, quality management systems, Ofsted reports and experience and track record.

6: The procurement strategy/process ensures that a robust assessment process for selecting subcontractors has been established that would review the subcontractor's completed PQQ as well as their capability to control quality, delivery, quantity, price and all the other factors contained in the subcontract. Following a successful appraisal, the subcontractor is placed on an approved list of contractors.

7: The procurement process includes the drafting of the ITT documents. Attention should be paid by the college to ensure that the contract document sets out clearly, comprehensively, and unambiguously, the obligations of the parties to the agreement.

8: The evaluation process includes not only the analysis of the potential

subcontractor's response to the main subject matter of the requirements set out in the ITT, such as price, delivery, quality, methodology, for example but also, most importantly, the quality of the bidder's offer. There should be a clear rationale for how the tenders are evaluated and scored.

9: That following tender evaluation and, where appropriate, negotiation, the college will satisfy themselves that an offer has been made which meets its requirements in all respects, including budgetary and capability, and consider that it is able to accept an offer and award the contract to the tenderer who meets the contract specification. It may then move directly to the award stage or make a recommendation to higher authority levels within the organisation for acceptance is aligned to the college's strategic and operational objectives.

10: That there is a contract management plan which determines how the contract will work once it has been awarded. It is vital that a contract management plan is drawn up in advance of contract award. This should set out how the obligations of all the parties should be carried out effectively and efficiently.

11: That the proposed subcontract will meet the agreed educational needs, that it is achievable and affordable, and it addresses the desired outcome(s) of the subcontract, critical success factors, the possible alternatives, including existing contracts, the risks including the extent and where they may fall, identification of any contingent needs and ramifications of proceeding and timescales.

12: The college needs to ensure that ESFA approve all for any agreed subcontracting terms in relation to distance learning and whole programme subcontracting for 16 to 19 and there is evidence of this.

13: That management fees have been determined for the full range of funding retained and charges that they wish to apply, and these have been agreed at executive level and published on the website. These should only exceed 20% in exceptional circumstances, and where they do, ESFA reserve the right to challenge. The college is also required to follow any specific guidance such as 15% for Princes Trust provision.

5. Contract award and management

In preparing for contract management and providing oversight the college must be able to demonstrate:

1: That all awarded contracts are managed by staff within the organisation who have clearly defined role(s) that have been agreed as part of the overall considerations in producing the business case.

2: The defined roles ensure that contract ownership is clear, with the budget holder, senior responsible owner (SRO), and contract manager clearly defined (where appropriate).

3: There are well defined policies and processes and a clear contract management plan, with a focus on outputs and a 'whole life' approach to performance. For example, this must include, where appropriate, evidence of how the college will:

1. Manage and oversee 16 to 19 distance and whole programme provision through the life of each learner's programme of study.
2. Define how whole programme subcontracting for AEB will be agreed and managed.
3. Ensure apprenticeship provision is not delivered solely by a subcontractor, as per the apprenticeship funding rules with specific regard to substance, leading the relationship, and the subcontracted delivery complimenting the main college's programme.
4. How these policies, including the rationale, are reviewed by the college ahead of each Funding Year. Furthermore, the college should demonstrate that the policies and rationale have been appropriately authorised through the organisation's governance structure. Once reviewed, updated policies must be published by 31 October in the relevant funding year.
5. Where appropriate, overall ownership of contract management across the organisation is clear, with a 'contract management senior leader owner with responsibility for driving organisation-wide contract management performance.
6. Contract management processes are aligned with, among others, wider organisational governance processes, operational boards, and risk structures.
7. Contract management issues and performance are reported through the governance structure with senior level engagement.
8. Regular assessment and evaluation must take place to ensure that the cost of contract management activities is justified and proportionate to the benefits obtained.
9. Knowledge management is embedded, capturing key data and lessons from contract management process and experience both within the organisation and more widely.
10. Professional contract management guidance is developed, or identified from external sources, and made available to contract managers.
11. An appropriate assessment to ensure extremist organisations are not funded through the subcontracting Department of Education funding.

6. People

In ensuring the right people are in place to carry out the contract

management activities, the college must demonstrate:

1: That either your business continuity / contingency plan incorporates the role of the contract manager(s)/ those with contract management responsibility (ideally through involvement during the tendering/contract award processes) or you ensure continuity by ensuring there are appropriate handover / information sharing procedures in place.

2: The contract manager(s) have a detailed knowledge of the contract and other relevant issues, such as service level agreements, requirements in line with ESFA contract and funding rules and current subcontractor performance.

3: The contract manager(s) have the appropriate skills (both specific contract management skills and more general commercial awareness and expertise), with access to relevant training and development. Experienced contract managers are utilised on key contracts.

4: Contract manager(s) have accurate job descriptions, roles are positioned at an appropriate level and salary, and there is a career path for contract management staff.

5: Contract manager(s) have clear objectives and reporting lines, and their performance is managed through reviews and appraisals.

6: The contract manager(s) have appropriate delegated authority to manage the contract effectively.

7. Administration

In managing the contract(s) and the timetable for making key decisions, the college must demonstrate that:

1: Signed contracts are stored and logged and are easily accessible when required; for complex contracts, a summary and/or contract operations guide should be produced.

2: Key contractual information is recorded appropriately to allow, for example; search capability; documentation of up-to-date contract information; and key dates.

3: There are mechanisms in place for identifying key contract 'trigger points', such as notice periods.

4: There is schedule of regular as well as ad hoc reporting of contract management information and retention of appropriate documentation such as, minutes of contract meetings, reviews of teaching and learning etc.

5: There are appropriate processes and procedures in place to ensure that contracts are closed and/or terminated efficiently.

6: The college has considered the cost of contract management activities to the subcontractor, and the cost is proportionate to the contract size and risk.

8. Managing relationships

The college must have appropriate procedures in place to manage their relationships with subcontractors and be able to demonstrate that:

1: Proactive conversations and/or independent checks are undertaken in relation the subcontractor at least on an annual basis which cover and document as a minimum, the subcontractor(s):

a. current ownership and person of significant control. Notification must be made to ESFA where this has changed from a previous year. b. current/ latest financial health position. c. a review of learning activity delivered, including compliance with the relevant funding rules for each programme . d. the subcontractor(s) business continuity / contingency plan remains relevant or has been updated appropriately.

2: Their contract manager understands their own role and has clear visibility of the roles and responsibilities of staff on the subcontractor side.

3: The respective responsibilities of the contract manager and the subcontractor are clear, and potentially defined in a 'joint statement of intent' or similar document.

4: Continuity of key subcontractor staff is desirable (ideally through involvement during the sales process); where this cannot be achieved, there must be a handover from the staff responsible for the tendering process.

5: Both regular structured and informal communication routes between the contract manager and subcontractor are open and used; customer and subcontractor staff are co-located where appropriate.

6: Users are given clear expectations and an understanding of the contract and the services/ performance to be delivered (for example, through newsletters or briefings).

7: Safeguarding processes in line with up to date legislation and college expectation are followed by the subcontractor to ensure students are not at risk within the provision.

7: Communications between the contract manager, subcontractor, and other stakeholders (users of the contract and others such as technical experts) are effective; and stakeholders are involved in contract

management processes where appropriate.

8: Problem resolution processes are well defined and used and are designed to ensure minor problems do not escalate and cause relationship issues; a 'blame culture' is avoided (for example, using a 'relationships charter' or similar document).

9. Managing performance

ESFA's expectation is that a prime will have processes and procedures in place to effectively manage subcontracted provision, you will be required to demonstrate that as a minimum:

1: Service management is well structured; baselines are understood by both parties, and subcontractors understand the service they are required to deliver. The contract manager ensures that the lead college furnishes the subcontractor with the information and contacts needed to deliver the service.

2: A performance management framework is in place when the contract is signed. The framework is comprehensive, objective and provides incentives for the subcontractor to meet or exceed agreed performance standards.

3: Service levels agreements are in place, and are linked to business needs, understood by the subcontractor, and monitored by the contract manager and/or end users.

4: Subcontractor performance is assessed using clear, objective, and meaningful metrics, linked where appropriate to ESFA's funding rules and/or guidance.

5: Clear processes are in place to handle operational problem resolution and resolve issues as quickly as possible.

6: Where appropriate, user compliance with the contract is monitored and managed to ensure maximum operational effectiveness and value for money.

7: Regular and routine feedback is given to subcontractors on their performance.

8: There are clear contact points for service users both within the subcontractor organisation and with the contract manager. Users understand what the contract is intended to deliver and are involved in the assessment of subcontractor performance where relevant. Users understand escalation routes where issues arise.

9: Changes in user requirements are captured and considered as part of

formal change and contract management processes.

10: There are formal performance reviews with subcontractors, with documented improvement plans agreed where necessary, covering both operational issues and adherence to key contractual requirements, for example, on data security.

10. Payments and incentives

ESFA's expectation is that a lead college will have sufficient processes and procedures in place to effectively monitor the financial payments in relation to their subcontracted provision, you will be required to demonstrate that as a minimum:

1: Payment mechanisms are documented and are clear and well understood by all parties (including incentives, penalties, and non-standard charges).

2: Payment processes are well defined and efficient; appropriate checks and authorisation processes are in place for paying invoices.

3: The costs of the services delivered, and contract management costs are mapped against budgets and allocated appropriately.

4: Payment changes after the contract is let, for example from contract variations or benchmarking/ market testing, are made using contractual provisions and demonstrated to provide value for money.

5: Payments are not made in advance of evidence to demonstrate learning activity has been undertaken. The college has the right to hold a review meeting where there are questions over delivery and student contact compared to the signed contracts.

11. Risk management

In order to provide assurance to ESFA that you have effective risk management procedures in place to effectively manage the public money which is paid to subcontractors. As a minimum you will be expected to demonstrate:

1: Contractual/subcontractor risk management is in place with clear responsibilities and processes, identification of who is best placed to manage risk, and subcontractor involvement where appropriate.

2: Risks are formally identified and monitored regularly, with mitigating actions developed and implemented where possible, and 'obsolete' risks removed from consideration where appropriate.

- 3: Escalation and reporting routes are in place for risk governance.
- 4: Contingency plans are developed to handle subcontractor failure (temporary or long-term failure/default); exit strategies are developed and updated through the life of the contract.
- 5: Contractual terms around termination are understood and monitored by the contract manager.
- 6: Contractual terms around warranties, indemnities and insurance are understood and monitored by the contract manager.
- 7: Contractual terms around security and confidentiality are understood and monitored by the contract manager, particularly issues relating to the security/confidentiality of personal data.
- 8: Dispute resolution processes are in place, including agreed adjudication procedures, mediation, and arbitration.
- 9: The contract manager monitors the subcontractor's financial health and business performance (including using credit rating agencies).
- 10: The contract manager monitors the subcontractor's compliance with contractual 'non-performance' issues (for example, on tax and sustainability targets).

12. Contract development and/or termination

In order to ensure that changes to the contract or termination are handled appropriately and efficiently the lead college must:

- 1: Undertake analysis of their subcontracted activity each year, to inform the progress made in their plans for a reduction across the 3-year period.
- 2: Regularly review the subcontract (with a view to updating where necessary) to ensure it meets evolving business and educational needs.
- 3: Ensure processes are in place that clearly lay out the governance of contractual change – who needs to approve what and how it will happen – with a focus on effective and prompt change implementation.
- 4: Ensure there are clear processes for the management of minor changes and contract variations, with a focus on the cost/effort being proportionate to the importance and value of the change.
- 5: Ensure there are more rigorous processes to handle major contractual changes, including clear approval mechanisms and accountabilities, and controls to demonstrate that changes offer value for money.

6: Where appropriate, undertake value for money testing of existing services through benchmarking or other processes.

7: Ensure there are processes to cover the introduction of new services under the contract, including market testing where necessary.

8: Have dispute handling processes in place to address any change related issues.

9: Have processes to account for various types of contractual changes. Both parties have a clear understanding of the arrangements for any extension of the contract (both scope and time) and related issues.

10: Ensure processes are in place to handle commercial (financial) changes to the contract in a fair and structured manner.

11: Manage price changes fairly and effectively with the use of mechanisms such as benchmarking, competitive tendering (for example, for major additional works), or other techniques such as open book pricing as appropriate, to demonstrate value for money.

12: Demonstrate their rationalisation of specifications and demand management are considered as options to achieve better value for money.

Contribution to Improving Teaching and Learning

The quality of subcontracted provision will be monitored and managed in line with existing College quality assurance processes, standards and expectations that cover selection, contracting, monitoring, intervention and review of all subcontracting arrangements in the College. To enable the continuous improvement of the quality of teaching and learning for both the College and its subcontractors, the College will seek to promote the sharing of effective practice across the supply chain

Subcontracted partners will be directly supported through contract managers who are linked specifically to curriculum to support the development of teaching and learning. The partnership management framework enables links into wider departments within College bringing other areas of on-going support to help improve policy and practice in such as administration, organisation and finance.

The Policy defines the range of associated College services that contribute towards the improving of teaching and learning of subcontracted provision and relates these to the fees and payment terms by:

- defining the standard fees charged and the agreed minimum levels of service provided by the College which shall be set by the College to support improvements in teaching and learning and which shall be proportionate to the nature, content, distribution and standard of the subcontracted delivery to enable the College to provide such services

- defining the range of additional services that shall be available from the College in support of the continuous improvement of the provision but which shall be additional to the agreed minimum services provided within the standard fee
- enabling the direct linkage of fees and payment to the meeting of contractual targets in teaching and learning/ learner outcomes which may be deemed necessary by the College to promote the continuous improvement of these standards

7. Providing Support for Subcontractors

As part of the initial and on-going due diligence quality assessment mechanisms, the College will undertake an assessment of the subcontracted provision and will share the results to inform opportunities for development of standards.

Throughout the term of the contract, as an agreed minimum standard, the College will provide the following services to the subcontracted provision:

- Access to a designated partner link
- Access to existing College expertise, as appropriate
- A contract management service to include the regular monitoring and reporting of progress
- Access to guidance on the application of funding methodologies and funding policy
- Access to guidance on the development and application of a robust funding audit trail
- A regular quality performance monitoring visit service that includes the sampling and development support in:
 - Individual standards of delivery in teaching and learning
 - Standards of resourcing
 - Standards of learner work
 - Learner attendance and progression levels
 - Learner retention, pass rates and achievement levels
 - Learner voice – and , where appropriate, employer
 - Assessment and moderation mechanisms
- Access to guidance and the sharing of best practice to address areas of improvement in teaching, learning and key quality management processes
- Access to College in house face to face or digital CPD
- Access to learner support
- A full compliance management service for the collation, verification and processing of evidence in relation funding claims for the subcontracted provision

Additional services that may be available to the subcontractor that are additional to the agreed minimum level of service may include but are not limited to:

- Sampling and development support services that are over and above the normal level of support and require additional resourcing for the College
- Awarding organisation fees and charges for learner registration and certification
- The provision of Internal Quality Assurance services by College staff
- The delivery of externally charged staff CPD
- The hiring of facilities / equipment within/ from the College
- The provision of marketing services
- The provision of recruitment services

8. Fees and Payments

The fees charged by the College shall be agreed in the contracts between the parties and shall be determined by the following:

- The fee structure shall include a standard management fee for the agreed minimum level of service by the College and shall be at a standard proportion of the funding earned for the programmes delivered by the Partner.
- For programme of study where the College delivers the English and Maths elements the associated costs in terms of delivery hours as a proportion of the whole programme hours will be deducted from the funding to the partner at the full ESFA rate.
- The fee structure will allow the College to reduce or increase the standard management fee in proportion to the risk as determined by the nature, content, distribution and outcomes of the subcontracted delivery as determined by the College
- The fee structure shall enable the College to increase the standard management fee in relation to the failure by the subcontractor to hit the agreed standards and targets as given in the contract
- The fee structure shall enable the College to increase the fee to cover any additional non-specific support to improve the standards of teaching and learning that are deemed necessary by the College and over and above the agreed minimum level of service
- The fee structure will enable the College to be competitive when dealing with subcontractors who have provision in highly competitive market areas
- The fee structure will enable the subcontractor to purchase specific additional services from the College that are so required by the subcontractor and over and above the agreed minimum services

The fee charged will be agreed with individual subcontractors within the

following guidelines:

Provision of services by the College	Standard fee as a proportion of the funding earned	Possible range of fee as a proportion of funding earned	Direct charge for additional service
Agreed minimum standard	20% (15% Princes Trust provision)	20-35%	N/A
Additional non-specific services	N/A	20%	N/A
Additional specific services	N/A	N/A	Charged in accordance with costs of specific service to the College