

Subcontracting policy and procedure



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Change History

Version number	Date of Release	Policy Owner	Authorised by
1.0	01/12/2016	Operations Director	Audit & Risk Committee
2.0	27/09/2017	Commercial Director	Board of Trustees
3.0	27/09/2018	Commercial Director	Board of Trustees

Policy Statement

To ensure that subcontractors are selected fairly and have sufficient capacity, capability, quality and financial standing to deliver the subcontracted education and training services.

Scope

This policy is applicable to all provision which is subcontracted to another organisation to deliver on behalf of Central YMCA.

Related Legislation and Contractual Obligations

- To ensure Central YMCA complies with the Funding Rules and Guidance issued by the ESFA as amended and updated from time to time, in relation to subcontracting provision.

<https://www.gov.uk/government/publications/apprenticeship-funding-rules-2018-to-2019>

<https://www.gov.uk/guidance/16-to-19-education-funding-allocations>

- Subcontracting does not relieve Central YMCA of any of its obligations or duties under its lead contract with the funding body.
- Central YMCA remains responsible for the actions of its subcontractors in connection with the delivery of the subcontracted provision

Related Policies, Procedures, and Templates

- Subcontractor Due Diligence Procedure
- Template study programme subcontractor contract
- Template apprenticeship subcontractor contract
- Appendix 1 provides a proforma which must be completed to capture the information and evidence required for the due diligence process.
- Appendix 2 provides a proforma for completion by the person nominated by the Commercial Director to assess the information and evidence provided by the potential subcontractor

Responsibilities

Board of Trustees	Overall responsibility for the policies and procedures that govern the work at Central YMCA.
Chief Executive	Overall responsibility for ensuring Central YMCA's resources are used effectively and appropriately.
Policy Owner	Responsible for ensuring guidelines are in place and that policies and procedures reflect our charitable ethos and commitment to equality and diversity.
All Line Managers	Responsible for ensuring all employees are aware of and follow this policy.
All Employees and Volunteers	To follow policies and procedures, promoting best practice throughout the organisation.

Policy Review

Review of impact against the aims of policy:

This policy has been drafted for approval by Commercial Director and has been approved by Board of Trustees and is deemed fit for purpose. All related procedures have been designed to match the contents of this policy.

The policy has been communicated successfully to the staff and Board of Trustees and the policy has been made available on the Charity's intranet and website.

Does there appear to be any patterns of equality related issues: No

If yes, please provide an Equalities Impact Assessment (if relevant): n/a

Reviewed by: Board of Trustees **Date:** 27/09/2018

This policy will be reviewed on an annual basis by the Policy Owner and signed off by the Board of Trustees if any changes are made.

Next review date: September 2019

Policy

1. Why subcontract?

- Central YMCA may decide to subcontract for a range of reasons:-
 - Desire to engage in a partnership
 - Political or contractual reasons
 - To grow the size of business
 - As part of a wider strategy
 - To meet our strategic long term goals
 - To offer a more diverse range of services
 - Ensure ALL learners needs are met by developing a growing YMCA network of providers with specialist provision

2. Selection and procurement

- Once the need to subcontract part of a contract has been established a subcontract specification, which will detail the nature of provision to be subcontracted, will be drawn up by the Commercial Director for approval by the Group Finance Director.

Potential subcontractors may then be identified though:

- A direct approach to or from a potential subcontractor, or by the funding body
 - A successful bid submission involving a group of identified potential providers
 - A competitive tendering round (see section 3 below on competitive tendering)
- N.B. A subcontractor must be a legal entity.

3. Competitive Tendering

- Approval to procure a subcontractor through a competitive tendering round must be sought from the Group Finance Director. The following steps should then be taken:
 - Decide how providers will be advised that you are launching the tender round. This may be via an advert in the press or via local providers' networks etc.
 - The subcontractor specification should be provided to all interested parties.
 - In order to reduce the workload of scoring tenders the initial notification should be for "Expressions of Interest". Providers should submit an Expression of Interest by the defined deadline. Expressions submitted after this deadline should not be considered.
 - All Expressions of Interest must be scored using the same criteria and evidence of this retained.
 - Organisations shortlisted at this stage should be taken through the due diligence process defined in sections 6.
 - Providers failing to progress to the next stage should be notified in writing.

4. Assessment of subcontractors

- It is essential that Central YMCA assesses any potential subcontractor for their capacity, capability, quality, potential conflict of interest and financial standing to deliver the subcontracted education and training services.
- A due diligence assessment must be completed before a subcontract agreement (contract) can be issued. This is a requirement under the terms of our ESFA contracts.
- Any potential subcontractor must be able to evidence that they meet the "essential requirements" of the due diligence process. Where a potential subcontractor meets the "essential requirements" but falls short of the "desirable requirements", conditions and/or improvement actions may be included in the subcontract agreement.
- All subcontractors will be requested to resubmit due diligence evidence annually prior to an annual review taking place.
- A recommendation will then be made to the Commercial Director/Group Finance Director, which may include conditions and or required action/improvements (as indicated above).
- The potential subcontractor should be notified in writing of the outcome of the assessment.

5. Management Fees and Payment Terms

- Central YMCA does not operate a 'one size fits all' management fee approach. The Commercial Director will recommend a management fee to the Group Finance Director for approval taking into account any restrictions within the main funding body contract.
- Fees charged will be determined by the potential risk and level of management support required. The Commercial Director/Group Finance Director will agree the appropriate level of management fees to be charged and included within the subcontract agreement.
- This management fee could be between 10-30% depending on the level of resources required to support from YMCA and the partners' track record of delivery.
- Partners will be assigned a Quality representative and a Contract Manager to support and manage the contract and relationship and will contribute to continuous developments and improvements of both performance and quality assurance.
- Payments will be made to the SUBCONTRACTOR within a period not exceeding 30 days from receipt of a valid claim/invoice in line with the statement produced from Central YMCA Finance.
- Learners need to be on programme a minimum of 6 weeks before payments can be made.

- 50% on programme payments will be paid monthly for the expected duration of the programme.
- When the learner has completed the programme, achieved all aims and any conditions of funding have been met on all funding elements, a 50% achievement payment can be made.
- The evidence requirements are set out in the relevant Funding Guidance and THE SUBCONTRACTOR must retain such evidence for inspection on demand.

6. Contracting

- All subcontracts are drawn up by the Commercial Director and can only be signed on behalf of Central YMCA by the Group Finance Director or their absence the Chief Executive/Group Finance Director.
- Central YMCA uses an approved template for subcontracting. The body of the contract template should not be amended other than to include the details of the specific contract. The contract template will be reviewed annually in line with changes to lead contracts with funders.
- Schedules relating to the specific contract will be appended to the contract and referenced within the main body of the contract. The contract appendices will include:
 - Expectations of the provider.
 - Delivery profiles detailing the volumes and outcomes required
 - Details of how Central YMCA will manage the subcontractor. Lower risk providers will receive a lighter touch approach.
 - A financial annex should detail how Central YMCA will fund the provider, including details of sanctions for poor delivery.
 - Central YMCA service standards should be included. These link directly to the management fee which has been applied (see section 5 on this above).
- Once the contract has been drawn up, two copies should be signed by the Chief Executive or the Group Finance Director. Both copies should then be sent to the subcontractor for signing. Each party should retain an original copy of this contract. Only the Chief Executive or the Group Finance Director is authorised to sign contracts of any kind on behalf of Central YMCA.

7. Contract Variations

- Any variations to the contract must be agreed with the subcontractor and confirmed in writing.

8. Management of Subcontractors

- Central YMCA will appoint the Head of Education Manager for SP and Head of Skills for Apprenticeships as the contract manager for day to day matters. The subcontractor will be managed in line with the contract terms and as a centre of Central YMCA.
- Quarterly contract reviews will be scheduled with all subcontractors to consider performance against the key measures detailed in the subcontract agreement.
- In the event of serious irregularities or concerns, subcontractors will be managed through Central YMCA fraud procedures and the breach clause of the subcontract agreement.
- Subcontractors will routinely receive contract updates. Where these are significant, they will be issued as a contract variation.