

Contract Notification

CN No.	2015-15	Date:	11 November 2015
To:	Chief Executive Officer or equivalent		
Purpose:	Advice to RTOs		
Scope:	All 2014-16 VET Funding Contracts (v3.0)		
Subject:	2016 Subcontracting approval process (training and assessment)		

For all RTO staff

Purpose

- This Contract Notification advises RTOs with a *2014-16 VET Funding Contract* of the process for seeking approval to subcontract training and/or assessment for students commencing their training in 2016.
- A future communication will advise RTOs with a *2016 Standard VET Funding Contract* or a *2016 non-Victorian VET Funding Contract* of the process for seeking such approval through a process expected to commence in mid-January 2016.

Background

- The *2014-16 VET Funding Contract (v3.0)* requires RTOs to seek the prior written approval of the Department before subcontracting training and/or assessment to any organisation.
- The only instance where prior written approval of the Department is **not** required is if both the RTO and the proposed subcontractor hold a current *2014-16 VET Funding Contract*, and both RTOs have the relevant qualification on their Funded Scope. In such cases RTOs must advise the Department in writing within 30 days of entering into such an arrangement. The Department will provide advice on how to inform the Department of such an arrangement through a future Contract Notification.
- RTOs may not subcontract training and/or assessment to RTOs with a *Standard 2016 VET Funding Contract* without prior approval of the Department and may not subcontract any training and/or assessment to RTOs with a *Restricted 2016 VET Funding Contract* in any circumstances.
- In late 2014 the Department provided some RTOs with the opportunity to rollover their existing subcontracting approvals relating to training and assessment services into 2015 without undergoing further review. As a result of the implementation of the Government's response to the Review of Quality Assurance in Victoria's VET System, the Department will not be conducting a rollover process from 2015 to 2016. As such, all contracted RTOs will be required to apply for subcontracting approval through the new 2016 approval process.
- The requirement to seek prior written approval of the Department before subcontracting training and/or assessment does not extend to individuals engaged solely as trainers or assessors.
- RTOs may not subcontract any aspect of the Pre-Training Review under any circumstances.
- Notwithstanding the Department's approval of a particular subcontracting relationship, RTOs remain responsible for the quality of the services and compliance with all contractual requirements of any third party they engage.
- RTOs are reminded that they may only subcontract:
 - assessment relating to Recognition of Prior Learning (RPL) if both the RTO and the subcontracted RTO are on the RPL Approved Provider List; and
 - training and assessment relating to courses and qualifications on the Foundation Skills List (except Literacy and Numeracy Support) if both the RTO and the subcontracted RTO are on the Foundation Skills Approved Provider List.
- All currently approved arrangements will remain in place for commencements up to and including 31 December 2015.

Main Points

- RTOs with a *2014-16 VET Funding Contract (v3.0)* may now submit requests for approval of subcontracting arrangements pertaining to training and/or assessment for 2016 course commencements using the '**Request for Approval of Subcontracting – 2016**' and '**Subcontractor's Declaration – 2016**' forms as found in the 'Documents' section of SVTS. Applications for this first round will be accepted until 5.00pm 30 November 2015.
- The engagement of third parties by contracted RTOs and the quality of training delivered to students under these arrangements continue to be a particular focus for the Department.
- In 2016, RTOs are required to demonstrate through the application that the proposed arrangement is: **genuine, specialised and limited**. Please refer to the Fact Sheet 'Requesting 2016 Subcontracting of Training and Assessment Approval' as published in the Documents section of SVTS for discussion of this requirement.
- In addition, four significant changes are also being implemented in 2016:
 1. RTOs with a 2014-16 VET Funding Contract will have a limit on the total number of commencements that can be approved for delivery involving a subcontract arrangement relating to training and assessment during the 2016 training year. This has been set at 40% of the total number of funded course commencements in the 2015 training year (as extrapolated by the Department based on commencements to 31 October 2015, plus 20% to account for potential November and December enrolments), to a maximum of 1,000 commencements.

For clarity, the Department will send an e-mail to each RTO confirming this limit on an individual RTOs basis in the coming days.
 2. Subcontractors will also have a limit on the total number of commencements they can be involved with in the government funded VET market, across all RTOs and any related entities, being 200 commencements total per year per subcontractor.
 3. The Department will now specify the number of approved commencements when providing approval for individual subcontracting requests. RTOs will not be allowed to subcontract beyond the approved number of commencements.
 4. Subcontracting requests will only be accepted during specified periods:
 - Between the date of this Contract Notification and 30 November (open only to RTOs holding a *2014-16 VET Funding Contract*);
 - Via a process that is tentatively scheduled to open in mid-January 2016 (open to RTOs holding a *2014-16 VET Funding Contract* or a *2016 Standard VET Funding Contract* or a *2016 non-Victorian VET Funding Contract*). Note that RTOs with a *2014-16 VET Funding Contract* that are unsuccessful in the November 2015 subcontracted application process will not be eligible to re-lodge the same application in the January 2016 application process.
 - The Department may consider running a further process in mid-2016.
- Applications must be lodged electronically via the Enquiries function of SVTS (under the Category "2016 subcontracting applications – Round 1") using the two forms provided. Neither of the forms may be altered. The 'Request for Approval of Subcontracting – 2016' form must be completed using a version of Microsoft Excel associated with Microsoft Office 2010 (or newer), and the 'Subcontractor's Declaration – 2016' form must be completed using a version of Microsoft Word associated with Microsoft Office 2010 (or newer).
- RTOs should review the Fact Sheet 'Requesting 2016 Subcontracting of Training and Assessment Approval' as published in the Documents Section of SVTS for further information regarding the application process.

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 since 1 January 2011:

- 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.
- RTOs should be aware that the Department will also conduct due diligence in relation to any request lodged.
 - The process for seeking approval of subcontracting, including the supporting information required by the Department, is subject to change.

Critical Dates

- This Contract Notification is effective immediately.
- The closing date/time for submitting applications via the Enquiries function of SVTS for this first round is 5:00 pm on 30 November 2015. Applications should be lodged under the Category “2016 subcontracting applications – Round 1”, and should include both of the required forms.

Relevant Resources

- Refer to the Documents section of SVTS for the:
 - ‘Request for Approval of Subcontracting – 2016’ form;
 - ‘Subcontractor’s Declaration – 2016’ form; and
 - Fact Sheet: ‘Requesting 2016 Subcontracting of Training and Assessment Approval’.

Lee Watts

Executive Director
Training Market Operations