For all RTO staff

Background

- In order to continue to drive quality professional and organisational practice in the government subsidised training market, for arrangements for training delivery from 1 January 2014, providers must seek the prior written approval of the Department before subcontracting training and/or assessment (as distinct from administrative or operational matters) to any third party that does not hold a current VET Funding Contract with the Department, this includes both RTO and non-RTO entities.

- Subcontracting arrangements will only be approved where there are clear student benefits and strong pathways linking to further education or vocational outcomes.

- Contractual requirements relating to subcontracting are set out at Clause 5 of VET Funding Contracts. Clause 5 covers both subcontracting of training and assessment, and all other subcontracting arrangements.

Main Points

What types of training and assessment can be subcontracted?

- RTOs may only subcontract training and/or assessment of qualifications that are on their Funded Scope in SVTS.

- RPL may only be subcontracted between two Contracted RTOs that are both on the RPL Approved Provider List. RTOs should not generally engage in these subcontracting arrangements where RPL represents 100 per cent of a student’s enrolment.

- From early 2014, Foundation Skills may only be subcontracted between two Contracted RTOs that are both on the Foundation Skills Approved Provider List.

What needs to be approved by the Department?

- Providers that wish to subcontract training and assessment to any organisation that is not a Contracted RTO must submit a written request and supporting business case to the Department for approval. This requirement does not extend to individuals that are solely trainers or assessors who are engaged by the Contracted RTO or the third party organisation.

- RTOs with existing subcontracting relationships will be required to have these arrangements approved by the Department if the subcontractors will be engaged to deliver training and assessment to new commencements.
in 2014. Any approved subcontracting arrangements will be effective for commencements in the 2014
calendar year only.

- Providers must complete the required documentation for each proposed subcontracting arrangement.

How do I apply to have a subcontracting arrangement approved?

- Providers must use the ‘Request for Approval’ form in the Documents section of SVTS. The form must be
endorsed by the Authorised Delegate of the RTO who has oversight of the subcontracting arrangement and
primary responsibility on behalf of the Contracted RTO for the compliance and quality training and assessment
of the subcontractor. An Authorised Delegate must be either:
  - an employee/s of the RTO who has been formally delegated this function from the CEO or
equivalent and written evidence of such a delegation is available at audit, or
  - a duly authorised agent of the RTO, and a legally binding agreement between the RTO and the
agent is in place and available at audit.

- The form should be completed and saved electronically, and submitted to the Department in MS Word format
only using the Enquiries function of SVTS under the category ‘Subcontracting’.

- All fields of the form must be complete. Incomplete applications will not be assessed by the Department.

What are the criteria against which my application will be assessed?

- RTOs must address all four key criteria in the Request for Approval form:
  1. Why is the training delivery not being subcontracted to another Contracted RTO? Responses must
include evidence demonstrating:
    - what the RTO has done to consider training delivery through other Contracted RTOs, and
    - how the RTO established that the training could not be undertaken by a Contracted RTO.
  2. How will the subcontracting arrangement advance student outcomes? Responses must include:
    - evidence demonstrating that using the proposed subcontractor will enhance the prospect of
positive student outcomes, including how the subcontractor creates pathways to further education
and/or a vocational outcome.
  3. What quality assurance mechanisms and policies does the Contracted RTO have in place to ensure the
subcontractor’s compliance with all aspects of the VET Funding Contract and the delivery of high quality
training and assessment? Responses must:
    - clearly describe the quality assurance processes in place, including their frequency and level of
senior management oversight, and include evidence.
  4. What arrangements will be in place to manage the training delivery conducted by the subcontractor and
protect student interests? Responses must include assurance that the subcontract agreement between
the Contracted RTO and the subcontracted party is in line with the requirements of the VET Funding
Contract and will:
    - prohibit further subcontracting by the subcontractor;
    - requires the subcontractor to provide all necessary assistance, documentation and information that
is required under this VET Funding Contract;
    - permit the RTO to immediately suspend the subcontract if the RTO’s VET Funding Contract with the
Department is suspended;
    - permit the RTO to immediately terminate the subcontract if the RTO’s VET Funding Contract with the
Department is terminated; and
    - otherwise permit the RTO to comply with its obligations under this VET Funding Contract.
The Department reserves its right to exercise its absolute discretion in approving or not approving a subcontracting arrangement

Other information

Providers are expected to conduct their own due diligence when entering into contractual relationships with other organisations to ensure they are meeting their obligations under the VET Funding Contract. In particular, RTOs are reminded of the requirement to not engage, employ, contract or otherwise deal with any Relevant Person (as defined in the Contract) that within the previous three years:

- had a contract for government subsidised training delivery with the Department terminated prior to the expiration date on the basis of performance; or
- had its registration under the Act or National Act, or relevant equivalent legislation revoked, suspended, cancelled or had restrictions imposed on its registered training organisation operations that the Department considers would have affected its ability to provide services equivalent to those under this VET Funding Contract; or
- was responsible, via their acts or omissions, for any of the above matters occurring to another person or entity.

If an approved subcontracting arrangement ends prior to 31 December 2014, providers must notify the Department immediately using the Enquiry function of SVTS.

Critical Dates

- This SAN is effective immediately.

Relevant Resources

- Refer to Documents section of SVTS for the form 'Request for Approval of Subcontracting Form'.

Lee Watts
Executive Director
Training Market Operations