



## **SUB-CONTRACTING POLICY**

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<b>Dept</b>	Data and Performance	<b>Last Updated</b>	19 <sup>th</sup> December 2023
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## Introduction

This policy applies to all supply chain activity which is supported by funds received from the Education & Skills Funding Agency (ESFA), Devolved Combined Authorities (DCA) or any successor organisation. Telford College is committed to making the best use of resources when securing the provision of education and training.

Subcontracting is defined as using a third party to deliver education and training for which the college claims funding. A percentage of this funding (usually 80%) is passed on to the third party for delivery purposes. The 'subcontracting' out of the provision of training and education is one route to secure provision.

**This policy describes the principles underpinning the selection and management of the subcontracted provision to ensure that it meets the required standards.**

### 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:

- At all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential sub-contractors. This is to ensure compliance at all levels and to ensure the highest quality of learning is made available, value for money and a positive impact on students' 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. The fees will be proportionate to the actual services being provided and will be negotiated.
- Contract documents will require both parties to agree that the achievements of supply chains are attained through adherence to both the letter and the spirit of contract. Signatories therefore 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 Principles. Where changes are required, and both parties agree, then addendums to the contracts will be issued and accepted once signed by both parties.
- 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.

### Rationale for Sub-Contracting

The College must be satisfied that all partnership or subcontracting meets the strategic aims and enhance the quality of our student offer in addition to meeting the ESFA or DfE Subcontracting guidance. We will engage with delivery partners to better meet customer needs. This may be through a procurement process in order to identify suitable Partners or Sub-Contractors.

Reasons for subcontracting are varied but could include:

- Where existing employers or students require additional provision which is beyond our existing scope or capacity
- Where sub-contracting will allow us to meet short term needs of students or employers without exposing the college to the risks and cost of setting up new provision.
- Where sub-contracting would allow us to capacity-build in new sectors or territories to allow us to move to a position of direct delivery or to grow income such as 16-18 apprenticeship funding.
- Where sub-contracting enables the College to deliver high quality niche provision in areas where subcontractors have extensive and focused specialist expertise.
- Where the due diligence process shows the selected provider to be of high quality and low risk to the college.
- Requests from Funding bodies to take on the funding role for other providers

## **Due Diligence Process**

The Deputy CEO will be the first point of contact for formally reviewing any potential sub-contractor delivery proposals.

They will:

Identify if the proposal addresses the strategic objectives of the college and is filling a gap or niche market that the college cannot deliver internally.

- Identify if there is capacity within the relevant funding budget.
- Identify if the sub-contractor has a UK Provider Reference Number (UKRLN) and is listed on the UK Register of Learning Providers (UKRLP). Providers will also need to be registered on the Register of Training Organisations (RoTO) if the total value across all sub-contracted provision exceeds £100,000.
- Notify the Head of Finance to commence Stage 1 of the due diligence process where potential funding is identified. (Appendix 1)
- Forward the proposal to the Principal and the Governing Body for formal approval to proceed in principle.
- If approval is gained, notify the Head of Finance to undertake Stage 2, full due diligence process (Appendix 2 & 3).
- If Stage 2 of the process is successful, then issue a contract for the provision which must be signed by both parties prior to the commencement of any delivery.

## **Quality Assurance (QA)**

The quality of provision will be monitored and managed through the existing college QA processes and procedures. Telford College is committed to ensuring subcontracting partners are able to deliver quality provision through robust quality assurance, this policy positions sub-contracted provision as a core part of college activity to enable continuous improvement in the quality of teaching and learning for both the college and its sub-contractors.

Measures to be reviewed for Quality Assurance include:

- Funding and delivery advice or support
- Contract management meetings (schedule to be agreed annually)
- Desk top checks and due diligence visits
- Annual due diligence refresh for existing providers
- 3 Quality Assurance visits per year, one of which will be a short or no notice visit
- Two sample file checks – one of which will be short notice sample
- Observation of information, advice and guidance sessions
- Observation of teaching, learning and assessment practice
- Review of "At Risk" learners
- Annual survey of learners

This list is not an exhaustive list.

Should quality measures not be met, the College may also require the sub-contractor to undergo additional quality improvement measures.

Please refer to the Telford College Subcontractor Handbook for further information.

## **Fees and Charges**

The standard college management fee ranges between 20% and 30% of all funding drawn down against the provision to be delivered. Percentages may be higher in exception; for example where Telford College delivers part of the course and will therefore retain a greater proportion. This figure represents the cost that the college incurs in identifying, selecting and managing all sub-contracted provision. This management fee is deducted from the funding income we receive. Management fees are agreed with sub-contractors and are based on the outcome of due diligence and risk assessment processes, together with historical information we hold and references received.

Fee ratios are based on a risk assessment process with the provider against a low/medium/high risk rating formulated during the due diligence process. Low risk rating would normally attract a 20% management fee with minimum levels of college input and previous track record of performance. The maximum fee is up to 30% and is based on a high risk delivery strategy or may be applied to existing sub-contracted provision where minimum standards have not been achieved. Further charges to cover additional costs may be added to the base fee to cover the cost to the College of any additional support the college deems necessary. The Fees are also subject to approval from the Funding Bodies and extra details in the rationale will be required for any that are higher than the standard 20%. It should be noted that High Needs funding (Elements 2 and 3) are not part of the above fees element as this funding is 100% for the purpose of supporting learners with High Needs.

Additional cost is determined using a weighted table of risk factors. The table is available to all actual and potential sub-contractors. It is designed to ensure that the cost of any additional support provided to a sub-contractor is covered through the funding retained. Additional costs will be calculated and negotiated each year at contract renewal, giving sub-contractors the opportunity to reduce their fees through continuous improvement.

The college reserves the right to set the management fee based on the level of additional support required by the sub-contractor over and above the normal management, administration and quality requirements subject to Funding Body approval.

## **Payments**

Payments to sub-contractors will be made subject to compliance with the terms of contract, together with this policy and the following;

- Successful upload of learner data via the monthly ILR returns
- Confirmed eligibility of learners
- Satisfactory audit checks and monitoring visits
- Receipt of successful upload via the PFR (Provider Funding Report)
- Receipt of an invoice
- Achievement funding will be paid on satisfactory acceptance of all required documentation and evidence

A total of 5% of the overall funding, as a retention, and the 20% achievement funding element may be withheld pending satisfactory audit.

The college will pay the sub-contractor in line with the terms of the contract. Variations to contract may be issued during the contract period subject to agreement. Variations to contract may relate to agreed changes to the programme offer, volumes of learners and available funding.

This policy will be published on the Telford College website.

## **Sub Contracting Contingency Plan**

The sub-contracting contingency plan sits in the Telford College Business Continuity and Disaster Recovery Plan. All staff members that have designated responsibility have access to this.

The college will seek assurance that all Subcontractors and Partners will have a Business Continuity and Disaster Recovery Plan which should show clearly any mitigations that would reduce the impact of any events which could potentially reduce delivery levels.

Where possible Telford College engages with several Partners with similar delivery profiles to facilitate the move from one Partner to another should there be any quality issues that might lead to a cessation of a contract. This gives some continuity of funding assurance to the College.

## Appendix 1

### Part 1 - Sub-Contracting Application

#### Organisation Details

Registered name as it appears on UKRLP	
UKPRN <i>Please see <a href="https://www.ukrlp.co.uk/">https://www.ukrlp.co.uk/</a> as this is a mandatory requirement</i>	
Are you registered on RoTO?	
Legal name of organisation	
Trading name of organisation: <i>(if different from above)</i>	
Organisation Type <i>(include SIC code if possible)</i>	
Address as it appears on UKRLP	
County	
Post Code	
Key Contact Name	
Contact Email Address	
Contact Telephone	
Website Address <i>(if any)</i>	
Company Registration Number <i>(if this applies)</i>	
Charities, Housing Association or other Registration number <i>(if this applies)</i> . Please specify registering Body	
Date of Registration <i>(if this applies)</i>	
Registered company address if different from above including postcode.	
VAT registration number <i>(if applicable)</i>	

## **Appendix 2**

### **Due Diligence Check List**

#### Guidance Notes

The purpose of this questionnaire is to:

- ☐ Ensure that potential partners/sub-contractors meet the minimum standards required by the college
- ☐ Simplify any applications your organisation may make to sub-contract with the college
- ☐ Ensure the college holds up to date contact details for your organisation so that you can be kept informed of new opportunities as they arise

At this stage supporting documents are not required to be provided – e.g. Accounts, certificates, statements or policies. The College will however ask to see these documents at a later stage and all required paperwork should be available on request. The college may also seek further clarification before being accepted as a potential partner or sub-contractor.

The submission of the Due Diligence questionnaire is an initial step to becoming a partner or subcontractor with the College. If accepted, your organisation will be included on the college's list of potential partners/sub-contractors and we will keep you informed on any opportunities to apply to work with the College on contracts where the college acts (or proposes to act) as an accountable body. Being accepted onto the college's list of potential partners/sub-contractors does not guarantee that your organisation will be offered a contract.

The college will ask partners to refresh their due diligence on an annual basis. They will also take out an initial and annual check through a registered credit agency.

Please ensure that all questions are answered and where a question is not applicable, please indicate by stating N/A.

**You are advised that nothing in the Partner/Sub-contractor due diligence documentation or any other communication from or with the College shall be taken as constituting a contract or other binding agreement or a representation that any contract shall be offered in accordance herewith or at all. The College reserves the right to modify, amend or seek further clarification on Partner/Sub-contractor Due Diligence documentation at any time prior to contracting.**

To be completed only by partners who do not currently hold or under contract negotiations with Telford College for the delivery of subcontracted learning provision.

<b>1</b>	<b>ORGANISATION DETAILS</b>		
1.1	Is your organisation: (please indicate by ticking the appropriate box)	I. A public limited company?	
		II. A limited company?	
		III. A limited liability partnership (LLP)?	
		IV. Statutory Corporation? E.g. Further Education College	
		V. Other (please specify the legal status of your organisation)?	
1.2	Is your organisation part of a group of companies? If "YES" please give details below.		
1.3	Name of (ultimate) parent company		
1.4	Companies House registration number for parent company		
1.5	Data protection registration number		
<b>2</b>	<b>FINANCIAL INFORMATION</b>		
2.1	If you are invited to supply service to the College we will require you to submit evidence of financial stability, usually the last two sets of audited accounts for your organisation and details of your bankers including a contact name and address from whom we may apply for references. Please indicate which of the following you will be able to provide (please tick a minimum of two)		
	A copy of your audited accounts for the most recent two years		
	A statement of your turnover, profit and loss account and cash flow for the most recent year of trading		
	A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position (if trading for less than one year)		
2.2	Has your organisation had any CCJs issued against it within the last 3 years		
2.3	Please state the percentage of your annual income, for the provision of educational and vocational training or employment support services that comes from the public purse		
2.4	Do you currently hold contracts for provision funded by the Education and Skills Funding Agency, either as direct or sub-contracted provision, with a cumulative value in excess of £100,000 per annum?		
If "YES" have you completed the Education and Skills Funding Agency "Due Diligence Assurance Gateway" on-line questionnaire?			



2.5	Have you been accepted onto the Register of Training Organisations?	
2.6	Please indicate the size category of your organisation	
2.7	Please list the names of all directors, company secretary, partners or other persons occupying positions of financial authority within your organisation	
2.8	Have any of the people listed in 2.7 ever been, or are currently in bankruptcy, insolvency, compulsory winding up, receivership, composition with creditors or subject to relevant proceedings. If you answer "YES" we will require further details before proceeding further.	

<b>3</b>	<b>INSURANCE</b>	
3.1	Please state your current level of insurance cover for the following:  Public Liability Insurance (Minimum £10m)  Employer Liability Insurance (Minimum £5M)  Professional Indemnity Insurance	
<b>4</b>	<b>COMPETENCIES</b>	
4.1	Does your organisation hold approved centre status from relevant awarding organisations to deliver education and training services?	
4.2	Does your organisation hold certification from relevant awarding organisations to deliver Information, Advice and Guidance or other support services? If "YES" please specify	
4.3	Do all staff who deliver training/teaching on funded programmes on behalf of THE COLLEGE hold or are working towards qualified teacher status?	
4.4	Does your organisation hold evidence of other professional qualifications for staff members which can be submitted for verification on request?	
4.5	Does your organisation actively encourage CPD for all staff and hold records of staff development?	
<b>5</b>	<b>CONTRACTURAL COMPLIANCE</b>	
5.1	Claims to the College will be made in arrears, based on actual delivery and the submission of the correct documentation within defined timetables. Please confirm that your organisation has the resources and capacity to work within this framework.	
5.2	Do you have a business continuity plan that will cover your ability to continue to deliver the services for which you are or may be contracted with the College?	
5.3	Are you register with the Information Commissioner's Office for processing or intending to process personal data for educational purposes? If "YES" please give registration number	

Please provide brief details of any contracts or sub-contracts funded through the Education and Skills Funding Agency that are currently held by your organisation (e.g. direct or indirect contracts, contract values and services delivered)		
<b>6</b>	<b>QUALITY ASSURANCE</b>	
6.1	Does your organisation undertake an annual self-assessment of its training activities in accordance with a recognised quality framework and produce reports in a written report?	
If "YES" please state which quality framework is followed:		
6.2	Does your organisation produce a Continuous Improvement Plan based on its annual self-assessment?	
6.3	If the answer to either 6.1 or 6.2 is "NO", please explain how your quality improvement processes are assessed and managed (Max 100 words):	
6.4	Does your organisation have established systems in place to undertake robust initial assessment of learners?	
6.5	Does your organisation have systems in place to identify and support learners with additional needs?	
6.6	Does your organisation have established systems in place to monitor learner progress?	
6.7	Does your organisation have established systems in place to collect and act upon learner feedback?	
6.8	Does your organisation have established systems in place to collect and act upon employer feedback?	
6.9	Would all personnel used to fulfil any contracts agreed with the College be direct employees of your organisation.	
If "NO" please describe any arrangements that may be made to fulfil the contract:		
<b>Note: Further sub-contracting of any provision delivered on behalf of the College Is not permitted.</b>		
6.10	Has your organisation had a full inspection by OFSTED?	
<b>7</b>	<b>HEALTH &amp; SAFETY</b>	
7.1	Does your organisation have a written health and safety policy that demonstrates your compliance with Health and Safety Legislation?	
7.2	When were your Health and Safety procedures last audited and/or reviewed and updated?	

7.3	In the past 5 years, has your organisation ever been prosecuted under health and safety legislation or been served prohibition or improvement notices by an Enforcing Authority such as the Health & Safety Executive? <i>Please note that if "YES" further details will be required before contracting.</i>	
7.4	Do you have systems in place to undertake and/or monitor risk assessments at employer locations?	
7.5	Does your health and safety policy make reference to and arrangements for learners?	
7.6	Please name and state the position of the person who has responsibility for the health and safety of learners:	
<b>8</b>	<b>EQUALITY AND DIVERSITY</b>	
8.1	Do you collect and monitor equality and diversity data relating to your organisation and the services it provides, including that on ethnicity, gender and disability?	
8.2	Do you monitor participation and success rates of learners by ethnic origin, gender and disability?	
8.3	Do you produce an action plan with targets based on the analysis on the equality data collected and review progress regularly?	
8.4	In the last three years, has any finding of unlawful discrimination been made against your organisation by any court, industrial or employment tribunal or equivalent body?	
8.5	If "YES" what steps did your organisation take as a result of that finding?	
8.6	Will you undertake, in the delivery of services to the College, to actively promote good practice in terms of ensuring equality and eliminating discrimination in all forms through, as a minimum:	
a	The implementation of an organisational Equality and Diversity Policy?	
b	Provide relevant examples of the instructions, documents, recruitment advertisements or other literature with concern to the delivery of contracted services when requested?	
c	Issue appropriate messages to learners concerning recruitment onto provision and/or training progression?	
8.7	Do you ensure that all staff in your organisation undertake training so that they are aware of their responsibilities under your Equality and Diversity Policy and the Equality Act 2010?	
<b>9</b>	<b>SAFEGUARDING &amp; PREVENT</b>	
9.1	Do you have in place appropriate Safeguarding policies and procedures? Evidence of data held in a Single Central Record.	
9.1	Do you have a policy and process in place to support the Prevent Programme and the Government's counter terrorism strategy?	
9.2	Do you ensure that all staff in your organisation undertake training so that they are aware of their responsibilities under the Prevent Programme?	

9.3	Do you ensure that you promote British values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs?																			
<b>10</b>	<b>REFERENCES</b>																			
Please provide the names and contact details of two organisations to whom you have delivered training (or services similar to those being offered to the College) within the last three years and who we can approach for a professional reference																				
		<table border="1"> <thead> <tr> <th></th> <th>Contract 1</th> <th>Contract 2</th> </tr> </thead> <tbody> <tr> <td>10.1</td> <td> Customer Organisation (Name)   Website (if available) </td> <td></td> </tr> <tr> <td>10.2</td> <td>Customer contact name, phone number and email</td> <td></td> </tr> <tr> <td>10.3</td> <td>Date contract awarded</td> <td></td> </tr> <tr> <td>10.4</td> <td>Brief description of contract</td> <td></td> </tr> <tr> <td>10.5</td> <td>Indicative value: e.g. circa £50k</td> <td></td> </tr> </tbody> </table>		Contract 1	Contract 2	10.1	Customer Organisation (Name)  Website (if available)		10.2	Customer contact name, phone number and email		10.3	Date contract awarded		10.4	Brief description of contract		10.5	Indicative value: e.g. circa £50k	
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10.3	Date contract awarded																			
10.4	Brief description of contract																			
10.5	Indicative value: e.g. circa £50k																			
If you cannot provide at least one references, please briefly explain why (100 words max)																				
<b>11</b>	<b>PROFESSIONAL AND BUSINESS STANDING</b>																			
11.1	Has your organisation ever been removed from a contract prior to its intended close date for failure to meet minimum levels of performance or for any other reason? If "YES" we will require further details before considering a contract.																			
11.2	Do any of the following apply to your organisation, or to (any of) the director(s)/partners/proprietor(s) or any other person with powers of representation?																			
i	A conviction (or convictions) for criminal offences related to business or professional conduct.																			
ii	In a state of insolvency, voluntary administration, compulsory winding up, receivership, composition with creditors, company voluntary arrangements or subject to equivalent proceedings?																			
iii	Failure to fulfil obligations related to the payment of taxes?																			
iv	Failure to fulfil obligations related to the payment of social security contributions?																			
v	Legal or administrative finding of commission of an act of grave misconducts in the course of business?																			
vi	Failure to provide information required or providing inaccurate/misleading information when participating in a procurement exercise?																			

vii	Failure to obtain and maintain relevant licences or membership of an appropriate trading or professional organisation where required by law?	
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## Appendix 3

### Part 2 - Pre-contract due diligence final checklist

#### Part 2 Sub-Contractor Application

1	Describe how you will engage with relevant employers, recruit learners and deliver the planned qualifications (Max 500 words)		
2	Please indicate your readiness to commence delivery upon notification of award of contract		
3	How will you provide progression support for your learners both during and after learning has taken place? (Max 500 words)		
4	Please state your experience in delivering up to three contracts that are of a similar nature to that required within the programmes offered		
Funding Body (e.g. ESFA)			
Nature of activity delivered (please include target group and a very brief summary of the type of training delivered)			
Value of Contract	Start and End Date of Contract	Performance Targets (e.g. starts/achievements)	Actual Performance
Funding Body (e.g. ESFA)			
Nature of activity delivered (please include target group and a very brief summary of the type of training delivered)			
Value of Contract	Start and End Date of Contract	Performance Targets (e.g. starts/achievements)	Actual Performance
Funding Body (e.g. ESFA)			

Nature of activity delivered (please include target group and a very brief summary of the type of training delivered)			
Value of Contract	Start and End Date of Contract	Performance Targets (e.g. starts/achievements)	Actual Performance
5	Please state any experience you have of working with those more vulnerable to future employment, with barriers to achieving sustainable employment, such as those who are 19-24 NEETs and in particular if you have worked with them in specific district areas (max 500 words)		
6	Please state any experience you have of undertaking robust initial assessments of individuals, reviews, exit interviews and individual tracking (max 250 words)		
7	How do the intended delivery outcomes link with the LEP priorities/Local Labour Market priorities and within which sectors (max 500 words)		
8	Describe any additional services your organisation offers to enhance and/or compliment services (max 500 words)		
9	If you are an existing partner and wish to apply for further funding please provide a clear growth case detailing your capacity to deliver additional provision and the reasons why you require further funding (max 100 words)		

## Appendix 4

### Risk Factor table 2022/23

Performance Indicator	Risk Rating Score		
	Low	Medium	High
	1	2	3
Delivery experience of the sub-contractor	More than 5 full years	2 – 5 full years	Less than 2 full years
Previous year success rates	3% or more above benchmark	Within benchmark	More than 2% below benchmark or no previous delivery record
Ofsted or SAR grade	Grade 1 or 2	Grade 3	Grade 4
Type of provision	Low risk Provision (e.g. the College experience)	Medium risk (e.g. the College experience in managing this type of provision – distance learning)	High risk (e.g. difficult client group/ hard to reach learners)
The College audit and QA measures	Compliant with no actions or recommendations	Mainly compliant but recommendations to improve	Not compliant and actions required to improve

Overall Score	Risk Rating	Fee retention
5-7	Low	20%
8 - 12	Medium	30%
13+	High	Fee negotiated for provider support or No Contract

Due Diligence Scoring System	Weighting %	Max Points
Organisation details	4%	8
Financial Information	15%	30
Credit Rating	5%	10
Insurance Cover	3%	6
Competencies	20%	40
Quality Assurance	20%	40
Health & Safety	5%	10
Equality & Diversity	5%	10
References	5%	10
Professional & Business Standing	10%	20
Provider Information	8%	16
Total	100%	200

A total of 175 points or more must be achieved to be approved for contract.



#### Due Diligence Sign-off

All required evidence has been gathered to support the due diligence process has been completed and no significant risks have been identified

Please list any evidence outstanding:

,

#### Authorised Signatory 1

Name:

Position:

Date:

Signature:

#### Authorised Signatory 2

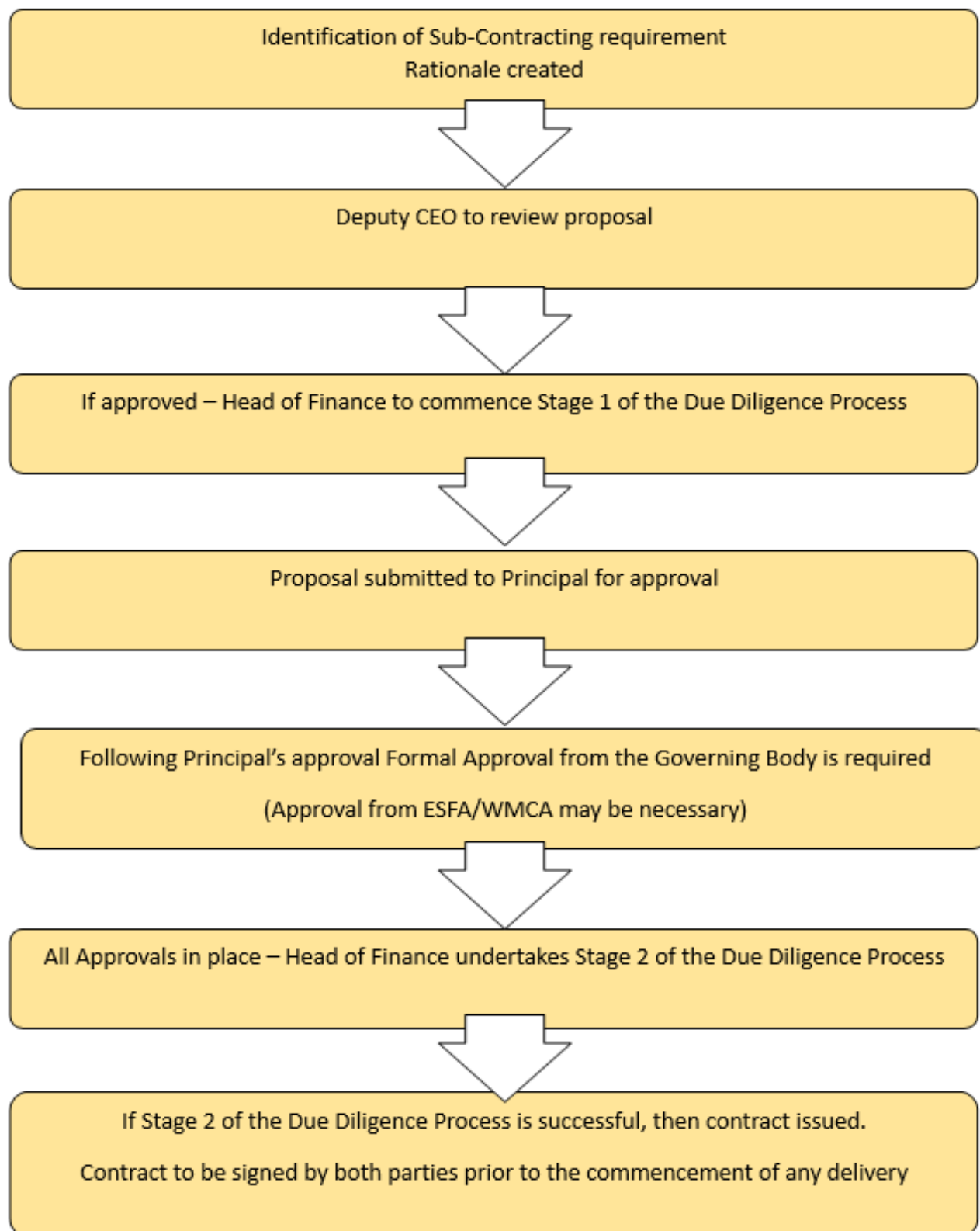
Name:

Position:

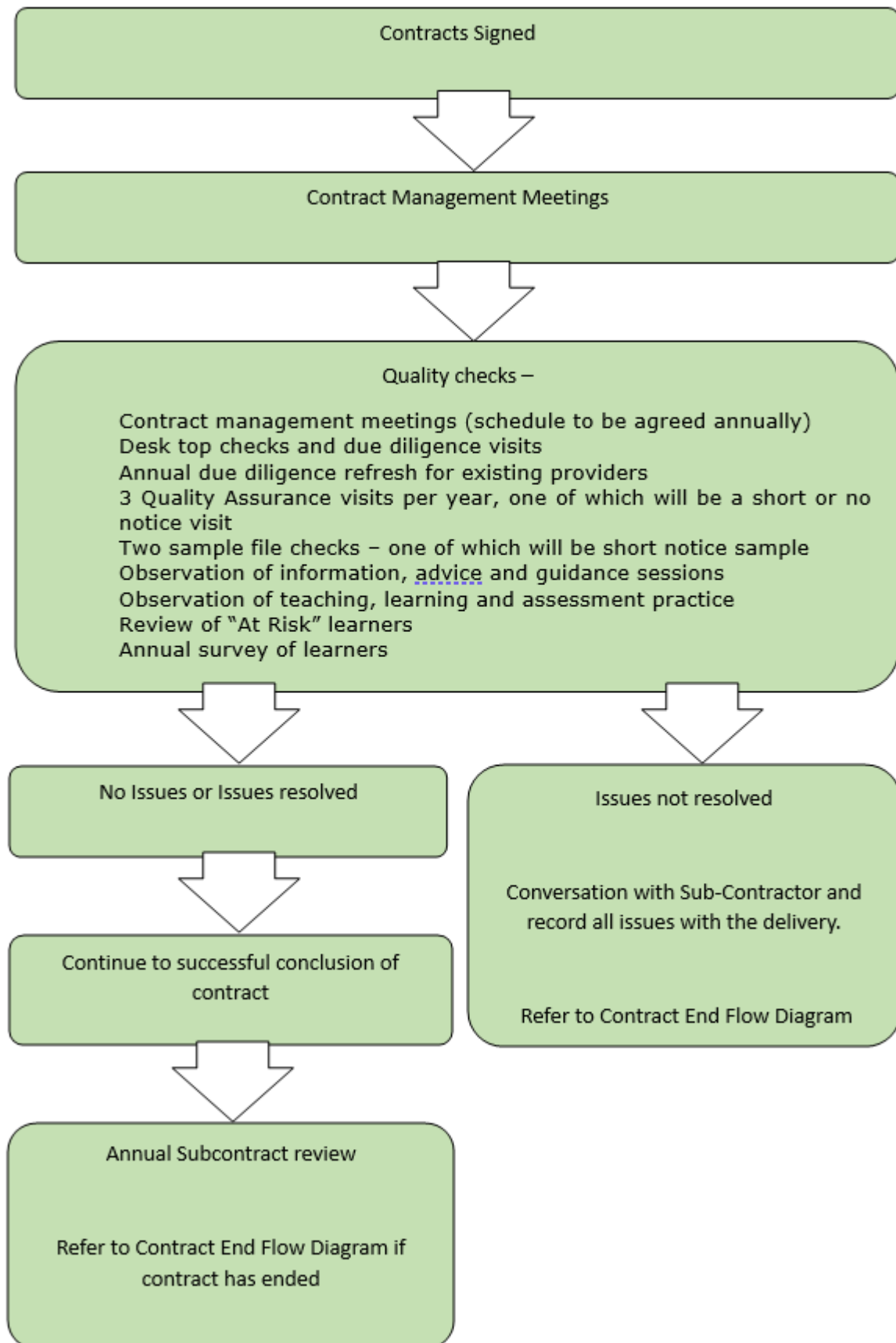
Date:

Signature:

## Approval Flow Diagram



# Contract Management Flow Diagram



## Contract End Flow Diagram

