

## **Use of Approved College and Training Organisation Register (ACTOR) for ESF provision**

Briefing Note 2

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**Audience** External

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### **Introduction**

- 1 Whilst the Skills Funding Agency (the Agency) is taking the lead in simplifying systems to help colleges and training providers respond to local demand with greater flexibility, it must still ensure that a proportionate approach to procuring and managing public funding is in place. Increased flexibility does not equate to reduced accountability/responsibility.
- 2 The Chief Executive of Skills Funding (the Chief Executive) has statutory functions in relation to funding and regulating adult further education and skills training in England. On behalf of the Department for Business, Innovation and Skills, the Agency invests almost £4bn per year, (including ESF) in colleges and training organisations, to fund training for adults in England. The Chief Executive is also responsible for funding 16-18 Apprenticeships and ESF NEET provision, on behalf of the Department for Education (of a little under £1bn).
- 3 The Chief Executive is responsible for ensuring that all public funding is managed effectively and efficiently and that any potential risks to these funds are mitigated appropriately.
- 4 The Approved College and Training Organisation Register (ACTOR) will be used to procure all education and training services provision on behalf of the Chief Executive. The aim of ACTOR is to provide a streamlined and simple process for all potential delivery organisations, reducing the bureaucracy and allowing quicker and more effective procurement. The process is intended to meet the requirements of European Union principles on public procurement of proportionality, equal treatment and non-discrimination and the need for the Chief Executive to account for large sums of public funding.

### **Skills Funding Agency**

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An agency of the Department for Business, Innovation & Skills

- 5 On 22 February 2011 the Agency published a [Briefing Note](#) on its ACTOR which set out the background and rationale for implementing ACTOR and explained how the Agency intends to use it.
- 6 The purpose of this Briefing Note is to provide further information on how the new system will operate and how ACTOR is currently being used to procure the following types of ESF Provision:
  - Support for the Unemployed and Apprenticeship Support to Employers
  - Skills Support for Redundancy (selected regions only)
- 7 We hope that this Briefing Note should also help organisations make better informed decisions about what sections of an ACTOR Tender they decide to complete in future, and should be read in conjunction with the February ACTOR Briefing Note 1.

### **Procurement Regulations**

- 8 For the purposes of the Public Contracts Regulations 2006 education and vocational education services are categorised as Part B of the regulations and accordingly only limited parts of the Regulation apply to the procurement of these services. However the process to procure education and training is intended to be
  - open and transparent – allowing tenderers to understand what we are going to do and how we are going to do it;
  - objective and ensure equal treatment of tenderers – allowing all tenderers a fair and equal chance of winning a contract;
  - consistent – doing what we said we were going to do
- 9 For services under Part B there is no requirement for a Contract Notice to be published in the OJEU. However, the Agency submitted a voluntary notice in October 2010. As appropriate to the type of process used to procure off ACTOR, the Agency will submit the correct notice to OJEU once the process ends.

### **General Update**

- 10 All organisations must be registered on ACTOR in order to be considered for funding. Once on ACTOR, organisations will be considered for funding in future Agency procurement exercises, without having to submit additional lengthy, onerous bids. All providers on ACTOR will be published on our website shortly and this will be updated following each subsequent freeze date.
- 11 This approach positions evidence of capability and success rates as key criteria for decisions, not an organisation's ability to write extensive bids (or hire expensive bid-writers).

- 12 In the February ACTOR Briefing Note the Agency confirmed that where organisations submitted information in the Programmes for the Unemployed section of the Adult Skills Budget Invitation to Tender (ITT) in January, the Agency would use this information to identify and select those providers that can deliver ESF co-financed provision which targeted unemployed individuals from April 2011.
- 13 As activity co-financed by ESF aligns with the national Skills Strategy and thus mainstream activities (for example, Apprenticeships, provision for the unemployed) in most cases, separate ITTs will not need to be issued to procure ESF provision. The breadth of the provision included within the Adult Skills Budget ITT and the fact that the Agency intends to select on provision type rather than funding stream means it is possible to use the information already submitted in the ITT. (ESF will however be separately identifiable in contracts through specific schedules).
- 14 It is important to note that the Agency will ask organisations to provide evidence to support the information submitted by them on ACTOR. If any information is found to be false or inaccurate the Agency reserves the right to remove their ACTOR submission and or any conditional contract offer.
- 15 Organisations can submit or update information on ACTOR whenever the Register is open. ACTOR will only be closed during the short periods of time during which the Agency will download the latest data (referred to as a freeze date). Please note the information used by the Agency for procurement exercises will only be updated following a formal freeze date which will be notified in advance.
- 16 The Agency will be seeking to award further ESF-funded provision this year which will ensure that all delivery organisations have the opportunity to be considered. Some provision will be sought over the spring/summer, for activity to start from August 2011. This is likely to include workplace learning provision and related Apprenticeships activity and additional skills provision to support the unemployed and those affected by redundancy.
- 17 Further information on this will be communicated during April and May 2011. The Agency will then publish information when further opportunities arise.
- 18 For the majority of the education and training funding that the Agency distributes, it will continue to apply the funding allocation process as set out in published Guidance Notes. These Guidance Notes also confirm that funds will be redistributed to existing colleges and training organisations through its performance management protocols.
- 19 It is therefore important to note that any organisation that secures a Single Adult Skills Budget contract through the mainstream business cycle and has indicated they wish to deliver provision for the unemployed in their ACTOR ITT response, will have flexibility to offer this type of provision from August 2011 within their overall allocation/contract value, as well as any ESF-funded provision to support the unemployed that they may secure from this April.

- 20 Because this is a new procurement process, the Agency will continue to review how well it is working and will invite a reference group of colleges and training organisations from across the sector to meet with it and to help review the system and process and contribute to its ongoing development.

### **The Process Explained**

- 21 The procurement process applied in this exercise is consistent with the “Direct Selection Process” described in the [ACTOR Briefing Note](#) published in February.
- 22 To reduce the need for an organisation to submit multiple tenders, the Agency is committed to using the information collected through ACTOR as the main means of selecting providers to deliver additional areas of provision (including that which is co-financed by ESF). This will result in a ranked list of providers which are then assessed to ensure geographical coverage.
- 23 A national panel reviews and moderates all recommendations for provision. Its role will be to endorse recommendations and/or request elements of ITTs to be corroborated by an organisation before a contract is awarded.
- 24 *Conditional* offers, subject to corroboration, are then forwarded to the selected organisations. These have been developed specifically to streamline and speed up the contracting process once confirmed, as information can be transferred into contract set up documentation swiftly and accurately.
- 25 When contracts are finalised and issued a Voluntary Ex-Ante Transparency (VEAT) Notice will be published in OJEU. (VEAT is a form of contract award notice which was introduced in December 2009.) A VEAT Notice requires a ten day waiting time to elapse before contract awards are published on OJEU and the UK Government Contracts Finder.
- 26 Once award notices have been published the Agency will provide the following types of feedback to organisations:
- Organisations that completed the PFU section of the Adult Skills Budget ITT but not short listed.
  - Organisations that were short listed but not awarded funding will receive more detailed feedback.

### **Communication/Bravo Updates**

- 27 In registering on the e-tendering portal, Bravo (the access portal for ACTOR), each user signs up to a user agreement.
- 28 This agreement states that it is the responsibility of the organisation registered on the e-tendering portal to ensure that only those they wish to be contacted during a process are allowed to register as users. They are actively encouraged to set up their own hierarchy of sub users within an organisation who they can list on their registration form with an email

address, so either one or all can receive email alerts if appropriate and respond to as necessary.

- 29 The agreement also enables the Skills Funding Agency to de-activate any user who has not accessed the portal for a continuous period of 60 days or more. Whilst the Agency has never made use of this, in an effort to minimise any confusion regarding communication, we will shortly be asking the 18,000 registered users to embark on a data cleansing operation.
- 30 Previously the Agency (formerly the LSC) sent all communications and invitations to tender to all of the registered users on Bravo. However, this process was refined following feedback from the sector which indicated organisations felt inundated with identical documents, and so Agency protocols adapted so that it selected one contact from those registered.
- 31 In an effort to improve and refine this area of the service the Agency will be taking steps with the help of Bravo to limit two areas on the registration form to ensure that the majority of organisations cannot register more than once. This in turn will allow organisations to more effectively manage their user profiles as required in the above mentioned supplier agreement.
- 32 Full instructions on how update user details are available through online help via the [Agency's BravoSolution webpage](#).

### **Other sources of useful information**

- 33 Please find below a list of useful historic and current reference documents on ACTOR which can be found on our website:
  - Agency Letter Launching ACTOR
  - [ACTOR OJEU Notice](#)
  - ACTOR Page – Agency Website
  - Getting Started on ACTOR
  - ACTOR Briefing Note
  - Update – Agency Bulletins
  - Operations Manual\* (not on our website, but attached to each PQQ and ITT)

### **Frequently asked questions**

- 34 This section seeks to respond to a number of questions/queries the Agency has recently received and provide a clear, consistent and open response. Any questions not addressed here can be submitted to [procurementhelp@skillsfundingagency.bis.gov.uk](mailto:procurementhelp@skillsfundingagency.bis.gov.uk)
  - I registered for PFU yet I wasn't asked for supplementary information. Why?

For the direct selection process we used, we produced the moderated list of organisations who had submitted responses to the Single Adult Skills Budget ITT on 14 January 2011. We weighted generic and specific PfU questions as advised in the ACTOR operations Manual.

We then looked at who on this ranked list was in a position to deliver in April, in each of the Skills Funding Agency regions, and moved down the ranked list until all available funding was assigned.

All organisations within this category were sent five supplementary questions, the results of which whilst not being scored, informed our decision to move to the next phase.

- We are a new organisation, I don't know if we have been successful in registering yet?

4000 submissions were received in January, which have taken longer than anticipated to review. New organisations will be contacted and the list published on our website shortly.

- Can I find out what I have scored?

Because information registered on ACTOR may be used for more than one procurement activity, we will not be publishing detailed scoring as to do so may commercially prejudice future procurement activity.

- How long will this ESF procurement process take?

We are hoping to conclude this process in time to award contracts on or before 27 April 2011.

- How will we be notified if we have been successful or not?

Notification will be issued via Bravo, therefore it is important to ensure all email contacts are up to date and live. As specified above, the Agency cannot be held responsible if communications are sent to email addresses which cannot be accessed, for example relating to individuals who have left the organisation or are on leave etc.

- We have submitted a query but not received an answer yet – how do we know that it has been received?

We aim to answer all messages received against ITTs within a maximum of 48 hours. We do not acknowledge receipt of messages but respond accordingly.

- When will the next procurement rounds be?

We expect to procure further provision later this spring and summer, and more information will be published via our website and other relevant publications such as Update in April and May.

- Is ACTOR open and competitive tendering?

ACTOR complies fully with Open and Competitive Tendering as required by EU procurement directives.

- How do I update/refresh my details on ACTOR?

Organisations can update/refresh their submissions at any time by accessing their submission and making changes before re-publishing them.

- How do I refresh my organisation's registration/contact details on Bravo?

These details can be updated by sending requirements to [help@bravosolutions.co.uk](mailto:help@bravosolutions.co.uk) and they will either complete this action or provide instructions on how it can be done.

- Do subcontractors need to be registered on Bravo?

While this is not yet compulsory, we are reviewing our strategy in this regard. Further information is available in an update on subcontracting in Guidance Note 7

- How are sub-contractors taken account of in an ITT response?

Lead providers are asked to detail who their sub-contractors are, and closer to the time of the contract award we may ask for letters of support from each one.

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The Skills Funding Agency is working with the European Social Fund (ESF), who are responsible for promoting employment opportunities for all, to deliver this project/initiative. For further information on the ESF visit their website at [www.esf.gov.uk](http://www.esf.gov.uk)