

2022 Guide to subcontracting

This guide explains the Department's requirements for the subcontracting of training and assessment, including how to apply to get our approval of a subcontracting arrangement.

We must approve your subcontracting

Under clause 6 of the VET Funding Contract (the Contract), you must get the written approval of the Department **before** subcontracting **training or assessment** to another organisation.

You do not need our approval to subcontract other permitted aspects of the Training Services, such as administrative tasks or marketing.

How to apply for approval of subcontracting

You can now apply for the Department's approval of new or changed subcontracting arrangements for training and assessment for 2022 program commencements.

You must complete the following forms found in the Documents section of SVTS:

- Request for approval of subcontracting – 2022
- Subcontractor declaration – 2022.

Then send the completed forms to us by submitting an SVTS enquiry using the category 'Skills First VET Funding Contract – Subcontracting of Training Services'. Please contact us if you're having difficulties completing the form and provide your phone if you would like us to call you to provide assistance.

We will only accept your full application for subcontracting if:

- you have completed both the forms
- it's for course commencements in the 2022 calendar year.

We will notify you via SVTS:

- if we make any changes to this subcontracting application process
- of the closing date for subcontracting applications, which we anticipate will be in the last quarter of 2022.

What is subcontracting?

Under Skills First, subcontracting is when you engage either a business, or a person operating under a business structure, to carry out Training Services on your behalf. It does not include employees or Sole Trader – as they are defined under clause 6.1 of the Contract.

You can subcontract any of the Training Services you provide under the Contract, except for the Pre-Training Review.

If you're unsure whether an arrangement is 'subcontracting' under the Contract, you can ask us by submitting an SVTS enquiry using the Category 'Skills First VET Funding Contract – Subcontracting of Training Services'.

The outcome of your application

We will write to you via SVTS to advise of the outcome of your subcontracting application. We aim to do this within about 3 weeks from when we received your full application.

If we approve your subcontracting of training and assessment, we will advise you about the details of the approved subcontractor, programs and student commencements for 2022. There will also be extra conditions you must meet, including making it clear to students that they are enrolled to do their training with you and not the subcontractor.

What we consider in your application

The three criteria for subcontracting

While subcontracting can be a valid and reasonable business approach, your application must clearly demonstrate that your proposed subcontracting of training and assessment meets the following three criteria:

Genuine and specialised

The subcontracted training and/or assessment addresses a critical labour market need, is not primarily supply driven, and requires specialisation not available to the training provider, such as specific skills, or training infrastructure.

Limited

The scale, scope and time period of the subcontracting arrangement is limited.

Governance

You have robust measures in place to ensure the appropriate oversight of the subcontracting arrangement, including the quality of the training and assessment delivered.

These three criteria form the basis for how we will assess your application to subcontract. We have developed several questions based on this evaluation criteria that you must address in your application. These questions are detailed in the 'Request for approval of subcontracting – 2022' document, and the Instructions tab within this document also includes helpful information on how to best answer each one.

Other matters we consider

We give more weight to subcontracting applications that clearly show:

- the specific components of the Training Services you propose to subcontract
- that the subcontractor has specialised expertise - generalists or those who deliver across multiple, unrelated training packages will be considered less favourably (except where they are delivering in regional areas or where there are no alternative suppliers)
- that the training and assessment will be delivered by high quality teachers who hold current industry experience
- that the subcontractor is engaged for the sole purpose of delivering training and assessment
- that you do not use labour hire or engage somebody who does not own or control the relevant subcontracting business.

Subcontracting limits

We have set limits on the amount of subcontracting of training and assessment that can be delivered to students.

For training providers

There is a limit on the number of commencements for which you can subcontract your training and assessment. This limit is expressed as a percentage of commencements for the year, up to a fixed maximum number. This is detailed in the table below, with examples.

Our approval of a subcontracting arrangement does not increase your Commencement Allocation.

2022 VET Funding Contract type	Maximum number of subcontracted commencements	Example
Standard	40% of the Commencement Allocation for the 2022 calendar year, <u>up to a maximum</u> of 1,000 subcontracted commencements.	<p>Training Provider X's Schedule 2 has a Commencement Allocation of 1,000 commencements for 2022. So its subcontracting limit for the year is 400.</p> <p>Training Provider Y's Schedule 2 has a Commencement Allocation of 500 commencements for 2022. So its subcontracting limit for the year is 200.</p> <p>Training Provider Z's Schedule 2 has a Commencement Allocation of 3,000 commencements for 2022. So its subcontracting limit for the year is the 1,000 maximum.</p>
TAFE and Dual Sector	40% of commencements for the 2022 calendar year, <u>up to a maximum</u> of 1,000 subcontracted commencements.	TAFE X expects to have 5,000 commencements for 2022. Its subcontracting limit for the year would be the 1,000 maximum.

For subcontractors

The individual organisations to which you subcontract training and assessment are also subject to limits.

An individual subcontractor (and related entities) can only deliver training and assessment to a total of 200 commencements a year. This limit applies across *all* training providers to which the subcontractor has a relationship.

If we receive multiple subcontracting applications that take either you or your subcontractor over the 200-commencement limit, we will determine, at our sole discretion, how many commencements (if any) are approved for a particular training provider or subcontractor.

Your responsibilities

Quality

Despite having an approved subcontracting arrangement, you remain responsible for the quality of the Training Services delivered by the subcontractor and their compliance with all Contract requirements.

Due diligence

You should conduct your own due diligence when contracting with any organisation to ensure they meet their obligations under the Contract. In particular, you must not engage, employ, contract or otherwise deal with any Disallowed Person as defined in Clause 1.1 of the Contract.

We also conduct a due diligence assessment when considering whether to approve a subcontracting arrangement.

Reporting

You must report the Delivery Provider ABN of the subcontractor against each Subject Enrolment on the Training Activity (NAT00120) file.

This is to distinguish between the training and assessment you deliver and that delivered by a subcontractor.

The terms of a subcontracting agreement

You must ensure your subcontracting agreement includes conditions that:

- clearly detail exactly what the subcontractor is being asked to do
- prevent the subcontractor from subcontracting to someone else
- require the subcontractor to provide any information, documentation or assistance that may be required under your Contract, such as records of Training Services
- require the subcontractor to cooperate with any audits or investigations
- allow you to terminate the agreement immediately if your subcontractor holds a Contract and has it terminated
- allow you to suspend or terminate the subcontracting agreement immediately without notice if your Contract is suspended or terminated.

We can ask you for a copy of any executed subcontracting agreement.

Sole traders

You do not need our approval to directly engage a genuine Sole Trader to undertake training or assessment.

A Sole Trader operates as an individual under a sole trader business structure, rather than through any company or other corporate or legal structure. If they hold an Australian Business Number (ABN) this must be held in their personal capacity.

A Sole Trader is not a:

- company
- trust
- partnership
- body corporate
- body politic
- partnership
- incorporated or unincorporated association.

You need our prior written approval before subcontracting to these business structures, including if you subcontract with a sole proprietor of a company.

Changes to subcontracting arrangements

You must contact us to get our written approval to vary a subcontracting arrangement **before** the variation takes effect. This variation could be a change to the approved programs or student commencement numbers.

You should submit your variation request via SVTS using the category 'Skills First VET Funding Contract – Subcontracting of Training Services'.

Further information

Contact us via [SVTS](#) using the enquiry category 'Skills First VET Funding Contract – Subcontracting of Training Services', if your enquiry cannot be answered via the following documents:

CN 2021-19 – The 2022 process for approval of subcontracting training and assessment

CN 2021-20 – Reporting of Brokering services

[Fact sheet: Disallowed Persons](#)