



# Guide to Commissioning and Procurement

## Introduction:

In the past most government funding for voluntary and community organisations was given in the form of grants; now contracts are becoming more common. Most public bodies have introduced a formal commissioning and procurement process whereby potential service providers are invited to compete for a contract to deliver a specific public service. This means voluntary and community organisations have to learn how to compete with other voluntary sector organisations, private businesses and public sector bodies to bid for and win contracts. This is a huge change in the way public services are funded and a big challenge for organisations in our sector.<sup>1</sup>

Many people in women's organisations will have heard of commissioning, procurement, tenders, contracts, consortia, etc. but may find it very confusing. The aim of this guide is to provide an introduction to commissioning and procurement, explain unfamiliar words, help women's organisations to decide whether to get involved, and understand how to access this source of funding for their work.

## What is commissioning and procurement?

'Commissioning' and 'procurement' are two different things:

Commissioning is the process of identifying needs, designing and planning services to meet those needs, securing the services and monitoring and evaluating them.

Procurement is the process of buying of goods and services from an external agency. It is only *part* of a commissioning process and it is a specific method of buying goods and services which involves a contract.

All national and local public service organisations are now taking a 'commissioning' approach to the design and delivery of public services. By taking this approach, they *aim* to be more strategic, gain a deeper understanding of people's needs, improve the quality of services, improve outcomes for service users, and ensure that public money is allocated according to local and national priorities. Public bodies also aim to spend public money more effectively and reduce any waste of resources.

## Does commissioning always involve a procurement process?

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<sup>1</sup> See WRC report, 'The Impact of Commissioning and Procurement on the Women's Voluntary and Community Sector', January 2008

No, public bodies can deliver services in different ways. For example:

- By delivering the service itself, by employing its own staff and providing other necessary resources
- By providing a grant to another organisation to deliver the service
- By providing 'in-kind' support to an organisation which is providing the service (e.g. a local authority could provide staff, buildings, equipment)
- By working in a formal partnership with one or more organisations
- By giving financial support to service users who can then buy their own services<sup>2</sup>
- By investing in an organisation and enabling it to deliver a service which generates its own income
- By using a formal procurement process and awarding a contract to another organisation to deliver a service

An 'intelligent' commissioning process will involve commissioners considering all the possible funding options, and choosing a method that is most likely to result in a high quality service that really benefits the people using it.

Unfortunately, many commissioners choose the formal procurement route, even when it is not always appropriate. However, if voluntary and community sector organisations get involved with the commissioning process early on, it is sometimes possible to make the case for 'intelligent commissioning' and encourage commissioners to consider various funding options, including grants.

See WRC guidance on how to present the case for 'intelligent commissioning':

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2009/i/intelligent\\_commissioning.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2009/i/intelligent_commissioning.pdf)

## **Who is involved in commissioning?**

All local and national public bodies are now using a commissioning (and procurement) process. This includes:

- Central government departments and agencies (e.g. Department of Education, Ministry of Justice, Home Office, Skills Funding Agency etc.)
- The NHS and local Primary Care Trusts<sup>3</sup>
- Local Authorities
- The UK Police and Fire Services
- Universities and colleges

## **Background and Legal Issues:**

Changes in UK government policy and the implementation of European Union laws have led to public bodies introducing commissioning and procurement processes for the delivery of public services.

### **Changes to UK government policy:**

Over the past 20 years public services have increasingly been 'contracted out'. Instead of public bodies delivering public services themselves, they invited other organisations to go

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<sup>2</sup> Many disabled people, elderly people and people with mental health problems now have their own 'personal budgets' to buy their own services. For more information, see NCVO website: [www.ncvo-vol.org.uk/personalisationresources](http://www.ncvo-vol.org.uk/personalisationresources)

<sup>3</sup> In July 2010, the Government announced a proposal to abolish PCTs and enable GPs to directly commission services. At the time of publishing this guide, the future of health service commissioning is still unclear.

through a competitive tendering process to win a contract to provide these services. The introduction of 'contracting out' was based on an assumption that this would bring greater efficiency and 'value for money' and enable public bodies to focus on a more strategic role.

Initially, this mainly involved contracting out services such as rubbish collection to the private sector. However, during the Labour Government (1997-2010) greater emphasis was put on working in partnership with the voluntary and community sector to improve a wide range of public services. The Coalition government is now building on this policy by promoting the 'Big Society', localism and a smaller statutory sector. This includes increased commissioning of public services by the voluntary and community sector – and the private sector.

However, in the current economic climate, public bodies are implementing widespread funding cuts which could mean there are actually fewer commissioning opportunities for the voluntary and community sector. There is certainly a greater emphasis on the cost of services and it is likely that voluntary and community organisations will have to work in partnership in order to access larger contracts.

### **Implementation of European Union law:**

Public bodies must also comply with European Union (EU) law regarding the procurement of goods and services. The aim of EU law is to prevent European member states from discriminating against individuals or businesses or restricting the free movement of workers, goods and services within the EU.

All public service contracts are covered by the EU Treaty which outlines 4 'principles':

1. Fair and equal treatment: everyone who is tendering for a contract should be treated fairly and equally at every stage of the process
2. Transparency: information about contracts, selection criteria etc. should be openly available to all those interested in applying.
3. Mutual recognition: standards, specifications and qualifications in use throughout the EU receive equal recognition.
4. Proportionality: demands required of providers should be relevant and directly related to the size and value of the contract being awarded.

The Treaty is backed up by a number of European procurement rules or 'Directives'. In 2006, these rules became part of UK law. The rules set out procedures for how public goods and services should be purchased.

It is not always necessary for public bodies to follow the full EU procurement rules; this depends on the type and value of the contract.

The rules categorise services as either 'Part A' or 'Part B' and set a minimum financial threshold for when the rules should apply.<sup>4</sup>

Most of the services women's organisations provide will be part of the 'Part B' category, such as:

- health and social services
- recreational, cultural and sporting services
- education and vocational education
- legal services
- personnel placement and supply

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<sup>4</sup> For a full list of 'Part A' and 'Part B' services, see: NAVCA Guide, 'When do procurement rules apply?' <http://www.navca.org.uk/localvs/lcp/news/procurementrules.htm>

It is not necessary for public service organisations to follow the full EU procurement rules for 'Part B' services. They can use a less complex procurement process, which makes it easier for voluntary and community sector organisations to bid for funding. However, they must always make sure the process is fair and transparent, in line with EU Treaty principles.

'Part A' services that may be relevant to women's organisations include:

- computer and related services
- research and development services where the benefits are received exclusively by the public service organisation awarding the contract
- management consultancy services

The full EU procurement rules do apply to 'Part A' services if the value of the contract is over £101,323 (if the contract is being awarded by a central government agency) or £156,442 (for contracts awarded by all other public service organisations).<sup>5</sup> The value of a contract is calculated by adding up the amount to be paid over the whole contract period, so if the contract is for 3 years, it is the total amount (not the amount paid each year).

Public service organisations will also have their own internal procedures for purchasing services that they must follow. For example, Local authorities should have a written strategy or policy outlining its approach to procuring (or buying) services which is available on their websites.

Although funding for services that most women's organisations provide do not have to follow the full EU procurement rules, many public service organisations have *chosen* to follow these rules for most of the contracts they award. They have the right to do this.

Central government has produced several reports and guidance on commissioning, encouraging good practice (or "intelligent commissioning") but unfortunately, this is often not being followed at a local level. Sometimes, commissioners themselves are not totally familiar with the legal issues and will say that they have to follow the EU procurement rules, when this is not the case. It may be possible for voluntary and community organisations to discuss funding options and present the case for 'intelligent commissioning'.

## **How is commissioning and procurement different from applying for grants?**

- Commissioners decide what is needed then buy a service, instead of organisations convincing funders that a project is needed and asking for money to run it
- The process is more complex than for most grants applications
- Commissioners require organisations to meet certain standards (e.g. re: finances, governance, etc.) and these are generally more demanding than those required by grant funders
- Emphasis on achievement of outcomes for service users
- Emphasis on achievement of public bodies' strategic aims and specific targets
- Funding is often for longer periods
- More demanding monitoring requirements

If the commissioning process involves a full procurement process:

- Contracts are legally binding on both sides
- Contracts can involve legal issues re: trading and VAT

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<sup>5</sup> These thresholds were set in January 2010. They will change in January 2012. For updated information, go to the Office of Government Commerce [www.ogc.gov.uk](http://www.ogc.gov.uk)

Each public body will have its own approach to commissioning and procurement and many have introduced aspects of a procurement process into their grants schemes.

Many grant funders have also introduced more complex application processes and monitoring requirements, focus on the achievement of outcomes and provide longer-term grants.

This means it is very important to find out what kind of commissioning process is used by the commissioners who fund your type of work, and in your local area (if you work locally). Many commissioners will deviate from the process outlined on paper, so if possible, it is useful to meet with commissioners and find out how the process works in practice.

This guide aims to help you become familiar with the main features of a commissioning and full procurement process so that if you come across these, you will be in a better position to deal with them. The guide will also provide examples of less complex procurement processes.

### **Why do we need to get involved with commissioning?**

- To continue to get government funding for a service that you are already running
- To get government funding (or win a contract) for a new service

Almost all government funding now involves a commissioning process, with the exception of small grants (usually less than £10,000).

Many local councils had been funding the same local organisations for many years. Most have now introduced a commissioning process, including a local needs assessment. This may mean that some local organisations lose funding and new organisations are funded. If your organisation has been funded for many years, you cannot assume you will continue to be funded and will have to provide a strong case for the benefits of your services.

### **Things to consider when deciding whether to bid:**

The decision to get involved in tendering needs to be considered carefully. Often the decision is taken under pressure caused by urgent deadlines and an organisation's fear of missing an opportunity to 'get the work'. This can lead to tenders for inappropriate contracts which do not cover the organisation's costs or involve serious risk to the organisation.

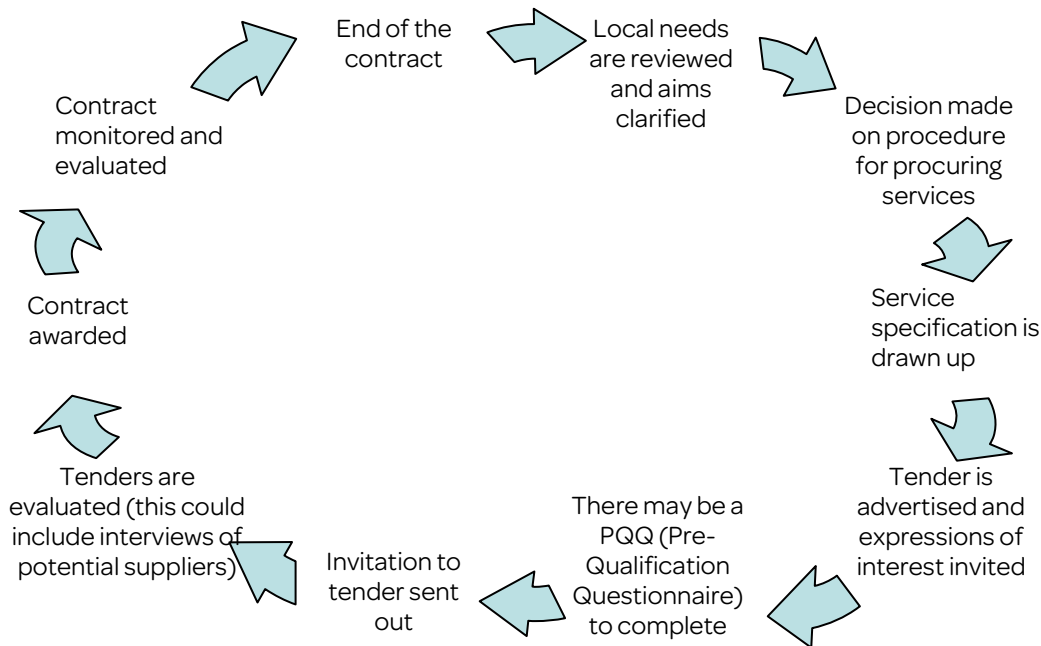
It is also very important that your management committee or board of directors makes the final decision about whether to bid, especially if you are tendering for a legally binding contract.

Before deciding to tender to deliver a service, ask yourselves the following questions:

- Does the service fit your organisation's purpose, aims and strategy?
- Does your governing document (e.g. constitution, Memorandum and Articles of Association) allow you to take on this work?
- Do your users want this service?
- How will the new service impact on your current work?
- Does your organisation have the capacity, skills and experience to deliver the service?
- Does your organisation have the time, resources, skills and experience to complete the tender? [It is very important to check what kind of commissioning and tendering process is involved i.e. is it similar to a grant application or does it involve a full procurement process?]

- Does the amount of money available enable you to fund all the costs of delivering the service? [It is good to start by drafting a budget and project outline to see whether it is worth bidding.]
- Are the terms and conditions acceptable? [Check the draft contract – or terms and conditions of grant.]
- What is the level of risk? [e.g. legal, financial, reputation etc.]
- Is the service sustainable?
- ALWAYS seek legal advice

**The commissioning cycle**



Commissioners are responsible for doing a needs assessment, deciding on the service specification, evaluation criteria, how tenders will be assessed and the timescales for the process.

Procurement officers ensure the legality of a procurement process, decide on the paper work (e.g. format of tenders), ensure all tenders are treated equally, and timescales and procedures are followed correctly.

In reality this isn't always happening; sometimes procurement officers (who will usually know nothing about the services being bought) dominate the process, and sometimes commissioners themselves do not know a lot about the services they are commissioning.

Most commissioners are people who have been transferred from other jobs e.g. many commissioners in local authorities worked in grants units before – so they are learning too!

Please see diagram summarising different types of commissioning and procurement processes: [http://www.wrc.org.uk/includes/documents/cm\\_docs/2011/c/c\\_p\\_flow\\_chart.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2011/c/c_p_flow_chart.pdf)

**Influencing the commissioning process:**

First of all, it is important to find out which public bodies might commission work from you (e.g. local authority, local health service, central government department etc.) and which

commissioners specialise in your kind of work (e.g. mental health; children, young people and families; Supporting People, etc.).

In some local areas, commissioners are openly trying to engage with voluntary and community organisations, holding consultation meetings and perhaps even offering training and support with their commissioning process. Try to arrange meetings with relevant commissioners and don't be afraid to ask questions!

In other areas, commissioners are very hard to find or communicate with! If this is the case, talk to people in your networks, colleagues in the voluntary sector, the local CVS, other people in your field of work – to find out information about commissioning in your local area. It might take a while, but someone will know.

## **9 ways to influence commissioners**

Adapted from: The Complete Guide to Surviving Contracts for Voluntary Organisations, by Alan Lawrie and Jan Mellor, published 2008

### **1. Start early**

To be effective in influencing commissioning, organisations need to start early:

- Try to get involved in discussions about local needs, the design of services and commissioning process itself
- Find out from the public body where they are in the commissioning cycle so that you can plan ahead
- Build relationships with potential allies (e.g. CVS, local networks/forums, local councillors, etc.) – to make the case for independent local voluntary and community sector services and/or specialist services

### **2. Be involved in strategy**

- Commissioners are aiming to achieve strategic objectives. Find out which strategies and policies are relevant to your work.
- Sometimes, commissioners would like to hear your views and ideas about their strategies and forward plans. This can be a useful way of influencing future priorities.

### **3. Involve users**

Commissioners usually want to talk to service users directly. Often voluntary and community organizations can make it possible for service users and commissioners to meet. This can be an opportunity for service users to talk about their experience, needs and opinions about the services you provide.

### **4. Identify trends**

It is useful to record any changes affecting your service users and the services you provide. For example, perhaps your service users are facing a new problem or there is increasing demand for one of your services from a specific group of women. By telling commissioners about these trends you can open up a discussion with commissioners about needs and future services.

### **5. Link up with government targets**

Often commissioners are under pressure to show that their services meet government targets or policies. It is useful to show commissioners how your organization can help the commissioner meet their targets.

### **6. Record gaps and unmet needs**

Keep records of needs that are not being met. For example, perhaps you provide education for women but many women are dropping out due to lack of childcare provision; or perhaps you have a waiting list for a specific service. By recording this information you will have evidence to back up your case when you talk to commissioners about local needs and future plans.

### 7. **Share experience**

Invite commissioners to visit your organisation, attend your events or offer to organise events or training together with them. By encouraging commissioners to see how you work, they will have a better understanding of the realities faced by staff delivering services and the experiences of service users. This is also a good way to open up discussion with commissioners.

### 8. **Produce evidence**

It is very important to collect evidence of the outcomes of your services. By showing how your services support people to make significant changes or improvements to their lives, you can present a strong case to commissioners. You can use case studies, service user feedback, letters or quotes from people who work with you, etc. to show successful outcomes.

### 9. **Participate!**

Although this takes a lot of time, it is important to participate in consultation meetings, networks and forums relevant to your work. These meetings can be an opportunity to meet commissioners, raise your organisation's profile and influence thinking. However, it is essential to prioritise!

## **VERY IMPORTANT**

Once a contract has been advertised, you can no longer lobby commissioners – this could be seen as giving you an unfair advantage and mean you are not allowed to put in a bid for the contract.

## **Types of tender procedure**

If commissioners decide to fund services through a tendering procedure (instead of a grants process), they can choose different types of procedure. The two most commonly used by commissioners relevant to the women's sector are:

- Open: All those who show an interest and respond to an advert about a potential contract are invited to tender (put in a bid) to deliver a service.
- Restricted: All those who show an interest and respond to an advert must meet some initial criteria before they are invited to tender. Usually this involves completing a 'pre-qualification questionnaire' (PQQ). The public body then uses this information to create a shortlist of providers who will be invited to put in a bid to deliver the service.

Another version of a restricted procedure is a 'framework agreement' where the public body advertises its intention to tender for a group or sector of services – the main terms and price of future contracts are outlined (the 'framework'), but there is no obligation on the public body to buy services. A shortlist of 'preferred suppliers' (or 'preferred providers') is drawn up, based on completing a PQQ. The public body can then invite a selection of organisations on the list to tender for a service once it has been defined. This list can run for 4 years – so it can be really important to be on it.

Two other types (not common in the women's sector):



- Negotiated: Similar to the above procedures but the public body negotiates the terms of a contract with a shortlist of selected organisations.
- Competitive dialogue: Following completion of a PQQ, the public body selects a small number of organisations, visits and talks to each of them in order to define the service specification. Once the specification is finalised, they ask all of them to tender for the service. Used for more complex projects.

## Where are contracts advertised?

The best way to find out about commissioning opportunities is through your networks, local voluntary sector email bulletins etc. Contracts will also be advertised through:

- Councils for Voluntary Service (CVS, Voluntary Action)
- Local/regional/national press, Official Journal of the European Union (OJEU)\*, trade journals
- Information from Local Strategic Partnership representatives<sup>6</sup>
- Information from commissioners
- Websites
  - Local authority e.g. Islington Council
  - Skills Funding Agency [www.skillsfundingagency.bis.gov.uk](http://www.skillsfundingagency.bis.gov.uk)
  - Contracts Finder [www.contractsfinder.businesslink.gov.uk](http://www.contractsfinder.businesslink.gov.uk)
  - CompeteFor (London 2012 opportunities) [www.competefor.com](http://www.competefor.com)
  - London Tenders Portal [www.londontenders.org](http://www.londontenders.org)
  - Funding Central [fundingcentral@ncvo-vol.org.uk](mailto:fundingcentral@ncvo-vol.org.uk)

\* Adverts in the OJEU will only be for contracts following the full EU procurement rules.

Please see examples of adverts:

[www.wrc.org.uk/resources/help\\_for\\_your\\_organisation/developing\\_your\\_organisation/resource\\_to\\_accompany\\_sustainable\\_funding\\_guides/adverts.aspx](http://www.wrc.org.uk/resources/help_for_your_organisation/developing_your_organisation/resource_to_accompany_sustainable_funding_guides/adverts.aspx)

## The Tendering Process

### What is a Pre-Qualification Questionnaire?

Usually organisations will be required to fill in a pre-qualification questionnaire (PQQ). This is a form which is used to create a shortlist of organisations who will then be asked to complete a tender for a contract. By using a PQQ, public bodies aim to reduce the number of organisations bidding for a contract to a manageable amount. This is the first stage of the tendering process.

A PQQ asks for information about your organisation. There are no standard PQQs but they will generally ask for information about your legal and financial status, management and the technical capacity of your organisation (e.g. previous experience and skills, quality assurance, policies on Equality and Diversity, Health and Safety, environmental policies, staff qualifications, facilities etc.).

Usually public bodies use the same PQQ for any kind of organisation that provides goods or services to them. This means PQQs can be written with private sector businesses in mind and use language that is more familiar to them, and less familiar to voluntary and community organisations.

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<sup>6</sup> At the time of publishing this guide, it was not clear yet whether Local Strategic Partnerships will continue or be replaced by another type of local partnership body.

Not all public bodies require you to go through a PQQ, but many do. Also, **some** public bodies **may** ask you to complete an initial form which is based on a PQQ, but is simpler and more appropriate for voluntary and community organisations.

The PQQ is very important – it can take a long time to get all the information together, so the more prepared you are, the better. However, once you've done one PQQ, it should be **easier** the next time. The PQQ can also be used to shortlist organisations to go on a preferred supplier list – if so, it is very important to get on it!

It is also possible that your organisation is unable to meet PQQ requirements (e.g. quality standards, health and safety policy and procedures, etc.). If you want to get involved with commissioning in future, you will need to plan ahead and ensure you will be able to meet the essential requirements of most PQQs.

**Please see examples:**

[www.wrc.org.uk/resources/help\\_for\\_your\\_organisation/developing\\_your\\_organisation/resource\\_to\\_accompany\\_sustainable\\_funding\\_guides/pqqs.aspx](http://www.wrc.org.uk/resources/help_for_your_organisation/developing_your_organisation/resource_to_accompany_sustainable_funding_guides/pqqs.aspx)

**Completing a PQQ:**

Please look at examples of PQQs before reading the points below.

- Contact person: This needs to be someone senior in the organisation
- Describe your 'business activity': this involves talking about the services or activities your organisation provides. Make sure you word emphasise the aspects of your work that match what they are looking for
- List previous 'contracts': if you have never had a contract before, list your previous funders and the projects they have funded.
- Financial information: public bodies want to be reassured that your organisation has enough income and manages its money well. Sometimes they will specify a minimum income level, but if not, they are usually looking for organisations where the contract will represent no more than 20% of your total income. This is difficult for new or small organisations – but you may be in a stronger position if your organisation is the only (or one of a few) specialist organisations or your MC and staff have specialist skills and experience. Another way to overcome this barrier is to get involved in a consortium bid (see section on partnerships and consortia below).
- Insurance: You usually need employers liability and public liability that provides £10 million cover for your organisation.
- Risk management: You need to show how your organisation (particularly your management committee/board of directors and senior staff) manages risk – e.g. risk assessment, level of reserves, policies and procedures, business planning etc.
- Health and Safety policy: For organisations with more than five members of staff, this is a legal requirement anyway. You must have health and safety policies and procedures – for further information, see the Health and Safety Executive website: [www.hse.gov.uk](http://www.hse.gov.uk)
- Equality and diversity policy: If possible try to relate your policy to their equality duties and equality 'schemes'
- Quality standards: This can be tricky for smaller organisations. Public bodies are looking for organisations that can provide evidence of their efficiency, high standards, good management, clear and consistent procedures etc. An externally accredited quality standard helps to show this. However, there is no point in going through an expensive and time consuming quality assessment unless it is appropriate and beneficial for your organisation; don't do this simply to meet PQQ requirements. Depending on the contract and/or commissioner, different quality standards will be acceptable; it is

important to find out what your particular commissioner is looking for. Examples of quality standards are: PQASSO, Investors in People, ISO900, Advice Quality Mark, Investors in Volunteers, Supporting People quality standard, NVQs gained by staff related to specific fields of work, etc.

- Environmental policy: Increasingly this is requested; you need to show the steps your organisation is taking to reduce its impact on the environment, reduce waste etc. For further information, see NCVO website: [www.ncvo-vol.org.uk](http://www.ncvo-vol.org.uk)
- Experience and credentials: It is important to show that your management committee/board members and staff have the right skills, qualifications and experience, and if possible, show that you've run this kind of service before. Also, make sure you have good references.

**Note:** If the commissioner is not using a PQQ, they may still require organisations to complete a simpler form which asks for background information about the organisation, and aims to check that your organisation has the capacity to deliver a service. See examples of forms above.

## Invitation to tender

Once you get through the PQQ stage, you will be sent an 'invitation to tender' (ITT) for a contract. This may happen automatically or you may have to submit an 'expression of interest'. You will then be sent a tender pack.

A tender pack would usually include:

- An introductory letter (providing some background information about the service and why it is being commissioned)
- Timetable and arrangements (including key stages, deadlines, how to get more information etc.),
- The service specification (including aims and/or outcomes the commissioner wants to achieve, who the beneficiaries are, description of service, expected standards, length of contract and how much the public body will pay)
- Instructions for completing the tender (guidance on what organisations need to do if they want to bid for this contract, format they should use, the information they should provide etc.)
- A draft copy of the main terms and conditions of the contract
- Evaluation criteria (how the tenders will be assessed and this should also include their scoring system)
- Tender label or envelope

Specifications vary considerably in style, length and format. Some are very specific about what is needed; others are more open requests for proposals. Some describe the outcomes they want to see achieved, and want providers to show how they would deliver the services; others specify in detail the way they want the services delivered as well. Sometimes they will include an application form to complete or they will give you a list of questions to answer.

It is very important to **read everything thoroughly!** It is also very important for staff and management committee/board members to decide whether you want to bid to run this specific service. Please see 'Things to consider' section below.

You will have a limited period of time to ask questions – so if you are unclear about any aspect of the specification, the contract, terminology, etc. – **you must ask right away.**

It is likely that you will need to submit questions in writing or online or attend a meeting. Any questions asked by any of the organisations who are tendering (and the answers) will be sent to everyone. This to ensure the process is fair and equal. It's important to read these questions and answers (including those asked by other organisations) as they may provide some important information.

Commissioners should give you information on how they will score tenders; if they don't it is important to ask for this because then you can write your answers in a way that will give you the highest possible score.

**You must follow their instructions exactly:**

- If your tender is late (by even a minute) it won't be considered
- **Use the label/envelope provided** – if you write anything on the envelope the tender won't be considered as this could identify your tender from others. (Don't use guaranteed next day delivery – as it has sender's name on it.)
- Sign all the documents that need a signature
- Include any documents requested (e.g. copies of policies, annual accounts etc.)

**Make sure you give yourselves enough time to write and send in the tender** – usually there will be problems so it is best to allow more time than you think you will need.

Note: If the commissioner is using a simpler process resulting in a grant, they will still send out a letter explaining the application process, service specification, assessment criteria, timetable etc.

**See examples of service specifications:**

[www.wrc.org.uk/resources/help\\_for\\_your\\_organisation/developing\\_your\\_organisation/resource\\_to\\_accompany\\_sustainable\\_funding\\_guides/specifications.aspx](http://www.wrc.org.uk/resources/help_for_your_organisation/developing_your_organisation/resource_to_accompany_sustainable_funding_guides/specifications.aspx)

**Writing the tender**

Tenders come in different formats depending on the size of the contract, and the tender process. Some commissioners will ask you to complete a form; others will give you a set of questions to answer and some will leave you to decide how to write your bid.

You will need to explain how you will deliver the service (this is sometimes called a 'method statement'). This is where you need to make a strong case for why your organisation is the best one to deliver the service:

- Explain what is unique about your organisation's experience
- Show your track record – your experience of delivering similar services, achieving similar outcomes, meeting deadlines, etc.
- Show that you have previous experience of working with the particular group of service users
- (if relevant) show your knowledge of the local area and local issues
- Emphasise and show your specialist knowledge and experience of issues, policies and good practice relating to this type of service
- Show that your organisation has the capacity, skills and experience to manage the service well
- Explain your links and experience of partnership working with others, especially if this improves the service (e.g. quicker, better referrals)
- Show your commitment to high quality standards and ensuring continuous improvement

- Show that you understand the commissioner's goals, policy objectives and strategies and refer to these in your tender. Explain how your service will help achieve these goals (and targets if relevant).

Similar to a successful grant application, a good tender will clearly explain what a good service looks like and why it is the best way of delivering positive outcomes for the service users.

Make sure your plans for delivering the service are realistic – if you are successful these plans will become part of your contract and usually, you cannot negotiate changes.

When you are writing about what your organisation does or plans to do for a new service, back up your case with evidence and examples (e.g. case studies, quotes from service users or other providers, photos etc.).

You will also need to explain how you will manage the transition to delivering a new service or introduce changes to an existing service (this is sometimes called a 'transition plan'). Sometimes, you may be bidding to take over an existing service currently run by another organisation or the contract could involve a significant expansion of your current services. If so, you need to explain your plans for ensuring this expansion happens smoothly.

Please see 'costing' section below re: taking on staff from other organisations.

### **Practical tips for completing a tender:**

(Many of these are very similar to filling in a grant application.)

- Be clear, use plain English and avoid jargon
- Keep to the word limits (your tender could be disqualified otherwise)
- Make sure your bid is well laid out and presented, structured and easy to read
- Assume those assessing your tender have no knowledge of your organisation or your work.
- Answer all the questions, even if they don't seem completely relevant to you.
- Give complete answers to all questions – don't refer to previous answers in later questions. This is because different people could be assessing different questions.
- Don't attach additional documents unless these are specifically asked for
- Be very careful of 'cutting and pasting' from other applications or tenders - this can lead to disasters!
- Put the name of your organisation on every page
- Ask someone to proofread your work
- Get help if needed – if you know someone who has completed tenders before, get advice and support.

### **Added Value:**

Although women's organisations may not be able to compete with others on the basis of cost, they do have other strengths such as specialist experience and knowledge – and the 'added value' they can bring to a service.

**'Added value'** is the extra benefit you can offer *as part of your core work*. This does not mean extra work.

Example:

Women survivors of sexual violence receive advice and support from staff at an evening drop-in session. The women directly benefit from the service by increasing knowledge about legal options and improving their confidence, self esteem and well-being. However, because the women come to the drop-in session at the same time each week, they also meet and get to know each other and develop an informal network, gain additional support and a sense of community. This adds value to the service and its outcomes.

Features of women's organisations which contribute to their added value<sup>7</sup>:

- Women-only space
- Focus on empowerment and independence
- High level of service user involvement (this is very important to emphasise as most commissioners will be looking for this – give examples of how you involve service users)
- Integrated 'one-stop shop' services
- Needs-based approach
- Reaching (and meeting the needs of) 'hard to reach' women

It is important to focus on the outcomes of these features – for example:

- Provision of women-only space enables women to feel safe, develop a sense of community
- Enabling women to contribute to the community and have a greater voice, through access to local services, consultations etc.
- Increased self-esteem, confidence and improved mental and physical health could lead to paid employment
- Increased self-esteem, confidence and improved mental and physical health could impact on children and young people
- Increased self-esteem, confidence and improved mental and physical health reduce costs for wide range of statutory services (e.g. health, social care, prisons and probation, employment etc.)
- Services provided by women staff and volunteers who have shared experience with service users helps to ensure services are relevant, and leads to more positive outcomes

Other features that contribute 'added value' (not specific to women's organisations):

- Involvement of volunteers enables an organisation to provide a wider range of services to greater numbers of service users in a cost effective way
- If your organisation can provide fast track referrals to legal advice, this could provide additional benefits for service users
- If your organisation has established referral systems with a statutory service, this could provide additional benefits for service users
- If your organisation has an 'Artist in Residence', this could provide additional benefits for service users
- Access to free training or venues provided by another organisation will make your project more cost effective

## **Outputs and outcomes**

Commissioners will expect you to show how you will achieve 'outputs' and 'outcomes' (and sometimes 'impact'). So it is important that you have a good understanding of these terms. Many grant funders (e.g. Big Lottery, Comic Relief) also ask organisations to describe the outcomes of their work, so these terms are useful for any kind of fundraising.

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<sup>7</sup> see WRC 'Why Women?' report 2006

Sometimes commissioners will already have identified the outcomes (and even outputs) they want you to deliver. You will need to explain in your bid how you will achieve these outputs and outcomes and how you will monitor their achievement.

**Definitions:<sup>8</sup>**

Outputs: The services, activities and products that your organisation provides e.g. what you are actually going to do – describe the type of service and how you will run it, for how many people, for how long, how often and where.

Examples:

- Befriending service for isolated women
- One to one counselling service
- Job search training

Outcomes: All the changes, benefits, learning or other effects that happen as a result of your activities.

e.g. the positive changes you support service users to make – describe the benefits of your services using words that show changes: increased, decreased, improved etc.

Examples:

- Increased confidence and self-esteem
- Improved mental health and well-being
- Increased numbers of women taking up voluntary work

Impact: The Performance Hub says there is no clear consensus about exactly what impact means! It is usually used to mean the broader, wider changes that your organisation creates. The impact is usually longer term and includes effects that go beyond the immediate group of people you are working with.

- Decrease in numbers of women admitted to the local mental health hospital
- Increase in rates of employment among local women

Outcomes should be SMART (specific, measurable, achievable, realistic and time-based)

Be aware that commissioners *themselves* are not always clear about defining outcomes:

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<sup>8</sup> These are the definitions used by the Charities Evaluation Service [www.ces.org.uk](http://www.ces.org.uk)

Also, please see the WRC Guide: 'An Introduction to Measuring Outcomes', [http://www.wrc.org.uk/resources/help\\_for\\_your\\_organisation/developing\\_your\\_organisation/sustainable\\_funding\\_resources.aspx](http://www.wrc.org.uk/resources/help_for_your_organisation/developing_your_organisation/sustainable_funding_resources.aspx)



**Example of a question from Brent Children's Fund specification:**

Children's Fund Outcome: To enable access to appropriate services for survivor/victims and their children

[note: this is really an aim, not an outcome! An outcome would be: Increased access to appropriate services for women survivors of domestic violence and their children.]

**You need to describe the service you will run to achieve this outcome**

This might include a needs/risk assessment for a specific number of women, support services (counselling, group support, face to face and email advice and information, etc.) for a specific number of women and children.

It is very important that you are realistic about the outputs and outcomes you plan to achieve – these are likely to be included in your contract if you are successful. *If possible*, it is good to be aware of the services that your 'competitors' run and ensure that the services you plan to run compare favourably.

## Costing and Pricing

An essential part of tendering for a contract is to calculate the costs of the service you are offering to run. In fact, many people start with working out the costs of the service, as this will be an essential factor in deciding whether to bid for the contract in the first place.

You are not likely to have the option to change your budget later, so it is very important that the service is carefully planned and that you aim to cover all your costs.

Ideally, organisations should aim for 'full-cost recovery'.<sup>9</sup> This means funding the direct costs of delivering a service and the indirect costs of supporting the service and managing the organisation. Of course, in reality commissioners may be unwilling to meet full costs. Whatever the case, it is very important that you understand what your full costs are – as this will be crucial in your decision about whether to bid for a contract.

Any costs that are only for running a service would be direct costs. These include for example: staff costs, equipment, materials or resources only used by the service, staff supervision, IT costs to set up a database for the service, publicity for the service, etc.

Any costs for organisational functions would be indirect costs. They are not directly involved with the delivery of the service but the service could not run unless the organisation was able to operate smoothly. These costs include for example: rent and bills, finance and admin staff, audit, management committee member travel expenses, insurance, etc. These are usually called 'running costs', 'overheads' or 'core costs'.

It is very important to understand your costs fully and ensure you include an appropriate portion of your indirect costs in your bid. There are different ways to allocate indirect costs – the most important thing is to be able to have a clear and justifiable method for doing this and to explain this in your tender.

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<sup>9</sup> See ACEVO model for 'full-cost recovery' [www.acevo.org.uk](http://www.acevo.org.uk)



Possible ways of calculating an appropriate portion of indirect costs for a specific project (or service):

- Based on the number of hours project staff work as a portion of total staff hours in the organisation (e.g. if your organisation has 5 staff working a total of 140 hours per week, and the worker for this specific project works 28 hours per week, this is 20% of total staff hours in the organisation, so you allocate 20% of indirect costs to this project)
- Based on an analysis of indirect staff time spent on each project (e.g. find out how many hours managers, admin or finance staff spend on a particular project, allocate a portion of their salary costs according to the number of hours they spend supporting this specific project)
- According to the estimated or actual use of the overhead (e.g. telephone used 20% by Project A, 30% by Project B and 50% by Project C)
- Each project is allocated a standard management and administration cost (e.g. 20%) and this is added to all project budgets
- A combination of these methods
- Using any other method based on common sense!

Some commissioners will ask for budgets based on 'unit costs' (the cost of providing a service to an individual person) – this is common in the domestic violence sector.

For more information about unit costs, see Cash-on-Line ([www.cash-online.org.uk](http://www.cash-online.org.uk)) or SITRA ([www.sitra.org.uk](http://www.sitra.org.uk))

If a tender is for more than one year, do not forget possible increases in staff or other costs. Generally, 3% increases are added for inflation; however, check the current rate of inflation. Also, there may be set up costs (such as recruitment) that won't be needed in second or third years.

Some contracts will involve an organisation taking on an existing service, including staff. In this case TUPE regulations apply.

[TUPE: Transfer of Undertakings (Protection of Employment) regulations 2006]

The employees of the previous organisation have the right to keep the same salaries and employment conditions (e.g. hours of work, salary scales, holiday, pension) as they had in the previous organisation.

When tendering for a contract it is very important to find out if the service will require transferring staff (and TUPE) and if so, to find out all the necessary information to assess the costs involved.

## **Pricing a tender**

Often the commissioner will set the amount they are willing to pay for a service. In this case, organisations must ensure that the cost of the service they are offering to run is realistic and outcomes are achievable within the budget.

Sometimes, the commissioner does not set the amount they are willing to pay or gives an approximate figure. This means the organisation has to set a price for running the service.

You might think that **cost** and **price** are the same thing but in fact, deciding on the price of your bid is a process of finding out about the average cost of similar services ('benchmarking') and

judging how much the commissioner will be willing to pay, the price your competitors are likely to charge and the state of the market.

There are three approaches to pricing:

1. At cost or slightly more than the cost: the organisation putting in a tender works out how much the service will cost to run and adds a bit extra to cover the possibility of costs rising and/or allowing it to earn a profit
2. Under cost: an organisation is prepared to take on a contract knowing that it does not meet the full costs (Sometimes big organisations do this in order to get into a new area of work or even 'drive out the competition'.)
3. The market sets the price: commissioners will say how much they expect to pay or in some sectors there is a 'going rate' (e.g. domestic violence sector – see SITRA website: [www.sitra.org.uk](http://www.sitra.org.uk))

Whatever approach you take, you must know your costs in order to make a judgement about prices or decide whether to bid. It is also very important that your Board approves every aspect of your tender, because when you put in a tender, it is often as though you are signing the contract – you can't go back on it!

## **How tenders are assessed**

Commissioners will have a process for evaluating the tenders they receive. Although there is no set process, this involves scoring the tenders against a set of criteria (decided in advance) and giving the contract to the organisation that has the highest score. The criteria will usually include cost, previous experience of delivering a similar service, the quality of the service and its outcomes.

If the public body is complying with European Union procurement rules, the contract can be given to the cheapest tender or to the 'Most Economically Advantageous Tender' (known as MEAT). This involves criteria combining quality with the cost of the service. In the UK, most tenders are evaluated according to MEAT, so although it may not seem to be the case, the cheapest tender is not always the one that wins the contract.

Some criteria will be given greater 'weighting' (or importance) than others: the weighting of price against quality criteria will be very important. For example for some tenders price will have a 30% weighting and quality 70%, other tenders will have a 70% price weighting and quality 30%. It is essential to find out about this before you put in a tender, because it might influence your decision to bid and/or it will help you to write your tender, putting more emphasis on the higher scoring criteria.

All tendering processes must comply with the EU Treaty principles of fairness and transparency. This means evaluation criteria and weightings must be clearly stated in advance and used consistently throughout the evaluation process.

It's important to understand the evaluation criteria and scoring system – sometimes it can be all about points!

For an example of evaluation criteria that follow the MEAT process, see: 'Procurement and tendering for domestic and sexual violence service providers'. [www.womensaid.org.uk](http://www.womensaid.org.uk)

## **Presentations and interviews**

Once all the tenders have been sent in, the commissioners may invite a shortlist of organisations to take part in an interview where questions will be asked about their tender. This might involve giving a presentation to the interview panel.

Details of the interview should be outlined in a letter; if not, ring and find out what is expected. The interview will be a scored process (like the tender) – so it is important to find out about the scoring system before the interview.

You need to decide who should attend the interview. Usually, it is good for two or three people to attend. It is important that a senior member of staff (usually the director/chief executive) and if possible, the person who would actually be managing the service attend. You could also involve a member of front-line staff and/or a service user.

It's very important to ensure everyone is well prepared for the interview and everyone answers questions. If only the senior person answers questions this suggests lack of confidence in the staff and/or lack of real experience of the service.

If doing a presentation, use the slides for photos and a few words – it's better to talk, get the panel members to concentrate on the speaker and believe in you and your organisation.

It's good to have photos, quotes, graphs etc. (visuals) – so you need to have these prepared well before the interview.

Aim for 3-5 key points about your tender that the panel will remember. Focus on your strengths, what you can do that is different from other organisations and back up what you say with evidence of actual experience.

Aim to engage in conversation with members of the panel – don't talk too much and allow time for questions and discussion.

## **What happens next?**

If you are not successful, make sure to get feedback as this will help you with your next tender. If the commissioner follows a full procurement process, it should be possible to see the final scores – this will give you useful information about your strengths and weaknesses in relation to your competitors.

If you are successful, you will be given a grant, a 'Service Level Agreement' or a contract. This will be based on the service and outcomes you outlined in your tender. At this point, there is usually very little room for negotiation and it is difficult or impossible to pull out. This is why it is very important to put in a realistic tender and be sure that your organisation is happy with the terms and conditions of the contract before you bid for it. (The tender pack will usually include a model contract or agreement). See 'Things to consider' section below.

## **What is the difference between a grant, 'service level agreement' and a contract?**

A commissioning process can result in various types of formal agreement. Most organisations are used to receiving grants (including terms and conditions of a grant) and many have been involved with service level agreements with government funders - which can be similar to contracts. The difference between grant agreements and contracts is becoming increasingly

blurred. This can be quite confusing for voluntary and community organisations, but it is important to be aware of some of the main differences.

Some of the main features of a grant are:

- Funding is given to an organisation in order to enable them to provide a service to their beneficiaries/service users
- An organisation can give a grant back to the funder
- If an organisation does not provide the service it received funding for, the funder can ask for all or part of the grant to be returned but the organisation does not have to pay any additional compensation to the funder
- No VAT is payable

Some of the main features of a contract are:

- An organisation provides a service (or goods) to a PSO in return for payment (i.e. the PSO is buying a service from the organisation)
- A contract is legally binding for both the organisation providing the service and the PSO buying the service
- If an organisation fails to deliver the services (as outlined in the contract) the PSO can demand compensation for any financial losses it suffers due to the service not being delivered
- An organisation may have to charge VAT

A 'service level agreement' (SLA) outlines what is required in a service (usually including targets and standards of delivery) and the basis for payment. There is a lot of confusion about service level agreements; they can be linked to a grant or be more like a contract.

It is very important to understand any agreement your organisation enters into – before signing, get legal advice.

## **Trading issues**

If your organisation delivers a service as part of a contract, this will be considered to be 'trading'. Before tendering to deliver the service, it is important to consider the legal implications of this for your organisation, especially if it is a registered charity.

Issues to consider:

- Does your organisation's governing document (constitution or Memorandum and Articles of Association allow it to carry out trading activities? It is important to check this document; your organisation may need to make changes.
- Does the service you are tendering for fit with main purpose of your organisation? Under Charity Law, charities can do some trading if the activity contributes to achieving the 'primary purpose' of the organisation. If not, the organisation may need to consider setting up a separate trading subsidiary (a non-charitable company which is linked to the charity, often called a 'trading arm'.)
- Does your organisation need to pay or charge VAT? VAT is a complex area so it is a good idea to get advice about this.

It is very important to ensure that any trading you do meets the requirements of Charity Law; if you break the law, your trustees could be liable to pay taxes or to meet the cost of any financial losses that you suffer. Please see Charity Commission guidance CC35 Charities and Trading and CC47 Charities and Contracts available at [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)

## Tendering as part of a partnership or consortium

One option for smaller organisations that want to gain access to government funds available through commissioning and procurement is to get involved in a partnership or consortium. Another option is to be sub-contracted by a bigger organisation.

These options may be more realistic for smaller organisations that are not ready or able to take on a contract themselves. Also, many commissioners want to reduce the number of service providers they have to deal with (and tenders they have to assess and contracts they have to manage), so they are encouraging consortium tenders where they can deal with one lead partner.

Many people think of partnership working as working together with other organisations in an informal way. In order to tender to deliver a service with one or more other organisations, a formal partnership or consortium is necessary (including a formal partnership/consortium agreement).

A consortium is a type of formal partnership between several organisations. Commissioners use the word 'consortium'.

Various models are possible:

1. Two or more organisations of different sizes form a consortium and tender for contracts together; one organisation (not necessarily the largest one) will take on the lead contractor role – this tends to involve more of a partnership of equals. They deliver the service together.
2. One large organisation tenders for a contract, then sub-contracts to several small organisations who deliver different parts of the service.
3. A group of organisations sets up a new organisation in order to tender for contracts.

Partnerships and consortia take time to develop and success depends on building good relationships between partners; it is important to start the process well before deciding to tender for a contract.

For more information about developing partnerships and consortia:

- WRC's Guide to Partnerships [http://www.wrc.org.uk/resources/help\\_for\\_your\\_organisation/developing\\_your\\_organisation/sustainable\\_funding\\_resources.aspx](http://www.wrc.org.uk/resources/help_for_your_organisation/developing_your_organisation/sustainable_funding_resources.aspx)
- BASSAC website (Collaboration Project) [www.bassac.org.uk](http://www.bassac.org.uk)

**WORDS:**

<b>WORDS</b>	<b>DEFINITION</b>
<b>added value</b>	The extra benefit you can offer as part of your core work – and in addition to a service specification.
<b>bid</b>	A written proposal outlining an organisation’s desire, capacity and plan for delivering a service as required by a service specification.
<b>collaboration</b>	Organisations working together (in the widest sense).
<b>commissioning</b>	The process of identifying needs, designing and planning services to meet those needs, securing the services and monitoring and evaluating them.
<b>consortium</b>	A formal partnership of organisations working together usually in order to tender for contracts.
<b>contract</b>	A legally binding agreement to provide goods or services in exchange for payment.
<b>Framework agreement</b>	An arrangement where a public service organisation selects a shortlist of providers and sets the general terms and cost of a type of service for a period of time usually 3-4 years). The PSO will then invite the shortlisted organisations to tender for specific pieces of work as and when required.
<b>Full cost recovery</b>	Covering all the costs of providing a service, including indirect costs (or overheads).
<b>Intelligent commissioning</b>	A commissioning process that follows good practice.
<b>Invitation to tender (ITT)</b>	A formal letter from a public service organisation inviting other organisations to tender for a particular service. This is the second stage of a tendering process.
<b>impact</b>	The longer-term change and difference that happens as a result of an organisation’s activities.
<b>MEAT</b>	“Most Economically Advantageous Tender” – criteria for evaluating tenders.
<b>Method statement</b>	A written proposal describing how an organisation will deliver a service.
<b>Output</b>	The services, activities and products that your organisation provides.
<b>Outcome</b>	All the changes, benefits, learning or other effects that happen as a result of your activities.
<b>partnership</b>	A co-operative relationship between organisations that agree to work together to achieve shared goals.
<b>Pre-qualification questionnaire (PQQ)</b>	A form used by public service organisations to shortlist the organisations they want to invite to tender to provide a specific service. The questionnaire enables a public service organisation to assess other organisations capacity to tender for a contract. This is the first stage in a tendering process.
<b>Preferred provider (or supplier) list</b>	A shortlist of organisations that a public service organisation has selected for a period of time (usually 3-4 years) and will invite to tender for specific pieces of work as and when required.
<b>Procurement</b>	The process of buying of goods and services from an external agency.

<b>Provider</b>	An organisation providing a service.
<b>Public service organisation (PSO)</b>	A public organisation that provides and/or manages government and public services.
<b>Quality assurance</b>	A process (in an organisation) for agreeing, managing, monitoring and improving quality standards.
<b>Service level agreement</b>	A written agreement which sets out what is required for a specific service in return for a grant or other funding.
<b>Service specification</b>	A description of the requirements for delivering a particular service.
<b>Sub-contractor</b>	A person or organisation that has a contract to fulfil all or part of another organisation's contract obligations.
<b>tender</b>	A written proposal outlining an organisation's desire, capacity and plan for delivering a service as required by a service specification.
<b>TUPE</b>	'Transfer of Undertakings (Protection of Employment)' regulations is the legal protection given to employees whose employment is transferred from one employer to another.

### Resources:

Association of Chief Executives of Voluntary Organisations (ACEVO): Provides advice, training and resources re: commissioning. [www.acevo.org.uk](http://www.acevo.org.uk)

Big Lottery: See 'Explaining the difference your project makes' for more information about outcomes. [www.biglotteryfund.org.uk](http://www.biglotteryfund.org.uk)

British Association of Settlements and Social Action Centres (BASSAC): For more information about partnerships or collaboration, see their 'collaboration for commissioning' resources and guidance. [www.bassac.org.uk](http://www.bassac.org.uk)

CASH-ON-LINE: For information about budgeting, 'unit costs' and financial management generally. <http://www.cash-online.org.uk>

National Association of Voluntary and Community Action (NAVCA): See their commissioning and procurement mini-site for various resources and guidance. [www.navca.org.uk](http://www.navca.org.uk)

National Council for Voluntary Organisations (NCVO): See Sustainable Funding Project for guide to procurement and contracting. [www.ncvo.org.uk](http://www.ncvo.org.uk)

SITRA (Supports organisations involved in supported housing): See Procurement Guide (particularly useful for domestic violence services) [www.sitra.org.uk](http://www.sitra.org.uk)

Women's Aid Federation: See 'Procurement and tendering for domestic and sexual violence service providers'. [www.womensaid.org.uk](http://www.womensaid.org.uk) (see articles)

### Useful books:

The Complete Guide to Surviving Contracts for Voluntary Organisations, by Alan Lawrie and Jan Mellor, DSC, 2008

Pathways Through the Maze, by Anthony Collins Solicitors LLP, NCVO and NAVCA, 2009

The Good Guide to Trading: Getting Ready for Enterprise, by Atul Patel and Rosalind Oakley, NCVO, 2009