

## **Subcontracting of Training and Assessment Services Policy**

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### **1.0 Purpose**

This policy ensures the Institute's arrangements for subcontracting training and assessment services with another entity are transparent, streamlined, effectively managed and meets its legal and regulatory requirements for all subcontracting arrangements in all teaching departments across the Institute.

### **2.0 Scope**

This policy applies to all programs and departments across the Institute. It includes VETiS, workplace delivery and International/transnational activities and brokering services.

### **3.0 References**

VET Quality Framework

The Standards for RTOs (2015) as amended.

National Vocational Education and Training Regulator Act 2011

Current HESG VET Funding Contract requirements for subcontracting and any subsequent contract negotiations (CNs) of this Contract.

Education and Training Reform Act 2006\

Education Services for Overseas Students Act 2000 (ESOS Act)

National Code of Practice for Overseas Students 2018

### **4.0 Policy Statement**

Bendigo Kangan Institute is committed to the delivery of quality training and assessment services that meet legislative and regulatory requirements, as described in the Standards for Registered Training Organisations (RTOs) 2105 as amended, ESOS Act, Higher Education and Skills Group (HESG) VET Funding Contract and any contract notifications or guidelines referenced and incorporated into the contract.

#### **4.1 Definition of a Third Party Agreement.**

Subcontracting arrangements are third party agreements or outsourcing arrangements. This policy also includes brokering arrangements. Although arrangements can vary, it is important to note that the student is enrolled with Bendigo Kangan Institute and therefore the Institute carries the overall responsibility for quality compliance and adherence to the Standards and the TAFE VET Funding contract requirements.

To ensure the high quality of training and assessment services, all subcontracting arrangements undertaken by the Institute are governed by a Bendigo Kangan Institute (BKI) Training Services Agreement.

All sub-contractor/s and brokers are approved by the Business Board prior to engagement and must follow the Subcontracting and Partnering of Training and Assessment Services Procedure.

## **Subcontracting of Training and Assessment Services Policy**

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Subcontracting arrangements may include:

- subcontracting part of or all training and assessment services
- subcontracting of Foundation Skills training to an RTO that is on the Department's Approved Provider List
- subcontracting of student recruitment activities, or brokering services
- auspicing VET in Schools delivery to appropriately resourced secondary schools
- delivery offshore in partnership with host schools or educational institutes

No subcontracting arrangements may be made for Pre-Training Review activities for students funded under the HESG Skills First VET Funding Contract.

The Institute may engage a subcontractor for training and assessment services to achieve the following:

- build the Institute's client base
- access new markets for the Institute's products and services
- gain additional fee for service (FFS) revenue and/or
- access additional student contact hours.

Subcontracting of Training and Assessment must be approved by the Department of Education. A specific application form is used to request approval from the Department for this type of agreement.

Where a third party is sub contracted to provide other services such as brokerage which do not fall under the definition of training and assessment services as defined by the VET Funding contract, BKI must notify the department within 30 days of entry into the agreement. Thus approval must be sought for subcontracting of Training and Assessment Services whilst the DET only requires notification for other types of agreements.

### **4.1.1 Due diligence**

Before engaging a subcontractor, all due diligence checks are performed to ensure that the subcontractor is of good standing, ethical, financially viable.

Management and Directors of the subcontracting entity must complete a Fit and Proper Persons Declaration as required by ASQA and must not be a "disallowed person" as defined by HESG.

Where subcontracting arrangements involve delivery of training and assessment on behalf of BKI, due diligence checks include, but are not limited to the following;

- Approval of the Training and Assessment Strategy (TAS) proposed, to be signed off by Executive Director of the Teaching Portfolio
- If training delivery is planned in the workplace, in a school, or a facility which is not a BKI campus, a Site Visit and Resource Checklist is required to ensure that all required facilities and equipment required by the training package and TAS are sufficient to provide training and assessment to a standard expected by the regulators.
- Sighting and validating trainer educational qualifications and vocational qualifications as well as ensuring industry currency. Evidence of qualifications and currency is to be retained by the teaching department and lodged with Human Resources Department.
- Currency mapping for all proposed trainer's skills and knowledge to the requirements of

## Subcontracting of Training and Assessment Services Policy

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the training products is included as a term of the subcontracting arrangement. All evidence of currency mapping is to be retained by the teaching department and lodged with Human Resources Department.

- Validation by BKI of all non-BKI learning materials and assessment tools before commencement of any training or assessment.

### 4.1.2 Standards for RTOs 2015 and Third Party Agreements

The Standards for RTOs 2015 require RTOs to have management systems that are responsive to the needs of clients, staff and stakeholders, and the environment in which the RTO operates.

Where services are provided on BKI's behalf, BKI is responsible for ensuring that they are provided in a manner in a consistent with the requirements of the Standards and the NVR Act 2011.

BKI ensures that where services are provided on its behalf by a third party the provision of those services is the subject of a *written agreement*;

- Clause 2.4 of the Standards states that "The RTO has sufficient strategies and resources to systematically monitor any services delivered on its behalf, and uses them to ensure that the services delivered comply with these Standards at all times".

BKI complies with this Standard by monitoring and auditing the manner in which any third party performs its services on behalf of BKI- whether that be brokerage or training and assessment. Any written agreement that BKI enters into with a third party includes "quality" as being an integral part of service delivery.

Clause 4.1 of the Standards states that "information whether disseminated directly by the RTO or on its behalf, is both accurate and factual and:

- Makes clear where a third party is recruiting prospective learners for the RTO on its behalf
- Distinguishes where it is delivering training and assessment on behalf of another RTO or where training and assessment is being delivered on its behalf by a third party"

Where a third party is recruiting learners on BKI's behalf or BKI has training delivered by a third party on its behalf, BKI takes responsibility for ensuring that all information disseminated is correct and accurate. BKI ensures that this Standard is met by regularly monitoring the websites and any information provided by recruiters and third parties to prospective learners.

BKI ensures that marketing undertaken on its behalf includes its RTO code, uses the NRT (Nationally recognized training) Logo as required, only advertises training products on its current scope of registration, includes details about any VET Fee Help, government funded subsidy or any other financial support arrangement associated with the RTO's provision of training and assessment. Further detail in relation to how this Standard is adhered to is available in BKI's Academic Marketing Policy.

As per Standard 8, BKI ensures that it cooperates with the VET regulator and is legally compliant at all times. BKI ensures that achieves this requirement by cooperating and providing accurate and truthful responses to information requests from the VET regulator. Furthermore, BKI ensures that any third

party delivering services on its behalf also understands and is bound by the terms of a written agreement that they will also cooperate with the VET regulator. The duty to cooperate with the regulator extends to the provision of responses to information requests made as well as in the conduct of audits and monitoring of its operations.

## **Subcontracting of Training and Assessment Services Policy**

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BKI also ensures that it notifies the regulator within 30 calendar days of any written agreement entered into with a third party for the delivery of services on its behalf coming into effect. BKI also notifies the regulator within 30 calendar days of the agreement coming to an end.

### **4.1.3 Written Agreements and compliance with the Standards for RTO's**

In order for a written agreement to comply with the Standards it must contain the following details;

- the names of the RTO and the third party
- the start and end date of the agreement
- clauses detailing both parties' obligations under the agreement, for example, making clear that: any training and/or assessment is provided in the name of the RTO, not the third party
- the third party cannot advertise any VET courses in its own name
- students are enrolled as students of the RTO, not the third party
- qualifications and/or statements of attainment are issued in the name of the RTO, not the third party
- clauses detailing the obligations of the third party (that is, setting out which party will provide training and assessment materials, resources and facilities)

The mechanisms through which the RTO will systematically monitor the third party must be included in the written agreement (for example, if the third party is providing the training and assessment materials, resources and facilities).

The following details should be included in the monitoring agreement;

- how materials and resources will be reviewed prior to use across all delivery sites
- how the RTO will ensure that trainers and/or assessors provided by the third party meet the requirements of the Standards for RTOs
- record-keeping procedures for enrolment information and completed assessments
- details of which party will validate completed student assessments
- any obligations (of the RTO or third party) relating to government subsidies or other financial support
- clauses requiring the third party to cooperate with ASQA and provide accurate responses to requests about delivery of services.

### **4.1.4 HESG Service Agreement requirements**

In any subcontracting arrangement, the subcontractor must abide by and comply with the terms of the Skills First TAFE VET Funding contract, including the Schedules, Guidelines and Quality Charter for any training to be delivered to students who are eligible for government funding under the TAFE VET funding contract.

It is expressly noted that the TAFE VET Funding contract:

- Prohibits the use of third parties for the conduct of Pre-Training Review;
- Prohibits the engagement of any "Disallowed Person" as a staff member, contractor or subcontractor
- Requires that any subcontracting notifications are notified to the department
- Requires that any subcontractor is made aware of the terms of the contract and their responsibilities in relation to compliance and participation at audit
- The department must approve the contract prior to any activity under the contract commencing.
- Requires that students are made aware that the training is being delivered by a subcontractor and that they are in fact students of BK

## **Subcontracting of Training and Assessment Services Policy**

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- Requires that the training provider ensure that the details of any trainers and/or assessors engaged through a subcontractor are included in the training providers register of trainers and assessors.
- That BKI retains all responsibility to ensure compliance with the terms of the contract and the Standards.

The third party subcontractor is bound by those conditions and agrees to enter into any contract or agreement having full knowledge of these terms and acknowledging that they will abide by these terms.

In order to ensure that all the provisions of the TAFE VET Funding contract in relation to third parties are met BKI ensures that its written agreements adhere to the conditions in the funding contract for any engagement of third parties. BKI ensures that its written agreements expressly prohibit further sub-contracting by the subcontractor, explicitly requires the subcontractor to provide all necessary assistance in relation to any documentation required under the TAFE VET Funding contract. (for example evidence of participation or assessment evidence.) Further clauses in BKI agreements also state that in the event of an audit, review or investigation of the subcontractor, there is a duty that the subcontractor must fulfil in terms of co-operating and assisting BKI to comply with the Department.

All subcontracting agreements that BKI enters into also include clauses to enable the suspension or termination of the subcontract in the event that BKI's Funding contract with the Department of Education is suspended or terminated.

### **4.2 Monitoring and accountability**

The Executive Director of the teaching portfolio responsible for the training products subject to the subcontracting arrangement will ensure:

- that the monitoring and oversight provisions set out in the sub-contracting agreement are carried out in a timely manner, including provision of evidence of participation, participation in assessment validation, participation in any audits as required from time to time and provision of other documentation as required by BKI, HESG or ASQA.
- that the subcontractor is abiding by the Standards for RTOs 2015 as amended, the ESOS Act and the provisions of the current HESG VET Funding Contract as well as the Australian Consumer Law.

### **4.3 Oversight of Agreements**

Any requests to subcontract training and assessment services or broker services are required to be submitted to the Business Board for approval before entering into any agreement. The Chief Commercial Officer is responsible for ensuring that the contractual obligations of the parties are conducted in an ethical and appropriate manner.

It is expected that all due diligence investigations will be conducted prior to submitting for Phase 1 approval by the Business Board.

ASQA must be notified within 30 calendar days of entering or terminating a third party subcontracting agreement. Where a subcontracting arrangement relates to training and assessment of courses which attract HESG VET Funding, the agreement is conditional upon the approval of HESG.

## Subcontracting of Training and Assessment Services Policy

BKI acknowledges that it has ultimate responsibility for compliance with relevant regulatory obligations and that it is fully accountable for the actions of a third party as they relate to the delivery of relevant services on its behalf.

BKI ensures that any services offered by third parties on its behalf are in keeping with the requirements of the Standards for RTO's pursuant to the National Vocational Education and Training Regulator Act 2011 as well as the current TAFE VET Funding Contract.

### 5.0 Roles and Responsibilities

Role	Responsibilities
Chief Commercial Officer	Management and oversight of contractual arrangements
Teaching Department Manager	Management of the operational and compliance requirements of the subcontracted arrangements/project
Executive Director or Teaching Department Director	The Teaching Department Director or Executive Director carries responsibility for ensuring the subcontracting arrangement is in the best interest of the institute considering compliance, integrity and reputation
Business Board	The Board established by the Institute to ensure that business opportunities presented for approval meet the strategic direction, ethical standards and financial viability requirements.
Human Resources Department	Retaining records of all trainers delivering training and assessment on behalf of BKI

### 6.0 Definitions

Word/Term	Definition
BDS	Business Development Solutions department at Bendigo Kangan Institute
The Department	Department of Education and Training
FFS	Fee for service – non-government funded programs
HESG	Higher Education and Skills Group (formerly Skills Victoria)
RPL	Recognition of Prior Learning
RTO	Registered Training Organisation

## Subcontracting of Training and Assessment Services Policy

Standards for RTO's	<p>Standards for Registered Training Organisations 2015. These standards form part of the VET Quality Framework, which ensures the integrity of nationally recognized qualifications offered by RTO's.</p> <p>There are 8 Standards whose purpose is to achieve the following outcomes;</p> <ul style="list-style-type: none"> <li>• Set out the requirements that an organization must meet in order to be an RTO.</li> <li>• Ensure that training products delivered by RTO's meet the requirements of training packages or VET Accredited courses, and have integrity of employment and further study; and</li> <li>• Ensure that RTO's operate ethically with due consideration of learners and enterprise' needs.</li> </ul> <p>The Standards are structured with each standard having a number of clauses- in order for an RTO to comply with a standard they must meet each of the relevant clauses in a standard.</p>
NVR Act 2011	National Vocational Education and Training Regulator Act 2011- The Standards for RTO' are made pursuant to this legislation.
Subcontracting arrangements	The arrangements between Bendigo Kangan Institute and another organisation, including other RTOs, for the provision of training and assessment services. These arrangements are also known as auspicing, partnering , outsourcing or third party arrangements
Brokering services	Brokering Services means the recruitment of individuals to participate in training that is to be subsidised under the current TAFE VET Funding Contract, by an individual or organisation in exchange for payment from the Training Provider or the student, but excludes activities carried out by salaried individuals who are employees of the Training Provider whose role includes the identification and recruitment of potential students.
Subcontractor	A subcontractor must be a Company, Trust, Partnership or Sole trader that is carrying on an enterprise in Australia and is registered for the ABN. They may be a school, enterprise, industry body, professional association or another RTO
Training Services Agreement	A legally binding agreement between Bendigo Kangan Institute and an approved subcontractor for the provision of training and/or assessment services
TAFE VET Funding Contract	The Institute's contract with HESG for provision of subsidised training and assessment services, including the Schedules, Guidelines, contract notifications or variations and the Skills First Quality Charter. This contract is updated regularly
VQF	VET Quality Framework

## Subcontracting of Training and Assessment Services Policy

### 7.0 Supporting Procedures

Doc ID	Procedure name
IP 3.284	Subcontracting and Partnering of Training and Assessment Services

### 8.0 Version Control and Change History

Ver.	Approved By	Approval Date	Issue Date	Description of Change	Next Scheduled Review Date	Document Owner
1.0	Board	27/10/2014	04/12/2014	The content of this policy originated from Kangan Institute Subcontracting and Partnering of Training and Assessment Services Policy POL 1.32 version 2	31/12/2015	Chief Learning Innovation Officer
2.0	N/A	01/03/2015	02/03/2015	Editorial change: Removal of logos from template	31/12/2015	Chief Learning Innovation Officer
3.0	BOS	28/08/2018	29/08/2018	Updated compliance with Standards and Skills First Contract compliance increased requirements for due diligence and monitoring	31/12/2019	Manager Academic Governance and Quality
3.1	BOS	16/07/2020	17/07/2020	Updated to ensure compliance with General Direction issued by ASQA regarding third party arrangements.	15/07/2023	Chief Academic Officer



## **Subcontracting of Training and Assessment Services Policy**

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### **9.0 KI Policy and Procedure Portal / BT BMS Requirements**

Category	Key Words
Community and Partnership Relations	Subcontracting, third party, partnering, auspicing, outsourcing, quality, contracts, agreements, MOU, Engagement of Contractors, Consultants, brokers