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# Subcontracting Policy 2023/24

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## Policy Statement

1. This policy sets out both the subcontracting strategy of City of Bristol College (the College) and the applicable supply chain fees and charges. The policy aims to ensure transparency and equitability around subcontracting and the associated retained fees.
2. This policy will be supplied to potential subcontractors at the point of being invited to tender and to existing subcontractors during the contract renewal process. The policy is signposted in the Subcontracting Procedures which are provided to all subcontractors, and available on the College website along with the College's subcontracting delivery value.

## Scope

3. This policy governs subcontracting provision within the College. The College recognises that it holds full accountability for the delivery of subcontracted activity and that this cannot be assigned to subcontractors.
4. It is the responsibility of both the College and their subcontractors to refer to the rules and guidance of the relevant funding agency (Education and Skills Funding Agency or relevant Combined Authority) and any future updates in all matters regarding the delivery of the contract.
5. Roles and responsibilities for the College and the subcontractors are clearly defined from the outset and all subcontractors are required to agree and sign a Contract for the provision of education or training services with the College.

## Definitions

6. **Subcontracting:** refers to subcontractors delivering education or training on behalf of the College. This encompasses subcontractors listed on the Education and Skills Funding Agency (ESFA) 'List of Declared Subcontractors', together with any updates or subsequent listings from the ESFA or the relevant Combined Authority.

## Responsibilities

7. This policy is owned by the Deputy Principal and Chief Executive. The College Board of Governors is responsible for the approval of this Subcontracting Policy. The day to day management of the subcontracting provision of education or training is provided through the Contracts Officer who is responsible for the coordination of contract compliance under the guidance of the Assistant Director of Finance.

## Subcontractor Strategy

8. Subcontracting will be reviewed and awarded annually, and must fulfil at least one of the following aims:
  - To support the strategic objectives of the College or national, devolved, or local government (e.g. creating progression into apprenticeships);
  - To enhance the overall quality of the College's provision;
  - To serve a specific demographic need that would not otherwise be met (e.g. hard-to-reach students);
  - To bring positive local community benefits;
  - Offers an entry point for disadvantaged groups;
  - To build capacity in high demand subject areas;
  - Fills gaps in niche or expert provision or provides better access to training facilities;
  - Not to compete with existing College provision, unless for strategic or quality enhancement reasons.

9. In addition to the above, subcontracting of Adult Education Budget funding:
  - Will deliver provision to residents in the Bristol and local areas funded by WECA, with the aim of meeting WECA priorities (including those outlined in the WECA Adult Education Strategy, the Local Growth Strategy and the Employability and Skills Plan) and satisfying relevant WECA criteria;
  - Where we have received an allocation from other devolved authorities, the College will deliver provision in those devolved areas, with the aim of meeting the requirements of those individual funding authorities;
  - Will deliver ESFA funded provision on a regional and national basis, as long as this delivery is to residents of non-devolved areas, and as long as all of the other criteria in the subcontracting policy are met (thereby benefitting as wide a range of students as possible, and making best use of the College's ongoing ESFA funding allocation).
10. In line with City of Bristol's strategic plan, the College aims to build supportive and mutually rewarding relationships with its subcontractors, built on trust and respect, for the benefit of students, communities and employers. The College will not subcontract as a means to fulfil short-term funding objectives.

### **Contract Renewal and Procurement**

11. Proposed renewals of Subcontracting arrangements, will be presented to Governors for approval as part of the College's budgeting cycle.
12. New Subcontracting arrangements, other than those where a bid for funding is made in partnership, should undergo a procurement process. Each procurement should be supported by a clear educational rational and business case that aligns to the College's Subcontracting Strategy.
13. Final contract awards will be approved by Governors before contracts are signed.
14. The College will communicate the following to its subcontractors ahead of contract signing:
  - The College reason for subcontracting;
  - The services that the College will provide to the subcontractor and the associated costs when doing so, including a list of specific costs for managing the subcontractor, specific costs for quality monitoring activities and specific costs for any other support activities offered by you to the subcontractor;
  - how each cost is reasonable and proportionate to delivery of the subcontracted teaching or learning and how each cost contributes to delivering high quality learning.
15. All proposals for "whole programme subcontracting" for 16-18 funding, as defined by the ESFA funding rules will be sent to the ESFA for approval prior to the contract commencing. New contracting relationships that meet these criteria will be submitted to the ESFA within at least 12 weeks of the commencement of the contract.

### **Supply Chain Fees and Charges**

16. The 'Supply Chain Fees and Charges' applies to subcontractors of the College. The College normally retains a maximum of 20% of funding delivered through subcontractors for a standard subcontracting agreement. This retention is calculated to cover day-to-day management of subcontracted delivery, monitoring of student progress, collecting and updating due diligence, ensuring audit compliance, dealing with subcontractor queries, coordinating self-assessment processes, quality, safeguarding and compliance monitoring, attendance at College CPD events and other training where applicable, as well as other similar services as needed as set out in the Subcontracting Procedures.

17. The retention also includes administration support to process the data, ILR management, Middle and Senior Management support (working with national agencies, funding bodies, advice relating to policies, ESFA guidance, etc.), and management of funding and finances (preparation and processing of payments). The College employs a dedicated Contracts Officer to coordinate this activity and monitor compliance.
18. The retained percentage may be increased where a College Risk Assessment deems a Subcontractor to be a Medium or High risk, or if a higher level of administrative and management support is necessary for a particular subcontractor. The retained percentage may be decreased where a College Risk Assessment deems a Subcontractor low risk, and the level of administrative and management support required is significantly lower than for other subcontractors. The College will endeavour to ensure the retained fee arrangements for different subcontractors are fair and equitable based on these parameters. If additional and/or exceptional services are required of the College in ensuring quality subcontractor provision, there will be a separate fee agreed above the core retention percentage based on usage (such as Internal Verification, additional training etc.).
19. Subcontractors will only be paid for the actual funding delivered. Any Difference between payments on account and actual funding will be subject to clawback.
20. The College will not pay brokerage fees.

### **Subcontracting Procedures**

21. The Subcontracting Procedures document, which is provided to Subcontractors and forms part of the contract sets out how the contract will be managed, and the respective roles and responsibilities of the College and the Subcontractor. It is reviewed and updated annually with consultation from users of the contract.

### **Payment terms**

22. Payment terms and timings are set out within individual Contracts. The College pays subcontractor by BACS the proportion of fees due in respect of valid paperwork provided by the subcontractor to the College and under the terms of the Contract issued. The payment is calculated on data submitted to the ESFA (or relevant funding authority) by the College in the preceding month and paid in line with Contract terms; normally within 30 days of the ILR data return.

### **Contractual Changes**

23. Any contractual changes will be made with mutual agreement between the College and the Subcontractor. The level of discussion and negotiation on any contract changes will be proportionate to the size of the change being proposed to ensure the cost/effort is proportionate to the importance of the change. Changes will be recorded through a contract change document signed by both the College and the Subcontractor.
24. Major changes to contracts (defined as a change that would have a material impact on the contractual arrangements between the two parties) will be agreed, in principal between the College and the Subcontractor with the involvement of appropriate senior members of College leadership team. The change must be approved by College Governors ahead of any changes being enacted.
25. Changes in contract value may be made, with approval from the Deputy Principal and Chief Executive to the extent that the total contract award for that Subcontractor does not exceed the amount approved by Governors through the budgeting process, or through any subsequent approved amendments. Any proposed increases to contract values above amounts already approved must be approved by the College Governors.

26. Changes in contract prices must be agreed by the College Governors, and any proposals must be supported by a demonstration of value for money.
27. Minor changes (defined as changes that do not meet the specific change types listed), must be approved by the Deputy Principal and Chief Executive.

## Performance and Risk Management

28. In order to allow for appropriate oversight and support of quality of delivery, the following measures are in place to monitor subcontractors:
  - Quality Review Meetings (QRM) are scheduled every half term and are aligned with the College performance management cycle. The QRMs are led by the Quality Assurance Manager and are attended by the curriculum links (where applicable), the Contracts Officer and subcontractor staff with quality and/or management responsibility. These meetings include a review of subcontractor Quality Improvement Plans (QIPs) and identify areas where support is required;
  - Updates on QRMs are included in Termly subcontracting reports to SLT;
  - Subcontractors' SARs are reviewed by the Quality Assurance Manager;
  - Learning and Development Coaches are used to support compliance and development of managers and staff for all Bristol based subcontractors;
  - The quality department supports actions to improve progression and transition into college, where appropriate, from the subcontractor's provision;
  - Joint lesson observations;
  - Direct observation of IAG.
29. Contract compliance is monitored primarily through the following:
  - Joint contract management and quality performance reviews are held at least twice per year, utilising QRM and contract performance data chaired by the Assistant Director of Finance and Quality Assurance Manager respectively;
  - Contract compliance spot checks;
  - Other ad hoc meetings, visits and discussions take place for general operational items as they arise but these also form part of the relationship management and support for subcontractors. Such meetings inform the College's RAG rating of subcontractors' performance in Teaching, Learning and Assessment, and give rise to actions and interventions where appropriate;
  - Adherence to the Contract Management Plan;
  - Regular relationship management meetings.
30. Safeguarding at each subcontractor is monitored via a direct link between the College Head of Safeguarding and the subcontractor's designated safeguarding lead (DSL). Both parties must adhere to the Safeguarding process for Subcontractors to ensure that safeguarding is effective at the subcontractor.
31. Risk management is embedded within the performance management cycle and the ongoing contract management to ensure that risks are identified and mitigated on a timely basis. Significant risks are reported to SLT through the termly subcontracting reports to SLT and to Governors where appropriate.

## Dispute Resolution

32. The College will seek to resolve any dispute between the College and Subcontractor amicably and without the need for external mediation, arbitration or litigation. If the dispute cannot be resolved through this process, then the College and Subcontractor should make reference to the contract.

33. Should the Subcontractor have a grievance against the College, then it should discuss with the Contracts Officer, Assistant Director of Finance, or Deputy Principal and Chief Executive to seek amicable resolution. If this is unsuccessful, or it is not appropriate to raise the grievance through one of these individuals, then the Subcontractor should raise a grievance through the College Complaints process, where it will be investigated by an appropriate senior member of staff.
34. Should the College have a grievance against the Subcontractor, then it will discuss this with one of the key contacts as listed in the contract.

### Contingency Plan

35. If for any reason, financial or otherwise, a subcontractor is unable to continue delivery either temporarily or permanently; the College will work with the subcontractor to ensure the continuity of delivery for students enrolled on College programmes appropriate to the circumstances. Options may include, but are not limited to:
- Delivery at College, or other appropriate premises;
  - Delivery using College staff;
  - Transfer of delivery to an alternative subcontractor.

### Linked policies and regulations

- City of Bristol College Financial Regulations
- Compliments, Suggestions and Complaints Policy
- Education and Skills Funding Agency 'Funding and Performance Management Rules'
- WECA 'Funding and Performance Management Rules'
- Safeguarding Process for Subcontractors

**Review frequency:** Annually

**Last review date:** Feb 2023

**Next review date:** Feb 2024

**Lead officer:** Contracts Officer

**Executive lead:** Executive Director of Finance and Funding

<b>Approved by:</b>	Main Board (via Business Services Committee)
<b>Date:</b>	27/03/2023