

**Skills
Funding
Agency**

ALP Minimum Contract Level Seminars

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Welcome

Outline

- Context
- Minimum Contract Level
- Implementation process
- Delivery models – Agency processes
- Issues
- Next steps

Context

- £240m efficiency savings from adult skills participation budgets in 2010/11
- Further efficiencies expected – CSR outcomes in October
- Desire for skills system to become more efficient and streamlined
- Skills Funding Agency will be streamlined too - needs to rationalise the number of direct contracts it manages
- Currently over 500 direct contractors that account for only 3.1% of Agency funding
- Government policy is for providers to be more efficient and more autonomous – correlation with size
- Commitment to keep high quality provision within the supply chain
- Funding Consultation and Agency Guidance Notes have signalled direction of travel

Minimum Contract Level

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- Decision on level will be announced in late Autumn – to apply from August 2011
- Likely that the MCL will increase incrementally over the 4 years of the CSR period
- Level for 2011/12 will be significantly higher than the £250,000 initially announced for Train to Gain providers – not implemented because of freedoms and flexibilities
- Smaller providers should begin looking at how they may continue to be part of the supply chain – in the knowledge that the MCL will increase incrementally
- Agency staff will set out processes to be followed but will not offer advice or guidance on which delivery models should be adopted

Implementation Process (1)

- Agency will publish guidance for the sector in advance of the MCL being announced and immediately after the MCL is announced
- Guidance will comprise of processes to be followed for providers wishing to enter new delivery arrangements, timescales etc
- For 2011/12, MCL is likely to be applied on the basis of the total funding allocated by the Agency to providers in 2010/11 including 16-18 Apprenticeships but excluding Programmes for the Unemployed / OLASS
- Thereafter, the level will be applied on the basis of the previous year's allocation
- 2010/11 allocations published on the Agency website in early September
- Exemption categories to be agreed – but will be limited

Implementation Process (2)

- Agency expects the implementation process to run as follows:
 - MCL announced and BIS confirm Agency budgets
 - Providers will be notified if they are below the MCL and that they will not receive an allocation – but the Agency will set out the 2011/12 allocation they would have received to help with the transition process
 - A deadline will be set for providers affected by MCL to confirm their course of action
 - The delivery arrangement entered into will determine how the allocation is treated – see Delivery Models section
 - For those providers that do not wish to continue to be part of the supply chain, or fail to meet the deadline, run-down allocations and contracts will be issued
 - Precise timescales to be confirmed in the autumn

Delivery Models – Agency processes (1)

Sub-contractor to a lead provider – all existing Agency contractors

- lead provider must be an existing Agency contractor
- lead provider's capacity will increase by taking on a sub-contractor and the Agency may be able to take account of this in the allocations round – if the arrangement is in place by the deadline set – legal advice is being sought on this
- lead provider can determine the proportion of provision they wish to sub-contract
- once an agreement is formed - Agency deals only with lead provider
- the arrangements between the two parties will determine the level of the allocation given to the sub-contractor
- lead provider changes will need to be reflected on the Approved College and Training Organisation Register (ACTOR)
- Agency's sub-contracting framework sets out approach to regulating sub-contracting activity

Delivery Models – Agency processes (2)

Consortium with one lead provider – all existing Agency contractors

- effectively a sub-contracting arrangement
- lead provider must be an existing Agency contractor
- if all the providers in the arrangement are existing Agency contractors, the Agency may be able to take account of this in the allocations round - if the arrangement is in place by the deadline set – legal advice is being sought on this
- lead provider can determine the proportion of provision they wish to sub-contract
- once an agreement is formed - Agency deals only with lead provider
- the arrangements between the parties will determine the level of the allocation given to the sub-contractor
- lead provider changes will need to be reflected on ACTOR

Delivery Models – Agency processes (3)

Creation of new company (through merger or acquisition of 2 or more existing Agency contractors) where the previous companies cease to exist or operate

- new legal entity will need to be approved on ACTOR
- due diligence will be carried out – including a costed business case
- if the Agency is satisfied that there are no issues around quality or capacity then the previous organisations' funding could be novated to the new legal entity
- legal advice is being sought on this and the Agency's position will need to be clarified

Delivery Models – Agency processes (4)

Creation of a new holding company (that is wholly owned by 2 or more existing providers) but where the existing providers continue to operate as separate trading entities

- the holding company would be treated as a new provider
- It will need to be approved on ACTOR
- due diligence will be carried out – including a costed business case
- legal advice is being sought on whether the funding the providers would have received could be taken into account in allocating funding to the holding company for 2011/12 or whether the holding company would remain on ACTOR and be considered alongside other providers as funding opportunities arose

- Providers joining together through a 'joint and several' arrangement will not be considered as an eligible route to be exempt from MCL
- Providers currently in a consortium without a direct contract but above the MCL will not be offered direct contracts – they will need to be approved on ACTOR and be considered for funding as funding opportunities arose
- Providers affected by MCL will need to seek their own legal counsel to ensure they are protected in entering new arrangements e.g. break clauses, TUPE
- Agency staff will set out processes to be followed but will not offer advice or guidance on which delivery models might be adopted
- Some providers may decide to terminate their contracts – Agency will want to work closely with these providers to ensure learners are protected

Next Steps

- Agency allocations available on website
- Funding consultation open for responses until 14th October
- Agency will work with ALP on guidance for the sector, responses to FAQs etc
- Legal and procurement advice will be sought on the delivery models for inclusion in guidance
- MCL for 2011/12 and future trajectory will be announced in October/November
- Agency will confirm timeline and processes to providers affected by MCL but before then, smaller providers should begin to assess how they can continue to be part of the supply chain – with a long-term view