

## Purpose

This Policy sets out the Company's Policy and procedure on how subcontractors are managed.

The aim of this Policy is to provide guidance to those who are directly involved in the appointment, use and management of subcontractors and/ or agency workers.

## Scope

The Company engages the use of subcontractors and agency workers from time to time to undertake a wide variety of tasks that cannot be fulfilled in house. All departments that require the use of subcontractors and/ or agency workers are required to follow this policy.

## Responsibilities

Who	Responsibility
Directors	The Directors have overall responsibility in assuring adherence to the policy, along with the CEST tool checks completed on HMRC. Directors also have a responsibility to notify HR of subcontractors and agency staff being used.
Manager/Director	The Manager or Director engaging the use of subcontractors or agency staff must ensure the subcontractor/ agency staff is competent to carry out the works specified and they possess the essential criteria detailed in this policy. Managers or Directors also have a responsibility to notify HR of subcontractors and agency staff being used.
HR	HR has responsibility for data collating and storage, also ensuring the correct DBS and BS7858 standards checks have been completed and that it meets the standards of the security screening matrix.
Group Technical Manager	The Group Technical Manager is responsible for arranging and implementing audits of subcontractors, including checking test equipment is calibrated

## Process

### Selection & Approval

When the requirement for a subcontractor or agency worker is identified the following steps will apply:

It is the responsibility of the department director to source a suitable subcontractor and/or agency staff based on price, location and availability.

As part of the selection, Directors must review the essential criteria as per below:

- The type and amount insured must be a minimum of £1million
- Suitable and appropriate associations and accreditations that are held
- All operatives must hold appropriate DBS & BS7858 checks, and these must be presented when subcontractors and operatives are completing their application

To be approved the subcontractor must fully complete, and satisfy all the essential criteria, as outlined on the [Subcontractor Application form](#) and must provide relevant documentation along with the operative application form for each of their operatives.

This form should be completed fully prior to the contractor carrying out their work.

Once approved an IR35 assessment will take place and the status result will be communicated to the subcontractor and any disputes resolved.

To determine the outcome ABCA will refer to the HMRC guidance and the employment status for tax [CEST Tool](#) . Once the CEST Tool check has been completed an outcome will be delivered in the form of a certificate, this is known as the Status of Determination which outlines if you are in or outside IR35. The CEST outcome must be sent through to HR and HR will provide an outcome the subcontractor.

### **Making the status determination – “inside IR35” or “outside IR35”**

#### **Inside IR35 Means:**

**For subcontractors that fall inside IR35, they are:**

- are classed as an employee for tax purposes
- need to pay income tax and National Insurance Contributions
- pay this tax by making a ‘deemed payment’ at the end of the tax year – it may be worthwhile linking in with an Accountant for clarity on this.

If a Subcontractor falls inside IR35, HMRC would class them as an employee for tax purposes, however Subcontractors will not be entitled to employee benefits including holiday pay, sick pay or overtime. Subcontractors will be paid the same way as an PAYE employee minus deductions.

Where ABCA determines that an assignment is “inside IR35”. The options are:

- **“Inside IR35” PSC** – Should an individual wish to continue to engage as a contractor via their PSC who is deemed “inside IR35”, The deemed employment pay rate is income after deductions, including both employee and employer NICs and the Apprenticeship Levy.
- **Umbrella Company** – Where an umbrella company employs a contractor as a worker directly, the off-payroll working rules do not apply.
- **PAYE Agency Worker / Employment model** – this would be based on a PAYE Contractual agreement with an Individual

#### **Outside IR35 Means:**

- are self-employed and operate as a proper business
- are responsible for your business’s taxes
- can pay yourself in a tax-efficient way

If a Subcontractor is outside IR35 they shall be paid their fee and will be responsible for managing their business’s taxes as normal.

Once ABCA have determined if a Subcontractors is Inside or outside of IR35 a certificate known as a status of determination and outcome letter shall be sent to the subcontractors email address outlining the result, these results shall be sent from HR. If the Subcontractor is not satisfied with the outcome please see right of appeal documented below.

### **Right of Appeal against IR35 outcome**

If a Subcontractor is dissatisfied with the result of the IR35 result they have the right to appeal this decision. They can appeal the decision by emailing [HR@abcasystems.co.uk](mailto:HR@abcasystems.co.uk) outlining the reason for the appeal, along with any other supporting evidence they deem reasonable. Once the appeal is received by HR, Subcontractors will receive an acknowledgment in the form of an email, and no longer than 45 days from the point of the appeal an outcome shall be provided via email.

## Terms of Agreement

Once subcontractors have completed the Subcontractor Application form, CEST Tool checklist with the department director, a contract of employment will be provided to the subcontractor and it must be signed and returned to [HR@abcasystems.co.uk](mailto:HR@abcasystems.co.uk)

## Subcontractor Qualification

Prior to a subcontractor or agency worker commencing work with us all training documentation along with security checks must be completed and checked they're up to date and suited to the job. ABCA Systems Ltd will request Subcontractors and Agency workers completed a Health and Safety essential module on iHASCO prior to starting with us, unless they can provide suitable evidence to show they have already completed similar training.

If a subcontractor is missing any required training modules before work commences, or they have not been completed prior to commencing work, it is the Managers or Directors responsibility to request additional training modules are completed via HR, example; If you require a subcontractor to complete asbestos awareness training, you must email HR to request this is assigned to them on iHASCO.

## During work

Upon attending a site, all subcontractors will be assigned a member of staff to be their primary contact.

All subcontractors, agency workers and their operatives will be issued an ID badge provided by ABCA which must be worn at all times.

Subcontractors and agency staff carrying out work for the Company must ensure they comply with all relevant policies, business processes and work instructions. This includes accident/incident reporting to the Company. These can be access via the intranet.

## Completion of work

The subcontractor or agency workers engagement ends once the terms of the contract or works has been fulfilled.

At the end of the contract:

- The subcontractor or agency worker will liaise with their Company contact regarding completion of works.
- The subcontractor or agency worker will hand over all Company property where applicable, failure to do so will result in a deduction from the final invoice payment
- The Company representative working with the subcontractor or agency worker will inform all relevant departments of completion of work and also advise of missing equipment.

## Subcontractor Review

Competency audits will be performed by Department Heads alongside ABCA's Group Technical Manager on all new subcontractors within 3 months of starting works for the Company.

Regular audits will take place every 12 months to continue to appraise the performance levels of subcontractors.

Subcontractor will be issued improvement notice for any issues discovered during audit that must be corrected within 30 days.

## Management of information

Information relating to the subcontractor company and operative/s is collected when engaging any subcontractor to undertake work for the Company. This information is used in the selection of a subcontractor and may be used in the IR35 assessment.

Documents and information provided is required to perform an initial assessment on competency for the work to be carried out.

Records are kept in the Company's systems to monitor current subcontractors, assign them to relevant work and to enable payment.

Records are created on approval of a subcontractor and are archived once engagement with a subcontractor ends.

Where it is requested records are destroyed this must be requested via writing to HR.