



Introductory Pack on Funding and Finance

Guide to Procurement and Contracting

IPF





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About this guide

This guide explains what is meant by procurement and contracting. Focusing on contracting to deliver public services, it provides a starting point to help organisations understand and navigate the complex realm of rules, procedures and practices that constitute public sector procurement.

This is the fifth guide in the series that make up the Finance Hub *Introductory Pack on Funding and Finance*. Details of other guides are given below.

About the Introductory Pack on Funding and Finance

The *Introductory Pack on Funding and Finance* was commissioned by the Finance Hub, one of the centres of expertise created as part of ChangeUp¹. The guides provide voluntary and community organisations and social enterprises with practical information, support and guidance on funding and finance options, and the skills needed to access these options.

The guides have been designed with new and small to medium-sized organisations in mind. They aim to be accessible, clearly written and to explain any specialist terms used. They provide case studies highlighting real life experiences that offer good practice tips and the lessons learned by organisations that have 'been there and done that', including the first steps of some smaller organisations. The guides also contain tools and signposts to resources to assist organisations in their search for long-term financial sustainability.

The guides that make up the *Introductory Pack* are:

- 1 Sustainable Funding
- 2 Financial Management
- 3 Fundraising
- 4 Trading
- 5 Procurement and Contracting
- 6 Loans and Other Forms of Finance

Copies of the guides are available from NCVO and the Finance Hub. They can be downloaded from the Finance Hub website at www.financehub.org.uk or NCVO's website at ncvo-vol.org.uk/sfp. Further details and information about the work of the Finance Hub and the support it provides is included in the Resources section at the end of this guide.

¹ChangeUp is a programme of capacity building for the infrastructure of the voluntary and community sector.

About the author

The Institute of Public Finance

The Institute of Public Finance (IPF) is the management support services company of the Chartered Institute of Public Finance and Accountancy (CIPFA). IPF provides support to public sector organisations and managers in areas including consultancy, training, interim management, policy studies, statistical and market research, and procurement.

For further information see:
www.ipf.com and www.cipfa.org.uk

This guide is based on a longer publication, *Before Signing on the Dotted Line: All you need to know about procuring public sector contracts*. The complete text is available from NCVO's Sustainable Funding Project website at www.ncvo-vol.org.uk/sfp and Futurebuilders' website at www.futurebuilders-england.org.uk

Introductory Pack authors, contributors and advisory group

The *Introductory Pack* has been developed by experts in voluntary and community sector funding and finance with input on design and presentation from practitioners including an advisory group of front-line funding advisors.

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Thanks are also due to all the organisations that appear as case studies and to the members of NCVO's Sustainable Funding Team for their input, advice and support.

Guide to symbols and abbreviations

Each section uses the symbols shown below. These are designed to help readers navigate through the text and to highlight key points and signposts.



Good practice tip/key points to remember



Tool (e.g. template or checklist)



Signposts to further support and information

- CVS = council for voluntary service
- PSO = public sector organisation
- VCO = voluntary and community organisation
- VCS = voluntary and community sector

Introduction – Why contracts?

The delivery of services under contract is one of several income generation options available to voluntary and community organisations (VCOs). It is a growing area; local authorities in England spend about £40bn a year on goods and services. The National Health Service (NHS) and central government each spend around £15bn a year.

Given the nature of voluntary and community sector (VCS) work, it is purchasers within public sector organisations (PSOs) that are most likely to be encountered by VCOs seeking contractual income. The focus of this guide is therefore public sector procurement. Many of the issues discussed are, however, equally applicable to contracting with other agencies and opportunities do exist. Providing services under contract to private businesses or indeed other VCOs should therefore also be investigated.

Public service delivery or other contractual work may not be for everyone. Ultimately the decision to contract needs to be informed by a clear understanding of organisational mission and objectives, capacity and skills, and consideration of whether delivering a service under contract will help meet beneficiary needs.

Nevertheless, whether working with public, private or voluntary sector organisations, there is huge potential for providing services under contract, and VCOs are now being recognised as key providers. As a result, there are already many organisations engaged in the delivery of public services, and many others interested in doing so.

Many organisations, and small and medium sized organisations in particular, are, however, inexperienced in navigating the complex realm of rules, procedures and practices that constitute the public sector procurement process. To address this, NCVO's Sustainable Funding Project and Futurebuilders England commissioned the Institute of Public Finance to write a guide to public sector contracts for VCOs. This guide is a condensed version of that publication with additional supplementary information designed to simplify the process for organisations considering contracting for the first time. It is intended as a first steps guide for organisations interested in discovering what delivering services under contract might entail.

Details on how to obtain the full publication, *Before Signing on the Dotted Line: All you need to know about procuring public sector contracts*, are included in the Resources section at the end of this guide.

1 What is procurement and contracting?

Procurement is the purchase of goods and services from an external agency.

Delivering services under contract

Contracting for VCOs involves earning income from payment for goods or services delivered according to the terms set out in a contract between an organisation and a third party known as a purchaser. The process of bidding for, and negotiating, such a contract is known as tendering. The process for goods and services tendering and purchasing instigated by the purchaser is known as procurement.

As previously highlighted, a major portion of VCS contractual work is carried out on behalf of the public sector in the delivery of public services.

Delivering public services

Public sector procurement is the purchase of goods and services by a PSO, for example a local authority or Primary Care Trust.

Public sector purchasing ranges from core local service provision (e.g. social services, hospital provision) to specialist services (e.g. health services tailored to needs of BME communities, training opportunities for socially excluded groups).

Although often spoken about as though it is a single entity, the public sector is not one homogenous body. It is a series of sub-sectors and includes:

- Central government departments and agencies (e.g. Department for Education and Skills, Home Office, Learning and Skills Council, National Offender Management Scheme)
- The NHS and local Primary Care Trusts
- Local Authorities
- Universities and colleges

Different for each public sector organisation

There is no standard approach to public sector procurement.

Each PSO will have developed its own internal procurement rules and procedures. It is therefore essential to research different agencies as part of the process of considering contract working. An introductory meeting with the procurement officer of a PSO can be an invaluable source of information. A key issue to understand when considering contracting with a PSO is that there will be certain procedures which will need to be followed. Understanding how these work is essential for VCOs considering delivering services under contract to the public sector.

The structure and shape of the procurement process will be affected by how centralised purchasing is in the PSO. Some PSOs will devolve full responsibilities to directors and service managers. This then relies on the competencies of the people who procure, specify and place orders in the PSO to apply its regulations. This is why VCOs are encouraged to engage as soon as is practical with the relevant staff in the PSO.



The Office of Government Commerce website provides a very useful starting point. It contains further details and under the ‘how government buys’ section, a step-by-step guide through the procurement process. See www.supplyinggovernment.gov.uk

Navigating procurement rules and procedures

The Government’s guidelines require public procurement to be based on ‘value for money’, defined as ‘...the optimum combination of whole-life cost and quality (or fitness for purpose) to meet user’s requirements’.

Procurement rules and procedures set out how a PSO will manage and enter into contracts with suppliers. Purchasing is the part of the process concerned with agreeing and entering into a contract, by setting the standards and arrangements for meeting the PSO’s objectives through the provision or acquisition of the specified goods and services. Procurement is not just about spending taxpayers’ money. It is about effective use of financial resources, working and collaborating with others, and trying to deliver ‘best value’ public services. This means that there is scope for ‘added value’ from VCOs. The challenge is to demonstrate that value when offering services.

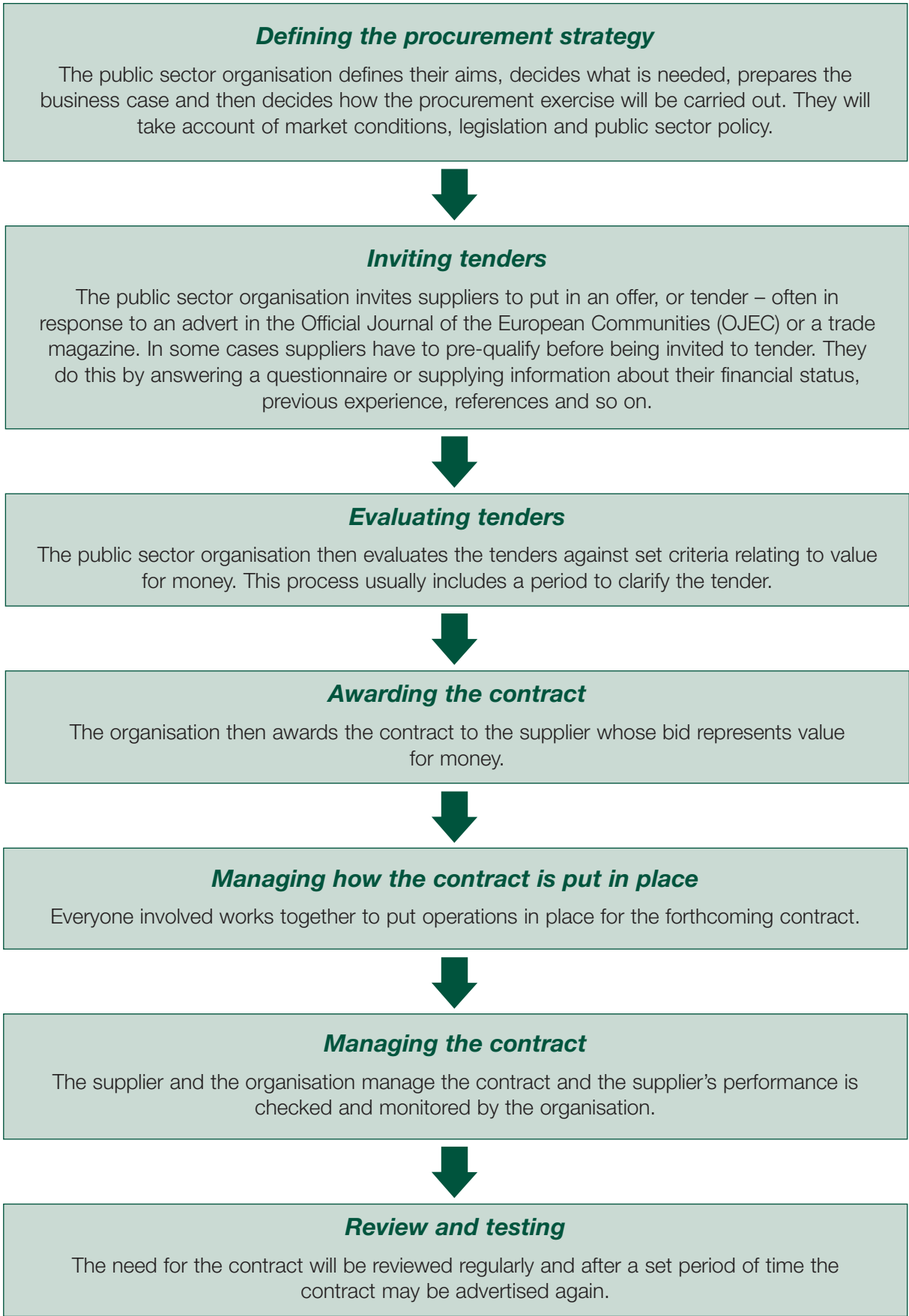
A typical procurement process is illustrated in Figure 1.



Summary – What is procurement and contracting?

- Procurement is the purchase of goods and services from an external agency.
- Contracting involves earning income from payment for goods or services delivered according to the terms set out in a contract between an organisation and a third party known as a purchaser.
- There is no standard approach to public sector procurement.
- Procurement rules and procedures set out how a purchaser will manage and enter into contracts with suppliers.

Figure 1 – A typical procurement process²



² Taken from www.supplyinggovernment.gov.uk

2 How the public sector buys services

Because the public sector spends taxpayers' money, it is subject to controls on how it conducts its purchasing. Anything it buys must be of benefit to the public, and it must provide the best value for money available at the time. Purchasing also has to be done in a fair and open way. There are UK and European laws that define how things must be done, and everything is subject to audit and scrutiny. The formal processes may make it more difficult for smaller VCOs to get into the public sector market; but not impossible.

Stages in procurement

A PSO will say what is required in a specification, and a VCO wishing to offer services will have to prepare a formal offer describing how they propose to deliver it and what they will charge. Many PSOs now put their providers through various stages:

- A pre-qualification questionnaire to shortlist credible providers for the service in question. The key purpose is to assess technical and financial ability to provide the services.
- For those selected, a formal invitation to tender will follow, and possibly presentations to seek clarification on proposals to help decide among the most promising bidders and negotiate the final details.

Drivers for public sector organisations

VCOs interested in providing services under contract need to understand how the public sector is driven by its core values and objectives in delivering and improving services. This will help VCOs see more easily where they can add extra value and improve their chances of success in working with them. Key issues to be aware of are:

Value for money

Value for money often means the lowest price, as long as the contractor delivers the right quality and performance. But sometimes it can mean adding value by offering more than the PSO asked for, even if the price is a little higher. For example, you may be able to demonstrate that your solution will bring savings elsewhere, or that you will create improvements in things like equality of opportunity, inclusion, and a focus on community and individual needs.

Affordability and sustainability

PSOs are under pressure to become more efficient, which means making the money go further. Sometimes this means reducing costs, at other times it means finding new and smarter ways to deliver services. PSOs will look at what a service will cost over the entire life of the contract, including any costs associated with the end of the contract such as transfer payments for assets, and far from accepting annual increases in line with inflation they may well insist on cost reductions each year. VCOs may need to commit to training and development programmes or to delivering improved performance over the contract period.

Services must also be sustainable. VCOs have to think about how they can give the PSO confidence in their ability to develop, resource and deliver a service over the whole life of the contract; for example, showing how they would change or adapt services to meet changing demands, needs and legislative requirements.

Efficiency

The search for efficiency also means that many PSOs are joining together to purchase services. They might share the administrative cost of buying the same thing, or put a number of different services into a single contract to achieve better value for money.

Community benefits

VCOs are engaged in community-based services and in meeting a variety of public needs. As a consequence, VCOs are well placed to help PSOs achieve their national, regional and local vision of improving the quality of life for all. Community benefits when described, measured and realised are a key element of what VCOs may be best able to offer.

Influencing potential purchasers

The Compact

Public sector purchasing from VCOs is also subject to the terms of engagement outlined in the Compact and individual Local Compacts. The Compact is an agreement between the Government and the voluntary and community sector. It is designed to improve their relationship for mutual advantage and as such there are commitments by both sides. Its principles include recognising groups are independent and that they have the right to campaign even if funded by government. The national Compact's principles have been turned into Codes of Practice on funding, consultation, volunteering, working with community groups and supporting Black and Minority Ethnic groups. Local Compacts are similar agreements but designed to work at a local level with councils and other public bodies such as Primary Care Trusts.

Local Compacts often outline the terms of engagement for contracting between local PSOs and VCOs. This can be very useful in helping VCOs identify how a PSO should relate to them and in providing a benchmark for good working relationships between the two sectors.



Further information is available at www.thecompact.org.uk

Where VCOs are experiencing difficulties with purchasers, and feel the principles of the Compact have been breached, an advocacy and mediation service exists. NCVO's Compact Advocacy team should be the first point of call. For further details see www.ncvo-vol.org.uk/compactadvocacy

Building relationships

Where VCOs are working with PSOs already, for example, receiving a grant from them, they have an initial starting point to influence the design of service arrangements and to illustrate how they can best meet the PSOs needs.

Within the procurement process there are also key points for influence as the purchasers interpret the rules, exercise judgement and make recommendations. There is little scope for changing the core rules or terms and conditions so focus should be on how the rules might admit exceptions and changes, if appropriate:

- **At the specification stage** – How the service is designed and specified, sometimes before procurement is part of the equation. The most desirable outcome is to persuade a PSO a non-competitive process is appropriate. A VCO may achieve the same outcome by showing how their service impacts in a measured way on local or community benefits, and meets the evaluation criteria. The emphasis will then be on openness and sharing of information to confirm value for money and the robustness of the arrangements for delivery.
- **At the tender stage** – How the service will best be delivered and what therefore are the key values or criteria that should be used to select a particular VCO provider. Value for money includes showing differences in quality and your contribution, especially in areas of a VCO's expertise where they can show how important certain factors are to meeting the service objectives. VCOs need to study the specification carefully to see what the core requirements are.
- **In negotiation** – Demonstrating how a VCO can better achieve objectives may change the procurement or contract rules. At this stage it is not so much the rules as the outcome that has to be influenced. A VCO may wish to suggest in the tender that they would welcome site visits or practical demonstrations of how their operations work.



Summary – How the public sector buys

- Public sector purchasing is subject to controls. Anything it buys must be of benefit to the public, and provide the best value for money available at the time.
- Procurement stages may include pre-qualification questionnaires in addition to invitations to tender.
- VCOs interested in providing services under contract need to understand public sector drivers. These include value for money, affordability, efficiency, and community benefit.
- The Compact lays out the terms of engagement between the VCS and the public sector, including procurement.

3 Identifying and approaching purchasers

VCOs wishing to generate income by selling their services under contract need some understanding of who the potential purchasers for their services might be, and how those purchasers go about finding and choosing providers.

Finding information on purchasers

Useful starting points for searching for information on purchasers include:

- Local partnerships, VCO committees, and local strategic forums, especially those involving public sector representatives.
- Approaching a PSO directly and asking for information under the Freedom of Information Act.
- Internet searches to research and understand unfamiliar ideas and concepts.
- Individual PSO websites for further information on their procurement strategy – also look out for adverts for ‘meet the buyer’ events.

Useful information to gather includes:

- General information about the nature of the services required by a purchaser.
- Details of who the procurement officers are for particular areas.
- Information on how things have been organised before and what the current and future expectations may look like.
- Background information on particular contracts and how PSOs will approach and manage the buying process.



A helpful and user-friendly starting point for researching potential purchasers is *A Guide to Purchaser's Plans or How to Find Out Who Might Purchase Your Service*, available from the Futurebuilders website at www.futurebuilders-england.org.uk

Using inspection reports

Inspection reports highlight key issues and failures in both public service and procurement practice. They are produced by inspection bodies such as the Audit Commission or Ofsted and are available via those agencies' websites. Searches for inspection reports can look for a specific PSO or for a particular service.

Inspection reports can be helpful to VCOs interested in contracting because they highlight how certain services are regarded or how a good PSO elsewhere has been able to demonstrate its excellence in those areas. Where these reports exist, VCOs can use the information they contain to help inform their own service design, or to inform their tender bid demonstration of how they will help a PSO achieve the best standards of service and excellence.



Useful websites for finding inspection reports include

Audit Commission	www.audit-commission.gov.uk
Commission of Social Care Inspection	www.csci.org.uk
Department of Health	www.dh.gov.uk
Education, Ofsted	www.ofsted.gov.uk

Individual local council websites may also include inspection reports, particularly if they are achieving successful results in particular areas.

Finding contract opportunities

Opportunities to tender a bid may arise in three main ways:

- **Direct invitation to submit a tender** – Most likely where VCOs have already identified potential purchasers and are included on their list of potential providers.
- **Responding to a notice in the Official Journal of the European Union (OJEU) or an advertisement in local or national press** – Even if VCOs are included on a list of suppliers it is still important to monitor the press because PSOs may not automatically inform providers that tenders are being sought. This is where establishing relationships with purchasers can be beneficial, to ensure information is forthcoming.
- **Applying through a website** – It is increasingly possible to apply electronically for contracts. The Office of Government Commerce is currently developing a national opportunities portal where suppliers will be able to access opportunities, as part of government initiatives to ensure small and medium-size enterprises and VCOs have equality of opportunity to bid for contracts.



Further information available at www.supplyinggovernment.gov.uk

Newspaper advertisements

Newspaper tender notices will contain brief details of the goods or services required and invite interested parties to contact the relevant PSO.

Official Journal of the European Union (OJEU)

Contracts with a value exceeding EU financial thresholds must be published in the daily supplement to the OJEU. This provides information on current requirements and invites suppliers to express an interest, or to tender directly in some cases, depending on the contract procedure. It also sets out information about contracts that have been awarded.

There are four basic types of notice published in the OJEU:

- **Prior or pre information notices** – Published annually indicating the higher value contracts that PSOs intend to award over the coming 12 months and their anticipated value.
- **Qualification systems** – Indicate the existence of a list of approved suppliers who may be called upon to tender for goods and services as required.
- **Invitations to tender** – Related to a specific contract and sets out in detail what the PSO requires and the award criteria that will be used to select the successful supplier(s).
- **Contract award notices** – Following the award of a contract the purchaser is required to publish details of the successful contractor. These notices can be useful for monitoring competitor activity or identifying sub-contract opportunities.

The OJEU is only available online or as a CD-ROM and is not very user-friendly. Tenders Electronic Daily (TED) is the on-line version. It may be easier to use the information services offered by commercial organisations that offer email alerts and more user-friendly searching. These can be located via an online search for providers.



Starting points for Official Journal opportunities

- Tenders Direct – a commercial service accessible through the internet, providing an online database of opportunities and an alert service. See www.tendersdirect.co.uk or phone 0870 609 1467.
- Business Link – provides access to business advice and support for small firms through a national network. See www.businesslink.gov.uk
- The Stationery Office provides copies of the OJEU on CD-ROM for subscribers. Telephone 0870 242 2345.

Accessing contracting opportunities

Getting invited to tender for a contract, or considered as a potential provider by a PSO involves four stages:

- Identifying PSOs that are likely customers.
- Marketing to these potential purchasers.
- Making direct contact with purchasers.
- Meeting potential purchasers.

Stage 1 – Identifying PSOs that are likely customers

The first stage is for a VCO to assess which PSOs might be interested in their services and whether they are looking for providers.

In addition to researching potential service purchasers it is also useful to identify if there are factors that might encourage a PSO to work with a particular organisation (e.g. known to be keen to form a relationship with the VCS, recent government policies highlighting the need for local authorities to engage with VCOs in particular areas).



Tool – Identifying likely customers checklist

Use the list below as a prompt to considering who might purchase a VCO's services.

1. Research:

- Which PSOs buy the kind of services a VCO provides?
- How much do they spend?
- How often do they award contracts?
- What sort of services do they buy?

VCOs should talk to people they know, including local CVS advisors and contacts they may have within the public sector, and study contract notices that appear in the press or online tendering sites.

2. Decide:

- Which PSOs are a VCO's preferred potential purchasers?

Use their own publications, website, trade directories, or phone them to identify the key people in the buying process. Look for people who use the range of services a VCO provides, whether they specify it, buy it or approve the contracts for it.

3. Understand:

- How does the preferred PSO buy a VCO's particular type of service?
- Does it purchase centrally or directly in separate departments?

With centralised buying, one section of the PSO normally controls all purchasing for the organisation. Decentralised buying means that individual departments or units make their own purchasing contracts.

4. Identify:

- Who are the current service providers?
- How long have they been providing the service?

A VCO may know or be able to find out which other companies or organisations have the capacity to make offers of service. This knowledge will help VCOs to assess their chances of success in a competition.

Stage 2 – Marketing a service to a potential purchaser

VCOs should look out for opportunities to join select lists of providers.

Having decided on a preferred area of service provision and potential purchaser, VCOs need to consider how they will promote their services. This may be through marketing, making direct contact with potential purchasers or, ideally, both. Promoting a VCO's services in these ways are the most likely route to getting an order, being included on a list of approved providers, or added to a specific tender list. The key is to get known for delivering consistent high quality services.



Good practice tips with provider, supplier and tender lists

Some PSOs in areas such as social care, health, children's services and education place contracts or orders with their own list of providers. These are used for two purposes:

- To reduce the costs of purchasing and providing services by having available providers who have previously qualified and shown they can provide services.
- To provide services smoothly and quickly when the exact details of what is required do not fit easily with a drawn-out tender exercise.

These lists will be advertised and tendered for through similar procurement procedures as for an actual contract or service.

PSOs also often select a shortlist of potential suppliers from larger pools to invite to tender for a particular piece of work. In these cases, it is the total value of the work or services to be performed under the particular contract that determines how the list is selected.

As part of the marketing process, or to facilitate follow-up by a PSO following direct contact, a VCO needs to ensure that details of their work can be found quickly and easily. This may involve investing in ICT capability to provide information via a website and facilitate access to tendering information and e-procurement systems. A VCO's website in particular can be used to present an effective profile of what it can do.



Tool – Marketing to potential purchasers checklist

Use the list below as a prompt to marketing a VCO's services.

1. Develop your website

- VCOs should ensure their websites contain plenty of information for any potential service purchasers and establishes them as credible service providers.
- Make websites easy to find by listing with major internet directories and search engines.
- Keep websites up to date so it reflects well on an organisation.

2. Seek publicity

- Get editorial coverage, either describing a VCO's achievements and developments, or by providing expert comment on topical issues.
- If appropriate, list a VCO in specific trade directories such as that of the British Healthcare Trades Association.

Stage 3 - Making direct contact with purchasers

The best way to ensure the purchaser becomes aware of a VCO and its services is to make direct contact.

VCOs should use every opportunity to attend events or seminars where potential purchasers may be present and to speak to the relevant people. Telephone enquiries to a PSO may also be useful in identifying specific procurement officers and allowing a VCO to introduce itself. Be persistent but polite. When contact is made, remember, first impressions are important, so ensure any research done at stage 1 is up to date and apply it.



Tool – Making direct contact with purchasers checklist

Use the list below as a prompt to contacting purchasers.

1. Write or email directly to the most relevant people in the PSO

- Introduce the VCO and its services.
- Request a direct meeting or provide an invitation to visit.

2. Follow up

- Phone a few days later and ask for a meeting, and for the name and contact of the specific person responsible for a particular service.

Stage 4 - Meeting potential purchasers

VCOs successful in getting an appointment with a purchaser need to maximise the opportunity to make a good impression of themselves and their services.

Potential purchasers are often busy and reluctant to meet providers. Where a meeting can be arranged, a VCO should ask clear questions relevant to the specific service area and provide the purchaser with comprehensive information, including good quality marketing literature and brochures, supported by copies of relevant documentation (e.g. health and safety certification, quality standards assessments etc.).



Tool – Meeting potential purchasers checklist

Use the list below as a basis for preparing to meet purchasers.

1. Prepare well in advance

- Research the PSO and its requirements.
- Decide who should attend, probably no more than two people.
- Outline what you want to cover in your meeting, keeping it short and focused. Note the questions that you need to ask. Do not rely on remembering them at the meeting; plan to get the most important questions in first and take notes.

2. Ask clear questions relevant to the service

- Listen to the purchaser to find out their situation, how they buy services and any problems they have.
- Focus on what the VCO can do for them, identifying the 'added value' the VCO can offer. What makes it different from other providers?

3. Identify the essential required features of a service

- Who specifies the service, who uses it and who else might benefit from your service?
- How much do they buy and how often?
- Where is the service delivered? Is it at one or several locations?
- What does the potential purchaser think are the key requirements from a provider of this service?
- How satisfied is the purchaser with the current supplier?

4. Check when they will next be selecting providers or issuing a tender

- Is competitive tendering always used?
- How will potential providers be advised: direct contact, press advert, online advert or in the Official Journal of the European Union (OJEU), or in the case of low value contracts the new Office of Government Commerce portal www.businesslink.gov.uk
- Are lists of providers kept? If so, when are they updated?
- Are there special procedures for special projects and one-off purchases?
- Do they use direct invitations in addition to open tendering?
- How many do they normally invite to tender?
- What do they look for from providers – experience, financial standing, technical capacity, and so on? What rules do they use?

4 Deciding whether to bid

In deciding whether or not to pursue contracting opportunities VCOs need to consider the potential impact on mission, objectives and capacity.

Once a VCO has identified opportunities it has to decide which of those it wants to pursue. This requires consideration of:

- The organisation's objectives and capacity.
- The contract opportunity and requirements.

Alignment with objectives and purpose

It is important that any potential contract, together with a PSO's aims fit with a VCO's own organisational objectives. The closer the fit, the better the chances of a productive relationship. If an organisation is being drawn away from its core purpose, or if it disagrees with the policies and values of the PSO, there could be problems and conflict later on.

Trading issues

VCOs should consider whether any services to be provided under contract are the primary focus and purpose of the organisation.

If services are not directly linked to core mission, it may be better to deliver them through a trading subsidiary. Contracts include demands for insurance cover, for professional indemnity and public liability, and occasionally performance bonds. Can the VCO meet these requirements? When entering a contracting environment it may be wise to establish a subsidiary company to manage the contractual income generating activity, particularly since VAT issues may also arise. This is a core business decision that needs to be considered when entering into a regular flow of contracting activity and legal advice should be sought.

Useful documents to consult include the Charity Commission publications, *CC35 Charities and Trading* and *CC47 Charities and Contracts*. Available from the Commission website at www.charity-commission.gov.uk



Further information on trading subsidiaries is available in the *Introductory Pack Guide to Trading*. See also *Keeping it Legal: A guide to legal forms for social enterprises*, and *VAT for Voluntary Organisations*, details included in the Resources section.

Capacity to deliver the contract

VCOs should not underestimate the amount of work it can take to put together a successful tender and manage a contract once awarded.

It is important that organisations assess their capacity to deliver contracts. Do they have all the skills? Will training be available where up-skilling is required? Will it require an expansion of activities?



Tool – Deciding whether to bid and what for

Use the list below as a guide to help decide on what contracts are right for a particular VCO.

Mission and objectives

- Do PSO objectives and contract requirements fit those of the VCO?
- Is the scope and level of service required understood?
- What does the VCO want from the contract opportunity:
 - Wider involvement in areas of special interest?
 - Greater reputation?
 - Contributions towards financial overheads?
 - Balanced workload and stability of service provision for users?
- Will the contract affect other activities?
- Is there capacity to deliver through the whole life of the contract?
- Is there capacity to prepare and submit a winning offer?
- Are there any risks that could damage the VCO if badly managed?

Trading issues

- Will the contract contribute to the VCO's primary purpose (thus preserving tax exemption)?
- Would the contract be better managed by a trading subsidiary?
- Can the VCO satisfy any requirements for performance bond cover, professional indemnity insurance and public liability cover?

Capacity

- What operational capacity is needed to meet the contract requirements?
- How much capacity will the opportunity absorb?
- How many suitable current staff could be assigned?
- Will the VCO have to recruit more staff or volunteers? What additional training and development would be required? Is there scope for collaborative working with others?
- How firm is the contractual commitment to the volume of work?



Summary – Deciding whether to bid

- It is important that any potential contract, together with a PSO's aims fit with a VCO's own organisational objectives.
- If services are not directly linked to core mission, it may be better to deliver them through a trading subsidiary.
- VCOs need to ensure they have the capacity to engage with any contract.

5 Building a case

A business case demonstrates benefits, assesses risks and how they will be managed, quantifies impact on resources, and sets out the advantages and disadvantages of doing a particular action in relation to stated objectives.

Once a VCO has decided to bid for a contract it needs to write a proposal. This may need to conform to a structure or application form laid down by the PSO. As a prelude to this, a VCO needs to build a 'business case' outlining why it should provide a particular service and considering all the associated risks and impact. This is not only about preparing a case to sell the service to the purchaser, but also to help establish amongst all the VCO's stakeholders that providing the service is right for the organisation. The business case should be sufficiently detailed to confirm the decision to proceed.

Identifying unique advantage

Successful VCOs ensure that there is a good fit between their own purpose and objectives and what the PSO is trying to deliver. An assessment of strengths and weaknesses will allow the organisation to emphasise its unique selling points, whether they are experience, quality of staff, or familiarity with client groups. Within the tender proposal VCOs should aim to manage the presentation of strengths such that they fit the client's idea of what is required. The 'invitation to tender' will specify the service required and say what criteria the purchaser will use to decide between the different bids. Finding a unique competitive advantage will help strengthen a VCO's chances of success.



Further information on developing VCO competitive advantage is available in the *Introductory Pack Guide to Trading*.

Planning and costing services for a contract

VCOs should outline the scope of any service and how they would provide it. This means checking that they can cover every aspect of the specification. It is helpful to pull together an outline plan that shows what resources will be used and how. Associated costs also need to be included to enable the VCO to see the impact of the opportunity on existing operations and services.

There needs to be clarity about whether the funds offered through a contract will enable all associated costs to be covered. A practical tool to help VCOs to understand and calculate their costs and allocate them appropriately has been developed by New Philanthropy Capital and ACEVO (Association of Chief Executives of Voluntary Organisations). The guide, *Full Cost Recovery: A guide and toolkit on cost allocation* (2005), includes a cost allocation template to help organisations calculate the full costs of their projects and services in an easy step-by-step process.



Details of the full cost recovery toolkit are provided in the Resources section. Further information on cost and pricing, including full cost recovery, are also included in the *Introductory Pack Guide to Financial Management*.

Engaging with electronic procurement

Electronic sourcing (e-sourcing) is using the internet to establish, manage and monitor contracts.

For some contracts VCOs will have to engage with online-based procurement systems. Where this is the case, the business case should also include an assessment of whether this is achievable. In some cases there may be a need to invest in hardware, software or training for staff. This assessment may affect a decision to proceed or highlight a need to negotiate for funds to cover potential costs. Examples of e-sourcing and procurement includes:

e-tendering – Where PSOs carry out the tendering process online. Usually an interested supplier receives an email notice to go to a website to download an invitation to tender and supporting documents. Suppliers then submit bids by going back to the website to lodge the completed tender by submitting details in a closed tender box.

e-evaluation – This is an automated process of tender evaluation against criteria that are agreed in advance and provides details of the outcome of a tender much faster.

e-collaboration and **e-contract management** – An online tool that helps establish, manage and monitor contracts including collating supplier bid histories (e.g. the value and number of contracts awarded).



The publication, *Tendering for Government Contracts: A guide for small businesses* contains further information. The Small Business Service also has a portal specifically directed towards small organisations. See www.businesslink.gov.uk



Summary – Building a case

- Once a VCO has decided to bid for a contract it needs to write a proposal. This not only builds a case to sell the service to the purchaser, but helps establish that providing the service is right for the organisation.
- Successful VCOs ensure that there is a good fit between their own purpose and objectives and what the PSO is trying to deliver.
- There needs to be clarity about whether the funds offered through a contract will enable all associated costs to be covered.
- For some contracts VCOs will have to engage with online-based procurement systems.

6 Legal and technical matters



This section highlights the main legal and technical matters associated with contracting. It is intended as an introductory overview only. **Further details are provided in *Before Signing on the Dotted Line: All you need to know about procuring public sector contracts*. Details in Resources section.**

Principles of public sector buying

The European Union (EU) Treaty governs all public sector procurement contracts in the United Kingdom. The treaty establishes four fundamental principles which govern public procurement:

Principle 1: Equal treatment – suppliers are entitled to equal and fair treatment at every stage of a contract award procedure.

Principle 2: Transparency – Information about contracts and the rules to be applied should be available to all interested candidates. The rules that will be applied in assessing applications for tender lists and the criteria for selection should be clearly advertised.

Principle 3: Proportionality – The demands placed on providers should be both relevant and directly related to the contract being awarded.

Principle 4: Mutual recognition – This requires that the standards, specifications and qualifications in use throughout the EU receive equal recognition to ensure services are suitable for their intended purpose.

VCOs may wish to consult with a legal advisor and decide whether to pursue a complaint or grievance if they feel EU principles have been infringed.

Different contracts for different goods and services

There are three main categories of contracts that PSOs can award:

Services contracts – Services are divided into two categories, known as ‘priority’ or Part A services and ‘residual’ or Part B services. The full procurement regime only applies to Part A service contracts. Limited procurement procedures apply to contracts for the award of Part B services.

Examples of Part A Services	Examples of Part B Services
<ul style="list-style-type: none"> • Computer support. • Engineering. • Financial services. • Maintenance and repair. • Management consultancy. • Market research. 	<ul style="list-style-type: none"> • Leisure services. • Legal services. • Social services and healthcare. • Educational and vocational services. <p>Most of the services provided by VCOs will be classed as Part B.</p>

Supplies contracts – If a PSO intends to award a contract or a series of contracts involving the purchase, lease, rental, or hire purchase of goods or products they will be categorised as supplies contracts.

Examples of supplies contracts	
<ul style="list-style-type: none"> • Computer software. • Educational material. • Vehicles. 	<ul style="list-style-type: none"> • Food. • Office equipment and consumables.

Works contracts – These are broadly construction related and will not apply to most VCOs. Works contracts tend to relate to a complete building as opposed to mere repairs or maintenance. However, contracts for major repairs or complete refurbishment are normally treated as works contracts, and the provision of facilities if construction or refurbishment is involved.

Mixed contracts – If a PSO is purchasing a mixture of services and supplies in one contract, then it will be subject to the rules of the dominant part – the one with the higher monetary value. The same applies where there is a contract for a mix of Part A and Part B services.

Contract regulations and management

A major characteristic of public sector procurement is the variation in rules governing the procurement process at national, regional, local and even at individual organisation level. There are essentially three tiers:

- **Local level** – PSO or department’s internal standing orders, by-laws, financial regulations, local strategies and policies.
- **National level** – includes statutes, regulations and guidance from Parliament or central government. The Office of Government Commerce, Scottish Executive and Welsh Assembly Government support respective PSOs, although there is an element of overlap and collaboration between these organisations.
- **EU level** – EU Treaty, directives and UK regulations.

Potential VCO purchasers are likely to be at the local level.

³ Charity Trends 2005

Case study – example of one PSO’s approach to procurement Learning and Skills Council

Derwent Stepping Stones in Derbyshire provides childcare and training support to families. It has contracts with the Learning and Skills Council (LSC) and follows that agency’s tender process.

The LSC defines the national, regional and local strategies to be used, the outcomes required and the reasons why it is setting specific objectives for each annual allocation of funds. According to Derwent, ‘the process has been designed to inform and enable providers to offer ways of meeting the specified outcomes through providing services in as cost effective way as practical. The criteria for selection are clear and explained’.

For the LSC the key is to identify and assess what is the most effective way of achieving specified outcomes in a particular round of opportunities, against the published criteria and questions. The procurement rules themselves are less likely to change than the ways of considering and choosing the criteria for evaluating bids.

The opportunity for influence is therefore not inside the annual procurement process, but in the preparatory stages. The entry point for influence will be through feedback and the forums for evaluation of what has happened or been achieved in previous rounds. In Derwent’s case, it is the local council for voluntary service which is able to help explore with LSC what is most important for future rounds.

PSO constitutions will set out relevant rules and procedures that determine how they will deliver value for money and achieve the expected standards of integrity and probity. In local government these are called financial regulations and standing orders. They will include contract standing orders, and will determine the levels of authority for making and approving contract awards.

Contract standing orders usually include thresholds for inviting written quotations and applying full tender procedures, minimum numbers of quotations and tenders to be sought, and procedures for their return, opening and evaluation. VCOs can also request copies from the relevant purchasing officer.

Information on contract regulations

See the following site for an example process and regulations:
www.cambridgeshire.gov.uk/business/selling

VCO’s may be able to access their potential purchaser’s regulations via the website
www.tagish.co.uk/links



How thresholds determine procurement procedures

As explained in section 2, purchasers are required to base procurement on objective criteria, and they will normally demonstrate that they are achieving these through a competitive process. Generally speaking, processes get more formal as the value of the contract increases. The procurement procedures applied are also determined by a number of 'thresholds':

Direct purchase threshold – Goods or services below this value may be sourced from wherever convenient by the purchaser without having to obtain written or verbal quotations.

Quotation threshold – Purchasers are required to obtain a minimum number of quotations, normally at least three, for goods or services before selecting the most appropriate.

Tender threshold – As the value of the purchase increases it is increasingly important for purchasers to demonstrate that value for money has been achieved and that offers have been evaluated objectively.

Financial threshold – These determine whether a contract, or group of contracts, is subject to European procurement directives. If the value of a single contract, or series of contracts exceeds these thresholds then the PSO must comply with the procedures laid down in EU directives.

It is the aggregated value of the services to be provided under the contract that will determine the procedures to be used.

European legislation

The provisions of the EU Treaty cover all public sector procurement contracts. European procurement directives set down the procedures and standards (based on openness, non-discrimination and competition) for choosing tenderers and awarding contracts with an estimated value above a set limit or threshold. These are backed by UK law to make them enforceable here.

Penalties for non-compliance with directives are severe, including possible suspension of tender exercises/contract award processes and/or unlimited damages. If a VCO thinks a PSO has acted unlawfully they should seek legal advice. Alternatively they could contact NCVO's Compact Advocacy team, details in the Resources section.

Summary – Legal and technical matters

- The European Union (EU) Treaty governs all public sector procurement contracts in the United Kingdom and lays down the principles for them.
- Different goods and services are subject to different types of contracts, divided into services, supplies or works contracts.
- Different rules and legislation govern the procurement process at national, regional, local and even at individual organisation level.
- Procurement procedures are also determined by 'thresholds'. These are concerned with issues including where supplies will be sourced from, the number of tenders to be obtained, and contract size.



7 Types of agreement – SLAs and contracts

Agreements with PSOs have many names. **In law it is not the formal description that counts but the content of the agreement.**

Where VCOs succeed in submitting a winning tender they will be offered a contract.

In practical terms, one of the greatest barriers to a productive PSO/VCO contracting environment is the degree to which it is not clearly perceived to be strictly a 'contracting' environment. VCOs often receive public funding for activities and services without clarity about the formal agreement outlining the service to be delivered, standards to be met or quality of performance.

In reaching agreements to provide services VCOs encounter grants, service level agreements (SLAs) and contracts.

- **Grants** are subsidies for the operation of the VCO in meeting its purpose and objectives and are subject to the European State Aid regime and its regulation of competition law.
- **Service level agreements** set standards and specify levels of service without any commitment to use the agreement.
- **Contracts** specify service requirements, and make clear what and how a service is to be delivered, and for what payment.

Public procurement is about establishing contracts between PSOs and (for the purposes of this guide) VCOs. The procurement rules and procedures lead the PSO into a contractual agreement for the purchase of services. The contract specifies the services and the basis for delivery and payment. The agreement will determine for the VCO how it will provide services that meet the PSO's specified needs.

Distinction between grants and contracts

A broad **definition of a contract** is that there is:

An offer + Acceptance + Consideration + Contractual intention, leading to an agreement.

The essence of the contract is an agreement setting out the arrangements whereby one party provides a service (or goods) to the other in return for payment.

Many VCOs are already working with public bodies such as community, health, social care or education services where work is taken on by agreement. Such arrangements are often grant funded but are increasingly being replaced by contracts.

VCOs should check how PSOs want to purchase their services in future and if contracts will be introduced. If contracts are being introduced the organisation needs to understand how different the new arrangements might be by identifying the essential features of the contract.

In law there is distinction between:

- **A grant** (in which a PSO subsidises a VCO's work).
- **A contract** (in which there is an exchange of specified services delivered to the PSO in return for specified payments).

PSOs may, in practice, go through similar internal procedures to issue grants, but grants and contracts and the relationships they create are different. The similarity can lead to confusion by both PSOs and VCOs. Grant conditions may specify the basis upon which the grant is given. They do not specify the services to be delivered to the PSO.

Sometimes the service provision may be unclear in contracts, for example the social care of individuals. The key legal question is whether the care package is being delivered to the individual, subsidised by a grant, or delivered to the PSO, through it taking responsibility for the individual. This distinction is hugely important given the general policy shift away from PSO grant funding to publicly procured contracts. It also clearly explains the different treatment for VAT. VAT is chargeable on the supply of services. This occurs under a contract. Under a grant there is no supply of services to be taxed.



Further information on VAT is available in Elliott, Graham (ed) (2005) *VAT for Voluntary Organisations* (6th edition). NCVO. London.

Contract features and structure

General terms and conditions – Will apply to all contracts. They will describe the basis upon which the service is to be provided and the way the parties are to relate during the performance of the contract. They are usually in a standard form, which the PSO imposes and the VCO is obliged to accept. Opportunity for negotiation of the general terms will be limited.

Specification or contract brief – Will set out:

- Requirements to be met.
- Standards to be complied with.
- The definition of the services to be provided.
- The specific measurable 'deliverables' or 'outputs' which the VCO must achieve to fulfil its obligations.
- Agreed performance indicators.
- Agreed timescales.
- Agreed payment provisions, including milestones or instalment triggers.
- Procedures for liaison, review, monitoring, reporting, renewal, dispute resolution, variation and termination.

These components of the intended working relationship should be the focus of the brief in an invitation to tender, the tender presentation, the subsequent negotiation and ultimately the formal agreed contract.

Schedules – May be used for individual orders or service provision under contracts. These are of particular importance where individual care packages or detailed elements of the service have to be set out after the contract is in place.

Letters – Are usually exchanged to confirm and accept contracts.

Changes and variations – may subsequently be agreed to comply with procedures defined in contracts.

Practical issues of the PSO/VCO contracting environment

Negotiation of contract terms will seem unequal if a small, or new to contracting, VCO is engaging with a large PSO. There are instances where the PSO will draft the tender documents in such a way that in making an offer the VCO is accepting the terms and conditions of the contract. A preferred response may be to make clear any amendments or difficulties you have and the need for a short negotiation to finalise the contract on a mutually acceptable basis. VCOs need to be alert and assess their rights and obligations, and the recourse available in event of default/breach. Although negotiation can be challenging, VCOs should not accept conditions they are unable, or unwilling, to comply with.



With legal issues professional advice should be sought. In the case of breaches of the Compact, NCVO's Compact Advocacy team should be the first point of call. For further details see www.ncvo-vol.org.uk/compactadvocacy

Other forms of agreement

Service level agreements (SLAs)

SLAs set out what is required in a service and the basis for delivery and payment. Flexibility is built into arrangements so that decisions on detail can be negotiated case-by-case, driven by circumstances and individual needs.

The public sector contracting environment is plagued by confusion as to the nature of Service Level Agreements. This may be because many are used by PSOs to agree internal provision of services between departments. PSOs have then adapted them for use with external service providers. An SLA, properly described as such and properly analysed, is either a contract or a detailed specification forming part of a contract.

Currently, many VCOs have SLAs linked to grant funding. However, because the PSO is accountable for the provision of the services and the use of public funds, many of these arrangements are likely to become increasingly subject to public scrutiny and renegotiated to appear as specifications within a fuller contract.

An important benefit of having an SLA in place is that the provider is uniquely placed to influence the definition and specification of the service.

Framework agreements

A framework agreement is an arrangement where a purchaser, or group of purchasers, selects providers and establishes terms in advance so they can quickly order goods and services when they need them in future. It is a kind of pool or panel. The agreement will cover specific goods or services and allows the PSO to buy from the selected providers quickly whenever they wish over the life of the agreement. The terms and prices will usually be fixed for the duration of the framework agreement and will not be open to renegotiation part way through.

VCOs should certainly work out their business case before entering into framework agreements because there is no guarantee of being awarded any business. The decision to make purchases is entirely in the hands of PSOs and they can still go outside the framework agreement and separately tender, if they wish.



Summary – Types of agreement – SLAs and contracts

- Agreements with PSOs have many names. In law it is not the formal description that counts but the content of the agreement.
- The essence of a contract is an agreement setting out the arrangements whereby one party provides a service (or goods) to the other in return for payment.
- The key legal question is whether services are being delivered to the end user, subsidised by a grant, or delivered to the public body, through it taking responsibility for the end user.
- VAT is chargeable on the supply of services. This occurs under a contract. Under a grant there is no supply of services to be taxed.
- Contract negotiation can be challenging, but VCOs should not accept conditions they are unable, or unwilling, to comply with.
- SLAs set out what is required in a service and the basis for delivery and payment. Flexibility is built in so that decisions on detail can be negotiated case by case, by circumstances, and individual needs.
- An SLA, properly described as such and properly analysed, is either a contract or a detailed specification forming part of a contract.

8 The tendering process

Key steps to tendering

Successful tenders depend on VCOs working out exactly what purchasers are looking for. If an organisation can influence thinking in advance, though developing a working relationship with a potential purchaser, so much the better.

The key steps in a tendering process are outlined below. See also Figure 1 in section 2.

Key steps to tendering	
For the purchaser	For the VCO supplier
Agree the full requirement and specification of needs.	Keep abreast of what is happening in the purchaser's sector and how their needs and targets are changing.
Liaise and negotiate with suppliers.	Keep in touch with purchasers and take any opportunity to influence their thinking.
Advertise.	Monitor the press and other sources for contract notices.
Invite and receive bids.	Develop and submit tender.
Evaluate offers.	Respond quickly and professionally if asked to make a presentation or provide more information.
Negotiate arrangements and agree contracts.	Negotiate arrangements and agree contracts.
Handle problems and maintain records.	Keep a complete record of everything done as per financial requirements and in case of later problems.

Before inviting a request for tender the more complex, higher-value contracts will have a pre-qualification stage. This helps to reduce the amount of effort providers need to put in because it enables the PSO to select organisations with the real prospect of meeting their full requirements and avoids bidders competing for opportunities outside their capacity or experience.

PSOs will evaluate whether a provider is able to do the work, on basic criteria such as status, financial standing, health and safety policy, environmental policy, equal opportunities policy and experience of delivering similar services. The match has to be relevant to the opportunity and assesses technical capacity and ability to meet the fuller brief and requirements that will be detailed in the tender invitation.

Where a formal tendering process is not used

Typically, non-competitive procurement is used when:

- No bids were received in a competitive, open or restricted procurement process.
- For technical or artistic reasons, or for reasons connected with the protection of exclusive rights (such as a patent, copyright or exclusive licence), the contract can only be performed by one particular supplier.
- There is a need to proceed urgently as a result of unforeseeable events (except where the events are attributable to the PSO).
- There is a need for repeat or additional works, supplies or services which must be provided by the original supplier (for example, for reasons of compatibility).
- There is only one supplier who can provide the works, services or supplies.
- Contracts are of low value. This circumstance may be a way in for smaller VCOs who have formed good relationships with purchasers.

Tender procedures

There are four categories of tender procedure: open, restricted, competitive dialogue, and negotiated. The majority of contracts are awarded using the restricted procedure.

Open procedure – Any supplier can request a copy of the tender documents and then submit a response. This is infrequently used, as it is likely to produce a large number of tender submissions that the PSO has to evaluate.

Restricted procedure – This is used when only a limited number of suppliers will be invited to submit a full tender. On the basis of economic and technical information provided by suppliers the PSO will select those they will invite to submit a tender. In comparison with the open procedure this reduces the amount of work in evaluating final tenders.

Competitive dialogue procedure – This is designed to cope with particularly complex projects such as public private partnership projects.

Negotiated procedure – This is only used in more complex projects when there may be a number of solutions that will meet the requirement or the overall price cannot be determined in advance.

Candidate selection criteria

Criteria must be relevant to determining the candidate's ability to fulfil the requirements of a specific contract as well as any additions which are expected to result directly from the initial contract.

Unless suppliers are offering a very simple and homogeneous commodity it is likely that the purchasing authority will use either a restricted or a negotiated procedure. Suppliers will be requested to complete a questionnaire or provide information listed in tender advertisements. This information is then used to determine which providers will be invited to tender or negotiate.

Where VCOs meet the candidate selection criteria and submit a valid tender, their tender is entitled to be given due consideration under the contract award criteria. If the tender proves to be the best under the award criteria, the PSO is not entitled to reject the tender by returning to reconsider the selection criteria. However, the PSO may at its own discretion decide not to award any contract and to cancel the entire award procedure.

Preparing a tender

In preparing a tender, a VCO should:

- Read all of the documentation carefully and note the key points.
- Check the organisation can meet the principal requirements and that it will have the necessary resources to fulfil the contract, if successful.
- Note the duration of the contract. It is becoming standard in the public sector to award two- or three-year contracts.
- Compile a checklist of all items to be provided in, or with, a bid.
- Use the checklist before finalising any bid and submitting it.

The organisation should designate someone to take overall responsibility for compilation of the tender. Individual aspects can also be allocated to appropriate staff, for instance, financial figures to the accounts team, and so on. Ensure that the nominated person will not be away at the time the tender needs to be submitted.

Bids should be bound so that they are easy to read. Organisations may be asked to provide a number of copies to assist the evaluation team, some of which may omit pricing information.



Tool – Checklist for tender preparation

Use the list below as a guide to help preparing a tender.

Closing date

- Note the day, date and time by which the tender must be submitted.
- Make arrangements in advance for delivery (post, courier, personal delivery, and so on).
- Acknowledge receipt of the invitation to tender and advise that you intend to submit a bid.

Award criteria

- Note whether it is lowest price or most economically advantageous tender.
- If the latter, what are the factors involved?

Status

- Information on organisation structure, management and organisation.
- Details of personnel.
- Details of current service provision.

Financial information

- Turnover for past two to three years (Government Guidance recommends two years).
- Most recent audited accounts.
- Bank references.
- Tax Clearance Certificate.
- Guarantees and bonds.

Technical information

- Details of facilities, equipment, and so on.



Specification

- Do you understand the full requirements? If not, seek clarification.
- What standards are quoted?
- Can you meet the requirements of the specification?

Health and safety

- Details of health and safety policy.
- Details of accident records.
- Environmental issues.

Quality assurance

- Details of quality assurance.

Insurance

- Ensure the appropriate insurance is in place.

Pricing

- Structure the pricing as specified.
- If tender pricing sheets are included complete in full and total the costs.

Labels and envelopes

- Has the purchaser provided a label for returning the tender? This is an administrative detail for the purchasers in order to be able to isolate tenders and treat them in a confidential manner. Alternatively, envelopes may need to be clearly marked as tender submissions.
- Does the PSO want one envelope inside another? Comply with whatever is requested.

Sign-Off

Don't forget to sign all tender documents – unsigned documents will not be considered. Typically, a CEO's signature will be required.

Deadline

PSOs have strict deadlines and being five minutes late may mean all your work goes to waste.

Contract award criteria

Awarding bodies must make known, in advance of the tender process, the criteria they intend using to choose the successful tenderer(s) for contracts. The criteria should be specific to each contract and may be in terms of lowest price, or the most economically advantageous tender submitted for the contract. VCOs should examine these award criteria and ensure that their tender meets them to as high a degree as possible.

Evaluation of tenders

Tenders are often evaluated in two stages, and quite often by separate groups within the PSO. First there is a technical stage, to ensure the product or service will meet the specification and performance requirements, then the commercial evaluation stage. Only tenders that comply with specifications and general tender requirements will be considered for acceptance. If a tender does not meet requirements it will be treated as invalid. The PSO is not allowed to alter pre-published award criteria.

These rules ensure that all service providers receive equal treatment when competing for public contracts.

Contract award

Submission of a tender normally constitutes a binding legal obligation to provide services, subject to terms and conditions in the tender document. The successful tenderer will normally receive an official purchase order or other formal notification of the PSO's intention to award a contract.

If a tender has been unsuccessful a VCO should be notified straightaway. There may be a slight delay until the successful supplier confirms acceptance.

The realisation of all the preparation and hard work is the supplier's receipt of a purchase order or signed contract from the purchaser. This is not the end, however, but the beginning of the contract management phase.



Summary – The tendering process

- Successful tenders depend on VCOs working out exactly what purchasers are looking for.
- The majority of contracts are awarded using the 'restricted' procedure, where only a limited number of suppliers will be invited to submit a full tender.
- In preparing a tender, VCOs should designate someone to take overall responsibility for compilation of the tender.
- VCOs should examine contract criteria and ensure that their tender meets them to as high a degree as possible.
- Ensure tender documents are signed – unsigned documents will not be considered. Typically, a CEO's signature will be required.

9 Where next?

The Tools contained within this guide are intended as a starting point to help organisations thinking through what might be involved in engaging in procurement processes to win contracts. Further Tools will be available in the *Finance Hub Toolkit for Funding Advisors* due for publication early in 2007. The *Toolkit* will complement the information contained in the *Introductory Pack* guides to provide a working support pack of resources to enable VCOs and their advisors to work together in thinking through funding options.

For organisations in need of support a first point of call should be local agencies such as Councils for Voluntary Service (CVS) or local Business Link offices; details of which are contained in the Resources section. Advisors can assist groups by discussing ideas, assisting with developing business plans or putting together tenders. In some instances, larger CVS may also have a relationship with local PSOs, or be in a position to broker a relationship on a VCO's behalf. Advisors should be able to signpost to specific business development support agencies and professional specialists. They will also be aware of local issues likely to affect organisations thinking of providing services under contract in their geographic area. A number of additional resources including support agencies, publications and websites are included at the end of this guide.

Prior to meeting with an advisor, it may be useful for organisations to use some of the Tools included here and to have considered potential contracting options. This will provide a starting point an advisor can build upon to ensure organisations get the most out of any advice session.

Key words and phrases

Business case – demonstrates benefits, assesses risks and how they will be managed, quantifies impact on resources, and sets out the advantages and disadvantages of taking a particular course of action in relation to stated objectives.

Candidate selection criteria – criteria used to determine shortlist of suppliers that will be invited to bid for a contract.

Contract – a legally recognised, and hence, legally enforceable, promise, or set of promises made between parties. The essence of a contract is an agreement setting out the arrangements whereby one party provides a service (or goods) to the other in return for payment.

Contract award criteria – criteria used to assess tenders to deliver services and in line with which a contract will be given to a supplier.

Contracting – generating income by providing goods or services outlined via an agreement between a purchaser and a service provider. It is particularly suitable for organisations involved in some form of service delivery work such as health, social care, education or similar provision where services could conceivably be purchased by a local authority or other public sector agency.

Invitation to tender – advertisement of a purchaser's service requirements to which interested suppliers can respond by writing a bid.

Office of Government Commerce – provides a very useful starting point. Website contains further details and under the 'how government buys' section, a step-by-step guide through the procurement process. See www.supplyinggovernment.gov.uk

Pre-qualification questionnaire – used to determine shortlist of suppliers invited to tender for a piece of work. Assesses technical ability and capacity and that basic systems are in place.

Procurement – the purchase of goods and services from an external agency.

Service Level Agreement (SLA) – sets out what is required in a service and the basis for delivery and payment. Flexibility is built in so that decisions on detail can be negotiated case by case, by circumstances, and individual needs. An SLA, properly described as such and properly analysed, is either a contract or a detailed specification forming part of a contract

Service specification – requirements for a particular service.

Tender – written bid outlining a supplier's desire, capacity and plan of how to deliver a piece of work, service or supplies. Exact contents will be determined by the requirements outlined in the service specification and must demonstrate how a supplier will meet these requirements.



Further support and resources

Procurement specific advice and support

Before Signing on the Dotted Line: All you need to know about procuring public sector contracts (2006). NCVO. London. Full text of this guide plus additional resources and signposts. Available from NCVO at www.ncvo-vol.org.uk/sfp

Business Link – provides access to business advice and support for small firms through a national network. See www.businesslink.gov.uk

Compact – guidance laying down terms for engagement between the VCS and government. Further information is available at www.thecompact.org.uk

Compact advocacy – where VCOs are experiencing difficulties with purchasers, and feel the principles of the Compact have been breached, NCVO's Compact Advocacy team may be able to help on the VCO's behalf. For further details see www.ncvo-vol.org.uk/compactadvocacy

Contracting with the National Health Service – for an overview of how the NHS operates see the NHS website available at www.nhs.uk/england

Charity Commission – The first point of call for any registered charity considering contracting should be the Charity Commission website. In particular, the Commission's *Policy Statement on Charities and Public Service Delivery* which can be found under the 'guidance for charities' section of their website. This sets out the key issues trustees need to take into account if their organisation is to take on a greater role in public service delivery. A copy of the statement is available from www.charity-commission.gov.uk

Another Charity Commission publication, *CC35 Charities and Trading*, looks at legal and structural issues associated with trading and is also highly recommended.

Charity Commission Policy Statement on Charities and Public Service Delivery can be obtained from the Commission's website at www.charity-commission.gov.uk

Community Matters – a federation of community organisations, provides advice on contractual dealings with Local Authorities. Their helpline number is 0207 837 7887.

European Union Procurement Rules – Further guidance can be obtained from your local Euro Information Centre (EIC). Details on the EIC website: www.euro-info.org.uk

Futurebuilders-England – provides tailored finance packages for VCOs wishing to develop their public service delivery work. The website also includes useful guidance on approaching purchasers and bidding for tenders, including, *A Guide to Purchaser's Plans or How to Find Out Who Might Purchase Your Service*. Available at www.futurebuilders-england.org.uk

Local and national priority needs and service plans – Public sector purchasers usually have to produce a plan or strategy showing how they intend to deliver on national and local priorities and meet the targets attached to these priorities. These strategies can be a useful way of identifying both potential purchasers of your service and the specific local priorities you may be able to help them meet.

[National Procurement Strategy for Local Government](#) – published by the Office of the Deputy Prime Minister in October 2003. The guidelines encourage local authorities to buy more services from voluntary and community sector suppliers. A copy of the Strategy and related documents is available from the ODPM website at www.odpm.gov.uk

[NHS priorities to 2008](#) – available on the relevant section of the NHS website: www.dh.gov.uk/PolicyAndGuidance

[Procurement departments](#) – If you are considering tendering for contracts it is important to understand the criteria that will be applied in any tendering process. An important step to getting this information is to contact the procurement department within the relevant agency you are interested in working with and obtain a copy of their written guidelines.

[Think Smart - Think Voluntary Sector!](#) – best practice guidance from the Home Office and Office of Government Commerce on procurement of services from the voluntary and community sector. It is aimed at Government Departments and non-Departmental public bodies but contains a useful reference document for voluntary and community organisations. Available from the Home Office website at www.homeoffice.gov.uk

Publications

Bates, Wells and Braithwaite and Social Enterprise London (2003) *Keeping it Legal: Legal forms for social enterprises*. Available from www.bateswells.co.uk

Bush, Helen (2003) *Best Value: A guide for voluntary organisations*. NCVO. London.

Copeman, C et al (2004) – *Tools for Tomorrow – A practical guide to strategic planning for voluntary organisations*. NCVO. London.

Elliot, G (2005) *VAT for Voluntary Organisations: A step-by-step guide*. NCVO. London.

Full Cost Recovery: A guide and toolkit on cost allocation (2005). New Philanthropy Capital and ACEVO. London. Includes a cost allocation template to help VCOs calculate the full costs of their projects and services in an easy step-by-step process. Available in hard-copy or as an interactive CD-Rom from www.acevo.org.uk

Palmer, P with F. Young and N. Finlayson (2005) *The Good Financial Management Guide*. NCVO. London.

Mutual Obligations (1997). NCVO. London.

General voluntary and community sector support

www.ncvo-vol.org.uk
www.navca.org.uk

www.bteg.co.uk
www.acre.org.uk
www.guidestar.org.uk
www.charityfacts.org
www.charity-commission.gov.uk

NCVO (National Council for Voluntary Organisations)
NAVCA (National Association of Voluntary and Community Action)
Black Training and Enterprise Group
Action for Communities in Rural England
Guidestar
Charity Facts
Charity Commission

ChangeUp Hubs of expertise

Finance Hub

The Finance Hub is delivering to the Government's ChangeUp programme to create VCOs which are effective and independent because they are financially sustainable. Further details and resources available at www.financehub.org.uk

Governance Hub

The Governance Hub aims to improve the quality of governance of VCOs in England at national, regional and local level. It offers a wide range of services and resources to chairs, trustees and boards that are inspirational and useful to help them in effectively leading and developing their organisations. Further details and resources available at www.governancehub.org.uk

ICT Hub

The ICT Hub aims to improve VCS information and communications technology infrastructure so that VCOs are enabled to achieve their missions more efficiently and effectively through the better use of ICT. It provides ICT guidance, good practice, advice and support accessible at a local level. Further details and resources available at www.ictHub.org.uk

Performance Hub

The Performance Hub aims to bring together in one place the wealth of experience and expertise in performance improvement that already exists, and make this expertise far more accessible to VCOs. It also helps local, sub-regional, regional, and national infrastructure improve the quality and quantity of the support they can offer to VCOs and works with funders and policy-makers to improve the environment within which VCOs operate. Further details and resources available at www.performancehub.org.uk

Volunteering Hub

The Volunteering Hub works to achieve a leaner, effectively marketed and high-quality volunteering infrastructure reaching, recruiting and placing a greater number and diversity of individuals coupled with improved volunteer management. Further details and resources available at www.volunteering.org.uk/aboutus/volunteeringhub

Workforce Hub

The UK Workforce Hub helps VCOs recruit, retain and develop the staff, volunteers and trustees they need. It works in four main areas: learning and skills, human resources and good employment practice, leadership and working and volunteering in the voluntary sector. Further details and resources available at www.ukworkforcehub.org.uk

Additional support

Councils for voluntary service and other support agencies

The NAVCA website can help with locating local CVS. Available at www.navca.org.uk

CIB/fit4funding

fit4funding (The Charities Information Bureau) provides training, information and consultancy on every aspect of the funding process – from giving grants, accessing and managing funds, to giving funding advice. A Finance Hub commissioned programme of training designed for funding advisors and delivered by partners (fit4funding, SYFAB, CA Hants, FINE, Engage East Midlands and NAVCA) throughout the country will be launched in 2006. Further details available at www.fit4funding.org.uk

Strategic planning

NCVO's Third Sector Foresight project helps VCOs to plan effectively for the future by providing information on trends affecting the sector and planning guidance to deal with these. The project's annual publication, The Voluntary Sector Strategic Analysis, is a useful tool for future planning and decision-making. For more information, visit www.ncvo-vol.org.uk/3sf

Sustainable Funding

NCVO's Sustainable Funding Project works to encourage and enable VCOs to explore and exploit a range of funding and financing options. Further case studies illustrating how VCOs have pursued income diversification and other resources providing ideas, information and inspiration available at the Sustainable Funding Project website www.ncvo-vol.org.uk/sfp

To register for the Sustainable Funding e-newsletter – delivered free via email each month – email sfp@ncvo-vol.org.uk and ask to join the mailing list.



NCVO's Sustainable Funding Project encourages and enables voluntary and community organisations to explore and exploit a full range of funding and financing options to develop a sustainable funding mix.

The Sustainable Funding Project
funding in the round
Website: www.ncvo-vol.org.uk/sfp
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Email: sfp@ncvo-vol.org.uk

The Finance Hub is delivering to the Government's ChangeUp programme to create voluntary and community organisations which are effective and independent because they are financially sustainable.

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ISBN: 0 7199 1685 2

July 2006

Charity registration: 225922