

# Tendering for Public Sector Contracts

2nd edition





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# Ministerial foreword

*The Scottish Government wants to make Scotland a more successful country. We want to increase our level of sustainable economic growth. We will do that by developing initiatives that support our five strategic objectives: to make Scotland wealthier and fairer, healthier, safer and stronger, smarter and greener.*

Social enterprises and other third sector organisations have an important role to play in helping us meet these objectives. Using a business model, social enterprises across Scotland are meeting social and environmental objectives. They are providing economic benefits through generating income and creating jobs whilst helping to make Scotland healthier, safer, smarter and greener.

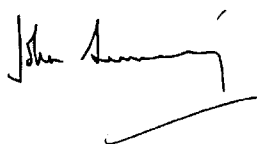
Much of the income generated by social enterprises is through contracts with the public sector. Voluntary organisations are increasingly looking to deliver contracts. In order that they can reach their full potential, it is vital that both social enterprises and voluntary organisations have the knowledge to be able to effectively tender for contracts. This refreshed guide is a step by step guide to give them the information they need to do just that.

The original guide has already helped bring about change in the way the sector does business with the public sector and was an important move forward for social enterprises in Scotland. Since then it has become necessary to update the document to reflect:

- Changes to procurement practice based on the recent European Consolidated directive
- Developments in procurement practice based on the McClelland review of public sector procurement
- Forthcoming guidance on ‘social and environmental clauses’ from the Scottish Procurement Directorate and the completion of the Scottish Executive ‘Community Benefits in Procurement’ project
- Feedback on the initial guide from the extensive training programmes

But equally importantly, this refresh is also a response to the undeniable fact that social enterprises in Scotland have grown and are in a much stronger position to tender for contracts than they were in 2004.

By bringing the public, private and social enterprise sectors together as equal trading partners we can ensure that the people of Scotland are the beneficiaries of this partnership. I’m sure that all who read this document will find it valuable and of great use. I wish you the best of success in your business activities.



**John Swinney**

Cabinet Secretary for Finance and Sustainable Growth



# 1: Introduction

*Tendering for Public Sector Contracts is a practical guide for social enterprises and voluntary organisations in Scotland that want to enter the public service delivery market.*

The Scottish Executive is committed to improving public service delivery and making Scotland wealthier and fairer, healthier, safer and stronger, smarter and greener.

The Scottish Executive recognises the valuable role that social enterprises and voluntary organisations already play in delivering vital public services. The Scottish Executive has made a clear commitment through both Better Business: A strategy and action plan for social enterprise in Scotland (2007) and A Vision for the Voluntary Sector (2005) to increase the role of social enterprises and voluntary organisations in the delivery of public services.

Approximately £8 billion is spent annually by the public sector in Scotland purchasing goods and services. The Scottish Executive recognises that action is required to level the playing field for social enterprises and voluntary organisations in securing access to this growing public sector market.

This is the second edition of 'Tendering for Public Sector Contracts'. The Scottish Executive took the decision to update the original guide because it recognised that a number of significant policy developments had taken place since the first edition was produced in 2004.

- *The Review of Public Procurement in Scotland* (the McClelland Review) highlighted inconsistencies in procurement practice across the Scottish Public Sector. The review offered a number of recommendations to increase transparency, to improve innovation and when appropriate to consolidate buying practices. The Scottish Executive is acting upon these recommendations with the establishment of both a Public Procurement Reform Board to oversee the successful implementation of actions to improve performance and a Public Procurement Advisory Group, composed of business organisations, including Third Sector representation, to provide a body with whom the Reform Board could engage in dialogue about the effect of changes in public procurement policy and practice upon suppliers.
- The concepts of Best Value and Community Planning were given statutory expression by the Local Government in Scotland Act (2003) which placed a duty upon local authorities to secure continuous improvement in performance and work with other public agencies, together with communities to plan and deliver better local services.
- *The Public Contracts (Scotland) Regulations 2006*, which take account of the new EU Services Directive, have had considerable implications in terms of the regulations for procurement. In the main, the Directive set out clear guidance on the requirement to advertise tender opportunities for works, goods and services across the European Union. It has clarified a set of technical standards for use across the EU, and requirements for objective and open criteria for the evaluation of tenders

and the selection of contractors. The Directive gives direction about when and how public contracts might take account of social and environmental considerations as part of this process. Guidance on how such considerations might be employed as part of the procurement process within Scotland is expected from the Scottish Procurement Directorate in due course.

- *Transforming Public Services* – the next phase of reform was published in 2006 as a discussion document to initiate a wide ranging dialogue with those who work for and use public services, with particular consideration for how services should respond to the needs of people.
- *People and Place (2006)* outlines how the Scottish Executive plans to regenerate Scotland and links to its policy on Closing the Opportunity Gap (2004) which tackles deprivation in Scotland.
- The growth of e-procurement across Scotland is of considerable importance as it has the potential to improve accessibility to guidance about the procurement processes and strategies employed by the public sector, as well as information about specific tender opportunities. Scotland is leading the way in this regard as it is the first country in the world to recommend all government-funded organisations use e-procurement as a buying method.
- *Choosing our Future – Scotland's Sustainable Development Strategy (2005)* stresses the valuable role social enterprises can play in delivering public services and the contribution they can make in terms of helping to achieve the aims set out within these two documents. There are also a great number of strategies emerging within the sector which recognise the unique value of the social economy in key areas such as transport and health. NHS Scotland (a body which spends over £1billion with suppliers per year) has recently established a National Procurement Centre of Expertise to engage with health boards across Scotland to consider how they might open up this very significant market to smaller suppliers and social enterprises. Scotland's National Transport Strategy (2006) identifies several methods to achieve this in relation to the transport agenda.
- *Futurebuilders Scotland – Investing in the Social Economy (2004)* outlined the Scottish Executive's commitment to enabling the social economy to play a much bigger role in delivering public services.
- The Scottish Procurement Directorate (SPD) recently carried out four pilots to test the potential and practical implications of using clauses within the procurement process to take account of social considerations, in particular training and recruitment, as set out within the new EU Directive. The SPD plans to publish general guidance on this topic in the near future.
- The EQUAL Social Economy Scotland Development Partnership has been operating three pilot projects to evaluate the suitability of social economy consortia in designing and delivering public services based upon a co-planning partnership approach. An evaluation of this work is due to be published in late 2007.

The ultimate aim being to achieve the Scottish Executive's vision for world-class public services based upon the principles of continuous improvement, Best Value and value for money.

There are already many examples of good practice emerging which demonstrate the positive changes taking place as a consequence of these initiatives to enable social enterprises and voluntary organisations to play a more central role in the delivery of public services. To take account of the experience gained within each sector, as a consequence of these partnerships, a variety of case studies have been included within the guide to help illustrate key points and exemplify good practice.

To bring these developments to the fore, Communities Scotland has published two companion guides to support the public sector in their efforts to engage with the social economy.

➔ *Better Value – Purchasing public services from the social economy (2007) and the accompanying case studies in Better value – The social economy delivering public service contracts (2007) are intended to demonstrate to the public sector the advantages of contracting with the social economy.*

To assist social enterprises and voluntary organisations in conveying the benefits they bring to the public sector, Communities Scotland has produced guidance to help organisations to measure social added value.

➔ *Making the Case: Social Added Value (2006) stresses to social enterprises and voluntary organisations the importance of proving their social added value and describes some of the tools that can be used to measure this.*

Copies of these publications are available on the following websites:

<http://www.communitiesscotland.gov.uk>

<http://www.socialeconomyscotland.info>

## Who is the guide for?

The Scottish Executive has commissioned this guide to support social enterprises and voluntary organisations that want to tender for public sector contracts.

This guide is for staff and directors in social enterprises and voluntary organisations within Scotland. The guide has been developed with a wide target audience in mind, including organisations that want to:

- Consider public sector procurement contracts as an option.
- Prepare for delivering public procurement contracts.
- Diversify their range of services and include public sector contracts.
- Continue to deliver contracts but improve their performance in tendering.
- Expand to deliver more contracts.
- Replace current grant funding with public procurement contracts.

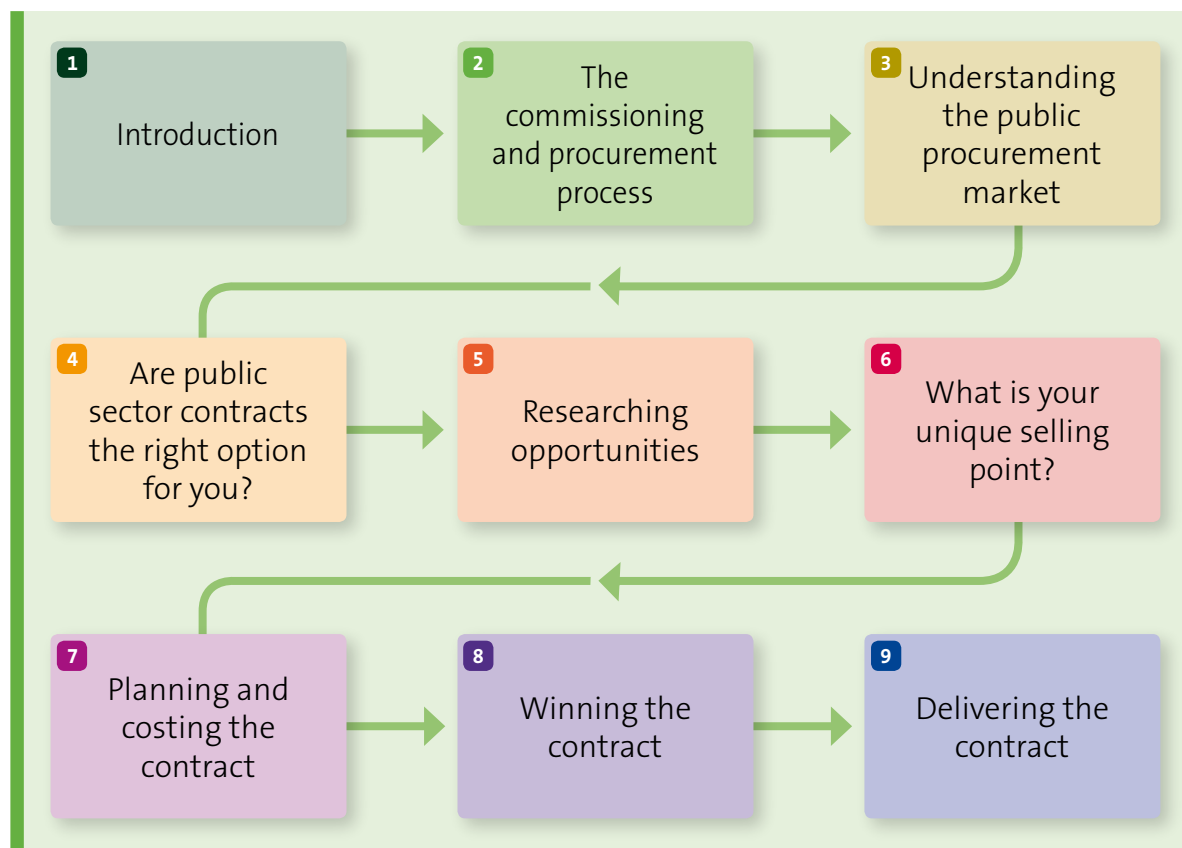
The purpose of the guide is to help your organisation to make the right choices.

It is recognised that some social enterprises and voluntary organisations will continue to deliver public services that are funded through grants or service level agreements. In many cases this is the best option for those organisations because of the nature of the services that are delivered.

It is also recognised that the social enterprise and voluntary sectors have within them wide differences and disparity between organisations. There are large, multi-million pound organisations and small community groups or individual social entrepreneurs. The guide attempts to cover relevant information for this diversity of sub sectors.

### How to use the guide?

The guide takes you through the stages of tendering for public sector contracts. These stages are detailed in the diagram below:



- Chapter 2 '**Commissioning and the procurement process**' briefly discusses the differences between contracts, grants and service level agreements, outlines the commissioning and procurement process and details good practice emerging in public procurement.
- Chapter 3 '**Understanding the public procurement market**' outlines the scale of the public procurement market, the competing pressures on that market place, developments within e-procurement and the potential opportunities for your organisation.
- Chapter 4 '**Are public sector contracts the right option for you?**' outlines the key questions that your organisation should ask itself before proceeding down this route.
- Chapter 5 '**Researching the opportunities**' details how to research and find appropriate procurement opportunities.

- Chapter 6 **'What is your unique selling point?'** considers how you should approach selling your goods and services to the public sector.
- Chapter 7 **'Planning and costing the contract'** details the key principles of pricing tenders and generating a surplus.
- Chapter 8 **'Winning the contract'** gives guidance on completing tenders.
- Chapter 9 **'Delivering the contract'** briefly outlines the key principles for successful contract delivery.

Following this there are a series of supplementary chapters. These are:

- Chapter 10 **'Working with others'** outlines the advantages and disadvantages of sub-contracting, consortium bids and partnerships.
- Chapter 11 **'What support is available?'** signposts you to sources of advice and support.
- Chapter 12 **'Terminology'** recognising that some of the terms being used may be unfamiliar, we briefly detail the main terms used throughout the guide.

**Throughout the guide you will come across different symbols.**

**These are as follows:**

- ⚠ *Key Point – is used to highlight Key Points, usually at the start of a chapter.*
- ❓ *Question – is used to indicate a key question for your organisation.*
- ➡ *Signpost – is used to signpost to advice and support. Details of support organisations are outlined in Chapter 11.*
- ✅ *Tips for success – a series of dos or don'ts that should help you to win contracts.*

It is not intended that the guide be read in one sitting. It is there as a reference source for your organisation and designed so that you can dip in and out of it, picking up appropriate information at each stage. The guide has been styled around a series of frequently asked questions that social enterprises or voluntary organisations have about tendering for public sector contracts.

- Where appropriate, there are checklists at the end of each chapter. These offer a quick review of the main issues and questions your organisation should ask.
- Support for developing the social economy is evolving. Although a range of support exists it is not uniformly available. You may need to shop around for appropriate support. The 'What support is available?' chapter outlines the main organisations and agencies that offer support in this area.

Although the guide has been developed specifically for staff and directors working within social enterprises and voluntary organisations the background information should also be useful for business advisers that support social enterprises and voluntary organisations to develop.

Much of the guidance is equally applicable to small and medium sized private sector businesses who may also be trying to enter the public procurement market.

## CASE STUDY: Smile Childcare

Smile Childcare (formerly One Stop Childcare) offers flexible, affordable, high quality childcare services. They provide childcare services to students at Edinburgh's Stevenson College. This contract has evolved over five years to meet the changing needs of student parents, offering eight flexible, tailored childcare places at a value of £47,000 per year. The contract relationship is built on high levels of trust, flexibility and value for money and is enhanced by the fact that the college also teaches childcare courses and the organisations have a shared ethos.

This has led to an increased understanding of Smile Childcare as a social enterprise and the fact that they have both very high standards of customer care and a very strong mission to serve their community, parents, employees, customers and children. They also now feel they are seen by many of our customers to be better, more flexible and more highly qualified than many private sector nurseries.

Caryn Smith of Stevenson College says of Smile: "If you deal with a social enterprise it doesn't mean that the organisation is less of a business than a private sector firm. In fact, the private sector could not provide what we wanted. My advice is that you should spend time getting the details of the contract right and invest in the working relationship. We genuinely get what we pay for, our students are very happy and we would recommend Smile Childcare to other colleges who need this service."

**Key contact: Esther Kef, Smile Childcare**

## 2: Commissioning and the procurement process

### Key points

- ❗ *Good practice around developing commissioning and procurement processes is emerging.*
- ❗ *Within the public sector most agencies are now developing procurement strategies that are linked to their strategic aims.*
- ❗ *Understanding the potential and full implications of the social economy becoming involved in the formal delivery of public services is still sketchy.*
- ❗ *Partnership working is increasingly important for the social economy in shaping the design of services.*
- ❗ *Clarity about the nature of the partnership is very important. It is essential that partners are clear about whether it is a commercial contract or a grant-related Service Level Agreement that being offered/sought.*

### What is procurement?

The definition that is most broadly accepted is:

*The whole process of purchasing by the public sector from third parties covering goods, services and capital projects. The process spans the whole-life cycle from initial concept through to the end of the asset or the end of a services contract.*

Procurement is an evolving process and is subject to a great deal of influence. Procurement practice is governed by EU law but it also influenced by national and local government policy. As a consequence, there are a great many factors to take into account when entering the market and good practice is continually being developed.

### Why is there such a focus on improving commissioning and procurement?

The Scottish Executive has a vision of world class public service delivery.

Social enterprises and voluntary organisations have been delivering public services for many years. This work has traditionally been undertaken through grant-funded arrangements, voluntary activity, service level agreements, partnership working and increasingly over the last decade through contracts.

As good practice develops in the public sector there is a corresponding need for social enterprises and voluntary organisations to become more business like in their dealings with the public sector.

Also as the public procurement market opens up there will be increased opportunities for social enterprises and voluntary organisations to compete for contracts to deliver public services.

It is also recognised that some public services will continue to be grant funded rather than put out to tender. The decision about whether services are outsourced will be made by service commissioners in their pursuit of Best Value.

### What is the difference between commissioning and procurement?

These two terms have often been interchanged, which has on occasions led to confusion.

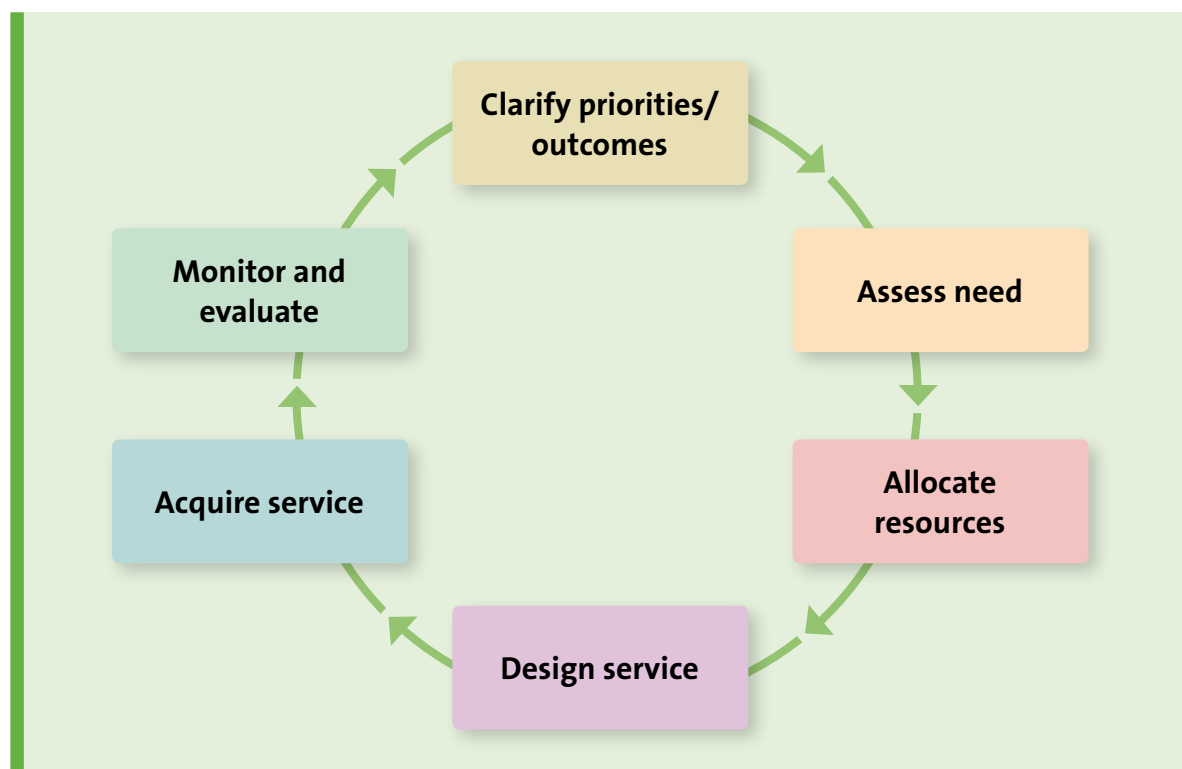
***Commissioning** is the strategic function of identifying priorities and outcomes, assessing the needs of people in an area or the requirement for goods or services by a public agency, allocating resources and then designing and securing the appropriate goods or services.*

***Procurement** has been outlined above.*

Procurement will result in the acquisition of goods or services from suppliers under legally binding contractual terms. There is a dynamic interaction between commissioning and procurement where procurement professionals actively support service commissioners to secure Best Value in the goods and services that they are seeking to obtain.

### What is the commissioning cycle?

The commissioning cycle works as follows:



**Clarify priorities/outcomes**

Identify the impact that you wish to have in relation to your strategic objectives.  
*This will take account of the mission and key policy drivers within the public agency.*

**Assess need**

Develop an understanding of the needs of service users and link this back to the outcomes desired for service delivery.  
*This will involve consultation with service users and organisations that advocate on their behalf.*

**Allocate resources**

Based on the outcomes sought and the assessed need then resources or budget for the service should be agreed.

**Design service**

Based on the outcomes sought and the assessed need then the best service available within resources should be designed.  
*This may involve working in partnership with service delivery organisations to ensure innovation and best practice is taken into account.*

**Acquire service**

An options appraisal helps decide how the service should be delivered.  
*Procurement is usually handed over to procurement professionals to follow established process that will take account of Best Value and legislation.*

**Monitor and evaluate**

Monitor and evaluate the service delivery, involving key stakeholders as appropriate.  
*Monitoring and evaluation should be proportionate to contract value and length to ensure value for money.*

**What is the procurement process?**

Commissioners work to design the service they need. Procurement is a strategic back office function to support this process ranging from market research to legal support to administrative requirements to ensure efficiency. The mutual aim of both commissioning and procurement should be to secure Best Value.

There is no standard procurement process within the public sector in Scotland. The following diagram shows a typical procurement process within the public sector where the decision has been made to put the supply of goods or services out to competitive tender.

### **Develop a strategic plan**

The public agency should have or be in the process of developing a strategic plan that links their vision, purpose, values and strategic aims/objectives into the statutory powers they possess and the wider impact that they wish to have.

Good practice within the public sector is seeing the development of Corporate Social Responsibility strategies underpinning the strategic plan.



### **Options appraisal**

Where goods are required or a service has been designed then an options appraisal is carried out. This options appraisal is founded on Best Value. A business case for the option chosen is then developed. At this point a decision is made over whether to procure the goods or services externally.

This options appraisal is often the interface period between service commissioners and procurement officers as decisions are made about how Best Value can be secured.



### **Develop a procurement strategy**

If the decision is made to purchase externally, the public agency should develop a procurement strategy to secure the outcome and impact agreed.

Most public agencies are or have developed overarching procurement strategies. Good practice stresses the link between the core aims and objectives of the public agency and the purchasing decisions it makes.



### **Develop the specification**

A specification is developed for the goods or services to be purchased. The timeline for the procurement process is agreed.

This process should involve both service commissioners and procurement professionals and may involve further market research to identify best practice and innovation within the area of purchase.



### **Advertise the contract**

Tenders are advertised in a variety of ways according to the policy of the public agency and compliance with EU and national regulations.

There is a growing move to advertise public sector contracts online via portal sites. This ensures greater transparency and non-discrimination and compliance with the legal requirement in Scotland for adequate publicity for contracts.



### **Pre qualification questionnaire (PQQ)**

Many public contracts now require a pre-qualification questionnaire (PQQ) to be completed. The information required assists the public agency to assess the technical capability and financial capacity of interested parties.

The PQQ process allows the public agency to efficiently select suppliers capable of delivering the goods or services required. These will often be based on the core PQQ (<http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/QualificationQuestion>)



**Invite tenders**

Qualified suppliers are invited to tender. The Invitation to Tender (ITT) will detail the service specification, the criteria used for decisions on tendering and the timescale for the process.

**Evaluate tenders**

The public agency then evaluates the tenders submitted against the specific criteria associated with that tender. Certain elements will be standard such as the achievement of value for money although the weightings and additional criteria will vary from one tender to another.

**Award the contract**

The contract is awarded to the supplier whose bid is judged to represent Best Value – this is the most economically advantageous tender (MEAT) that meets the selection criteria.

**Debrief**

Suppliers that are unsuccessful at either PQQ or tendering stage can request a debrief. To allow sufficient time for appeal, for high value contracts (i.e. those above a recognised EU threshold) a standstill rule (also known as the Alcatel Rule) applies, whereby work must not begin on the contract for a period of at least 10 days. Whilst these rules do not apply to lower value below-threshold procurements, it is often considered good practice by purchasers to build in a standstill time to ensure that ample opportunity is given to unsuccessful bidders to appeal.

**Manage the contract**

The supplier's performance is checked and monitored according to the terms of the contract.

**Review and test**

The need for the contract will be reviewed regularly. This review will help to prepare for future service requirement.

After a set period of time the contract may be advertised again. The principle of transparency means that there are limits on contract length. Some contracts may be longer where significant upfront investment is required to service the contract.

- ➔ *Further information on procurement processes is available on the Scottish Executive website <http://www.scotland.gov.uk/procurement>*
- ➔ *Procurement departments within public agencies can usually provide you with a copy of their organisation's Strategic Plan and their procurement strategy.*
- ➔ *Procurement departments can also usually provide you with guidelines on their tendering processes, limits of authority, flexibility, special circumstances, etc. Some public agencies have these guidelines on their websites or will provide you with them upon request. It is useful to obtain a copy to understand the processes and criteria that will be applied if you are considering tendering for contracts.*
- ✔ *Remember that occasionally it is non-procurement professionals that are purchasing goods and services. Many smaller public agencies may not have dedicated procurement staff in place and combine this function with other responsibilities.*

## What factors are influencing service commissioning?

It is recognised that to achieve the vision of innovative and dynamic world-class public services there needs to be stronger and more effective commissioning based upon partnerships. Recent policy has placed an emphasis on collaborative purchasing which sees public agencies coming together to buy goods and services in order to achieve cost savings and efficiencies.

Conversely, processes such as Community Planning place an emphasis on the design and delivery of services at a level closer to the users, often allowing them to have an input into the priorities around design of local services. This tension in public policy is unresolved and places pressures on service commissioners to make complex and multi-faceted purchasing decisions.

As a consequence, public sector reform will see an increasingly mixed economy of public service delivery with different sectors contributing according to their strengths. The public sector will bring its value base, strong governance, professionalism, experience and accountability. The private sector will contribute both commercial discipline and customer focus. The voluntary sector will bring its understanding and experience of service users, as well as culture of responsiveness to need and positive attitude towards innovation. Social enterprises blend commercial acumen with social purpose and have the potential to provide benefits associated with the social economy and private sector. Collaboration between sectors will be far more common.

A key driver for service commissioners will be an increased focus on outcomes for service users alongside achieving value for money for taxpayers. The quality of the service will matter more than the nature of the organisation that provides it.

## Is it possible to influence procurement policy or procurement processes?

Procurement processes for public agencies have to be transparent and fair. To ensure this public agencies have clauses within their tender processes that prohibit any attempt to influence the tender.

However, it is possible to influence procurement policy and service design. The development of processes such as Community Planning gives local communities and organisations that represent local communities the opportunity to become more involved in shaping priorities for service design and ultimately the nature and shape of delivery. Commissioners will increasingly be looking to work in partnership with service delivery organisations to ensure that they are developing services to suit the needs and wants of service users. This may provide your organisation with the opportunity to influence new service developments or procurement policy at a strategic level. One of the particular areas that you might seek to focus your attention upon is the manner in which new services are developed or packaged prior to going out to tender.

- ➔ *'Public Procurement: A Toolkit for Social Enterprises' gives useful advice on how to have input into this process: [www.sbs.gov.uk/SBS\\_Gov\\_files/socialenterprise/procure\\_text.pdf](http://www.sbs.gov.uk/SBS_Gov_files/socialenterprise/procure_text.pdf)*
- ➔ *The EQUAL Social Economy Scotland Development Partnership has carried out work in the area of public social partnerships to design service delivery. A report is to be expected to be published in late 2007.*
- ✔ *It may be that your Chief Executive or Board of Directors can act as ambassadors for your organisation in this area and seek to represent your views at a strategic level.*
- ✔ *It may be that by becoming involved in the Community Planning Process or by asking your local Council for Voluntary Service (CVS) to represent you on one of the Community Planning Partnerships that you can influence the decisions made about procurement opportunities.*

## Is it a grant or is it a contract?

Your organisation may already be providing services under grant-funding arrangements. As procurement practice develops you might find that you are encouraged to enter into a contractual relationship rather than continue a grant funding relationship. One of the advantages of contracts over other forms of trading is that once you have secured the contract then there is a planned and predictable workload, particularly in terms of staffing, ordering, etc.

However, there is the growth in the use of the term Service Level Agreement to describe a staging post between a grant and a contract.

Service Level Agreements (SLAs) can be confusing because the language of contract is used when in most cases the intention is still to grant fund.

Alternatively confusion can arise because some highly specified SLAs are very close to commercial contracts.

The use of SLAs has grown where public agencies are looking for specific outputs related to payment but will continue to grant-fund the service delivery.

A quick guide to the main differences between commercial contracts and grant-related SLAs is provided on the next page. This should help to provide clarity over the nature of the relationship.

As indicated, Service Level Agreements often have the language of contracts but are usually grants. In many cases, the confusion arises because of a lack of clarity about the intention of the public sector commissioning body, the opportunity offered to the delivery organisations and consequently the nature of the resulting working relationship.

It should be noted that the above emerging framework is not common currency. The development of good practice in both procurement and Service Level Agreements for the social economy is still evolving. It is also the case that in many areas there are a range of informal arrangements in place in relation to developing SLAs.

- ✔ *Contracts are not better than SLAs or vice versa. From the table above you can see that there are pros and cons to both. It is important to be clear about what you are being offered/seeking and whether it is appropriate to your organisation.*
- ✔ *This is a very grey area and your organisation may need to seek legal advice when negotiating contracts or SLAs. It should be remembered that some public agencies will use the term Service Level Agreement when meaning a commercial contract and vice versa.*

<b>Quick Guide to Service Level Agreements</b>	
<b>Commercial/Procurement Contract</b>	<b>Grant-related Service Level Agreement (SLA)</b>
Suppliers have liabilities (above non-payment) for failure to deliver: Bring in alternative provider at cost to the original contractor. Sort out the problem and/or pay to fix any problems.	Payment related to outputs and hence liability is non-payment if targets not reached.
Can make a profit/surplus on the contract. Agencies have meaningful legal obligations in relation to prompt payment of invoices.	Grant funding is restricted income. There is a legal obligation to spend it for the purposes that it was given and hence a possible 'clawback', if funding is not fully spent. No possibility of generating a surplus.
Price is outlined for the service on a 'block' basis or by 'unit', 'day rate' etc. payment according to set rate.	Although payment can be on a 'spot purchase', 'block purchase' or 'fee' on delivery basis, a budget is usually required detailing cost breakdown for providing service.
Payment is made for the supply of goods/ services and as this is a purchase, VAT should normally be charged.	No VAT as public sector intention is to grant fund delivery rather than purchase goods or services.
Service provider has a 'duty of care' to the public agency. Clear obligations within the contract and liability for damages if failure to provide in accordance with the service specifications.	No legal 'duty of care' but may be obligation in the grant award/specification to follow good practice. There is usually monitoring of appropriate policies and processes.
Public agency will have to follow EU procurement requirements and adhere to its own procurement processes.	Application process rather than tender process. (Applications do not have to be competitive processes, but must be open and transparent)
There will be no requirement to bring in match funding to secure the contract.	Leverage – the funder may be looking for leverage in terms of match funding as part of the agreement.
There may be State Aid concerns if the service provider is receiving grant funding in relation to other parts of its operation and that is seen as distorting competition in relation to other service providers.	May have State Aid implications if 'grant' is seen to distort competition.

# Notes

# 3: Understanding the public procurement market

## Key points

- ❗ *The public sector is a large customer.*
- ❗ *Procurement is governed by rules and regulations.*
- ❗ *Best Value will mean that there will be a range of approaches developed to improve public service delivery. This is a growing market opportunity.*
- ❗ *There are a series of pressures on the public procurement market, including Best Value and compliance with regulations that mean it is a complex market place to enter. Before entering the market you will need an understanding of how these affect the tendering process.*
- ❗ *You may already be supplying a service. The best option might be to look at other geographical areas or related client groups where public agencies can purchase your expertise on a contractual basis.*

## How big is the public procurement market?

The public sector in Scotland currently spends approximately £8 billion each year purchasing goods and services. This is a significant public service delivery market. In addition, the public sector is always looking for new suppliers. This means that however small your social enterprise or voluntary organisation is, there could be opportunities for your organisation to supply this market.

## What is the public sector?

The public sector is not a homogeneous body. It is a series of sub sectors. The public sector in Scotland employs approximately 25% of the workforce and includes:

- The Scottish Executive and other Scottish government agencies;
- The National Health Service;
- Local Authorities;
- UK government departments based in Scotland, such as the Inland Revenue, the Department for Work & Pensions Jobcentre Plus, etc;
- Key public services such as the police, fire service, judiciary;
- Further and Higher Education establishments;
- A series of non-departmental government bodies.

The public sector either directly delivers or facilitates the delivery of a vast range of key public services for citizens.

- ➡ *For more detail on the scope and scale of the public sector in Scotland see [www.scotland.gov.uk/government/publicbodies](http://www.scotland.gov.uk/government/publicbodies)*

## Why do the public sector have a procurement process?

For the public sector, procurement is about outsourcing processes to a specialist supplier who has the expertise or economies of scale to supply the goods or provide the service more efficiently, effectively at a higher quality or more cheaply than could be done in-house.

From the purchaser's point of view the main reasons for outsourcing are:

- Contractors can supply goods or services to a higher quality or specification
- To gain access to cutting edge technologies
- To achieve better outcomes
- To gain access to areas of expertise
- To share risks and improve management of risks
- To improve efficiency
- To free internal resources for other purposes
- To reduce and control operating costs

➡ *Further information on procurement processes is available on the Scottish Executive website [www.scotland.gov.uk/procurement](http://www.scotland.gov.uk/procurement)*

## What does the public sector purchase?

Given the scale of the public sector it is impossible to detail the full range of goods and services that public agencies purchase externally. The public sector purchases a range of goods and services from basic supplies to specialist services. Common goods or services that are purchased are:

- Accommodation
- Advertising
- Audit/Accountancy
- Building materials and maintenance
- Catering services
- Childcare services
- Cleaning services
- Clothing and embroidery
- Construction projects
- Consultancy
- Events management
- Fulfilment services
- Grounds maintenance
- Health care services
- Housing services
- Information technology
- Information services
- Postal and courier services
- Printing and reprographics
- Property management
- Property rental
- Publications
- Public relations
- Recruitment and HR expertise
- Research services
- Security services
- Social care
- Stationery
- Surveys
- Telecommunications equipment
- Telecommunications services
- Training
- Travel/transportation
- Uniforms and protective clothing

- ICT equipment
- Insurance
- Legal services
- Medical supplies
- Office equipment/furniture
- Utilities
- Vehicle goods and services
- Waste disposal and recycling
- Web design services
- Welfare services

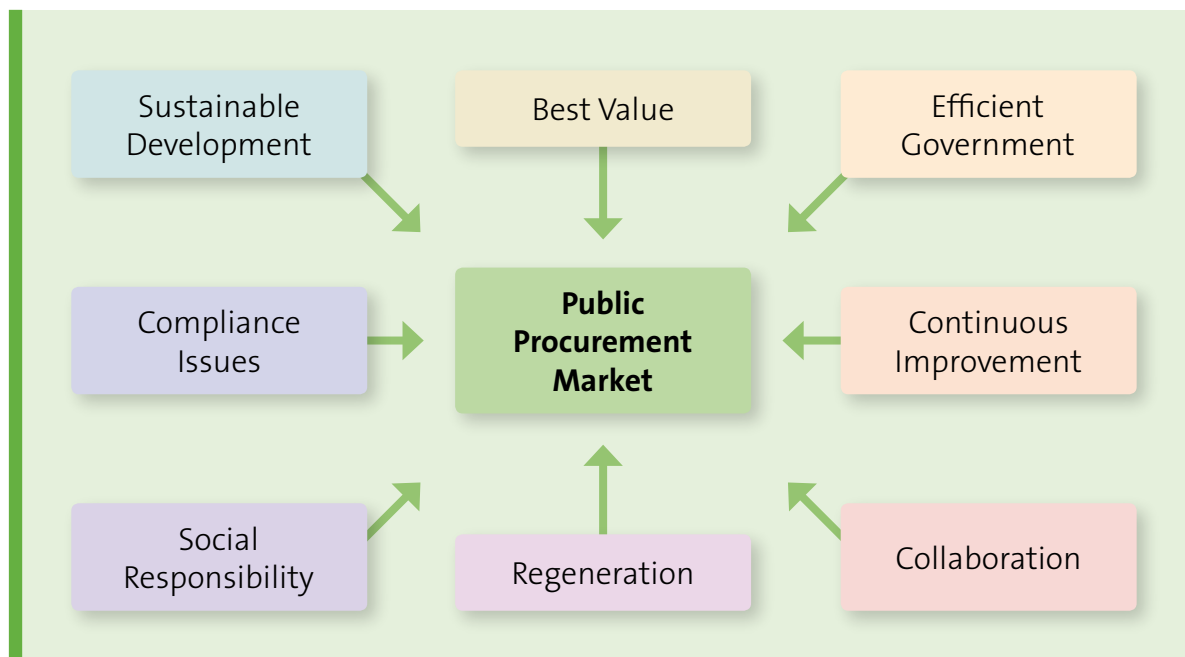
## What are the main drivers or pressures on the procurement market?

The public sector has a very wide remit and consequently, the agencies that make up that sector vary considerably from one another. Hence, homogeneous procurement practice does not exist throughout the public sector. However, the recent McClelland Review of public procurement highlighted the good practice that currently exists and set out recommendations to raise the standard of practice across the sector as a whole.

The McClelland review found that, as a whole, the public sector was insufficiently resourced to manage and implement the procurement system and processes required to achieve excellence in Scotland's public services. It stressed the potential for good procurement practice to act as a key driver in the achievement of strategic objectives across the sector and in the attainment of Best Value and efficient government. The review not only provided a thorough critique of existing practice and policy but also made clear the investment required to sufficiently resource, train and empower procurement practice. Much of the good practice that is beginning to emerge across the sector at present is a result of this work.

Yet it is not just the drive for greater efficiencies in procurement that influences this market. In fact, a number of key drivers of public policy can be identified that all have some influence upon the procurement processes of public sector bodies. These pressures are outlined in the diagram below.

### Main Drivers of Public Procurement



**Best Value** – Best Value is a highly detailed regime which has introduced a framework of characteristics to recognise the need for continuous improvement and in particular to contribute to sustainable development and equality requirements. Best Value envisages a diverse range of service deliverers, embracing the public, private and social economy sectors. Best Value is perhaps most thoroughly embedded into local authority practices, but is now a common framework for continuous improvement across the whole public sector. Public agencies must account for their procurement decisions and in this regard they are expected to act in accordance with their duties and responsibilities.

For local authorities, these duties include engaging with communities about the nature of services via Community Planning Partnerships and to do all that they can within their power to advance the wellbeing of the area and citizenship for which they are responsible. There is increasing recognition of the role of procurement as a key driver in achieving this aim, to deliver good, quality services to citizens by the most efficient and effective means. It is Scottish Executive policy to evaluate on the basis of most economically advantageous tender, as opposed to on the basis of lowest price.

Best Value places a duty on local authorities to make the best use of public resources through keeping a considered and appropriate balance between cost, quality and price. For local authorities there is a specific duty to develop a strategy for procurement to ensure that it treats procurement as a key component in achieving all its objectives, including those relating to sustainable development, equalities and health and safety.

**Collaboration** – One of the main recommendations of the McClelland Review is that the public sector should cooperate in purchasing high value, nation-wide commodities. The review suggested that these commodities (defined as Category A national contracts) should be purchased by one centre. This would enable the public sector to benefit from improved utilisation of scarce procurement resources and greater purchasing power as a consequence of the aggregation of the value of their spend. These procurements will be coordinated through the National Procurement Centre of Expertise (NPCOE).

The review also called for a number of sectoral level centres of expertise to be developed to aggregate spend at sector specific levels. These are termed Category B contracts for goods and services and include Central Government, Education, Health and Local Authority Centres of Expertise.

Category C contracts refer to purchases by a single entity, e.g. a local authority or university, where no benefit can be obtained through aggregation. Category C1 refers to local and regional contracts where the nature of the contract does not merit the level of consolidation provided for under Category A or B but where purchases might be consolidated within a region (or locality) wherever beneficial, e.g. Community Planning. Given the size and scale of many social enterprises and voluntary organisations it is likely that the focus of tendering activity will be on Category C contracts.

The growth of joint commissioning will lead to collaboration across departments and the public sector to achieve multiple outcomes and longer-term benefits for public service delivery.

**Efficient Government** – The pursuit of efficient government refers to a clear policy initiative with fairly significant practical repercussions. The primary aims of the initiative are to address waste, bureaucracy and duplication in Scotland’s public sector in order to free up resources to improve productivity. The goal of streamlining government processes in this way is to enable resources to be directed more fully towards front line services.

The efficient government initiative has had very practical implications for procurement in that it has led to the introduction of e-procurement systems across the Scottish public sector. At present, a common platform and portal is being developed. Although there is a requirement for the public sector to conduct procurement electronically there is no imperative for them to do so using this particular platform.

**Social Responsibility** – As a delivery agent, the public sector takes steps to ensure that it delivers its services in a manner which will allow it to reduce (in so far as is possible) any negative impacts. In the outsourcing of particular services, and in the purchase of commodities, the public sector can and does take steps to assure itself that suppliers are also taking such responsibilities seriously. The Scottish Executive suggests suppliers visit the Environment Agency’s website – [www.netregs.gov.uk](http://www.netregs.gov.uk) – for further advice. The Scottish Executive’s own website also has guidance for suppliers around the issue of corporate social responsibility.

**Sustainable Development** – The notion of sustainable development is a common thread that stretches across a wide range of policy areas in the realms of delivering services which are socially, economically and environmentally sustainable in so far as they represent value for money.

**Continuous Improvement** – The UK Government and the Scottish Executive have committed themselves to a radical programme of public service investment and reform. Their goal is world-class public services that extend opportunity, tackle poverty and improve the quality of life for all. Best Value underpins and reinforces this drive for continuous improvement.

**Compliance with Regulations** – European public procurement policy is driven by the aim of helping public authorities to deliver higher quality services at lower cost to Europe’s citizens by bringing the benefit of the Single Market to public procurement. The aim is to create competitive, non-discriminatory public procurement markets across the EU. A series of directives have been incorporated into UK law. As the public sector are spending public money they need to ensure that all procurement is undertaken in compliance with the rules and that the process employed throughout is both fair and transparent.

**Regeneration** – Poverty, unemployment, poor health, poor housing, poor transport and a lack of skills are still major issues that need to be tackled in many communities. The delivery of effective public services will run alongside regeneration. Procurement strategies, particularly partnership working between the public, social and private

sectors, will be a significant factor in local regeneration. Effective regeneration strategies will have community involvement at their core.

For further information on corporate social responsibility see:

[www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/ProcurementPolicy/corporate-responsibility](http://www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/ProcurementPolicy/corporate-responsibility)

## How important is Best Value in public procurement?

The drive behind Best Value and public sector policy is to deliver better public services for citizens. Although specific guidance and a statutory framework for Best Value is provided by the Local Government in Scotland Act 2003 it is recognised that the principles of Best Value are applicable across the whole public sector.

Best Value encourages:

- a contribution to sustainable development which includes a consideration of the social, economic and environmental impacts of activities
- a commitment to joint working which encourages partnership in service delivery where this will contribute to better services and customer-focused outcomes
- a demonstration of responsiveness and consultation, including the voluntary and community sectors
- account to be taken of the potential economic impact of the authority's activities on the local business community and others
- a culture which encourages both equal opportunities and the observance of equal opportunities requirements

As public agencies meet their general duties of Best Value this will mean:

- Contracting will shift to an emphasis on delivering outcomes which will improve community well-being without prescription of how this can be achieved. This will allow increased opportunity for those providers who are willing to be innovative in the way they deliver services.
- Contracting will focus on mainstreaming 'equalities' with the potential for social enterprises and voluntary organisations to add value through their experience and commitment to equal opportunities.
- Contracting will focus on sustainable development with a longer-term view of 'whole-life costs' becoming the basis for Best Value decisions.

Public agencies are now encouraged to develop procurement approaches based on strategic objectives. By advocating this type of approach the Scottish Executive believes that each local authority or public agency will be able to put its 'own stamp' on their approach by aligning strategic objectives with the identification of possible options.

A wide range of guidance on Best Value exists for procurement officers. This guidance is based on the practice of 'joint working' of what will deliver better public services for local people. The principles of Best Value in Scotland have been developed around the notion that there is no 'one-size-fits-all' solution. Guidance sets out more detail on how joint working with the voluntary sector, social economy and community organisations could be pursued in the following ways:

- Compacts
- Community Planning Partnerships
- Local Social Economy Partnerships
- Contracting
- Grant distribution

This will ultimately lead to a mixed economy of supply of public services, increasingly involving the small business sector and the social enterprise and voluntary sectors.

As Best Value permeates the strategies and operational practices of local authorities and public agencies then this will increasingly open up the public procurement market to social enterprises and voluntary organisations.

✔ *Equal opportunities, sustainable development and joint working are key themes in Best Value.*

➔ *For detailed information on Best Value visit [www.scotland.gov.uk/Publications](http://www.scotland.gov.uk/Publications)*

### How important is a local authority's 'Power to Advance Well-being' on the procurement market?

The Local Government in Scotland Act 2003 introduces a new Power to Advance Well-being. This gives local authorities the framework in which to promote or improve the wellbeing of its area or people where there is no obvious statutory power or duty available. The power is deliberately broad and well-being is not specifically defined. However, the sorts of areas which affect well-being will include economic, social, health and environmental factors. This could enable local authorities to work in more innovative and creative ways to respond to the needs of their communities. This could impact on the procurement strategies of local authorities and may potentially be used as a case for including particular elements within tender criteria which take account of such factors, e.g. the environment, labour market failure etc.

### How important is 'Community Planning' in relation to the procurement market?

The Local Government in Scotland Act 2003 gave statutory effect to the Community Planning process, which has two key aims:

- ensuring that organisations work together in providing better public services; and
- making sure communities are genuinely engaged in the decisions made on public services which affect them.

Community Planning is an evolving process. One of its principal goals is to improve the connection between national priorities and those at a regional and local level.

Under the 2003 Act, local authorities have a statutory duty to initiate and facilitate the Community Planning process. Other key public sector agencies (NHS Boards, the Police, the Fire Service, Scottish Enterprise and Highlands and Islands Enterprise, Regional Transport Partnerships) have a duty to participate in that process. Scottish Ministers also have a duty to promote and encourage Community Planning (which,

in practical terms, includes the participation of Communities Scotland in Community Planning at local level).

The Community Planning process should be open and accessible to a wide range of interests. Community Planning should be a local process and, ultimately, there will be local discretion in tailoring that process to the needs and opportunities of local communities. The legislation requires the local authority supported by the other agencies with a specific community planning duty to “consult... with such community bodies and other bodies or persons as is appropriate”. The legislation makes clear that the term “community bodies” is a wide-ranging one and covers all groups which promote or improve the interests of any community. The statutory guidance makes clear that voluntary organisations (whether as service provider or group representing the community) should be engaged in this process.

Both the Power to Advance Well-Being and Community Planning should be seen in the context of Best Value. The Scottish Executive sees a strategic approach to procurement – one which follows the logic of an integrated approach to Best Value, Power to Advance Well-Being and Community Planning. Procurement decisions, therefore, should be based upon a few simple tests:

- How does a public agency’s procurement strategy support the achievement of its objectives?
- Is the procurement strategy based on the principle of ‘what works best’?
- Is the procurement strategy delivering better services to the community?

Best Value, the Power to Advance Well-Being and Community Planning should lead to a more diverse range of public service provision, based on the needs of local communities.

- ☑ *Further information about Best Value is available from the Scottish Executive’s website, [www.scotland.gov.uk/Publications](http://www.scotland.gov.uk/Publications)*
- ☑ *Further information on Community Planning and the Power to Advance Well-Being are available on Scotland’s Community Planning website, [www.improvementservice.org.uk/community-planning](http://www.improvementservice.org.uk/community-planning)*

### Where can I find out more information about procurement policy?

- ➡ *The Scottish Procurement Directorate’s procurement policy manual provides guidance on the role, processes and requirements with respect to the purchasing process: <http://www.scotland.gov.uk/Publications/2006/05/spdpolicymanual>*
- ➡ *Further information about policy developments with respect to procurement is available on their website: <http://www.scotland.gov.uk/Topics/Government/Procurement>*
- ➡ *The Public Contracts (Scotland) Regulations 2006 set out the statutory requirements with respect to procurement in Scotland: <http://www.opsi.gov.uk/legislation/scotland/ssi2006/20060001.htm>*

## How important is European Union (EU) procurement policy?

All public procurement must comply with the EU Treaty and should be informed by the case law emerging from the ECJ (European Court of Justice). The treaty sets down principles to prevent discrimination against businesses from any member state and to remove restrictions on the free movement of goods and services.

The principles of the treaty are backed up by a series of EU directives. In respect of procurement, a new EU Services Directive (consolidating previous directives) sets out to ensure:

- Transparency of the procurement process
  - Free movement of goods and services (by removing barriers and taking steps to improve access to tender opportunities across the EU)
  - Equal treatment through non-discrimination
  - Proportionality within the process
- ➔ *For further details on the EU Procurement Laws and Policy see the Scottish Executive website [www.scotland.gov.uk/procurement](http://www.scotland.gov.uk/procurement)*
- ➔ *Your Euro Info Centre can also provide details on EU Procurement Law see the EIC website for details: [www.euro-info.org.uk](http://www.euro-info.org.uk)*

## How much influence will public sector reform have on procurement?

The Scottish Executive has a vision of world class public services that provide the people of Scotland with the platform on which to build better lives for themselves and their children. This is being achieved by a progressive range of cross-cutting policy and delivery programmes that are aimed at driving up standards and creating sustainable services that the people of Scotland need and deserve.

Underpinning this is a reform agenda that has the core value of services promoting social justice and equality, while building for the future in a sustainable way. Service delivery will be built on five core principles:

- Services should be user focused and personalised, organised around the needs of the user not the convenience of the provider
- Services should drive up quality and innovation
- Improving in efficiency and productivity
- Joining-up services and minimising separation
- Strengthening accountability

Public sector reform to achieve this vision will be the key driver of public service delivery.

## What are the implications of the new EU Services Directive?

The new EU Services Directive sets out classifications in relation to public procurement with a view to establishing a standard set of technical terms for use throughout the EU.

The degree to which the EU Regulations apply depends upon the classification of the services that are the subject of the contract. Those contracts designated as Part A Services attract the full attention of the regulations. In contrast, contracts that are designated Part B only attract the regulations to a limited extent. Anything that is not listed is covered by the 'other' category under Part B of the list. So if the services you seek to provide are not listed by name, it is likely that they will be classed as a Part B service and therefore only some of the Regulations will apply. It is important to note, that even where EU procurement procedures are not mandatory, the principles of EU procurement always apply.

Services such as health, social services, education and training are classified under Part B.

As these are the types of contracts usually sought by social enterprises and voluntary sector organisations, many of the contracts that you are likely to be interested in will probably be listed here.

It is important to find out whether the service you are seeking to provide is classified as Part A or Part B as this will have a bearing upon the rigour with which the full Regulations are applied by the relevant public agency. If the service is Part B EU obligations relate only to specifications and contract award information.

➔ *The Scottish Procurement Directorate's website contains policy information.*  
[www.scotland.gov.uk/Topics/Government/Procurement](http://www.scotland.gov.uk/Topics/Government/Procurement)

### What are the thresholds for advertising public contracts?

As outlined above, the EU has established a set of requirements for certain purchases. These requirements come into play with respect to the procurement process when a contract is above a certain value and include a requirement to:

- Publish a tender notice in the official Journal of the European Union (OJEU) to give all EU suppliers an equal opportunity to tender.
- Invite tenders according to the procedure used (open, restricted or negotiated) taking account of the minimum timescales imposed, to ensure that reasonable time is given to respond to adverts and prepare submissions.
- Evaluate the submissions only on the basis of the criteria published in the tender notice.
- Place a contract award notice in OJEU.

The following table contains details of the relevant threshold amounts for 2007. Any updates to values are published on the SPD website.

As you can see in 2007, in relation to local authorities in the UK, these threshold amounts were: £144, 371 for services and supplies, and £3,611,319 for works.

The Directive recognises that the resource implications of applying the full regulations to smaller procurements would be inefficient. As a consequence, the Directive allows for low value contracts to be undertaken at the discretion of national government regulations provided that basic EU freedoms are protected through the application of transparent and fair processes. The Statutory instrument under which the new

Directives have been implemented includes a requirement for “adequate publicity” of contracts, including a requirement to publicise sub-contract thresholds. This will be achieved in Scotland through the launch of a national contracts advertising portal.

	Supplies	Services	Works
Central Government Bodies (listed in Schedule 1 of the Public Contracts Regulations 2006)	£93,738 (€ 137,000)	£93,738 (2) (€ 137,000)	£3,611,319 (3) (€ 5,278,000)
Other public sector contracting authorities (including local authorities)	£144,371 (€ 211,000)	£144,371 (€ 211,000)	£3,611,319 (3) (€ 5,278,000)
Indicative Notices (These provide advance warning of contracts to be advertised)	£513,166 (€ 750,000)	£513,166 (€ 750,000)	£3,611,319 (€ 5,278,000)
Small Lots	£54,738 (€ 80,000)	£54,738 (€ 80,000)	£684,221 (€ 1,000,000)

## Where can I find information on areas such as the public procurement directives?

➔ <http://www.scotland.gov.uk/Topics/Government/Procurement>

## Why is there not a standardised approach to procurement across the public sector?

Given that a ‘one-size-fits-all’ approach is not suitable to deliver local service provision then it is no surprise that there are not standardised approaches across the public sector. It is recognised that the closer the service is to the citizen then the greater the truth in the notion that ‘one size doesn’t fit all’.

There are also profound cultural differences between different local authorities and between different government departments. Best Value permits each public agency to implement procurement strategies that allow it to best meet local need and political choice.

This flexibility of approach might mean that your organisation will end up tendering for service provision in different ways. It may also mean that if you identify a service that you can supply to the public sector it may be wise to shop around for a local authority or government department to buy your service and not always assume they are on your doorstep.

## **CASE STUDY: Cornerstone Community Care**

Founded 25 years ago, Cornerstone Community Care provides services to people with learning disabilities and special needs. From its Ayr base, Cornerstone has developed flexible services for both South and East Ayrshire Councils, based around a mix of short break and adult placements, where people with learning disabilities live with a carer in their carer's home. Typically, service users are leaving an institution and it is a feature of the support that the family of the service user are involved where appropriate.

Flexibility has been a key feature of Cornerstone's delivery. The service originally developed with South Ayrshire Council and was subsequently replicated in East Ayrshire. Following a recent Best Value review South Ayrshire has decided not to renew the adult placement contract, and instead switched to a spot-purchase arrangement where it buys short-break care from Cornerstone as and when needed based on an agreed price and service specification. Cornerstone has worked closely with many local authorities, making it an organisation that can adapt to change. This enables it to win contracts through tendering and the organisation prides itself on being entrepreneurial.

Margaret Bates of South Ayrshire Council comments that: "From their inception, these services have been innovative and highly flexible in their delivery and the relationship we have with Cornerstone is a vital part of this. Our regular meetings and the evaluation processes we use have enabled Cornerstone, in partnership with the local authority and NHS, to tailor the services it provides to meet individual need."

**Key contact: Jill MacSporran, Cornerstone Community Care**

## What are the benefits of public sector procurement contracts for social enterprises or voluntary organisations?

As traditional grant funding or donation routes are squeezed and become more competitive, one potential area of growth is income generated through trading or contracting. This means establishing a customer base that will buy your products or services.

The Public Sector can be a good customer for your organisation:

- **Scale** – As indicated there is a very large market with a wide range of needs that is always looking for continuous improvement and new suppliers.
- **Shared Values** – There can be a shared value system between the public sector and the social enterprise/voluntary sectors in terms of the delivery of public services.
- **Transparency** – They have to be fair, honest and professional in the way they choose suppliers and in any dealings with them.
- **Continuous Demand** – Depending which part of the public procurement market you are in, even during an economic downturn public services continue to be delivered. This provides suppliers with a relatively longstanding, stable customer base.
- **Prompt Payment** – They have to pay promptly and in line with agreed contract terms. Public sector agencies have to pay accounts within 30 days (or any other agreed credit period) of receiving a valid bill or invoice.
- **Bad Debt** – The public sector should never become a bad debt.
- **Best Value** – The progressive development of Best Value means that public service delivery markets should increasingly open up as the public sector strives to ensure better public service delivery for citizens. This is also a growing market opportunity.

## Is there a market for us?

There are five broad areas of public service delivery market potential that can be identified:

- **Entering ‘Existing’ Procurement Markets** – While this is a vast market, you will be competing primarily with the private sector to provide goods and services that are currently outsourced.
- **Outsourcing of Current Public Services** – You will be competing with a range of suppliers including the private and public sectors or other social enterprises/voluntary organisations to supply goods or services that are currently delivered by the public sector but are being put out to tender (this is often referred to as externalised).
- **New Service Opportunities** – You might be able to identify the need for a new service or a new approach to meet an existing problem/social need. This may involve you getting involved in collaborative work to supply this service to the public sector. Partnership approaches or consortia aim to pool expertise to meet a need that one organisation does not have the skills or experience to meet.

- **Regeneration Initiatives** – These can create new procurement opportunities and local communities may be able to shape development of these opportunities and establish social enterprises to deliver these services.
- **Grant to Contract** – It may be that a service that you have traditionally delivered under grant funding regime is now moving towards being a commercial contract that is governed by procurement rules and regulations. This may mean that you can begin to receive full cost recovery as a minimum requirement of the contract.

Social enterprise or voluntary sector involvement in delivering public services is not new. Numerous examples of effective delivery exist within the areas of social housing, community care, childcare, community learning, training for unemployed people and leisure services. There are also examples of significant service delivery in areas as diverse as community safety, education, recycling, tourism, community transport and youth services.

- ☑ *There is not one clear market opportunity that is best for a social enterprise or voluntary organisation. You will need to identify the best opportunity for your organisation.*
- ☑ *Be clear about the type of procurement opportunity that you are pursuing as this will often determine the type of competition that you will face when tendering.*
- ☑ *You may be able to identify local niche opportunities that match your social objectives. These can often be the best opportunities for growth.*

## Are there growth markets for our sector to enter?

The outsourcing of services can create opportunities for social enterprises and voluntary organisations, particularly as there are areas where the social economy is an active and specialist provider, such as social care, health care, welfare services, training and employment services and recycling.

The crucial factors for your organisation to focus on within these growth markets are:

- Local authorities who play a very broad role. Within the areas of service delivery outlined above the local authority is both a stakeholder in public service delivery and a purchaser.
- User involvement and personal choice in service development is often a critical factor in service delivery. This is a key selling point in terms of contributing in the service design process.
- ☑ *With increasing moves towards aggregation of contracts it may be that you will need to collaborate with other social enterprises or voluntary organisations to develop services and secure contracts.*

## Can social or environmental factors be taken into consideration during the procurement process?

When letting contracts public agencies can give consideration to social and environmental issues. These must be linked to the subject matter of the contract, must not confer unrestricted freedom of choice on the contracting authority and must be interpreted in accordance with both the rules of EU Directives and the principles of the EC Treaty.

Best Value should ensure that the principle of sustainable development permeates public sector procurement practice. Although sustainable development policies are at an early stage in many the public sector, a number of trends can be identified that will affect the public procurement market:

- Public agencies are recognising that sustainable development can be part of the procurement process and that it is possible to specify 'sustainability' provided the contract requirements are clearly stated in terms of output or performance and are capable of being evaluated against objective criteria.
- There is a move within public agencies to interpret Best Value as an opportunity to move away from focusing solely on contract outputs and to begin to assess contracts on the basis of longer-term impact. This is reinforced by the notion of 'whole life costs' which is the procurement term for the end to end process of delivery to a contract.
- EU procurement directives recognise that employment and occupation are key elements in guaranteeing equal opportunities for all. In this context Article 19 of the new Services Directive acknowledges that sheltered workshops or other forms of sheltered employment (which could include social firms or intermediate labour market companies) programmes contribute towards the integration of individuals with a disability into the labour market. It is also recognised that organisations providing such employment provision may not be able to obtain contracts under normal conditions of competition and consequently member states have the right to reserve certain public contracts to such schemes.

The new EU directives will lead to forthcoming guidance on the use of social clauses in procurement contracts.

- ➔ [www.ogc.gov.uk/documents/supported\\_factories\\_and\\_businesses.pdf](http://www.ogc.gov.uk/documents/supported_factories_and_businesses.pdf)
- ➔ *The Scottish Procurement Directorate (SPD) is presently working on guidance about the inclusions of social/community benefit clauses. It is expected that this guidance will be released sometime in March 2008. [www.scotland.gov.uk/Topics/Government/procurement](http://www.scotland.gov.uk/Topics/Government/procurement)*
- ➔ *The Scottish Procurement Directorate will be issuing 'Community Issues' guidance in late 2007. [www.scotland.gov.uk/Topics/Government/procurement](http://www.scotland.gov.uk/Topics/Government/procurement)*
- ➔ *The Office of the Third Sector's publication Partnership in Public Services (Dec 2006) stresses the work being undertaken to address potential barriers to the use of social clauses and will develop a set of examples. This work is being undertaken in conjunction with the actions set out within The Social Enterprise Action Plan*

*which considers how the government and other partners will tackle social clauses in contracts in order to achieve multiple outcomes and work with commissioners pioneering the use of social clauses to draw together examples of practice. For further information, visit [www.cabinetoffice.gov.uk/thirdsector](http://www.cabinetoffice.gov.uk/thirdsector)*

- ➔ *The Office of Government Commerce (OGC) has issued guidance, Social Issues in Purchasing, which is available online at [http://www.ogc.gov.uk/sustainability\\_social\\_issues\\_in\\_purchasing.asp](http://www.ogc.gov.uk/sustainability_social_issues_in_purchasing.asp)*
- ➔ *The Scottish Procurement Directorate (SPD) is expected to issue guidance on social issues in purchasing. This guidance will take precedence over that of the OGC within Scotland.*
- ✔ *Approach your Local Authority or public agency and enquire whether they have a procurement strategy that includes clear strategic objectives based on identified community benefits. This may open up an opportunity to discuss procurement opportunities.*
- ✔ *The public procurement market is not static. As with all markets your organisation should continue to analyse the trends that are developing.*

## **What other issues need to be tackled to increase involvement of social enterprises and voluntary organisations in public service delivery markets?**

Awareness has been raised of the vital contribution that social enterprises and voluntary organisations can make to public service delivery. Particularly through the publication of Better value – Purchasing public services from the social economy (2007).

Despite the progress made in terms of Best Value and efficient government it is recognised that there are still areas of current procurement culture that need to be addressed. These issues affect both the public sector and the social economy:

- Within all sectors there are still remnants of a grant-aid mentality. The move towards a contractual relationship will take time to develop. Social enterprises and voluntary organisations will need to be more business-like in their dealings with the public sector.
- Collaborative working as a means to deliver mutual solutions needs to be fostered and developed. This will mean moving away from an adversarial ‘them and us’ culture towards greater partnership working.
- The pressure to follow the public pound does have some implications for the management of risk by public agencies, and it is important that this pressure does not lead to unduly negative risk assessments, disproportionate scrutiny, and overly bureaucratic reporting processes with respect to partnerships with the social economy sector. The value of contracts (which are themselves likely to be relatively low) would render such exercises excessive to the level of risk itself (from a financial perspective). Social enterprises and voluntary organisations should not, in the main, be treated differently in this respect than would private sector

organisations including SMEs. Proportionality is one of the key EU Treaty principles that should be applied.

- There needs to be the encouragement of risk management rather than risk aversion within the public sector. Training for public sector procurement staff is crucial in this area, particularly around the view that dealing with small businesses, the social enterprise or voluntary sector exposes the public agency to more risk.
- The measures of value for money and quality are multi-dimensional. While aggregating contracts ('buy big, save money') is often good practice in terms of purchasing goods that the public sector require to function, this principle is often not good practice for developing effective user-led community based services. New models of working will need to be developed by the public sector as it increasingly purchases services based on community need that balances value for money with 'value for people'.
- At present 'price' is easier to defend if challenged. Both the public sector and the social economy will need to work together to develop procurement strategies and tendering procedures that integrate outcomes and impact measurement in terms of the triple bottom line of social, economic and environmental considerations into procurement practice. This will increasingly lead to an outcome-focused approach to procurement.
- Public agencies will need to consider proportionality and appropriateness in their tendering arrangements. This will shift the perception that bidding processes are often complicated and favour large, well-resourced companies.
- Existing contracts for the social economy are often too short. This does not allow for effective planning. Longer contracts are necessary to encourage the capital investment that is necessary to effectively enter the public procurement market.

With the public sector reform agenda gathering pace, then these issues should be tackled as good practice develops.

### Are there positive cultural issues that impact upon procurement practice?

The main positive cultural issue relates to values. Within the public sector 'values' are a key driver of policy and practice. This means that there is a clear link with the social economy and often a shared value system. If a public sector agency has a progressive procurement strategy this should be based in part on seeking to buy their core values and 'core aims' when they purchase goods and services externally.

Also within the public sector there is the drive for improved quality. Public sector purchasers are looking to appoint suppliers that can demonstrate that they can produce the quality required. If your organisation can demonstrate your ability to deliver the standards expected you will have a good chance of winning contracts.

As has been stated, the Scottish Executive has a vision of world-class public services. It acknowledges that this vision is being developed in the face of growing challenges of global competition, changing demographics and the increasing pressures of

environmental sustainability. Collaboration is the key to achieving the vision. Collaboration gives your organisation the impetus to get involved in helping the Scottish Executive to achieve its vision.

### **CASE STUDY: Glasgow Housing Association (GHA)**

Glasgow Housing Association (GHA) is a registered social landlord (RSL) established in 2003 to own Glasgow City Council's (GCC) housing stock via a large-scale voluntary transfer. We inherited some 80,000 properties: around 60 per cent of the social rented sector in Glasgow, and are the UK's largest RSL. GHA has devolved our housing management services to a network of Local Housing Organisations spread throughout the city, with the aim being local community control.

The mission of GHA and the LHO network is to contribute to the transformation of social housing in Glasgow and to ensure in any practical way we can, that better homes lead to better lives. Improving the quality of life for tenants is core to everything we do. To this end, GHA's 2007/08 Business Plan states, "investment in houses alone is not enough to achieve the social transformation that Glasgow aspires to". Building on this, GHA's Wider Action Strategy has a clear aim "to maximise sustainable jobs and training gains for Glasgow residents arising from GHA activity".

Through our work with the Scottish Procurement Directorate, maximising jobs and training outcomes has become an integral part of our procurement process, outcomes that must be met by our contractors with no additional cost to GHA. GHA has adopted the role of enabler and facilitator, ensuring contractors are provided with advice and support with employment and training initiatives. To this end GHA works in partnership with agencies such as Scottish Enterprise Glasgow to seek to secure employment opportunities with contractors delivering our investment programme.

There is concern amongst many procurement professionals that the inclusion of training and employment requirements within the procurement process might hinder the attainment of Value for Money (VfM); either because it is expected that it will cost the purchaser more or because the criteria will elicit a poor response from potential suppliers. In our case, the inclusion of social clauses did not appear to have an adverse effect upon VfM as those firms that scored well in this regard also scored well against other criteria.

As a consequence of our approach, we have made positive gains in the number of previously jobless individuals into work which reflects our strategic objectives. Furthermore, we have also demonstrated that it is possible to achieve additionality in a cost neutral way.

**Key contact: David Fletcher, Glasgow Housing Association**

## What is the Suppliers' Charter?

The Suppliers' Charter is a joint statement between the Public Sector Procurement and Business designed to facilitate access to public sector procurement opportunities.

In recognising that effective procurement practice is an important factor in ensuring a varied and competitive marketplace, creating opportunities for Small and Medium Enterprises (SMEs), as well as ensuring Best Value/Value for Money for the public sector, the Charter sets out ways in which processes might be simplified and standardised. It also gives due recognition given to the need to ensure consistency in order to provide a fair and open approach to tendering.

➔ *The Suppliers' Charter and information on signatories to this document is available online from the Scottish Procurement Directorate's website: <http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/Supplierscharter2>*

## What if we want to expand into the public procurement market within other areas of the UK?

This guide is specifically targeted at social enterprises and voluntary organisations that are working in Scotland. It maps out how procurement works within Scotland.

It is recognised that some social enterprises and voluntary organisations may identify potential market opportunities out with Scotland. Many of the principles outlined are applicable within a UK context. For specific information on contracting and tendering within other parts of the UK the following may be useful:

- ➔ *The Department of Trade and Industry has published [Public Procurement: A Toolkit for Social Enterprises](http://www.sbs.gov.uk/SBS_Gov_files/socialenterprise/procure_text.pdf) available at [www.sbs.gov.uk/SBS\\_Gov\\_files/socialenterprise/procure\\_text.pdf](http://www.sbs.gov.uk/SBS_Gov_files/socialenterprise/procure_text.pdf)*
- ➔ *The Office of Government Commerce websites [www.ogc.gov.uk](http://www.ogc.gov.uk)*
- ➔ *[www.cabinetoffice.gov.uk/third\\_sector](http://www.cabinetoffice.gov.uk/third_sector) – The Office of the Third Sector has produced *Partnership in Public Services – An action plan for third sector involvement (2006)*.*

# Notes

# 4: Are public sector contracts the right option for you?

## Key points

- ❗ *Be clear about your motivation for seeking public service delivery contracts and any implications for your organisation.*
- ❗ *Weigh up the pros and cons of pursuing public service delivery contracts.*
- ❗ *Loan finance might be available to help you with financing the purchase of equipment, cashflow implications or working capital.*
- ❗ *If you need help to make this decision, advice and support is available.*

Any well-run social enterprise or voluntary organisation will have a business plan or business development strategy based around who you are, what you do, where you want to go, how you will get there and how will it be financed.

There is no hierarchy of funding that places contracting above Service Level Agreements or grants. Also, contracting is not a ‘magic wand’ for your organisation if you are facing a funding shortfall. Tendering for public service contracts is one of a range of options in terms of the funding composition of a social enterprise or voluntary organisation. As with any source of funding and finance there are pros and cons that need to be weighed up before your organisation travels down this route.

- The potential risks of contract dependency have to be weighed alongside the risks of grant dependency.
- Alternatively, the risk of pursuing public service contracts as a business strategy has to be placed alongside the risk of doing nothing or continuing with existing grant funding streams.

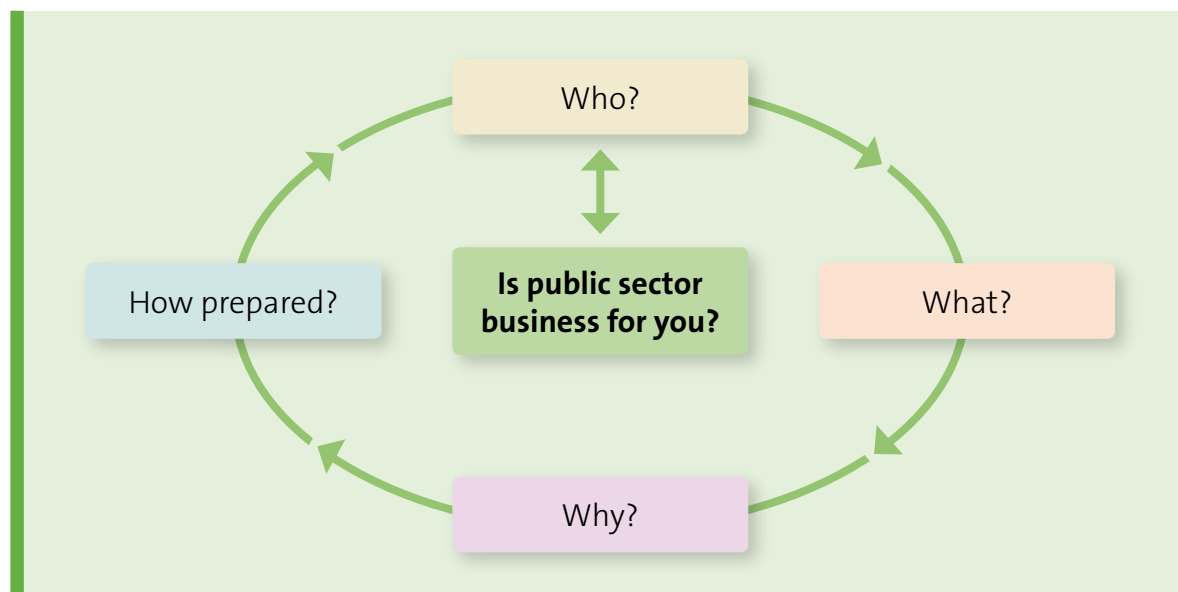
For your organisation the move to income generation through winning public service contracts may mean a significant culture change.

This is something that you will have to prepare for. The first stage of this preparation phase involves ‘Self Assessment’. Whatever your mission, size, history or aspirations – you need to be clear that this is the right option for you before embarking on pursuing public service contracts.

This ‘Self Assessment’ will be based around answering several key questions:

- ❓ *Who are we?*
- ❓ *What goods or services can we supply?*
- ❓ *Why are we doing this?*
- ❓ *How prepared are we for the culture change that might be necessary?*

## Self Assessment Process



### Who are we?

Your organisation is socially motivated and will have its own ‘mission statement’ or ‘purpose statement’ that describes why you exist and what you aim to achieve. It may also outline what you aspire to. This may be an informal understanding within the organisation but is usually a formal statement as part of your constitution and within business planning documents.

When seeking to determine whether public sector business is for you one of the first questions that you should ask yourself is whether gaining these contracts is within your reason for being in existence.

#### **?** *Is there a fit between our mission/purpose and the potential market opportunity?*

There may be a multitude of reasons why a procurement opportunity might not fit with your mission/purpose, for example:

- it involves working with a new client group
- growth may negatively effect the service you deliver to existing clients
- you may not want to trade
- the procurement contract involves operating outside your geographical community.

If the above circumstances occur you may need to:

- revisit the core purpose of the organisation
- change your core purpose to adapt to new circumstances
- form a ‘satellite’ organisation to deliver the contract, or
- decide not to pursue the procurement opportunity.

Being clear about who you are provides a platform for answering the other questions related to deciding if public sector business is for you.

## What goods or services can we supply?

The goods and services that you can supply will depend on your organisation, its purpose, its skills, its existing activity, its experience and its aspirations. As indicated, there is a growing procurement market with a wide range of supply options.

The key questions to ask are:

- ❓ *What can we supply that the public sector will want to buy?*
- ❓ *Can we supply the goods or services at a higher quality or more efficiently, effectively or cheaply than our competitors?*

## Why are we doing this?

Although there may be a potential market, good practice indicates that social enterprises or voluntary organisations should be driven by their vision rather than a funding opportunity. To avoid this trap being clear about your motivation and honestly asking the question **'why are we doing this'** is crucial.

Many social enterprises operate in areas of market failure. They blend market skills with voluntary action and innovative uses of funding to deliver social enterprise solutions.

- Does this type of approach attract you? You will have to ask yourself whether you can deliver this type of service on a contract basis.
- Or is it that you want to set up a commercial activity to generate a surplus to covenant back to your organisation? This can be a good way to achieve greater self sufficiency.
- It may be that you want to add 'contracting' to your portfolio of funding alongside grants and donations. That may be the right strategy for your organisation but you need to consider whether there is a danger that your organisation is drifting into tendering for procurement contracts because this is a new 'funding' opportunity?

Being clear about your motivation for seeking public sector business will help you to avoid this difficulty. It will also help you to prepare for any challenges that come along as part of the process.

Below is a checklist of key questions that your organisation should be asking in order to test why you are considering public sector business:

- ❓ *What is our core mission or purpose?*
- ❓ *What are our aspirations?*
- ❓ *Why do we want to secure public service delivery contracts?*
- ❓ *How does securing this public service delivery contract affect our ability to deliver our core mission or social objectives?*
- ❓ *What potential conflict of objectives or interests is there?*

## CASE STUDY: Penumbra

Penumbra is one of Scotland's leading and most innovative mental health service organisations. It provides services mainly to local authorities, with the bulk of its business in East Scotland. The organisation has a history of innovation and the piloting of niche services, which eventually are seen as models for mainstream provision across the country.

The Edinburgh Crisis Centre was developed after a campaign by – and a consultation with – members of a local mental health service users' forum, statutory bodies and service providers, including carers. The centre helps people with mental health problems and deals with social problems rather than psychiatric emergencies. Services are provided 24 hours a day, seven days a week. They include crisis assessment and interventions, telephone access and helpline staffed by a team of 15 who can deal with relationship, domestic, behavioural, accommodation and other short-term crises as they occur. The service works closely with others to best meet individuals' needs.

Penumbra won a competitive tender to provide the centre for City of Edinburgh Council and NHS Lothian. It believes three factors were influential. First, the organisation is known for innovation. Second, could include a 'spare' building as part of its bid tender. Third, and crucially, this new service is a partnership with many bodies who all have an input into policy, organisational development and service delivery. Penumbra demonstrated the experience and capacity to work effectively in this way. It also displayed a degree of humility and a willingness to innovate.

Nigel Henderson, Chief Executive of Penumbra says of the centre: "This service reflects our innovation and our unwillingness to compete in highly crowded markets. We continue to grow because we are willing to acknowledge that we don't know everything and genuine partnership models seem to us to be a way forward. What we like doing is building 'win-win' business relationships and although we are yet to produce social accounts, our record, and our clients, tell us that we add significant value to services for highly vulnerable people."

**Key contact: Nigel Henderson, Penumbra**

This process of Self Assessment needs to look not only at your current position but also at what you aspire to do and deliver. These questions are crucial in terms of being clear about your motivation to tender for public service contracts.

- ❓ *Where do you see your organisation in five years?*
- ❓ *What steps do you have to take to get there?*
- ❓ *What changes will be required?*
- ❓ *How will the external environment impact on your aspirations?*
- ❓ *What are your strengths and weaknesses in terms of your aspirations?*

- ✔ *It may be that you need external facilitation to help you to identify your aspirations. Specialist social enterprise advisers, business advisers or consultants can help in this area.*

## How prepared are we for any culture change that might need to take place?

The implications of tendering for public contracts might mean a significant change in the culture of your organisation.

There are a number of questions that you will find useful to ask at this stage in terms of self-assessment:

- ❓ *What effect will it have on our existing relationship with our service users or community?*

An example might be where a conflict of interest arises where the contractual relationship with the public sector might affect the ability of the organisation to advocate for legislative change on behalf of its service users.

- ❓ *How will it affect our relationship with our volunteers?*

This is particularly important for voluntary organisations where there is strong community representation on the Board of Directors:

- They may want to be clear whether the priority customer is the community (of interest) or the public sector.
- Also, where an organisation is successful at galvanising voluntary action or activity in pursuit of their social objectives it may not be able to deliver a public sector contract under the same terms.
- When paid staff are employed then there is the risk of a loss of volunteer action within the organisation.

- ❓ *What will be the effect on our donations or other sources of funding?*

As the public sector becomes the main customer of the organisation then you might find fundraising, particularly from charitable trusts, more difficult. You need to be sure that you are able to secure the right funding mix for your organisation.

- ❓ *Do we want to trade?*

Even though it is one option for sustainability, trading is not the right option for every voluntary organisation. For example, trading may be inappropriate in terms of meeting your social aims. Trading can also be prohibited within your Memorandum and Articles of Association (M&As) although this can be easily rectified with legal advice. Also there are potential VAT implications when involved in income generation through trading or contracting.

- ❓ *What effect will gaining contracts have on our charitable status?*

If you are starting to trade or generate earned income you may need to establish a separate trading arm.

- ✔ *Charities and trading is a complicated area. A rough guide to the issues is outlined on the next page.*

Circumstances in which a charity can trade or deliver 'contracts'	Example/s
<p>If the trading/contract activity is within the core purpose or mission of the charity, there is no limit on the level of trade that can be carried out.</p> <p>This is often referred to as primary charitable objects.</p>	<p>A charitable company whose 'object' is to provide care services for people with a disability can readily enter into a contract with a health trust to provide care services (without any tax implications).</p>
<p>If the trading/contract activity is being delivered by the beneficiaries of the social purpose of the organisation.</p> <p>As above, there is no limit on the level of trade that can be carried out.</p>	<p>A charitable company whose aim is to provide intermediate labour market support to long-term unemployed people can enter into a contract to provide recycling services to a Local Authority if the work is mainly carried out by the long-term unemployed people as part of their training programme.</p>
<p>The lesser amount of either:</p> <ol style="list-style-type: none"> <li>1. The turnover of the trading activity is less than 25 percent of the overall turnover of the charity or;</li> <li>2. The turnover from trade (non-primary purposes trade) is less than £50,000 per annum.</li> </ol>	<p>If a charity had a total turnover of £100,000 it would be able to carry out trading activities up to £25,000 but if the turnover was £500,000 the maximum amount of turnover from trading activities would be £50,000.</p>
Circumstances in which a trading arm should be established	Example
<p>If the trading/contract activity is neither within the core purpose or mission of the charity, nor is it being delivered by the beneficiaries of the social purpose and the turnover is greater than £50,000 (or, if less, 25 percent of the charity's overall turnover).</p>	<p>A charity provides capacity building to the voluntary sector. It gains expertise in marketing and starts to sell its services to the social enterprise and SME sector. Trade is over £50,000 per annum but the charity recycles the profit into the core objectives. This is not enough and a trading arm should be established.</p>

✓ *Legal advice might be necessary to determine whether a separate trading arm should be established.*

❓ *Will we need new staff to deliver the contract?*

There may be particular types of contracts that require expertise that does not exist within your sector. This might mean employing staff from other sectors. What effect will this have on the vision and values of your organisation? How will you have to adapt to incorporate them into your organisation?

❓ *Do we have the capacity to deliver public sector contracts?*

This will mean assessing the skills-base of staff and the resource implications of contract delivery. The checklist below details examples of some of the key questions that might need answered.

<b>Capacity Checklist</b>	
<b>Structure</b>	
Does our Board of Trustees or Directors have the rights skills mix to strategically manage the organisation as it delivers contracts?	
Do we have the right management structure to deliver this contract?	
Can we make decisions quickly and effectively?	
<b>Style</b>	
Do we have an appropriate style of management to deal with procurement contracts?	
What is our attitude to risk and risk management?	
Do we have processes in place to manage the contract relationship?	
<b>Skills</b>	
What skills or competences do we have to deliver this contract?	
What experience do we have to deliver this contract?	
Do we need additional training for staff to deliver the contract?	
<b>Staffing</b>	
Do we need business development staff to assist with the tendering process?	
Will we need to recruit staff to deliver the contract?	
If so, is there a supply of labour in terms of quantity, quality and attitude/values?	
<b>Systems</b>	
What sectors will new staff be drawn from and how will this impact on our existing pay structures?	
Do our 'terms and conditions' provide enough flexibility in meeting contract obligations (issues such as overtime, hours of work, etc)?	
Do we have the financial systems in place to deal with procurement contracts?	
What are the potential cashflow implications for our organisation and what capacity do we have to deal with cashflow difficulties?	
Do we have appropriate communication systems in place to manage delivery of the contract?	

Do we have the appropriate policies and procedures in place for contract delivery?	
<b>Standards</b>	
Do we have the appropriate quality standards to deliver the contract?	
<b>Stakeholders</b>	
Do we have our key stakeholders on board?	

- ➔ *The Enterprise Networks have developed a range of tools that could assist with the above business development process. Advice and assistance is available from the Business Gateway or your Local Enterprise Company. Also through the work of the Local Social Economy Partnerships organisations such as Community Enterprise in Strathclyde (CEiS) or Forth Sector Development can provide advice and assistance.*
- ➔ *Advice on cashflow issues is available from your bank, Social Investment Scotland or a local Community Development Finance Initiative (CDFI).*
- ✔ *It might be worth visiting an existing social enterprise that has experience of contracting to gain an insight into the contract culture and the necessary changes. Ask around your networks for suitable examples.*

### Why is Stakeholder Analysis important?

It is necessary to look at the impact on your key stakeholders of any potential decision to pursue public sector procurement business. As stakeholders they may have an interest in why you have made this decision and the potential implications it has for the organisation.

- ✔ *You will need to identify who the key stakeholders are in your organisation. They vary from organisation to organisation.*

A stakeholder analysis should identify the nature of their involvement and the influence that they have over your strategic decision making.

### Key questions for stakeholder analysis

- ❓ *What effect will pursuing public sector procurement business have on our relationships with our existing key stakeholders?*
- ❓ *How can we engage our key stakeholders in the process?*
- ❓ *How are our stakeholders able to assist us in pursuing this new strategy?*
- ❓ *What concerns will our key stakeholders have over any change in strategic direction?*
- ❓ *Will we form relationships with new stakeholders as a result of this decision and how will that effect existing stakeholder relationships?*

The level of stakeholder involvement in the process of stakeholder analysis will again vary from organisation to organisation. For example, some voluntary organisations have public officials or service users on their Boards of Directors and this may be the appropriate place for any discussion of the strategic implications of a decision to pursue public sector business.

In other cases it may be necessary to engage external support to facilitate strategic discussions, particularly if any conflicts of interests arise with stakeholder groups or between the strategic needs of an organisation and the motivations and interests of the stakeholders.

- ✓ *Information from your stakeholder analysis should inform your ongoing self-assessment.*

## What are the financial risks of obtaining public procurement contracts?

For your organisation, obtaining public sector procurement business might be a new source of income for your activities. This move towards commercial contracts needs to be assessed alongside your other income streams, whether these are grants, donations or trading. As indicated, it is crucial that you have the appropriate financial management systems and have reviewed the potential cashflow implications of contracting.

Examples of the types of questions your organisation should be asking are:

- ❓ *What are our existing income streams and are they balanced appropriately in terms of what we are aiming to achieve?*
- ❓ *Do we have a strategy for developing a surplus and how do we re-invest our existing profit or surplus?*
- ❓ *What is our reserves policy and are we developing an appropriate level of reserves?*
- ❓ *What type of investment do we require to secure public sector procurement business?*
- ❓ *How do the contractors or commissioners view the potential surplus?*
- ❓ *What is our attitude to loan finance?*
- ❓ *What is our existing borrowing level?*
- ❓ *How do we use our assets?*
- ❓ *Can we maximise the finance available to use through other uses of existing assets?*
- ❓ *What is our business relationship with our bank and can this be fostered to provide an additional source of investment finance?*

Good practice is to assess your attitude to finance and investment and test this against your motivation towards business development. You should be checking whether you are able to access the most appropriate funding or finance to assist you to meet your strategic objectives. Within the context of public sector procurement this will mean looking in particular at your attitude to loan finance, profit and re-investment of these profits into future growth.

➔ *External facilitation and support might be necessary to support your organisation through the process of assessing your investment readiness.*

### Why might we need to access loan finance to help us secure contracts?

When starting to tender you might find that there is equipment required to allow you to complete the contract. Unlike with grant funding you cannot apply for support from the 'funder' to meet the cost of this equipment. Also, with contracts the payment schedule might mean that there are cashflow implications that need to be addressed.

In these circumstances your organisation might need to consider loan finance. This would allow you to access the finance for cashflow problems or equipment purchase and the loan would then be repaid from the income generated through the contract.

#### **CASE STUDY: Out of the Blue**

Edinburgh-based Out of the Blue has concentrated on making the arts accessible to all through a range of creative activities. These activities assist in personal development, raising self esteem, and have allowed participants to appreciate that there are opportunities open to them that they would perhaps not have considered otherwise.

The company's aims are focused on stimulating an interest in the arts through comprehensive programmes including a range of educational and recreational community projects. Out of the Blue also provides administrative support and space for artists, performers, musicians and dancers engaged in innovative work and promotes emerging artists working in a variety of media.

Out of the Blue operates out of its now wholly owned premises in Dalmeny Street and also leases premises in Portobello. Funding for the purchase of the Dalmeny Street premises in the Spring of 2003 was provided by Triodos Bank to the sum of £500,000 and, critically, by Social Investment Scotland providing an additional £200,000. The contribution from Social Investment Scotland allowed Out of the Blue to gather the finance that traditional banks would not normally provide.

The purchase of the new premises enabled Out of the Blue to offer disabled access, and in addition provide substantially more space enabling the project's social influence to be spread to a much wider audience.

**Key contact: Rob Hoon, Out of the Blue**

- ➔ *Social Investment Scotland and SCVO have produced a guide to loan finance. 'Taking a Loan of Finance' is available from the SIS website [www.socialinvestment.scotland.co.uk](http://www.socialinvestment.scotland.co.uk)*
- ➔ *Social enterprise development organisations, Community Development Finance Initiatives, the Business Gateway and banks will be able to provide you with additional advice on loan finance.*

### Checklist

Are we clear about our motivation for seeking public sector contracts?	
Have we weighed up the pros and cons of this type of business development opportunity?	
Have we assessed our capacity to deliver procurement contracts?	
Have we ensured that our stakeholders are on board?	
Have we accessed appropriate help and advice to assist us to make decisions?	
Have we considered the risks of public procurement?	
Are we satisfied that we have risk management processes in place?	
If appropriate, have we accessed advice on loan finance?	
Have we decided we are prepared to take the next step in business development towards securing procurement contracts?	

# Notes

# 5: Researching the opportunities

## Key points

- ⚠ *There is a vast range of contract opportunities. The growth of e-procurement will see greater co-ordination around advertising of opportunities.*
- ⚠ *Spend time trying to work out the appropriate person for the contract you are interested in. A speculative enquiry about a contract opportunity can open up the door to getting onto the tendering list.*
- ⚠ *Invest in networking to build up your business relationships. This can help to keep you in touch with new regeneration initiatives or contracts that are coming up for renewal.*
- ⚠ *Good promotional material can raise awareness of your organisation.*
- ⚠ *Piloting an innovative approach to a particular problem or issue may be a useful way of opening up new contract opportunities.*

## Where can we find out about contract opportunities?

There is a legal requirement for adequate advertising to ensure transparency and fairness within public procurement.

Although current contract opportunities are advertised in a wide variety of places, there is increasing moves to centralise this through the use of national, regional and local e-procurement portals.

- ✓ *To keep up-to-date with progress around the development of e-procurement portals see [www.scotland.gov.uk/Topics/Government/procurement](http://www.scotland.gov.uk/Topics/Government/procurement)*

Contracts are occasionally advertised in national and regional newspapers or in trade journals. Also some public agencies advertise their own contract opportunities on their websites. However, public agencies do not have to advertise low-value contracts at all.

Depending on the size, scale and nature of the contracts that your organisation is looking for there are a number of places to find out about contract opportunities.

- **[www.scotland.gov.uk/Topics/Government/procurement](http://www.scotland.gov.uk/Topics/Government/procurement)** – The Scottish Procurement Directorate is a useful source of information on public sector contract opportunities and the development of a national portal for advertising contracts.
- **Scotland Excel** – The Authorities Buying Consortium (abc) is the largest non-profit making purchasing agency in Scotland serving the buying needs of public sector, charities and voluntary organisations. It recently won a contract to deliver the Scotland Excel Project which aims to establish a Local Authorities Centre of

Procurement Expertise to be up and running by 2008. The Centre is to achieve cost reductions of £47.8m (per annum) by 2010. The savings are to be achieved through increased collaboration and improvements in terms of procurement performance, capacity and capability in relation to Category B (Sector Specific Contracts) which will dramatically increase the value of tender opportunities covered by this category. The project presently enjoys the support of 21 public sector organisations. [www.abc-scotland.org.uk](http://www.abc-scotland.org.uk)

- **Key Contacts in Public Agencies** – You may well benefit from identifying the appropriate individual in an agency or department, enquiring about their process for advertising tenders and giving them information about your organisation. Even if they are not the appropriate person they may be able to direct you to the person that deals with contracts in your area. Public agencies should make it clear who you should contact to find out about a contract.
  - **Partnerships and Networks** – Through the partnerships and networks that you are involved in you might be able to find out about new regeneration initiatives, contracts that are coming up for renewal or issues and problems that require innovative solutions. Use your networks to find out who the key contact is for any procurement opportunity that you are interested in tendering for and, where possible, make an appointment to see them.
  - **Social Economy Scotland** – This website contains a key contacts list for public procurement in Scotland. See [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info) for details.
  - **Public sector websites** – A number of public agencies, particularly Local Authorities are now advertising some tenders on their websites, links to many of these are available via the SPD site.
  - **Official Journal of the European Union (OJEU)** – Almost all public procurement contracts for business worth more than the EU threshold limit (£144,371 for services and £3,611, 319 for works) must be published in the daily supplement to the Official Journal of the European Union (OJEU). You can get information about these from the website [www.scotland.gov.uk/procurement](http://www.scotland.gov.uk/procurement)
  - **Tenders Electronic Daily (TED)** – This is the online version of OJEU. It uses subject and country codes to give you direct access to notices. You can gain access to TED from the website: [www.ted.eur-op.eu.int](http://www.ted.eur-op.eu.int)
  - **[www.mytenders.org](http://www.mytenders.org)** – Gateway for public sector organisations (government departments, local authorities, NHS Trusts) and utility companies to publish tender notices of any value.
- ✔ *Despite efforts on the part of the public sector to increase low-cost access to contract adverts, researching opportunities is resource intensive. You need to build this business development cost into your contract pricing.*
- ✔ *Some local authorities or public agencies have their own publications where tenders are advertised. Ensure that you are on the mailing list.*
- ✔ *When arranging to meet key contacts do not assume that they know about your organisation or about the social economy in general. Take along appropriate marketing material and be prepared to talk through your track record of delivery.*

## We have a service we can deliver, how do we find a public sector customer?

The answer to this often depends on the particular service that you have to offer. If you have previous experience of delivery then you may already know who the main customers are likely to be. If you are looking to expand the current service provision then the first step might be to look for public sector customers with a similar profile and need as your current customer.

One of the advantages of the public sector market is that it is accessible. Most public agencies produce strategic plans, annual reports, budget information, service information in addition to PR documents and the results of reviews, audits or inspections. These can be a valuable source of information on the potential need of the agency. You should target the agencies that you think are potential customers and research them.

- ✔ *You will need to spend time understanding your potential customer in order to sell your goods or services to them.*

## How do we find out who the key contacts are for the opportunities we are interested in?

When you have found out about a potential opportunity and want to make contact with the key individual it often requires a small amount of detective work to identify them. Contracts are handled at different levels within different public agencies and the key contact could range from the Chief Executive to the Finance Manager, Service Manager, Commissioning Officer, District Manager, Unit Manager, etc. In some cases within smaller agencies, the procurement function might be handled part-time by a Finance Officer.

Once you have made contact with the correct person it is useful to enquire about their tendering processes and whether they have any specific criteria in place to take account of minimum standards, compliance issues, or pre-tender qualification requirements. It may be the case that, suppliers who respond to an advertisement to express an interest in tendering are required to complete a pre-qualification questionnaire (PQQ) to show that they have sufficient experience and resources to meet the needs of the procurement opportunity. Only those suppliers who are subsequently short-listed would then be invited to submit a tender

You may be invited in to discuss your organisation with the key contact. This might be the first stage in them assessing whether you are fit for purpose. At this stage the procurement staff are likely to be looking at the relevance and the quality of the goods and services you can supply. They will also be assessing whether you are a 'safe bet' in terms of the risk of awarding you a contract. You need to approach these meetings in a business-like fashion. Remember to take business cards, promotional material and be prepared to talk about your experience of delivery.

- ✔ *If you are invited for a meeting, this can often open the door for discussions about the goods and services that your organisation can supply. You may find that the key*

*contact has carried out some background research on your organisation prior to your meeting and having a high quality, easily accessible, up-to-date, professional website should be a crucial element in your marketing strategy.*

## How do we proactively advertise our services to the public sector to ensure that they know about us when contracts are going out to tender?

One of the best methods of advertising your services to the public sector is to successfully deliver contracts. Like every other area of business the public officials that acquire goods and services for the public sector 'talk'; they will ask around their networks about good suppliers. Although procurement processes are governed by rules and have to be transparent, 'word of mouth' about good service delivery will increase the possibility that you may be asked to tender for contract opportunities when they become available.

Building the right relationships is crucial in terms of getting the opportunity to tender or find out about contract opportunities. This means that your organisation should invest in networking. Through networking you will be able to raise awareness of the goods and services that you can provide.

Good promotional material is a useful back-up to advertise your goods and services. The public sector is always looking for new suppliers and while mailing good promotional material might not open up an instant contract opportunity it may be stored for reference at an appropriate point.

- ✔ *It is useful to have a high quality website or brochure as part of your marketing material. This should present a 'quality image' to the public sector.*
- ➡ *Business advisers from the Enterprise Network or specialist social enterprise development organisations should be able to support you to develop a marketing and e-commerce strategy to develop your marketing material and website.*
- ✔ *Good marketing material and a good website will not come cheaply. If you want to present a high quality professional image avoid cheap solutions and invest in a product that will help you to project the right image for your organisation.*

## How useful are 'Meet the Supplier' events?

'Meet the Supplier' events are a useful way of finding out about potential contract opportunities. 'Meet the Supplier' events are often organised by the local authority or the Chamber of Commerce, particularly in connection with regeneration initiatives. A 'Meet the Supplier' event aims to bring together purchasers of services with potential suppliers.

- ✔ *If you are attending a 'meet the supplier' event you should go with the intention of selling your goods and services. Do not wait for people to come to you but proactively look for those purchasers who might buy your goods or services. It is useful to have promotional material and a business card to give them.*
- ✔ *Try to find out from the organisers who is attending a 'Meet the Supplier' event and prepare in advance for potential questions that may be asked when you make contact.*

## What are restricted processes?

There are three ways in which a purchaser may restrict tenders:

1. Prequalification Questionnaires (PQQs) issued to suppliers who have indicated an interest in a particular tender opportunity requiring them to show that they have sufficient skills, experience and resources to meet the needs of that particular procurement opportunity. Only those suppliers who are subsequently short-listed would then be invited to submit a tender.
2. Reserved Contracts can be employed by a public agency to reserve the right to participate in a public contract award procedure, framework agreement or dynamic purchasing system to economic operators which operate supported businesses, supported employment programme or supported factories.
3. Negotiated Tenders are very similar to the process for restricted tenders in that a pre-qualification stage exists. However, the negotiated tender is in fact a two stage process which provides the purchaser with the opportunity to negotiate the terms of the contract within strict guidelines prior to awarding the contract. Within the EU, this process is not commonly used but has some precedent in case where a supplier is the sole source of the good or service required, in cases of extreme urgency, or when the precise specification can only be determined through the process of negotiation.

The advantage of this approach for the public sector is that it can control the volume of bids it receives and consequently its workload. The advantage for your organisation is that you will not have to expend resources on tenders that you are unlikely to win.

In the past, many public sector agencies have operated approved suppliers lists in conjunction with the goods and services they procure. However, as a consequence of changes in EU procurement rules and corresponding changes in respect of Scottish legislation, over time public agencies are expected to phase out such practices in favour of restricted processes.

### CASE STUDY: FEAT

FEAT Enterprises operate The Green Team, a gardening maintenance and soft landscaping social firm based in Fife. The social firm provides supported employment opportunities for people with mental health problems, disabilities or those who are otherwise disadvantaged. The Green Team provides a range of gardening and landscaping services to a wide range of customers.

FEAT Enterprises has found that it is possible to develop sustainable social firms through a blend of differing income streams. Sales income is secured from competitively tendered contracts to public and private customers. Currently the Green Team operate a significant number of contracts. The balance comes from grant funding to cover the costs of providing a supportive employment environment.

The tendering process begins by ensuring that the Green Team is on potential clients 'approved contractors' list. This ensures that we are notified when a

contract is available for tender. Often this is when an existing contract is coming to an end but it can also be for new work or work not previously contracted externally. The tendering process can be resource intensive with the Green Team competing against a range of contractors for the work.

It is important to be aware that potential clients can operate more than one 'approved contractors' list. Lists can be specific to a particular type of work or determined by the value of the contract.

For example a client might have an approved contractors list for gardening work under £20,000 and a separate one for gardening work over £20,000. Do not assume that because you are on one of the lists that you will automatically receive notification of all relevant available contracts. It is also worth recognising that tenders over a certain value are sometimes advertised in the local media.

**Key contact: Pauline Hinchion, FEAT Enterprises**

## What resources should we put into this type of business development?

It is impossible to be prescriptive about the scale of resources required. Tendering for public sector contracts can often be resource intensive, particularly in terms of staff time. Staff resources are required for researching opportunities and networking as well as preparing tenders. Tendering for contracts can be as resource intensive as fundraising for grants or donations.

When planning your resource allocation you should not underestimate the amount of time and effort that needs to be set aside to identify opportunities. Also, you need to be aware that you are unlikely to be successful with every tender that you submit. You will need to build this into the tendering process.

- ✔ *If you are adding contracting to your existing funding mix then you may need to recruit additional staff to carry out the tendering activity as the skills are different from fundraising activity.*

## When not to bid?

Remember that not every contract will be worth the risk and investment of bidding. When you identify an opportunity you should evaluate it against your motivation for seeking this type of business.

- ✔ *Stopping the process at this point and not bidding for inappropriate tender opportunities will save you money and time.*

## What is the benefit of offering to pilot new approaches?

As indicated, one of the main drivers of Best Value and Community Planning will be to ensure that there is better delivery of public services. Some opportunities might come through this process.

Your organisation might be able to identify a particular community problem or issue that you feel you have the skills and experience to deal with. Within a Community Planning Partnership it might be worth suggesting piloting a new approach to dealing with this problem. This could be particularly effective if you have community backing for your organisation.

### CASE STUDY: Solstice

Solstice is an emerging social firm providing garden maintenance services with aspirations to develop a wholesale nursery. Grampian Housing Association (GHA) has been supporting the development of Solstice as part of its wider role activities. The aim is for Solstice to become an independent social firm that services garden maintenance contracts for GHA thus providing employment opportunities in a supportive working environment for people with mental health problems. Although GHA is providing support it is working towards Solstice becoming an independent social firm out with the structure of GHA. The initial contracts for Solstice are to pilot providing the garden maintenance services that GHA requires. The contracts carried out by Solstice include general open space maintenance works in various GHA estates, assisted garden maintenance programme for the Association's residents (who for various reasons cannot maintain their own garden) and maintenance of the interior plants within Grampian Housing Association's offices. GHA is aiming to support Solstice to access contracts with other Housing Associations and public agencies in Aberdeen. From this platform it is hoped that Solstice can not only become an Approved Provider for Aberdeen City Council but can develop a new wholesale nursery from any profits made in order to create further employment opportunities for people with mental health problems.

**Key contact: Karen Smith, Grampian Housing Association**

The offer to pilot the approach to delivering this new service has the advantage of allowing you to gain further experience of delivery and to test your approach as well as allowing the public agency the opportunity to test you out. This would need to be in an area where you believe you have an innovative solution to a particular problem and you can add distinct value. There is also the advantage that for the public sector any pilot does not need to be put out to tender. They can pilot a service over a period of time to fully evaluate it and then design the tender process following this. Piloting creates a win-win situation – your organisation gets experience of delivering the service and the public agency gets an innovative service run in order to develop the specification when it goes to tender. Successful delivery of a pilot might also lead to the opportunity to tender for a larger contract if the service becomes part of mainstream delivery.

## CASE STUDY: ACE Ltd.

Alloa Community Enterprises Ltd (ACE) is a charity based in Alloa which was set up in 1984 as a furniture project to provide local employment, alleviate poverty and protect the environment for the benefit of the local community. ACE has grown since then to be one of the foremost recycling organisations in Scotland providing a range of collection services throughout central Scotland in partnership with local authorities and private businesses. ACE currently employs 27 full time staff and operates a fleet of 12 vehicles. In 2001 it was voted best UK Community Recycling Project of the Year.

Its key activities include a multi-material kerbside collection; servicing of public glass, cans, paper and textiles banks; a furniture reuse project; a repaint scheme; a commercial glass collection; as well as commercial cardboard and office paper recycling services.

The key to ACE's success has been its partnership work with Clackmannanshire Council and other neighbouring councils. Working together the various partnerships have helped build the services being delivered to maximise the opportunities in both tonnage terms and also the number of jobs created.

A prime example is the pilot kerbside collection ACE launched in 2001 in partnership with Clackmannanshire Council. Using specialised vehicles, newspaper, glass, cans and textiles are sorted at the kerbside from blue boxes provided to each householder.

The initial pilot service employed five full time staff and covered 10,000 houses on a fortnightly cycle. The scheme proved so successful that it has now been rolled out to every house in the Clackmannanshire area (20,000 houses), has moved from fortnightly to weekly collections and incorporates plastic bottles in the collection programme.

An informal relationship between the Council and ACE has now become a Partnership Agreement which now supports the employment of 15 full time employees and the operation of a service worth over £250,000.

**Key contact: Andrew McDermott, Alloa Community Enterprises**

If you can develop a service that is hard to source then you may increase your chances of winning contracts. One of the best market research strategies is to look for problems, work out how to solve them and then try to sell your service.

- ✔ *You need to be involved in networks and partnerships to identify this type of procurement opportunity.*
- ✔ *This type of approach can become a platform for opening up other contract opportunities.*
- ✔ *You can build up experience of contracting through piloting new approaches to delivery.*

<b>Checklist</b>	
Are we involved in appropriate networks or partnerships that will enable us to find out about the type of contract opportunities that we are interested in?	
Have we obtained Strategic Plans, Corporate Plans, Annual Reports, etc, for public agencies that we want to supply to?	
Do we spend time searching appropriate websites for the contracts that we are interested in?	
Have we spoken to the public agency about the potential service that we can provide?	
Have we identified the key contact for the contract/s we are interested in?	
Do we maintain regular contact with the key contacts concerning potential contract opportunities?	
Do we regularly search public agency websites for procurement opportunities?	
Do we attend 'Meet the Supplier' events?	
Have we registered our details with potential purchasers?	
Do we spend time thinking about or researching potential service demand – this might lead to opportunities to pilot new initiatives?	

# Notes

# 6: What is your unique selling point?

## Key points

- ❗ *Procurement will often mean a culture change for your organisation with a shift in focus to 'selling' to a market.*
- ❗ *You will need to look closely at your competitors and try to identify how you can differentiate yourself from them.*
- ❗ *When looking at the service you want to provide to the public sector try to put yourself in their shoes and see what added value you can provide. Remember to be customer focused.*
- ❗ *Understand the purchaser's objectives or problem. Focus on delivering a solution that requires the minimal effort from them.*
- ❗ *It is the added value that will really make the difference, so identify what added value the customer is looking for.*
- ❗ *Do not rely on using your social benefits as your unique selling point in every circumstance.*
- ❗ *When using your social purpose as a unique selling point you need to clearly articulate and prove what social benefits will be delivered from you winning the contract.*

## Selling to a market

When considering public procurement or starting out down the route of tendering for contracts, one of the key differences that you might encounter is the culture change needed to 'sell' your goods and services.

If your organisation has been grant orientated then you will have been used to identifying a 'need' and then trying to find a grant funder to provide you with funding to meet that need. Moving to a contract culture will mean your focus will be on identifying a potential market for your goods or services and then working out how to sell to that market. Remember that the purchaser is your customer and whilst they will want to see evidence of you taking account of the needs of the service user they will want you to understand what it is that they want to buy first and foremost.

One crucial step in selling your goods and services is thinking through why someone would want to buy them from you rather than the goods or services of a competitor. This is often referred to as your Unique Selling Point (USP). You need to be able to think about what added value you can bring to the public sector customer or what advantage you have over your competitors.

## How do we work out our unique selling point?

There is no magical answer to this. Often it will depend on the goods and services that you are able to supply and the potential market opportunities that are available. You will need to look closely at your competitors and attempt to understand how they market themselves. Your uniqueness will be benchmarked against them.

Within the public procurement market there are a number of areas that social enterprises and voluntary organisations have to think through in identifying their unique selling point:

- **Price** – The price of the tender is often a key determinant in gaining public procurement business. With Best Value, public procurement officers still have to ensure ‘value for money’ as it is taxpayers’ money they are spending. The question you will have to ask is ‘can we supply the goods or services at a cheaper or equivalent price than our competitors?’
- **Product** – The tender process will usually outline the goods or services to be provided and, where appropriate, the outcomes to be achieved. Is there any way in which your product (goods or services) can be differentiated from your competition? Do you have a better product? Do you have an innovative approach to supplying the product? Do you supply services that are of a higher quality than your competitors? Have you identified a niche market? Do you have a more flexible approach to delivery? These may be crucial factors at the tender evaluation stage.
- **Place** – Does your location or geographical coverage offer any advantage in supplying the goods or services? Can you supply the goods or services easily from your location? Can you provide the service within the specified locality? Can you source and supply locally produced goods? Can you deliver at short notice?
- **People** – Do you have particular experience within your staff team that can be emphasised as part of the tender? Does your staff team have key skills for delivery? Do you have qualifications/training that can be an advantage over your competitors?
- **Proof/Previous Experience** – Have you delivered this type of contract before? Can you prove successful delivery? Can you provide references from previous delivery? Your previous experience could be crucial in alleviating risk for the public sector.
- **Profile** – Do you have a good reputation for delivery? Although you will have to prove you can deliver this contract, remember that people often purchase from ‘brands’ that they trust.
- **Process** (*Environmental Standards, Social Accounting, Investors in People, Equal Opportunities, ISO, etc*) – Quality standards are an increasing aspect of public sector procurement. Do you have appropriate processes in place? Does the tender opportunity offer the opportunity to highlight these processes? Do they give you an advantage over the competition?
- **Panache** – It may be that you think you bring a ‘certain something’ to the contract through your specialism, expertise or ability to innovate. You can be bold in stating this but you will need evidence to back it up.

- **Partnership** – Your organisation might be involved in partnership working that can draw in additional skills, knowledge or experience. Can this add value to your tender?
- **Purpose** – Your organisation will be motivated by a social purpose. Does this social purpose offer an advantage over the competition? Can you quantify the added value of your social purpose? Are there additional social benefits that will be accrued by you delivering this contract which are core to the purpose of the contract? Does your social purpose allow you to deliver the contract more effectively by blending commercial and non-commercial funding? Do you have evidence of the social impact that you claim? Will your non-profit-distributing ethos strike a chord in terms of shared values?
- ✔ *When thinking through the process of identifying your unique selling point it is useful to try to put yourself in the position of the purchaser.*
- ✔ *It is really important to answer the questions that you are asked.*

### What is it the procurement officer will be looking for?

They will tell you.

There will be a number of reasons why procurement has been identified as the best option. For example, these could be:

- Better delivery
- Reduced price or value for money
- A problem taken away
- Community involvement
- Expertise

Try to put yourself in their shoes – you need to think why you would award the contract to your organisation over a competitor. The purchaser will want to appoint a contractor with experience. If you have similar experience to your competitor, then what else separates you? If you cannot come up with a clear reason then you may have difficulty in convincing the purchaser.

You will probably find that the unique selling point for your tender will vary on a case-by-case basis. While there may be core areas where you are able to identify an advantage over your competition you should also have a flexible approach to your tendering that allows you to stress other crucial areas where appropriate.

- ✔ *Each tender may require a different blend of the above factors. You should look closely at your competitors and identify how you can differentiate yourself from them.*
- ✔ *Remember to play to your strengths.*
- ✔ *Focus on the key criteria for winning the contract and match your unique selling point closely to these criteria.*

## Do social enterprises or voluntary organisations have an advantage in the public procurement market?

One of the key problems the social economy sector has had in tendering for public procurement contracts is that some organisations have sought public sector support on the basis that 'we are a charity and we deserve it'. This approach will not win you contracts. It is not a valid reason why public sector bodies should award you a contract and is wholly illegal in respect of the current regulatory environment.

Social enterprises and voluntary organisations do have some advantages that can be stressed. Although not applicable to every contract opportunity, these can include:

- Providing access to 'hard to reach' groups.
  - Community links and a responsiveness to particular need
  - Adding a service user or needs led focus to service planning and delivery
  - Reputation for being open and accountable through social ownership
  - Social 'impact' track record and ability to quantify this
  - The ethical or non-profit-distribution nature of your organisation
  - Social entrepreneurship where a social need can be met through an enterprising solution that blends commercial and non-commercial funding
  - Galvanising voluntary action for a social goal
  - Attracting dedicated charitable resources or additional leverage
  - Sharper focus on the public sector customer relationship
  - Innovative solutions to community needs based on a clearer understanding of those needs
  - Improved quality through better customer care and post-contract service delivery
  - Clear equalities agenda and track record of implementing Equal Opportunities
  - Contributing to public policy debates
  - Flexibility of service provision or speedier response
- ✔ *The publication **Better value – Purchasing public services from the social economy (2007)** looks at the potential for the social economy sector to deliver public services from the public sector's perspective. It identifies a number of reasons why the public sector should consider using the social economy sector and may be useful in helping you to demonstrate a case to a particular public agency.*
- ✔ *You will need to think through the issue of your added value and learn to quantify and present it for each tender that you are submitting.*
- ✔ *Your added value needs to be shaped to what the buyer wants.*

## Should you always stress your social purpose as your ‘key’ USP?

One of the most frequent questions on the issue of ‘USP’ is whether social enterprises and voluntary organisations should always emphasise their social purpose as the USP. The clear answer to this is no. It might not always be appropriate.

There will be contracts that you enter into where your social purpose might give you a distinct advantage. These can often be contracts delivered in the areas of community regeneration, health care, social care, childcare or welfare services. In these circumstances you should outline the added value that your organisation can bring through its social purpose rather than stress the social purpose alone. This will become increasingly important as Best Value means that the emphasis in contracts will be long-term impact rather than just outputs.

- ✔ *When stressing the social purpose of your organisation you should be clear about what added value you could bring and why this is core to the requirements of the contract. You need to be able to articulate why winning the contract will deliver a range of social benefits. It is useful have evidence of the impact you have made or will make.*
- ✔ *If you are unclear about the specific social benefits that you deliver it might be worth considering using one of the impact measurement tools that exist such as social accounting or social return on investment (SROI), etc. Different tools exist for different purposes and the appropriate tool should help you to quantify and articulate the social benefits that accrue from your service delivery.*
- ➔ *Making the Case: Social Added Value Guide offers a good introduction to the methods available to help you to measure the extent to which you can deliver social added value. You can download a copy of the guide from [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)*

Conversely, there are public procurement markets where your social purpose will not give you any advantage in tendering or you may be in competition with other social enterprises or voluntary organisations. Within these markets if you stress your social purpose over the main criteria then your submission may not be relevant.

- ✔ *You should seek to understand what the key criteria for winning the contract are and work out whether you have a USP in this area. It might be useful to mention your social purpose within this type of tender but only as additional information.*
- ✔ *It is worth remembering that only the criteria specified in the documentation will be used to determine the best bid. If your social purpose is not covered somewhere in there then it probably cannot be used in any major way to inform the decision about who to award the tender to.*

## Why might the public sector not use social enterprises or voluntary organisations?

One of the difficulties that your organisation might face in tendering is the perception of the social economy that exists within some areas of the public sector. Below is a snapshot of reasons given by public procurement officials of why they might not use a social enterprise or voluntary organisations for contracts. These reasons lead public procurement staff to assume that offering contracts to social enterprises or voluntary organisations is too much of a risk.

### Misconceptions about the Social Economy

*“Not value for money”*

*Perceived as “unreliable or unprofessional”*

*“Do not provide the services that we need” – perceived as being restricted to social care, welfare, housing, advocacy, etc.*

*“Do not know what they can provide or offer”*

*“Lack of quality” or “lack of credibility”*

*“Lack of experience or expertise”*

*“Too small” – cannot provide the scale of service needed*

*“No track record of delivery”*

*“Lack of awareness of examples of successful delivery”*

When identifying contract opportunities or preparing tenders it might be worth considering how to address these perceptions. You need to remember that purchasers have to justify their decisions.

One of the key areas of your tender will be to emphasise your previous experience of service delivery. This will hopefully counter any perception of unreliability, lack of professionalism, lack of credibility or lack of experience.

## Is your lack of experience of delivering contracts affecting your ability to sell goods or services?

When starting out in contract delivery this is a potential ‘Catch 22’ that your organisation might face. You may have identified a clear Unique Selling Point over the competition but discover that to successfully gain a public sector contract you will need to show that you have delivered similar contracts. If you do not have any evidence then you may be unable to tender – or you may lose the tender to a competitor. So how can you break into the market in these circumstances? This type of problem might require more than a unique selling point. You will need to gain experience in contract delivery to build up the necessary track record:

- **Sub-contracting** – The advantages and disadvantages of this approach are discussed in the chapter on Working with Others.

- **Consortia** – The advantages and disadvantages of this approach are discussed in the chapter on ‘working with others’.
  - **Pilot approaches** – The benefits of this approach have been outlined in the previous ‘researching the opportunities’ chapter.
  - **Large organisations** – If you are part (department, project, trading arm) of a large organisation you may be able to stress the experience the organisation has in service delivery. They may already have a track record of service delivery.
  - **Social to social market** – There is a growing recognition of the size and scale of the social economy in Scotland and the potential of S2S (social to social) trading. Within the sector there is an ‘internal market’ for many goods and services. One option in terms of gaining experience of contract delivery would be to look to deliver smaller-scale contracts for other organisations that will allow you to build your reputation and experience of service delivery.
- ☑ *Starting small and delivering contracts on a social to social (S2S) basis is very useful to build up experience of tendering and contract delivery.*
  - ☑ *Many of the principles for securing public sector contracts are equally applicable to gaining contracts from other social enterprises or voluntary organisations or even from private sector companies.*

### CASE STUDY: McSence Ltd

McSence Ltd is a social enterprise with charitable status. Beneath that banner we have five operating companies: McSence Heatwise; McSence Services; McSence Workspace; McSence Communication; and McSence Safe Housing. These companies operate independently from each other and provide a range of services to various clients.

McSence was formed in 1988 in the Mayfield and Easthouses area of Midlothian, its aims and objectives are to create employment opportunities; promote economic regeneration; aid sustainable development within the local community and its groups; and to foster entrepreneurial spirit.

One of the contracts that McSence Services has is to provide a communal stair cleaning service to Melville Housing Association. All of Melville Housing Association’s flatted properties are grouped into a contract; these dwellings are then cleaned to a specified standard on a rotational basis. One advantage for Melville Housing Association is that they know their contract is having wider impact in terms of employment creation for long-term unemployed people within the area.

One of the main features of this contract is the good level of communication between client and contractor. Joint inspections of work are undertaken and customer satisfaction surveys have been carried out. The success of this operation has allowed us to approach other social landlords and we have successfully negotiated another similar contract for properties in Mid and

East Lothian with Castle Rock Housing Association. Regular contact and good communications are key to the retention and expansion of contracts within this sector. The ability to speak to decision-makers cannot be underestimated; once this barrier is overcome the case for social enterprise companies carrying out negotiated contracts is strong.

**Key contact: Brian Tannerhill, McSence Limited**

## How can the S2S (social to social) market be developed?

Business to business (B2B) trade is encouraged by Chambers of Commerce and business development agencies to support small businesses that are looking at contracting.

Communities Scotland has been promoting a similar approach within the social economy to encourage the growth of social to social (S2S) trade. There are a couple of key actions that would support the development of social to social trade within the social economy.

- Large charities and housing associations could look at their own procurement strategies in terms of the long-term social impact that they are aiming for. They could look to use other social enterprises and voluntary organisations to supply goods and services for them. This approach would eventually cascade throughout the sector.
- Further support for S2S could come through grant funders who could work proactively with the social economy to provide innovative solutions in terms of developing S2S trade, e.g. where a number of organisations have been funded to develop similar posts within close distance of each other it could be that funders encourage these groups to share resources (and contracting of work) rather than supporting under-utilised dedicated posts which promote unsustainable duplication.

Finding and developing contracts through creating an S2S trading environment will involve your organisation in networking and partnership working to find like-minded organisations.

- ✔ *A first step in encouraging this process might be for your organisation to look at what goods and services you could buy from other social enterprises and voluntary organisations.*
- ➔ *S2S Trade Fair – In recent years, with sponsorship from Communities Scotland and the Royal Bank of Scotland, the Scottish Social Enterprise Coalition has supported trading within the social enterprise sector via a networking event designed to help social enterprises to sell products and services to one another. This event is called S2S – details can be found at [www.ssec.org.uk](http://www.ssec.org.uk)*

➔ *The Scottish Social Enterprise Coalition is a collective lobbying and campaigns voice for social enterprise in Scotland. It is a membership-led organisation representing the needs and interests of social enterprise to politicians, policy makers and opinion formers. You can find out more about the Coalition by visiting their website: <http://www.ssec.org.uk>*

<b>Checklist</b>	
Are we prepared for selling our goods or services?	
Do we know what our competitors' unique selling points are?	
Can we identify our added value for this contract?	
Do we have our own Unique Selling Point?	
Have we considered utilising 'impact measurement tools' to assist us to quantify the social benefit we provide?	
Can we refute the common misconceptions about the sector when we are tendering?	
Do we have the relevant experience necessary for delivering the contract?	
Have we looked at our own procurement strategy to see if we can encourage and foster S2S trade?	
Have we tried to gain smaller S2S contracts to build up our experience of contract delivery?	

# Notes

# 7: Planning and costing the contract

## Key points

- ❗ *Do not underestimate the time you will need to plan delivery of the contract properly.*
- ❗ *Planning and pricing the contract run alongside each other as activities. They influence each other and your final tender bid.*
- ❗ *When planning for a contract that you have not delivered before try to speak to someone who has. If other social enterprises are not in direct competition with you for the tender then they may be willing to help you. You might need to pay for this support or help.*
- ❗ *Ensure that you can meet the quality standards required for the contract prior to tendering.*
- ❗ *Carry out a risk assessment of the financial, operational and personnel issues related to the potential contract.*
- ❗ *Cost the potential contract properly, do not underestimate or underbid as you might end up losing money.*
- ❗ *Use the historical, financial information that you have to help you to work out the costs of delivering the contract.*
- ❗ *Include not only the direct costs in the planning but budget for the support costs, regulatory costs, management charge and generating a surplus.*
- ❗ *The key issue in planning is to work out whether you can deliver the contract at a price the customer will pay.*

## What pre-tender information is required?

If you are invited to tender it is common practice to be asked to supply pre-contract information. The public sector body will usually require such information to ensure that your organisation is fit for purpose.

Although the process and status of this information will vary according to public agency and the nature of the contract opportunity, at a pre-tender stage the evidence you may be asked to submit could include:

- two years of audited annual accounts or equivalent
- Company legal entity
- Public liability insurance
- CVs of Directors/Managers (proposed contract/project managers)
- Equal opportunities policy (including details of compliance with race relations Act, Disability Discrimination Act, Sex Discrimination Act)

- Appropriate technical qualifications
- References
- Appropriate quality management systems
- Accident book records (health and safety policies and procedures)
- Complaints procedures
- Environmental policies or systems

If your organisation is tendering for the first time then you may need to set aside some time to compile above information. It may be worth asking whether the public agency is willing to waive some of the criteria for smaller-scale, 'start-up' or 'first-time' organisations to assist you to enter into the public procurement market. However, it is probably a useful exercise for you to pull together this information at some point given that it will help you to determine which opportunities are most appropriate for you and to identify any gaps that are likely to trip you up in the future.

The Scottish Procurement Directorate has created a generic Prequalification Questionnaire outlining some of the generic points that you might be asked for:

➔ <http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/QualificationQuestion>

If your organisation does not have two years of audited accounts then there are alternative sources of financial information that you could make use of. These include bank statements, references from your accountant, details relating to other contracts, details of assets or capital available. The public agency is not necessarily looking for screeds of information but is simply looking for evidence of security.

You may however encounter a problem if you are a trading division of a larger company. This can be the case with larger charities using different brand names. You may have to tender under the name of the company and provide additional information in terms of management accounts, cashflow projections for your trading division. If your organisation is a trading subsidiary of a larger parent company then it might be that the parent company has to provide the above information as well, or some form of guarantee.

Remember there may be a number of pre-qualification stages that you are asked to go through before being invited to submit your tender. You must provide all the information you are asked for. The information provided at these stages will be evaluated and will form the basis of deciding whether you will go to the next stage. If you are in any doubt about what is needed ask the purchaser

- ✔ *Collating the above information can be time-consuming the first time that you have to submit it. If you are planning to tender for contracts regularly then it is useful to invest time into setting up systems to ensure that all the information required is easily accessible in the future.*
- ✔ *For larger organisations, where tendering happens in different locations, it may be worth setting up an intranet resource library of the key documents and information in order to save time and resources each occasion you are tendering.*

- ✔ *Purchasers will look for evidence that you will be around to complete the contract. They will be interested in issues such as cash draining from the business, falling profit margins, larger increases in creditors over debtors, over-reliance on short-term finance, deteriorating liquidity, etc.*
- ✔ *Some of the ratios that the purchaser may be looking at will not be relevant for your organisation. You may need to explain more relevant ratios and be prepared to explain your audited accounts, particularly in relation to SORP (Statement of Recommended Practice).*

Bear in mind that you may be asked for a 'Performance Bond'. Although this is rare in the current examples of contracting with the social economy, it could effect your organisation if you do not have suitable capital, credit lines or security. If asked for a Performance Bond you may need to try to negotiate an alternative if you do not have a large asset base.

⚠ *Performance Bonds can be required by public agencies to act as a guarantee in the event of the organisation failing to deliver on a crucial service. The Performance Bond provides the public agency with a fund to rescue the service in the circumstances where there is need for immediate replacement.*

## How do we find out about the quality standards that are required?

As indicated, public sector agencies may want to assess their contractors against certain quality assurance standards. Many potential contracts will have the quality standards attached to them. These will tend to relate to industry specific quality standards although there are some more general quality marks that will tend to be favoured by public sector organisations – such as Investors in People (IiP). Essentially, the public sector body is seeking to assure itself of the quality of your operations and provision.

The information provided by the purchaser on the contract opportunity will usually provide details on any quality standards that require to be met. If you are in any doubt contact the named contact responsible for the contract within the public agency to find out more.

## How do we know if it is worth investing the time into tendering?

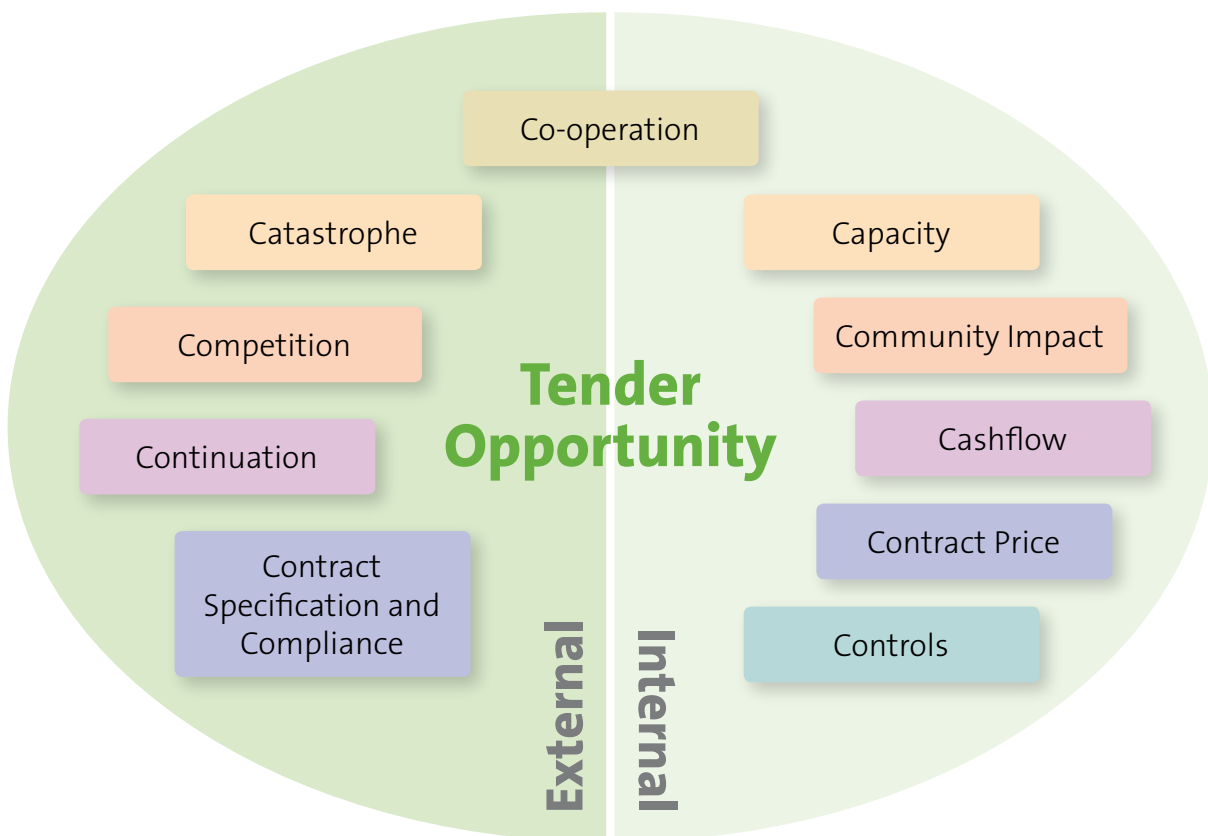
Not every contract is worth tendering for. Even if you have carried out the business development activities outlined in the previous chapters there will be tenders that you should not consider. There can be a variety of reasons for this, for example:

- The potential contract will not help you to deliver your core purpose.
- There will be too large a risk attached to the contract.
- The cost of tendering outweighs the benefits of being successful.
- You will not make any money from delivering the contract.
- You do not have the skills or expertise to win the tender.
- You do not have the skills or expertise to deliver the contract.

But how do you know this at the point of receiving a tender? As you have limited resources how can you avoid spending time planning and costing tenders that you should not be considering?

There is no fool proof method for this but when initially evaluating a tender opportunity there certain things that you ought to take into consideration. Whilst it's important to appreciate that you are unlikely to find the perfect tender opportunity it is worth undertaking a quick scoping study to determine whether the tender opportunity is appropriate to your organisation. It is definitely worth carrying out this type of analysis before committing any significant resources to tendering. Although it is impossible to be prescriptive, the sort of that you should consider include:

### Scoping an Opportunity



- **Community Impact** – What is the impact of this contract on your community of interest? Will they benefit from you delivering this contract?
- **Contract Price** – If there is an indicative budget then have you any experience of delivering a similar contract for that price? Will you make a profit on the contract to support future business development? Can you recoup your development costs? Are the margins high enough to deal with any unforeseen contingencies?
- **Contract Specifications and Compliance** – Are there any areas where you do not have the skills, expertise or experience to deliver? Can you acquire the skills, expertise or experience to deliver quickly and cheaply enough to make this worthwhile? Can you meet the compliance requirements of the contract?

- **Cashflow** – How does the payment schedule for the contract impact on your cashflow? Do you have potential options to deal with any problems?
- **Controls** – Do you have the right controls in place in terms of health and safety, financial management, personnel information, etc? If not, can you get them in place quickly enough to deliver the contract?
- **Capacity** – Do you have the capacity to deliver the contract? Do you need to add additional skills to your staff team? Do you have the organisational culture to deliver this contract?
- **Catastrophe** – What are the risks related to the contract delivery? What are the implications of performance failure? Are you in danger of over-expanding?
- **Co-operation** – Can you deliver the contract in partnership with someone? Is this a better option? Will this help to share the risks or improve your chances of success?
- **Continuation** – How long is the contract for? What affect will this have on your existing operations? What potential opportunities will it open up? What happens when the contract finishes? What happens if the contract is not re-issued?
- **Competition** – Who will you be competing against? Do you have a unique selling point that will help you to win the contract? Does the competition have more appropriate skills or expertise? Are your competitors better at tendering than you?

As you will see, many of the questions that you ask at the scoping study stage are those that you will have considered as you have been preparing for entering this market. You should now be benchmarking your decisions, understanding or answers against a real opportunity. This ‘scoping’ process can be carried out quickly for smaller contracts but larger contracts may require more detailed analysis.

- ☑ *This ‘scoping’ process may cause you to revisit some of the steps that you have taken in terms of business development. This is useful in terms of preparing to enter the market if there are gaps in your preparation. As indicated, business development is a reiterative process where you learn from testing your ideas against reality.*
- ☑ *Do not worry about giving up on tendering for opportunities that you have identified. Remember that if you have identified problems at this stage and decide not to tender it might save you money at a later stage. However, if you have expressed an interest in the tender and subsequently decide not to present a submission then ensure that you advise the relevant public agency that you do not intend to pursue the opportunity.*
- ➡ *Business advisers from the enterprise networks and specialist social enterprise development organisations may be able to work alongside you to develop your skills in carrying out this type of ‘scoping’ activity. Your aim should be to build your capacity to do this, particularly for smaller contracts.*

## What are the first steps in planning to deliver a contract?

Once you have identified a contract opportunity that you wish to tender for then you need to plan the contract thoroughly before submitting a tender. It is crucial that you plan and cost the potential contract. One of the barriers to effective planning

is that you do not have the financial or human resources to carry this out. If your organisation wants to secure procurement contracts then you will need to set aside staff time for this and you may need development funding.

➔ *Development funding or advice to build the capacity of your organisation to put in place the infrastructure to commence tendering may be available from a number of sources. See the section on Support for details of specialist organisations that can assist you.*

There are a range of funders who can provide assistance to voluntary organisations and social enterprises seeking to develop, including:

➔ *The Lloyds TSB Capacity building programme [www.ltsbfoundationforscotland.org.uk](http://www.ltsbfoundationforscotland.org.uk)*

➔ *The Charities Aid Foundation [www.cafonline.org](http://www.cafonline.org)*

Planning the contract at this stage will help you to deliver the contract more effectively. Also, bad planning may mean that you could lose money if all the contingencies have not been thought through.

Although it might be one person within your organisation that is involved in preparing the tender it is useful to involve those who will be delivering the contract in the planning stage. Not only will this help to foster a sense of ownership over the potential contract it should also allow you to draw on their experience at the planning stage.

- ✔ *Discuss the contract with experienced staff and be willing to listen to their comments in terms of delivery.*
- ✔ *Ask your existing or prospective suppliers for assistance with costs of the goods or services they will supply you. They have a stake in your organisation being successful as it might mean you continue to buy from them.*
- ✔ *Do not underestimate the amount of time and resources it may take you to plan and cost the potential contract properly.*
- ✔ *If you have previous experience of delivering this type of contract or a similar contract then remember to look back at the issues that arose, what you learned from delivery and build in any appropriate modifications to this planning process.*
- ✔ *Can you establish direct contact with the client group who are going to receive the goods or services that the contract is for? If so, it might be worth spending some of the planning time identifying what they want and need from the contract. This will not only assist you in planning more effectively but may give you an additional selling point when submitting your tender.*

## CASE STUDY: Richmond Fellowship Scotland

The Richmond Fellowship works with West Dunbartonshire Council, delivering services to people with severe, enduring mental health issues. In the course of its work it identified a need for specialist support to people with alcohol-related brain damage and approached the council about providing that support as an add-on to its existing competitively-tendered contract. The service is now fully operational, providing care and practical support to more than 50 people with the aim of helping them live as independently as possible in their home and community. It has enabled many people who had been inappropriately placed in residential care move back into their own home. Others live in sheltered-style accommodation where they live independently and manage their own tenancies but are able to access specialist support on-site. The contract currently provides 835 hours of support a week and employs the equivalent of 36 full-time staff. Since it started it has been developed by adding a rapid response element and through engagement with more complex cases.

The Fellowship recognise that operating contracts is challenging as it demands high levels of accountability and professionalism. They believe it is important to recognise this and to develop systems that help keep track of continually changing support hours and monitor the quality of the service.

**Key contact: Craig Wright, Richmond Fellowship Scotland**

## How do we plan for contingencies?

When considering any contract, your organisation should carry out scenario planning to look at various contingencies that might arise. This is good risk management.

The main areas where contingencies will need to be considered are usually:

- **Costs** – What happens if there is a large rise in essential costs such as staffing or supplies?
  - **Supplier Failure** – What happens if one of your suppliers fails to deliver? What happens if there is a failure with one of the sub-contractors?
  - **Loss of Key Personnel** – How do you deal with long-term sickness, maternity/paternity leave, staff moving on, etc?
  - **Cashflow** – What happens if there are delays in payments?
  - **Interest Rates** – What happens if you have a loan and the interest rate rises?
- ✓ *Carry out 'scenario planning'. Look at the contract from different perspectives and consider different scenarios that may arise. This will help you to understand the potential risks of delivering the contract.*

## Where can you find advice and support to help you to plan and cost the contract?

It may be that you have never delivered the type of contract that you are considering tendering for. In this situation you should seek to use your networks and contacts to find someone who can give you advice.

You may find that as long as another social enterprise is not a direct competitor in terms of specific contracts then they might be willing to provide help and advice to plan your contract. It might be worth visiting them to see the service delivery in action. This will give you a greater idea of the issues around contract delivery. This type of inside track is often invaluable in terms of utilising the experience of others. It may be that you have to pay the social enterprise for this type of support and advice but this will be well worth it in the long run.

➔ *The Scottish Centre for Regeneration provide guidance and could potentially provide some financial support for this type of study visit through the 'Seeing is Believing' Fund. [www.scr.communitiesscotland.gov.uk](http://www.scr.communitiesscotland.gov.uk)*

## How do we work out the costs of a tender?

The Association of Chief Executives of Voluntary Organisations (ACEVO) has developed a template that can assist you with the process of tendering. It is based around introducing 'average costing' into your organisation to enable full cost recovery. This template is based on a three-stage process:

1. Analyse and count all the costs in your organisation.
2. Review the costs, particularly overhead costs.
3. Allocate the costs appropriately, according to a consistent cost driver.

**Full Cost Recovery (FCR)** is the widely accepted accountancy principle that an organisation recovers all costs associated with providing a service or other output.

The Fees and Charges Guide issued by HM Treasury defines Full Cost as "The total cost of all the resources used in supplying a service, including the direct costs of producing the output, a full proportional share of overhead costs and any selling and distribution expenses. Both cash costs and notional (non-cash) costs should be included, including depreciation, inflation and finance charges."

The Scottish Executive endorses the use of Full Cost Recovery in service contracts, firmly believes that the third sector should not subsidise public services and considers that the public sector should not expect it to. Organisations should be paid the full costs for providing a service, as not to do so threatens sustainability and jeopardises ability to provide services in the longer term. Putting these sentiments into practice is not straightforward. The Scottish Executive is working to raise awareness of the importance of meeting the full costs of service delivery and to ensure that best practice is adopted across the public sector.

This process of introducing ‘average costing’ will help you to gain a greater understanding of the true costs of your service delivery. It may also help you to identify where some costs are not under control. The process of introducing ‘average costing’ is very time-consuming yet the ACEVO guide indicates that this is vital for modern voluntary organisations and charities in terms of the current funding climate.

For a large organisation this process of ‘analysis, review and allocate’ will be time consuming and costly. Yet a large organisation will usually have the advantage of experienced finance staff or a finance department that are able to carry out this type of development approach. You should also have a wealth of historical financial information on which to base the analysis. These staff can work alongside any external advisers that you feel are necessary to support the process.

For small organisations or newer community organisations this approach may prove less costly but you may need additional expertise and support to assist you with the process. Newer organisations might find they do not have the historical information on which to base the complex analysis and, as above, you may need additional advice and support.

- ➔ *The Association of Chief Executives of Voluntary Organisations (ACEVO) publication, ‘Funding our Future II: Understand and Allocate Costs’ has a template for you to follow. This outlines the steps involved in introducing Full Cost Recovery. This guide is available at [www.acevo.org.uk](http://www.acevo.org.uk)*
- ➔ *If you are unfamiliar with financial terms such as ‘fixed costs’, ‘variable costs’, ‘overheads’, ‘cashflow forecasting’, ‘cost allocation’, etc., then you may need financial management training before commencing with this process. Your local Council of Voluntary Service (CVS) should be able to provide you with details of appropriate courses in your area.*
- ➔ *Forth Sector, the Royal Bank of Scotland/NatWest and Communities Scotland have recently reproduced a Business Planning Guide to Developing a Social Enterprise which contains some helpful hints and tips for business planning. You can download a copy of the guide from the website: [http://www.forthsector.org.uk/docs/New\\_BusPlanGuide.pdf](http://www.forthsector.org.uk/docs/New_BusPlanGuide.pdf)*

## How do you apply this approach to tendering?

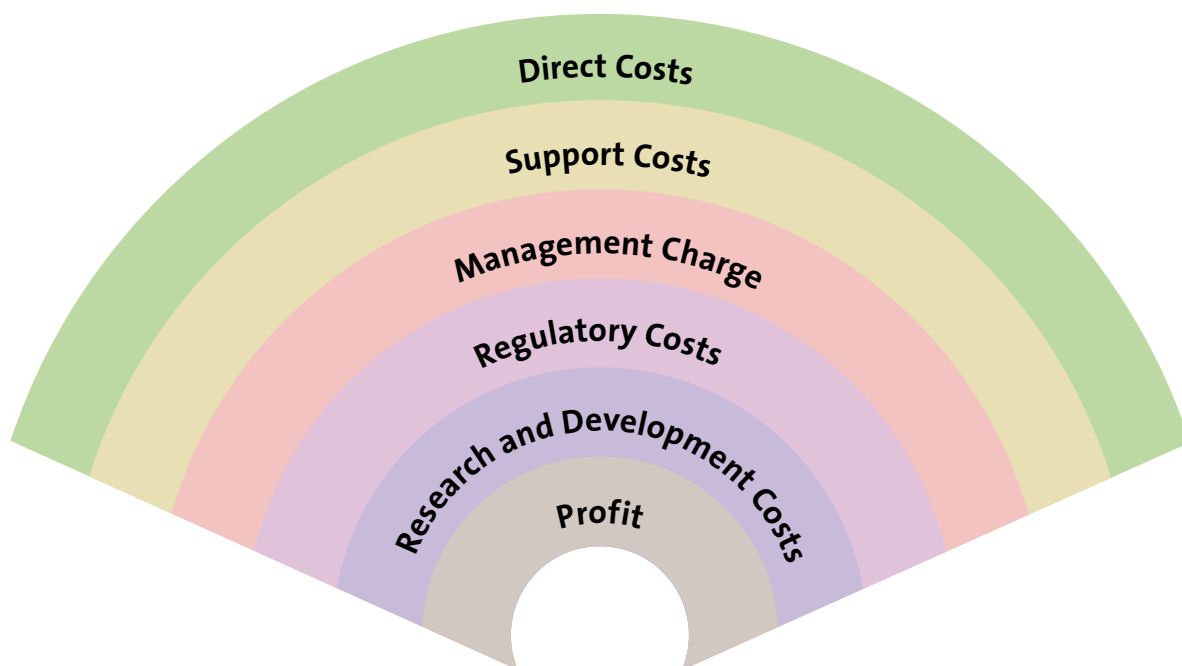
When applying the above principles to pricing a tender there are some differences that need to be considered. The notion of full cost recovery is expanded to include research and development costs as well as the potential of generating a profit. There are six principle areas of cost allocation that you need to consider:

- **Direct Costs** – These are the directly incurred costs of delivering the goods or service required by the contract.
- **Support Costs** – These are the closely associated direct support costs for those delivering the goods or service.

- **Management Charge** – These are the indirect, infrequent support costs of delivery but without them the contract could not be fulfilled.
- **Regulatory Costs** – These are the governance, quality, audit, monitoring or regulatory costs associated with delivery. There is a vast range of regulatory costs that are compulsory for organisations and have to be budgeted for.
- **Research and Development Costs** – These are the transaction costs of writing bids, writing unsuccessful bids, product development, research and staff training.
- **Profit** – This is the surplus that you aim to make on delivering the contract. The purpose of generating a surplus is to build the sustainability of your organisation.

Although the specific costs will vary from contract to contract this 6-step outline is a useful starting point for the process of analysis, review and allocation that you will have to go through. Each contract should be comprised of costs within each cost centre.

### Tender Costs



## Are there particular issues you should consider when working out costs and using the outline above?

When costing a tender there are a number of crucial factors that have to underpin the process of ‘analysis, review and allocate’:

- The direct costs of service delivery are more than staffing, Employers National Insurance Contributions and pension contributions. Direct costs should include premises, utilities, postage, stationery, etc., as well as any ‘cost of sales’ such as materials and packaging.
- Certain apportioned costs will feature in more than one area of the process. These costs are the organisation’s overheads and they have to be allocated appropriately.
- If indirect costs are not allocated and charged then either the quality of the contract delivery will deteriorate or you will make a loss.
- If you are taking out a loan to purchase equipment or pay for cashflow costs then this should be considered to be part of the support costs.
- The regulatory costs should include the cost of strategic development or governance as these are necessary to ensure quality of delivery.
- You will need to recoup the business development costs not only of this tender but a contribution towards future business development.
- Pricing of a tender will not be based solely on the costs of the tender but primarily on what the customer will pay for the goods or services.
- Procurement officers will expect realistic pricing. Your bid may encounter problems if it appears artificially low.
- There is no formula for working out the profit that you should charge on a contract. This will be determined by the competition and price the public sector body is willing to pay.
- Your organisation should have a reserves policy. You should include a contribution to the reserves within the surplus.

Pricing contracts is not easy and it is one of the areas that many organisations, even experienced contractors within the private sector can get wrong.

- ✔ *It is useful to know what your competitors are charging. This can help you with pricing strategy. You can then benchmark the quality of your goods and services against your competitors.*
- ✔ *As indicated price often has no relationship to the cost you incur to provide the goods or services. Your organisation can make a sizeable profit if supplying goods or services to the right niche or specialist market.*
- ➔ *The EQUAL Social Economy Scotland Development Partnership has developed training, How to Win Contracts, a key aspect of which is the pricing of tenders. [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)*

## Can you apply this process quickly?

Introducing a full cost recovery approach can be a time-consuming process. Yet it is fundamental that you have this type of financial management system in place if your organisation is going to regularly tender for contracts.

It may be that you are a small organisation and cannot afford the investment needed to undertake a process of analysis, review and allocation of your total costs at this point. Or it may be that the value of the contract you are tendering for dictates that this is a luxury.

For example, you may be tendering for your first few contracts or have the opportunity to enter into a sub-contracting or consortia relationship for a small share of a contract. This would mean the investment required in business development to introduce the above approach would not produce sufficient returns. You might work out that it would cost more to introduce than you would get back through delivering the contract.

Below is a rough guide to costing if you have to quickly plan contracts or if you are tendering for small amounts. This rough approach is not as robust as the average costing approach outlined above. It is not recommended as a long-term approach but may help you to gain a basic understanding of cost allocation for contracts.

## Rough Guide to Allocation Stage 1

List and ANALYSE all the potential costs associated with the contract then REVIEW these costs according to whether ongoing or one-off costs.

Category	Examples of costs	Additional Information
<b>Apportioned costs</b>	Premises costs – rental, mortgage, etc	These types of costs should be apportioned across the organisation and a cost driver selected for allocation, e.g. space used, hours worked, etc.
	Utilities – Heat, light, water, etc	
	Postage	
	Stationery	
	Telephone & Internet	
	Insurance	
	Cleaning and premises maintenance	
	Depreciation	
	Photocopier	
	Sundry items	
<b>One-off costs</b>	Vehicle costs	This cost driver should be consistent.
	Office consumables	
	IT support	
	Will vary according to contract.	
		Use historical information to help you identify costs.
		Where you have no history of tendering use financial information from closest experience of service delivery
		Should be allocated to the appropriate cost centre.

**Rough Guide to Allocation Stage 2**

*ALLOCATE the costs into one of the six cost areas*

<b>Category</b>	<b>Types of cost included</b>	<b>Additional Information</b>
<b>Direct Costs</b>	Direct staffing	Include ENIC and pension contributions
	Apportioned on-costs per staff member	Allocated according to time spent is most straightforward method.
	Cost of sales	This can be packaging, distribution, etc.
	Travel and subsistence	Directly related to the staff involved or the delivery of contract.
	Staff training	Where appropriate to contract. If not include in 'Management Charge'
	Contingency fund for snagging, contract completion, etc.	It is important to build in costs for completion of the contract.
	Direct management	Include ENIC and pension contributions
	Apportioned on costs for support	Allocated according to time spent is most straightforward method
<b>Support Costs</b> <i>(where appropriate, these should be proportion of time)</i>	Recruitment	If new staff are needed for the contract
	Monitoring and evaluation	
	Contingency fund	Staff sickness, etc.
	A loan may be required to support the purchase of equipment or the cashflow requirements of the contract.	Loan repayments or overdraft costs
	Indirect management	This may be line management of the 'direct manager'
	Executive management	Contribution to 'chief executive' costs
	Payroll and personnel	Contribution to HR function within the organisation
	Administrative support	Contribution to the administrative costs.
<b>Management Charge</b> <i>(where appropriate these should be proportion of time)</i>	Apportioned on-costs for above staffing	Allocated according to time spent is most straightforward method.
	Marketing material	Contribution to costs of marketing, promotion and PR.

Category	Types of cost included	Additional Information
<b>Regulatory Costs</b>	Corporate planning and governance.	Staff time to carry out this function.
	Apportioned on-costs for above staffing	Allocated according to time spent is most straightforward method
	Audit and SORP requirements	Contribution towards statutory requirement
	Annual report	Contribution towards costs
	Legal advice (VAT issues, etc)	One off costs or ongoing apportionment.
	Health and safety	Contribution towards statutory requirement
	Social audit or impact measurement	Contribution towards costs
	Quality assurance	Contribution towards costs
	Transaction costs and product/business development costs.	Contribution towards: <ul style="list-style-type: none"> <li>■ Future business development</li> <li>■ Current business development costs (future tendering)</li> </ul>
	Build in a surplus for delivering the contract.	Contribution towards: <ul style="list-style-type: none"> <li>■ Building up reserves</li> <li>■ Delivering your social purpose</li> <li>■ Developing sustainability</li> </ul>
<b>Research and Development</b>		
<b>Profit</b>		

This rough guide may help you to quickly plan costs but you will still have to carry out a simplified process of analysis, review and allocation. As indicated, if you have never delivered a contract before then look for a project that you have run that approximates to the tender. Use the information from this project to help you work out cost allocation.

Although it not the only method that can be utilised once you have allocated costs according to a consistent cost driver, one of the most straightforward ways of relating the indirect costs to the contract is accounting for staff time. You should quickly analyse how much time the support staff in you organisation spend on supporting the range of activities that you run. If your organisation is small then your staff may perform more than one function. It would be useful to get them to come up with a percentage approach to this. This will help with the allocation of indirect costs.

Once you have allocated the costs then you should produce a budget projection for the contract. This budget projection should provide a good basis for discussion with the staff involved in the contract to work out if you have planned accurately.

The process of budgeting for contracts is similar to that of budgeting for projects. If you do not have experience of producing budgets then, as above, it may be that you need training in financial management. Alternatively, there may be someone within your organisation who could provide you with support in budgeting.

As indicated, this process might seem daunting the first time that you carry it out but you will learn by experience each time you tender. As you build up experience of contract delivery you will become more aware of the cost drivers in your organisation and have more historical information on which to base future planning.

- ✔ *Remember to include indirect costs such as management staff time for dealing with complaints, customer liaison, loan repayments, etc. It is crucial you include them into your planning and costing.*
- ✔ *Remember to review each tender and contract. Look back at what happened to see what has been learned. This will help you to improve your future costing.*
- ✔ *If you have previous tenders or contracts use the information from this to help you prepare your costing.*

You may be asked to tender for a contract that has optional elements or involves a combination of elements. In this circumstance remember to spread your overheads across the contract. You do not want to be in a position where you are awarded a contract but the specific area where you have loaded overheads is not part of the final contract offer.

### How do you work out the profit on the contract?

You will want to generate a surplus on the contract. This will be for re-investment into your organisation.

The common areas that you will need a profit for are:

- **Social purpose** – It may be that you channel part of your surplus towards the furtherance of the social purpose of your organisation.

- **Future development** – Your organisation should be thinking strategically. Planning future strategy costs time and money.
- **Sustainability** – Ensuring that you operate profitable contracts will increase the sustainability of your organisation.
- **Building up reserves** – You need to think about building up reserves to cover your operational costs and improve your liquidity. The accumulation of reserves will also enable you to take steps to manage risk more effectively by providing a cushion to enable you to consider bigger gain contracts – which might well carry a bigger risk because of their size or complexity.

It is impossible to be prescriptive about the amount of surplus that you should aim for on a contract. At the planning stage you should consider each of the above areas in terms of the tender. Some organisations add a percentage of the costs to cover the profit they wish to make. This is the quickest approach but the crucial element is to ensure that you are pricing the contract at a level the customer will pay.

- ☑ *Remember to review each contract to look at the planned profit and whether this was achieved. Look closely at any factors that reduced your surplus. This will help you to plan more effectively the next time.*

## How do you avoid cashflow problems?

When planning the contract you should consider the payment schedule that the contractor will offer. Alongside your budget it is useful to carry out a cashflow projection. This will help you to analyse where cashflow problems might arise. The questions to review when you are carrying out your cashflow projection are:

- ❓ *When do you get paid?*
- ❓ *How does this payment schedule affect your ability to deliver the contract?*
- ❓ *How will it affect wage payments for staff?*
- ❓ *How will it impact on your ability to pay your suppliers (or any sub-contractors)?*

If you believe that you will experience cashflow problems it may be worth negotiating for a different payment schedule or building into your tender that you get paid a proportion of the costs in advance.

It could be the case that at the end of the contract you will not receive the balance of the contract cost until the contractor is satisfied with delivery or supply. This will mean that if you do not have sufficient reserves to cover the cashflow then you will have to negotiate an overdraft or loan to cover costs.

- ☑ *Remember to build the costs of financing an overdraft or repaying a loan into the contract cost.*
- ➡ *Social Investment Scotland, a Community Development Finance Initiative (CDFI) or your bank should be able to provide you with advice and assistance at this point.*

## CASE STUDY: Edinburgh Cyrenians

Edinburgh Cyrenians is a long established charity with a track record of pioneering innovative projects and services in areas of unmet need. We believe our work points the way to a better future for individuals and for society. A significant local employer with 44 staff, we mobilise over 50,000 volunteer hours per year and now have an annual turnover of more than £1.5 million.

The City of Edinburgh Council put out to competitive tender a service specification for the delivery of a youth homelessness mediation service aimed at young people and their families experiencing relationship difficulties at home. In response to the national tender advertisement by the City of Edinburgh Council, the Cyrenians teamed up with SACRO to compete to deliver the proposed service. The result is a three year pilot service – Amber – funded through a Service Level Agreement with City of Edinburgh Council.

The tendering process was incredibly helpful because the questions posed within the documentation literally prompted us to go through all aspects of service provision – from the design stage right through to the very practical operational aspects of delivery, monitoring and evaluation. We knew that we would be assessed against the same criteria as our competitors and so paid close attention to the information that was asked of us.

Having a carefully thought through design made it easier to accurately cost out the project. We have adopted a full cost recovery approach to all new work we undertake. Therefore the budget for the service had no hidden costs. When we were awarded the contract to deliver the service, we worked closely in partnership with the Council on the detail of the service level agreement and key performance indicators. Good communication has been really important and both sides were receptive to each other's views on the development of the service.

Prior to committing any significant resources towards the project, we considered the proposal in respect of our own organisation. The first step in this process was to ascertain whether the proposed service would complement our existing provision and our organisational values. At this stage, we needed to be clear about the extent to which Cyrenians would benefit from becoming the provider of this service. Once we had determined that there was some merit in researching the proposal more thoroughly, we adopted a business planning approach to allow us to think through the idea in a more methodical way.

It was clear from the information provided in the tender that being able to successfully market the service to users would be crucial in determining its success. As a consequence, we spent a considerable amount of time researching the most appropriate methods to achieve this based upon our experience of this particular client group, and estimating the costs involved in running the promotional campaign.

We worked with both partners in designing the shape of the service, and the associated management and evaluation systems. Where challenges have been

encountered, issues have been communicated and dealt with openly within a dedicated Steering Group (with representatives from all three partners) which has led to the establishment of a good working relationship and, when appropriate positive, informed and planned changes in the nature of provision. It's still early days, in terms of the length of the contract, but it looks as though Amber has the potential to be a very successful Public Social Partnership (PSP).

**Key contact: Pam Orchard, Edinburgh Cyrenians**

## Where can you find out more about Value Added Tax (VAT)?

One of the issues you will have to consider is the Value Added Tax (VAT) implications of entering into contracts.

You may be required to charge VAT for the goods and services that you are supplying. Also, there may be VAT that you are paying that you will want to recover.

- ➔ *Basic information on VAT issues is available at the Department of Customs and Excise website [www.hmce.gov.uk](http://www.hmce.gov.uk)*
- ✓ *Where you are charging VAT on the goods and services you supply remember to include this in the invoicing. Also, remember to detail VAT in the tender.*
- ➔ *If you are uncertain about the VAT implications of any contract you are tendering for then consult a VAT accountant.*
- ➔ *Your local Business Gateway should also be able to advise on the VAT and tax implications associated with contract arrangements.*

## Where can you find advice about compliance or regulatory issues?

With any contract there may be compliance or regulatory issues that have to be dealt with. You should find that these are discussed at the 'pre-tender' stage to assess whether you are fit for purpose.

If you are tendering in an area where you have experience of then you will be aware of the compliance or regulatory issues that will arise. If you are considering tendering in an area where you do not have direct experience then it may be worth visiting an existing social enterprise and discussing these issues to gain a fuller understanding.

There may be instances when you win a contract that involves inheriting an existing workforce. This is covered by Transfer (of Undertakings) and Protection of Employee (TUPE) legislation. This legislation offers protection to an existing workforce if transferred to a new employer. If transfer of employees is part of the contract then you should consider the implications of this on your existing workforce, pay structures and culture.

- ➔ *Advice on TUPE can be found at the Office of Public Sector Information website [www.opsi.gov.uk](http://www.opsi.gov.uk)*

Charities have a strong regulatory framework and hence if your organisation has a track record of project delivery through grant funding then it is likely that you will be aware and already comply with much of the existing regulations surrounding equal opportunities, the Disability Discrimination Act, the Sex Discrimination Act, the Race Relations Act, etc as well as having Health and Safety Policies, etc.

✔ *Your organisation might find it has added value at the pre-tender and tender stage through your existing compliance with regulations.*

## What happens if the tender price is lower than you believe the service might cost to deliver?

You may find yourself in a position where you have planned and costed the potential contract accurately but then are not awarded the contract as the price is too high. Perhaps the contract comes with an indicative budget and you know that you will be unsuccessful.

Revisit your planning and costing to see if there are any areas where you can look to control costs more effectively. It may be that you can shave something off the contingency fund, perhaps your 'cost of sales' ratio could be controlled with better management. However, it may be that you cannot deliver the contract at the tender budget.

In these situations you have three options:

■ **Do not tender** – Although you may have put in significant investment to get to this stage if you know that the tender will be unsuccessful you might be better to stop any further business development activity as it will only waste money.

✔ *You will not win every tender that you go for. Concentrate your resources on those where you stand a better chance of success.*

■ **Quote at a lower profit margin** – Occasionally it might be useful to quote with a lower profit margin as there may be additional work that comes in as part of the tender where you can increase profit.

■ **Loss leading** – It may be that you identify that this tender will be very significant for your organisation. In these circumstances you might consider 'loss leading'. Loss leading is where you plan to deliver the contract even though you know that you may not make a profit. You are aiming to deliver it at the price it will cost you or you may even make a loss on delivering the contract.

## In which situations should loss leading be considered?

- Where there is the potential of further business from the same or another source that can be delivered profitably.
- Where it will help you to gain vital experience, skills or profile in terms of delivering future contracts.
- Retaining vital staff experience while awaiting another larger and more profitable contract.

- ✔ *If considering 'loss leading' then the first area to look to shave costs is in terms of your potential surplus.*
- ✔ *Remember that you cannot afford to deliver too many contracts as loss leaders. It is only worthwhile considering where you can identify a longer-term gain.*

## What happens if we get the planning and costing wrong?

This is one of the key differences between contracting and delivering a grant-funded project. Whereas many grant funders will allow for re-negotiation of the outputs of the project this is unlikely to be the case with a contract.

The potential issues if you get the planning and costing of the contract wrong are:

- You will lose money.
- You may be liable to penalty clauses or charges to ensure that the contract is fulfilled, even if you cannot deliver it.
- Your reputation as a contractor will suffer.

That is why the planning and costing stage when tendering for contracts is so crucial. The larger the contract, the more significant the risks become.

It may be that the best approach for your organisation is tendering for a series of small contracts before looking to deliver a large contract. The advantages of this type of approach are that:

- You spread the risks of contract failure.
  - You mitigate against becoming too reliant on one contract.
  - You can gain experience of planning and costing contracts. This will build not only your reputation for delivery but also your confidence in terms of approaching larger contracts.
  - You will build up a wealth of historical information to help make your future contract planning more effective.
- ✔ *If you can build up a series of small contracts and generate a surplus from each then this will also provide you with the finance for the major business development that might be required for further expansion in terms of public procurement business.*

<b>Checklist</b>	
Have we set aside enough time to plan and cost the contract?	
Have we compiled the pre-contract information required to ensure that we are 'fit for purpose'?	
Have we carried out a scoping study into the potential opportunity?	
Have we involved the right people within the organisation in assisting to plan the delivery of the contract?	
Have we considered visiting other social enterprises to gain an understanding of how they plan and cost similar contracts?	
Have we utilised any historical financial information that we have to help us to plan the contract more effectively?	
Have we considered all the operational costs (including indirect costs and one-off costs) over the lifetime of the contract?	
Do we have enough financial planning skills and experience to plan and cost the contract?	
Have we worked out the direct costs of contract delivery?	
Have we included a contingency fund to deal with snagging issues within the contract?	
Have we worked out the support costs (including issues such as customer liaison, handling complaints, etc) of contract delivery?	
Have we worked out the management charge of contract delivery?	
Have we worked out the regulatory costs of contract delivery?	
Have we included research and development costs into the contract delivery?	
Have we worked out the profit that we want to achieve through delivering the contract?	
Have we considered the cashflow issues of delivering the contract?	
Have we considered any VAT issues that might arise from delivering the contract? Are they included separately in the contract?	
Have we considered any regulatory or compliance issues that might arise from delivering the contract?	
Are they included in the contract?	
Have we accessed appropriate business development support to help us plan and cost the contract?	
Can we deliver the contract at a price that the customer will pay?	
If not, have we considered our options?	

# 8: Winning the contract

## Key points

- ⚠ *You will win contracts if you are the best bid.*
- ⚠ *Never underestimate the importance of price in contract decisions.*
- ⚠ *Sell the public sector customer what they need at both the tender and tender presentation stage.*
- ⚠ *You will not be successful with every tender you submit. Remember this is a large market. It is increasingly opening up to the social economy. There will be other opportunities and you should try to learn from each experience.*
- ⚠ *Be prepared to communicate your social, economic and environmental impact. This should help to improve your chances of winning contracts.*
- ⚠ *Ask your potential purchaser for a copy of their procurement strategy and for further details about the particular process they employ.*
- ⚠ *Follow the instructions closely at pre-tender, tendering and tender presentation stages.*

## How do we win contracts?

There is no way to guarantee that your organisation will win a contract. Tendering for public sector contracts is a competitive process and you may be unsuccessful. However, there are steps you can take to ensure that you maximise your chances of winning.

The key factors to bear in mind are:

- Public procurement is opening up to the social economy.
- Your organisation will win contracts if you are the best bid or most economically advantageous tender.

The previous chapters have outlined the groundwork that needs to be carried out to prepare for entering the public procurement market. Remember, it's important not to get carried away with the idea of winning business from the public sector. You must make sure that the decisions you make about entering the market are right for your particular organisation. You must also make sure that you appreciate the full extent of the service you are to provide and be clear that you are able to deliver that service. You will need to invest time and resources in order to secure public sector contracts. However, if you do decide that an opportunity is right for you then you will find that there are significant advantages to be attained – particularly in terms of generating a profit for your organisation and thereby improving your long-term sustainability.

- ✔ *To win contracts you will have to be determined and resilient.*

## Top 10 tips for winning contracts

### 1. Thinking it through

There are some basic factors that you need to think about before you consider indicating your interest in a tender opportunity. You should be clear about your own capacity as an organisation – think about the geographical area you might cover and the range of services that you are able to deliver. It may be that you will have to work with other organisations if you find that there are likely to be any gaps in your provision. Alternatively you may need to allocate resources towards developing staff or increasing capacity with your own organisation.

In approaching a public agency or indicating an interest to tender, it is likely that you will have to be explicit about your organisation's particulars. There are a number of key factors that the public agency is likely to be interested in and it may be useful to think about these in advance of identifying any potential tender opportunities so that you can begin to address any issues or gaps.

➡ *The Scottish Procurement Directorate has a generic Prequalification Questionnaire outlining some of the generic points that you might be asked: <http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/QualificationQuestion>*

These key factors include: quality assurance, delivery mechanisms, approach, reliability, function, expertise and your potential to provide value for money. You should also try to identify what it is that sets you apart from potential competitors – e.g. your potential to provide added value, your expertise and the extent to which you might be fit for purpose in terms of particular facets of public service delivery.

As a consequence of this preparatory work, you should be able to identify opportunities that you have the skills, experience or expertise to deliver.

### 2. Research your customer

You are unlikely to have any quick wins. In fact, it can take a considerable amount of time to build a relationship with the public sector which will allow you to understand and appreciate the various influences affecting their decision to contract out services and to make an award.

You need to research your customer. Try to find out as much as you can about the policy context for the particular types of contracts you have an interest in. Look at your local strategies – you may find your local economic development and regeneration strategies will help you to draw parallels between your social impact and the strategic objectives of the particular public agency you are considering. This will help you to convey more clearly the extent to which you can help the public agency to achieve its strategic objectives.

There are increasing moves towards e-procurement but across the public sector there is still the use of a wide variety of different methods to advertise tenders and you will have to find out which arenas are most appropriate to the type of contract or service you are seeking.

In order to do this be prepared to plough through the trade journals, look at websites, go to 'meet the supplier' events, check the papers, network, build relationships, phone up and enquire about opportunities.

### **3. Identify your competition**

Remember that you are entering a very competitive marketplace. Be clear about the nature of the tender you are considering. The regulations permit the public sector to decide which is the most appropriate process to employ based upon the nature of the purchase itself. As a consequence, you should be clear about whether you are competing in an open competition or a restricted one. If the process is restricted this will be made clear within the tender notice although you may need to contact the purchaser for specific details. In the case of a restricted tender, the purchaser may set out certain eligibility criteria which must be met in order to be allowed to compete. Simply because the decision has been taken to issue a restricted tender, do not underestimate the extent of the competition. Remember that all interested organisations who meet the criteria will be eligible to win.

Whilst it's clear that social enterprises and voluntary organisations could potentially offer added value to the public sector it is important that this is reflected in your submission. Spend time working out what your Unique Selling Point is for each contract. Benchmark this against the competition and remember to be explicit about what you can offer the purchaser.

### **4. Plan and cost the contract**

When preparing your submission, ensure that you properly plan and cost all aspects of the service. See [www.fullcostrecovery.org.uk](http://www.fullcostrecovery.org.uk) for tips on how to achieve full cost recovery. Ensure that you take account of overheads and give due consideration to the full resource implications of entering into any formal contract.

Most importantly, ensure that you seek to win tenders only when you are sure that you can supply that service effectively. Remember that by entering into a formal contractual relationship with a public agency you are taking on certain legal responsibilities for the delivery of that service and consequently will be liable for any failure to do so.

### **5. Answer the questions asked**

The common factor shared by all award criteria used to evaluate tenders is that they relate to the nature of goods and services to be provided and the method and nature of the work to be undertaken in order to deliver these. In order to comply with the regulations, a public agency must make reference to/indicate the selection criteria it will use in an evaluation within the contract notice.

Although the weightings may not be made explicit (for high level contracts – i.e. above the threshold weightings must be stated) the selection criteria itself should be published in order of importance so that the process itself is somewhat transparent. Bear in mind that regardless of the number of criteria specified, it is likely that price will prove a significant factor in contract decisions. Be clear about how your price

relates to the whole life cost of the procurement – i.e. demonstrate what added value you can provide but ensure that this is conveyed in such a way that it is recognised by the criteria to be used.

Ensure that your response to the tender takes into consideration the weightings and indication of importance assigned by the public agency in emphasising your strengths. Concentrate on the most important criteria but you must make sure you provide relevant information on all criteria. Make sure that you answer the questions that are being asked.

### **6. Appreciate the resource implications in competing for business**

Invest time and resources into tendering for a range of appropriate opportunities. Do not count on winning any specific contracts and when you do not win try to understand why so that you can improve your chances the next time. Take advantage of your right to ask for a debrief. Under the Suppliers' Charter, EU and World Trade Organisation regulations, all the public sector must offer unsuccessful tenderers this opportunity so that you are able to improve your bid next time and to allow the purchaser to learn how to take account of added value within the criteria.

The extent to which you may have to make changes to the way in which your organisation works, reconfigure existing resources or invest in new resources in order to gear up to deliver should not be underestimated. All of this takes time which means that you may have to lay out a certain amount of investment (even if this is staff time alone) before you can expect to see a return. It is important that you consider fully how this type of commitment might impact upon your existing operations.

### **7. Be business like in your approach**

The Scottish Executive has made it clear that Best Value through competition should be at the heart of public procurement – that is to provide the optimal mix of cost balanced with quality (i.e. fit for purpose) in line with the customer's requirements. Although it may be tempting to fall back on evidencing your ability to meet the needs of service users it is of equal, if not more importance to focus upon the requirements of the purchaser as your customer. Similarly, it is important that you maintain a business like approach to tendering and contract delivery. You need to be focus on what the customer (i.e. the public sector purchaser) wants to buy.

Engage with the public sector to find out what types of services they are looking for, attend 'meet the supplier' events, ensure that you are able to answer positively to any criteria set out in pre-qualifying questionnaires and take steps to address any issues that come up repeatedly. Make sure that you take account of what you learn as a consequence of this so that you can ensure you are able to match the intention of tender opportunities more easily and can clearly articulate why you are most suited to any award criteria specified.

## 8. Prove your social impact

This may become vital as Best Value increasingly impacts on procurement practice. Invest in this area of business development. As the long term wider benefits of partnership working and strategic procurement become clear it may be that the public sector become more sophisticated in their application of social clauses to ensure that added value is attained as consequence of their spending decisions. It is important that you take steps to measure and to evaluate your existing performance so that you can assess the overall impact of your operations with a view to demonstrating the extent to which you can deliver added value to the public sector.

## 9. Be innovative

Think about ways in which you can bring innovation to service design. The public sector is committed to continuous improvement and consequently is keen to embrace innovation when it is likely to achieve more than the status quo. This type of co-planning approach is common across Europe and is finding a place through the Community Planning Partnership approach here in Scotland. Try to engage in these, and other relevant forums, to ensure that you are able to influence decision makers and budget holders by having a say at policy level.

It may also be worth considering innovative methods for delivering contracts, such as working with partners to cover a larger geographical area or to provide a more holistic complement of services. Working in partnership has the potential to spread the risk associated with entering into a new venture and could also result in reduced overheads for the individual organisations, as well as opportunities for the sharing of good practice.

## 10. Sell

It is crucial that your organisation thinks about how to sell what you do to the public sector. You will be competing with other organisations or companies that will be selling their goods or services. You need to think through your unique selling point and sell that as part of your bid.

When you are answering the questions in the tender you need to be selling your goods and services.

## What will a tender document look like?

There is no one proscriptive tender document for the public sector but the usual components of an 'Invitation to Tender' are:

- Letter of invitation (usually including submission date)
- Where the restricted procedure is followed, a Pre-Qualification questionnaire (this may have to be completed at a previous stage)
- General and specific conditions of the contract (contract terms)
- Service specifications
- Award criteria

- Pricing schedule (if appropriate)
- No collusion certificate (have not reached an agreement with another tenderer)
- Equal opportunities certificate and race relations certificate
- Declaration page (no conflict of interest)
- Return envelope

Read all the information carefully. If you have any questions then contact the issuing department. Many public agencies are now issuing tender documents electronically however the content will, by and large, be similar to those elements specified above.

### CASE STUDY: The Wise Group

The Wise Group, a charitable organisation with over 23 years of experience, is dedicated to the progress of long term unemployed people into sustainable employment. In 2006 alone, we helped over 2,900 people back into work.

As pioneers of the Intermediate Labour Market (ILM) model, now a widely recognised and replicated tool for bridging the gap to employment, the Wise Group has extensive experience of creating and managing training programmes for the unemployed.

We have found that physical regeneration projects, such as the landscaping of parks and community open spaces, can be useful vehicles for the attainment of community benefits. So when City of Edinburgh Council (CEC) issued a competitive tender for the Craigmillar Castle Park Path Construction project, which sought to achieve a number of community benefits in addition to physical improvements to the existing paths network, we were very interested.

From the tender document it was clear that the specified community benefits were to be costed into the contract, quantified by the contractor within the submitted tender and would be closely monitored and evaluated by CEC. The tender set forth requirements to recruit a minimum of four local, unemployed adults for the duration of the project, to provide training and wages throughout, with direct progression to employment following project completion.

The tender also stated that the potential bidders “should be able to attract funding to support the costs of operating a training programme to offset the associated costs” which the Wise Group was able to do.

In order to comply with the detail of the tender, the Wise Group required to provide CEC with regular and detailed updates, including information about progress made in relation to the community benefits.

The approach taken by the Wise Group and City of Edinburgh Council demonstrates that it is possible for the public sector to secure community benefits while upholding the principles of public procurement with respect to achieving Best Value through competitive tendering.

**Key contact: Gerry Croall, the Wise Group**

## What is e-procurement?

E-procurement is the term used to describe the variety of methods for trading electronically between purchasers and suppliers. E-procurement means using information and communications technology (ICT) to make procurement more efficient.

E-procurement can include a variety of approaches:

- Electronic tendering systems
- Supplier management systems
- Electronic payment facilities
- On-line catalogues
- Contract management systems

E-procurement offers benefits to both purchasers and suppliers. These benefits include:

- Cost savings
- Quicker turn around times
- Reduced paperwork and bureaucracy
- Quicker payment

Because of this the government is investing substantial amounts in developing e-procurement solutions for public agencies. The aim is to make Scotland one of the global leaders in the new e-economy. It is only a matter of time before the whole of the public sector is procuring goods and services electronically. Within Scotland this process is being supported by the development of e-procurement Scotland.

➔ *[www.eprocurementscotland.com](http://www.eprocurementscotland.com) provides information on the services on offer.*

- ✔ *You need to ensure that your organisation is geared up for e-procurement. Although e-enablement is not mandatory, it may be beneficial – one of the selling points of ePS is the low technological accessibility requirements. This will mean investing in the infrastructure for effective on-line communication. It will also mean having an effective website that communicates the brand of your organisation. Expectation within this area is increasing, particularly with the growth of portals for advertising.*
- ✔ *You can benefit from the introduction and development of e-procurement by taking advantage of the opportunities it affords for improved access to tender notices. Not only does this mean a marked reduction in terms of the resources you will need to invest in identifying potential contracts but it will also enable you to draw down more information about the process and method employed by a public agency in making contract awards.*

## How will bids be scored?

The tender should outline the criteria utilised to evaluate and decide the most economically advantageous tender.

This will vary from tender to tender. Below are some examples of the types of considerations that are usually used to evaluate tenders:

- Price and price stability
- Quality
- Specification compliance
- Experience of delivery
- Delivery arrangements
- Service back-up
- Availability of management information

Pay careful attention to the criteria and match your tender closely to what is asked. Remember to answer the questions you are asked about each of the criteria.

- ☑ *If you receive the 'Invitation to Tender' (ITT) you are being invited to make an offer that may then be accepted by the purchaser. The decision about who is chosen will be based upon the criteria. These are usually set out according to importance within the ITT (delivery, quality, method, personnel and so on). It is important to concentrate on the most important criteria but you must make sure you provide relevant information on all criteria. If you are in doubt you should contact the purchaser and ask for clarification.*

## What advice is there on completing tenders?

There are differences in the tendering processes across the public sector. Often this relates to the differing cultures within the public sector, the level of tender and devolved authority, the historical processes of the body, etc. Although there are moves to standardise the tendering process, it is recognised that a 'one size fits all' approach is not the solution. This makes specific advice difficult. The following tips should improve your chances when submitting tenders or carrying out presentations:

- ☑ *Make sure you know in what form you will have to complete the tender documents, particularly if there are issues around e-procurement. Get a clear idea of the timetable for the process (pre-tender information, tender documents supplied, tender documents returned, interview or presentation dates) to ensure that you can meet all the various deadlines. If there is a pre-tender qualification process ensure that you have provided all the information requested and are 'fit for purpose'.*
- ☑ *Ensure that you have read the conditions of the contract. Seek legal advice on any areas you do not understand and ensure that you do not make any technical mistakes. You will not get the chance to resolve them, instead your tender will not be considered. It is imperative that you submit the tender by the deadline requested and according to the method set out by the public agency.*
- ☑ *In presenting your tender document, it is worth remembering that the public agency will be looking to reject tenderers – to reduce this number to one. It is*

*therefore very important that your answer in relation to each of the questions posed is clearly demonstrated. To ensure that you have the best chance of success, use the same format (numbers and headings) as the purchaser and state your response in a clear, concise and direct manner. It might be worth establishing a core team within your organisation who can work together on the document and share concerns from a cross-organisational perspective.*

- ✔ *Once you have compiled all of the information that you require then check you have signed any pages that require this and that you adhere to any word limits imposed. Finally, cross check your references to supporting information to ensure that you have not forgotten to include anything before passing the documentation to fresh pair of eyes for checking. Do not underestimate the number of changes that might need to be made at this stage and ensure that you leave yourself sufficient time for rework.*
- ✔ *Read the documentation for the tender properly. Ensure that you answer all the questions and provide all the information that has been requested. Often different public sector staff will be looking at different aspects of the contract and they will focus on their specialism.*
- ✔ *You have to meet the specifications. This is critical, even if you think you 'know better' about how the contract might be delivered.*
- ✔ *Proof read the document prior to submission.*
- ✔ *Even if it is not in the brief be sure to detail your experience, your previous results, who is on the team delivering the contract and outline your strengths.*
- ✔ *Remember, at this stage you are not being evaluated on what you can deliver, you are being evaluated against how well you can talk about what you might deliver. SELL, SELL, SELL. Get someone who is good at writing the story to write the tender document.*
- ✔ *Write the bid in a language that people can understand. It might be possible to ask the key contact who is on the evaluation panel. That might give you a clue as to how to pitch the tender.*
- ✔ *Photocopy all the documentation that you submit. If you have worked on several drafts then clearly mark them so that you know which was the final copy.*
- ✔ *Answer the questions that you have been asked both within the tender document and within any presentation.*
- ✔ *Send the right staff to do the tender presentation. Make sure that they know what they are talking about and have thoroughly read the tender proposal. Make sure that they know the finances of the tender thoroughly.*
- ✔ *Ensure that any staff attending a tender presentation have presentation skills and are able to answer questions clearly and concisely. Where necessary, role-play the tender process with the appropriate staff to build confidence and experience. Think through the types of questions that you might get asked.*
- ✔ *Be prepared to explain your social purpose or values and the additional benefit that you can bring. As above, it may be worth the staff involved in the tendering process*

*to practice communicating the social, economic and environmental impact of your organisation. Have evidence to back up any claims that you make.*

- ✔ *Try to take a proactive stance in addressing any issues of risk. The public agency should be striving for continuous improvement and innovation but may have some concerns in trying new approaches. You must clearly show how innovative practice will have the potential to deliver added value and stress how you will manage any elements of risk.*

If you are successful in winning the tender then you may find that there is a period of post-tender negotiation where specific issues surrounding the contract are discussed, negotiated or clarified. This is a useful time to start to build a good working relationship with the relevant monitoring officer from the public agency.

### Should you use consultants to help you to prepare tenders?

It may be that you have the experience to deliver the contract but lack the specific expertise in preparing tenders. In these circumstances then it might be worth utilising external support to help you prepare the tender. Some private sector companies utilise professional support to write their bids. You need to consider what type of competition you will be up against and also that the quality of consultants offering this type of service may vary.

The pros and cons of this have to be weighed carefully. Although it may help you to win the contract you will not gain experience of tendering. Also, you need to ensure that the consultants understand your organisation and can communicate your approach to delivering the contract. Involve the consultants in the planning process. Also, there is the risk that you may not get the contract but will still have to pay the consultants.

- ✔ *If you are considering using external consultants it is worth asking around your networks for recommendations. Take references of any consultants that you are considering using.*
- ✔ *Make sure consultants have a clear 'brief' for what you want them to produce.*
- ✔ *If you use a consultant make sure that you see the final draft of what has been written in the tender before it is submitted.*

### What can you do if you are unsuccessful?

If you are unsuccessful you should ask for feedback. The Suppliers' Charter gives you the right to receive feedback. Also under the EU directives a public sector body has to provide feedback to you should you request this for all contracts above the EU thresholds. Departments should aim to provide feedback that is as helpful to you in preparing your next tender as it is in explaining the rationale for the outcome of this tender.

If you are unhappy about the rationale provided via this feedback then you may have grounds to appeal. To allow sufficient time for appeal, for contracts subject to the full EU controls (i.e. above the threshold) a standstill rule (also known as the Alcatel Rule)

applies whereby work must not begin on the contract for a period of at least 10 days. Unsuccessful bidders can use this time to lodge any complaints. Whilst these rules do not apply to lower value below-threshold procurements it is often considered good practice by purchasers to build in a standstill time to ensure that ample opportunity is given to unsuccessful bidders to appeal. The standstill period does not apply to situations where there is only one tenderer.

- ✔ *Check the Suppliers' Charter to be clear about your rights to feedback on an unsuccessful tender. ([www.scotland.gov.uk/Topics/Government/Procurement/Selling/Supplierscharter2](http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/Supplierscharter2))*
- ✔ *Remember that being unsuccessful in one contract does not mean you will be unsuccessful with future tenders. You should use the feedback to help with any future bids. Seek to learn from the experience to improve your future tenders.*
- ➡ *Your first port of call for complaint should always be the public sector body with which you submitted a bid. However, if you are dissatisfied with the manner in which your complaint is handled you may make use of the options below to pursue the matter further.*
- ➡ *The Scottish Executive is in the process of introducing a function to address supplier complaints by offering advice and, where relevant, pursuing supplier concerns with a view to improving public procurement practices.*
- ➡ *If you believe that you have not been treated fairly in the procurement process or you believe that a public agency has broken its rules then you can take court action against the public agency or complain to the European Union (Contact 020 7973 1992).*
- ➡ *You can contact the Scottish Public Services Ombudsman about any aspect of Scottish public services (including procurement) with respect to the Scottish Parliament, health or local authorities. <http://www.spsso.org.uk/>*

### Checklist

Have we read the tender instructions thoroughly?	
Have we considered the pros and cons of using appropriate external support to help us complete the tender?	
Do we fully understand how we are going to deliver the contract?	
Can we explain this under robust questioning at a tender presentation?	
Have we sold our organisation and what we can provide effectively?	
Have we prepared the right staff for the tender presentation?	
Do they fully understand the finances of the tender?	
If we have been unsuccessful do we ask for feedback?	
Do we have processes in place to incorporate this feedback into our future tendering?	

# Notes

# 9: Delivering the contract

## Key points

- ❗ *When delivering the contract you need to be primarily focused on satisfying the wishes of the customer.*
- ❗ *Customer service is crucial for successful contract delivery.*
- ❗ *Management of service performance is vital. You need to have a manager who understands the demands of contract delivery.*
- ❗ *Build in a regular review process to ensure that you are on target for contract delivery.*
- ❗ *Monitor your costs and ensure that you have effective cost control mechanisms in place.*
- ❗ *When you run into problems you must take action. Seek appropriate help and advice. There may be penalties if you fail to deliver the contract.*
- ❗ *Ensure that you build up qualitative performance indicators from the beneficiaries' point of view to demonstrate added value to the purchaser.*
- ❗ *Promote your success. Effective contract delivery is a major step in ensuring that you will keep the contract or gain other contracts.*

## What are the most important factors in contract delivery?

It is often said that winning the contract is the easy part – the hard work starts when you have to deliver the contract!

If you have spent time planning and costing the contract then you will be in a good position to start to deliver the contract effectively.

The range of contracts can vary widely and hence it is impossible to be prescriptive about the important factors in contract delivery. However, rest assured that contract performance conditions must always be non-discriminatory and must be mentioned within the contract notice or somewhere within the contract documentation. So there ought not to be any surprises!

To ensure that you're on the right track, there are some ways that you can help to improve the effectiveness and efficiencies of your performance in relation to a contract. Try to take account of the following points:

- ✓ *It can be useful to appoint a client manager for each contract in order to provide the client with one port of call for all needs and requests and to ensure that someone is actively tasked with managing that particular customer relationship. It can be an idea to appoint someone who already has contacts within the relevant public agency. The best person to perform this role may become apparent during the procurement/commissioning process.*

- ✔ *If someone is appointed as client manager ensure that they have the authority, information, training and resources they require to enable them to carry out their duties.*
- ✔ *It is likely that the public agency will also provide a contract manager for your contract. Ensure that you take steps to become familiar with the nominated public sector employee and that you ask them what information they might find useful.*
- ✔ *It can be useful, particularly for larger contracts and with new relationships, to arrange a series of meetings to monitor performance in the early stages and to allow for any issues that may crop up.*
- ✔ *Take steps to introduce effective systems for monitoring to allow you to have confidence in the quality of your delivery and to provide evidence to support any assertions that you may have made prior to winning the contract.*

### **CASE STUDY: Rolls on Wheels**

Rolls on Wheels is a social firm that provides employment and training opportunities for people with mental health problems within a catering environment. The social firm has a contract with Lothian Primary Care Trust for the supply (preparation and delivery) of lunches to the day hospitals within the city of Edinburgh. Securing the contract in 1998 allowed Rolls on Wheels to expand to take one of the trainees into a full-time, waged, supported employment place.

Although the contract is managed centrally within Lothian Primary Care Trust there are three points of delivery. This means that the one contract involves four different sets of customer relationships: the central manager and the manager/supervisor in each location. Rolls on Wheels has found that building customer relationships in each location has helped with the smooth running of the contract.

An example of how this has been achieved is through ensuring that each local manager has contact names and numbers for Rolls on Wheels. This means that if they have a problem they can contact the social firm directly rather than having to go through the purchasing manager in the Primary Care Trust. One of the benefits for the Primary Care Trust of having a service provided externally is to 'take away the hassle of delivery'. By providing a direct service to the local managers without involving the central manager in minor issues preserves this benefit.

In addition, the staff who deliver the lunches know to feedback any comments from each location to the Catering Manager at Rolls on Wheels who will then deal with these. Often comments are about the need to alter delivery times or to provide a different variety of food. If these can be done within the agreed scope of the contract then they are agreed locally. Also, on an ad hoc basis the Catering Manager proactively goes out to carry out deliveries and meet the local

managers to ensure that the contract is running smoothly. The benefit of this is that Rolls on Wheels has been able to deal with local complaints or issues and there has not been a central complaint or issue with the contract for over 2 years. The focus on ensuring that there are good customer relationships at all levels has been one factor in the retention of the contract.

**Key contact: John Spencer, Rolls on Wheels**

Management of the delivery of the goods or services is vital. This is what you will be assessed on. When you are delivering a contract you need to meet the performance standards outlined in the contract. You will need to have a manager that understands the market that you are operating in and the demands of contract delivery.

You will have contract specifications or outputs or outcomes or targets or performance indicators or standards or deadlines or any combination of the above. Build a regular review process into your contract delivery and review progress against these areas. This should be as frequently as needed and involve as many delivery staff as possible. Look back at how you have performed and look at the future priorities for work. This will give you the opportunity to action plan if there has been slippage in any areas.

Be clear about the priorities for the delivery of the contract. This is crucial where you might have the public agency as the main customer but another set of 'end-user' customers for whom the service has been commissioned. If there are conflicts in the priorities then keep an eye on these areas. Ensure that the priorities are communicated to all the staff involved in the contract delivery.

Customer service is crucial. Maintain good customer relationships with both the public agency and any end users of the service. Carry out (either formal or informal) customer service surveys to ensure that you are eliciting the views of the customers and shaping the service around their needs.

Monitor your costs. Cost control is vital for ensuring that you remain on track to deliver the service but also generate a surplus. Have accurate financial information available for your review meetings with staff and be clear about budget levels and responsibilities.

Delivering the contract is one of the best ways of ensuring that you keep the contract. It will also help you to build your reputation for contract delivery. This will help your organisation with future tenders.

The following tips will help you to avoid some of the obvious pitfalls:

- ✔ *Proactively deal with any problems that arise. There can be penalties for poor performance. Do not hope that things will get better but take action to ensure that you get the contract delivery back on track.*
- ✔ *Where the contract specifications and the contract 'reality' end up different ensure that you maintain regular contact with your monitoring officer. They should agree and sign off any ongoing changes to the contract specifications.*

- ✔ *You may be inspected as part of the terms of the contract. Be prepared for any inspection that will happen. Have all the relevant information to hand and have the appropriate staff in place to answer any questions that might arise from the inspection.*
- ✔ *Deal with complaints effectively. Have in place a system to ensure that you are capturing complaints early rather than letting them build up, particularly if they are going directly to your monitoring officer within the public agency.*
- ✔ *Develop your working relationship with your monitoring officer. They are in place to ensure that the public agency gets value for money and there is effective delivery of the commissioned services. A good working relationship will help to deal with problems as they arise. Try to ensure that you have regular meetings with the monitoring officer. If personality clashes arise then take action to deal with this and focus on providing service delivery for the customers.*
- ✔ *Remember to involve your staff, customers and key stakeholders in any good news stories that arise from your successful contract delivery. This is a useful way of celebrating your success, of engaging stakeholders and increasing staff motivation.*

## What happens if the purchaser adds additional specifications?

You may be awarded a contract at a specified price and once the work has started the specifications change. This can happen for a number of reasons:

- New problems emerge that were not identified at the tender stage.
- The initial specification was not accurate or clear in certain areas.
- Additional work is required to ensure that the contract is completed.
- The end-user customers request alterations to the specifications that alter what the public sector purchaser wants to buy.

How you respond to this depends on the nature of the changes. It will also depend upon who is responsible for introducing the changes and upon the nature of your relationship with the purchaser.

If you are responsible for not planning the contract accurately then it is highly likely that you will have to absorb the costs of meeting the specification.

If responsibility lies with the purchaser then there are several options open to you:

- Where additional specifications are added you can renegotiate the contract to add in additional costs for completion of the tender.
- If you know that there is no possibility of increasing the contract price you can carry out the work and absorb the additional cost. The aim of this would be to develop goodwill for future contracting.
- You can refuse to carry out additional work that is not in the specification. However, you should be aware that inflexibility might affect future success in respect of tendering with that purchaser.

- ✔ *Developing a good working relationship with your monitoring officer is central to dealing with problems that might arise in this area.*

## Checklist

Have we established a system to review the progress of the contract and ensure that we are meeting the targets?	
Are we monitoring the costs of the contract effectively?	
Do we have the appropriate financial information at the Review Meetings?	
Have we ensured that all staff are clear on levels of responsibility in terms of cost control and budgets?	
Have we focused on maintaining the customer relationship with the public-body monitoring officer?	
Have we established a process to ensure that we are receiving feedback from any end users of the service?	
Have we sought appropriate advice and assistance to help us deal with any problems that have arisen?	
Do we celebrate our success?	
Do we involve our staff, customers and key stakeholders in the celebration of successes?	

# Notes

# 10: Working with others

## *Sub-contracting, consortium or partnership*

### Key points

- ❗ *There are advantages and disadvantages to sub-contracting, partnership or consortium. These have to be weighed up.*
- ❗ *Public Social Partnerships offer a new option, particularly for developing innovative services. Partnership working has to be based on shared values and objectives.*
- ❗ *Remember to assess each of these options against your motivation for entering into public procurement. You may need to revisit the process of Self Assessment to ensure that you are still on the right track.*

This section outlines different approaches taken to public sector procurement. There are a number of reasons why you might want to work with another organisation to enter this marketplace:

- You recognise that you cannot gain access to some contracts without partners.
- You are approached to partner another organisation based on your expertise.
- The specific problem that needs to be solved requires a range of partners to work together to develop the solution.

Your partners could be from the social economy or they could be from the private or public sectors.

The most common approaches to working with other organisations are:

- Sub-contracting
- Consortium
- Public Social Partnership is also developing

Partnership working to deliver procurement contracts is not the right option for every organisation. The advantages and disadvantages of each approach are detailed below.

### What are the advantages of sub-contracting?

Sub-contracting is one option that is open to you in terms of entering the marketplace. Given the moves to ensure value for money, many of the highest value government opportunities are to be let to large companies operating over a broad geographical area. However, there is still potential for small businesses to play a part in these contracts, often on a sub-contractual basis. It may be that the main contractor is looking for specialist skills or experience that you are able to provide.

There is no single way of finding out about subcontracting opportunities. Public sector bodies may give you information about their main contractors or you might identify and contact a supplier who has won a major contract. 'Meet the supplier' events can also provide opportunities for finding out about sub-contracting opportunities.

There are advantages and disadvantages to being a sub-contractor. These will have to be weighed up carefully by your organisation before pursuing this business growth strategy.

### Advantages of sub-contracting

- You do not have to invest significant resources into preparing a response to the tender.
- Often you will have access to contract opportunities that you could not access on any other basis.
- Sub-contracting can be a first stage in gaining experience of contracting. (Many tender opportunities require previous experience of delivery and this helps with the “Catch 22” if you have no previous experience.)
- Private sector contractors may be keen to partner with you to have social impact within the contract.
- You may lack experience or skills in tendering but you can gain access to the contract. You need to be clear about who has Intellectual Property Rights (IPR) in terms of the contract.

### Disadvantages of sub-contracting

- Where you are further down the supply chain, there can be cashflow difficulties, particularly if the main contractor is experiencing delays in payment.
- Although you can use Late Payments Legislation to enforce prompt payment that this might damage your business relationship.
- Often the main contractor will introduce clauses into the sub-contractual relationship which ban you from carrying out any business with the end customer directly.
- Often the main contractor will include clauses which prohibit you from entering into similar sub-contract relationships with one of their competitors for a specified period of time.
- You may have to cut your margins to deliver better returns for private companies.
- You may not gain experience in tendering.
- As you are not the lead ‘partner’ there may be no ‘brand’ recognition for your organisation.
- Differing values from the ‘main’ contractor can cause friction.
- There may be a breach of contract by the main contractor that will impact on your organisation.
- If you fail to deliver the main contractor can sue you.
- You may not be in a position to become involved in negotiations or management discussions yet the impact of these will be felt by your organisation.

- ✔ *If entering into a sub-contracting relationship you need to think through your exit strategy to ensure that you gain the relevant experiences and references to be in a stronger position to tender at the end of the sub-contracting relationship.*
- ➡ *You may need legal advice if entering into a sub-contractual relationship.*

### **What are the advantages of developing a consortium?**

You may identify a contract opportunity that interests you but which you know you cannot deliver because of the size or scale of activity involved. Entering into a consortium might be the most appropriate method to enable you to respond to such a tender.

The consortium approach is useful in cases when you do not have direct experience of delivering the types of things you might need in order to secure the contract. Consortia combine the capabilities of two or more service providers, working in partnership, so that larger and more complex contracts can be delivered.

The primary driver of a consortium approach is that it allows for greater economy of scale, efficiency and effectiveness. Consortia can be composed of partners from a variety of sectors – e.g. could combine social enterprises with social enterprises, or voluntary organisations or involve a mixture of public, private, social enterprises and voluntary organisations.

Effective consortia take time to develop. It can be the case that where consortia are rushed because of a contract opportunity then problems arise once the contract is won. You will have to be prepared for this if it happens, as often you may only have a short period of time to respond to an invitation to tender.

When entering into a consortium or indeed any delivery partnership arrangement there are a number of questions that need to be answered.

## Key Issues in Adopting the Consortia Method

There are a number of key issues with the consortia model which need to be taken into account if you are considering the use of this approach to deliver on contracts.

### Advantages

The consortium will enable partners to share relevant skills, experience and expertise in a way that complements one another in terms of the tender and in relation to delivery.

This will give you the opportunity to access experience or competencies that you might not otherwise have in terms of service delivery and which you cannot afford to buy in just to secure the contract.

Similarly, your partners may have a specific Unique Selling Point that you do not have. They may also deliver in other geographical areas to you – hence increasing the scope of delivery whilst not over stretching your own resources simply in order to be able to tender for the contract. Or they may have impact measurement information that assists with securing the tender.

As a consequence of sharing your expertise and capabilities, via the consortium, you can increase your chances at tender evaluation.

The consortia approach allows for shared development costs – which might represent a significant reduction in overheads in relation to the contract. Perhaps most importantly, the consortium means that the risk associated with entering this particular marketplace and in relation to this particular contract is spread across the partners.

### Disadvantages

You might find that some contractors are not used to offering contracts to consortia and this will mean that more effort is required at tendering stage to explain the delivery method.

It's also worth noting that consortia take time to be properly developed. Where hastily thrown together they may not be as effective and may cause problems for the parent organisations.

However, it's not just in the development stages that consortia may require additional resources than would a normal partnership arrangement. In fact, a consortium will usually require more resource intensive management during the contract delivery to ensure consistency and quality are maintained across the board.

Although consortia allow for shared risks between partners, you may need to seek legal advice to ensure that the structure of the consortium or partnership is fit for purpose.

If one of your partners fails to deliver then you may be 'tarred with the same brush' in terms of future tendering, or indeed liable depending on the partnership arrangements in place. If you are the lead partner then you may be responsible for 100% of the liabilities.

## Disadvantages

Does each of the partners have compatible working cultures or similar values?

Have you set aside time to work through problems or issues?

Have you undertaken a review of your practices and discussed how things will work should you win the contract? You may have to submit 'fit-for-purpose' documentation for all the partners and there may be difficulties related to the consortia have no audited accounts, etc.

What contingency plans are in place for dealing with staff changes during the contract?

What legal form is your consortium going to take?

How will you manage disagreements?

How will you manage or allocate responsibilities/ liabilities?

Who owns the Intellectual Property Rights?

What are the implications if you end up in competition for other tenders?

What processes are in place for shared learning?

Given that there is still pressure on public agencies to aggregate contracts and 'scale up' then consortium bids should be considered by your organisation if you are to increase your chances of breaking into the public procurement market.

## CASE STUDY: Forth Sector Development

Forth Sector Development (FSD) is an Edinburgh based social firm providing business and development support to social enterprises, voluntary organisations and community groups. Fellow development partner, Community Enterprise in Strathclyde (CEiS) operates a similar service in Glasgow. Both FSD and CEiS are members of the HIE Consortium, a Highlands and Islands Enterprise led partnership of experts including Social Investment Scotland (SIS), Scottish Enterprise and Highland and Islands Community Energy Company (HICEC), working in the field of development and support, to help community groups acquire assets.

In 2006, the HIE consortium successfully won a large contract to support communities seeking to establish an asset base, to contribute to their development, through the Big Lottery's Growing Community Assets fund.

The Consortium has proved a useful vehicle for building effective relationships between these organisations, and in terms of pooling the skills, knowledge and resources of the group in order to deliver a cohesive and professional service to community groups across the whole of Scotland. The HIE Consortium works well because there is no duplication of provision, rather the membership places an emphasis on the complementarity of skills and experience of its members

– whether that be in terms of delivering support in an urban or rural setting, to community groups or social enterprises.

From an organisational perspective, FSD has benefited greatly from the opportunity to provide a tailored investment plus support service to a range of different groups. This has enabled FSD to broaden the scope of its activities – in terms of our role in supporting organisation and in the extent of our geographical coverage. The consortium model also allows us and our consortium partners to share the risk associated with undertaking such a large contract.

The successes we have achieved – as an organisation, and as a consortium, would be unlikely to have occurred were it not for the approach we have taken to sharing responsibility for designing and delivering the service. Our combined knowledge of the policy environment and practical experience within the Scottish social economy sector has ensured that we are making good progress in helping to achieve the Big Lottery Fund’s ambitions to bring about lasting social change which recognises the value of investing in communities.

**Key contact: Neal Mackay, Forth Sector**

## What are Public Social Partnerships?

Public Social Partnership (PSP) is a relatively new term to describe co-planning arrangements between a public partner and social economy partners.

This form of design partnership is emerging as a new way of developing and delivering services. Some of the drive for this approach is emerging from joint commissioning, particularly in the area of care services.

Partnership working takes place at a strategic and design level. The public sector is able to draw in the expertise and innovation of social economy partners and to use their direct links with potential service users to shape and design more effective public services. Often these new public services are piloted by a social enterprise, voluntary organisation or consortia of organisations, prior to going out to tender. The rationale behind the pilot approach is to efficiently test the innovative service, further shape service design and draw up an informed set of service specifications for the eventual tender. It may be that the public agency becomes a delivery partner in a new joint venture.

The main advantage of a Public Social Partnership is it pools expertise across the public and social sectors. Co-planning of service delivery allows the public sector to benefit from the experience of the social economy in designing the specifications of community-based services. The main advantages and disadvantages of partnerships have been outlined within the section on consortium development. These issues apply equally to Public Social Partnerships.

### **CASE STUDY: Community Recycling Network Scotland (CRNS)**

Community Recycling Network Scotland (CRNS) has been working with a group of recycling projects in North Lanarkshire who were keen to explore income generation in place of funding and in the provision of an improved service for existing customers and beneficiaries.

The three organisations involved – Beulah, RECAP and St Patrick’s Furniture Project – decided to participate in a pilot project with North Lanarkshire Council, by way of the European EQUAL fund, to provide emergency furniture packs to vulnerable individuals and families, store items in the event of failed tenancies and provide furniture packs to those not eligible for community care packs but who could not afford to buy furniture.

NLC has piloted the service with a view to issuing a tender. Beulah, RECAP and St Patrick’s Furniture Project are keen to compete for the eventual tender; and are in the process of forming Homereach, a new joint venture company which will be the entity which bids for such contracts and will be responsible for delivering these types of services. As such, they are in the process of formalising that relationship by forming a consortium to ensure that they are in a position to provide a consistent service across the whole area.

Each of the organisations has received dedicated support from CRNS throughout the PSP process, which was especially crucial during the start up phase but has also proved useful in facilitating the negotiation process with respect to finalising the legal documentation to recognise the new company.

As a consequence of the project, communication between the service delivery organisations has improved and it is intended that Homereach will go on to compete for this and other contracts in the near future.

**Key contact: Ian Gulland, CRNS**

The additional factors to consider when considering a Public Social Partnership are:

- Partnership is about more than negotiating a contract. It is about building and sustaining a relationship that will ensure the contract is delivered. Have you carried out the groundwork to ensure that this type of partnership has been developed?
- There are a range of partnership options – joint venture (directly between public sector partner and social economy partner), creation of ‘arms length’ joint venture, piloting of a ‘services contract’ – and each should be considered prior to deciding the most appropriate approach.
- Partnership working should establish a sense of joint purpose where there are common objectives and the foundation for the future development of the working relationship.

➔ *The new Community Interest Company model might be a vehicle for the establishment of a wider range of Public Social Partnerships to deliver public services. The DTI website [www.dti.gov.uk](http://www.dti.gov.uk) provides details on Community Interest Companies.*

For both the public sector and the social economy a public social partnership might be a good option for:

- Projects where service users involvement is central to service design and delivery.
- Innovative projects where service specifications will evolve as the project develops.
- Where service delivery is suited to open, joint management arrangements.
- Large complex projects, particularly where re-provisioning and continuous development is required.

### Checklist

Have we evaluated our reasons for seeking sub-contracting, consortium or partnership options against our motivation for pursuing public procurement contracts?	
Have we weighed up the advantages and disadvantages of sub-contracting?	
Have we considered the advantages and disadvantages of consortium?	
Have we considered the advantages and disadvantages of developing Public Social Partnerships?	
Have we sought appropriate advice and support in terms of developing consortiums or partnerships?	

# 11: What support is available?

Organisation	Address	Website
<b>BRAG Enterprises</b>	Crosshill Business Centre Main Street, Crosshill Fife KY5 8BJ	<a href="http://www.brag.co.uk">www.brag.co.uk</a>
<b>Community Business Scotland (CBS) Network</b>	45–47 Albany Street Edinburgh EH1 3QY	<a href="http://www.cbs-network.org.uk">www.cbs-network.org.uk</a>
<b>CEL</b>	The Inspire Business Centre, Oatridge College Ecclesmachan EH52 6NH	<a href="http://www.communityenterprise.co.uk">www.communityenterprise.co.uk</a>
<b>Community Enterprise in Strathclyde (CEiS)</b>	Moorpark Court 5 Dava Street Govan G51 2JA	<a href="http://www.ceis.org.uk">www.ceis.org.uk</a>
<b>Co-operation &amp; Mutuality Scotland</b>	Robert Owen House 87 Bath Street Glasgow G2 2EE	<a href="http://www.scotland.coop">www.scotland.coop</a>
<b>Scottish Council for Voluntary Organisations (SCVO)</b>	Mansfield Traquair Centre 15 Mansfield Place Edinburgh EH3 6BB	<a href="http://www.scvo.org.uk">www.scvo.org.uk</a>
<b>Development Trusts Association (DTA) Scotland</b>	54 Manor Place Edinburgh EH3 7EH	<a href="http://www.dtascot.org.uk">www.dtascot.org.uk</a>
<b>EQUAL Social Economy Scotland Development Partnership</b>	c/o SCVO 3rd Floor, Centrum Building 38 Queen Street Glasgow G1 3DX	<a href="http://www.socialeconomy-scotland.info">www.socialeconomy-scotland.info</a>
<b>First Port</b>	54 Manor Place Edinburgh EH3 7EH	<a href="http://www.firstport.org.uk">www.firstport.org.uk</a>
<b>Forth Sector Development</b>	Forth Sector SPACE 11 Harewood Road Edinburgh EH16 4NT	<a href="http://www.forthsector.org.uk">www.forthsector.org.uk</a>
<b>Highlands &amp; Islands Social Enterprise Zone (HISEZ)</b>	Office 26–29 Queensgate Business Centre 1 Fraser Street Inverness IV1 1DW	<a href="http://www.hisez.co.uk">www.hisez.co.uk</a>

Organisation	Address	Website
<b>Scotland UnLtd</b>	Rear Suite, 3rd Floor 30–32 Cadogan Street Glasgow G2 7LP	<a href="http://www.scotlandunltd.com">www.scotlandunltd.com</a>
<b>SENScot</b>	54 Manor Place Edinburgh EH3 7EH	<a href="http://www.senscot.net">www.senscot.net</a>
<b>Social Enterprise Edinburgh (SEE)</b>	Forth Sector SPACE 11 Harewood Road Edinburgh EH16 4NT	<a href="http://www.go4see.info">www.go4see.info</a>
<b>Social Firms Scotland</b>	54 Manor Place Edinburgh EH3 7EH	<a href="http://www.socialfirms.org.uk">www.socialfirms.org.uk</a>
<b>Communities Scotland</b>	Thistle House 91 Haymarket Terrace Edinburgh EH12 5HE	<a href="http://www.communities&lt;br/&gt;scotland.gov.uk">www.communities scotland.gov.uk</a>
<b>Communities Scotland North (Highlands and Islands)</b>	Urquhart House Beechwood Park Inverness IV2 3BW	
<b>Communities Scotland North (Grampian) Johnstone House</b>	2nd Floor, Suite A 50–54 Rose Street Aberdeen AB10 1UD	
<b>Communities Scotland East (Lothian, Borders and Fife)</b>	Rosebery House 9 Haymarket Terrace Edinburgh EH12 5YA	
<b>Communities Scotland East (Tayside and Forth Valley)</b>	Endeavour House 1 Greenmarket Dundee DD1 4QB	
<b>Communities Scotland West (Glasgow)</b>	Highlander House 58 Waterloo Street Glasgow G2 7DA	
<b>Communities Scotland West (North and South Clyde)</b>	St James House 25 St James Street Paisley PA3 2HQ	
<b>Communities Scotland West (South West Scotland)</b>	Rex House Bothwell Road Hamilton ML3 ODW	
<b>Social Economy Unit Third Sector Team</b>	Area 2-F Victoria Quay Edinburgh EH6 6QQ	<a href="http://www.scotland.gov.uk">www.scotland.gov.uk</a>

Organisation	Address	Website
<b>Scottish Centre for Regeneration</b>	Communities Scotland Festival Business Centre 150 Brand Street Glasgow G51 1DH	<a href="http://www.scr.communities.scotland.gov.uk">www.scr.communities.scotland.gov.uk</a>
<b>Highlands &amp; Islands Enterprise</b>	Cowan House Inverness Retail and Business Park Inverness IV2 7GF	<a href="http://www.hie.co.uk">www.hie.co.uk</a>
<b>Scottish Enterprise</b>	5 Atlantic Quay 150 Broomielaw Glasgow G2 8LU	<a href="http://www.scottish-enterprise.com">www.scottish-enterprise.com</a>
<b>Bank of Scotland</b>	The Mound Edinburgh EH1 1YZ	<a href="http://www.bankofscotland.co.uk">www.bankofscotland.co.uk</a>
<b>Charity Bank</b>	The Charity Bank Limited PO Box 398 194 High Street, Tonbridge Kent TN9 9BD	<a href="http://www.charitybank.org">www.charitybank.org</a>
<b>Clydesdale Bank</b>	30 St Vincent Place Glasgow G1 2HL	<a href="http://www.cbonline.co.uk">www.cbonline.co.uk</a>
<b>DSL</b>	Moorpark Court 5 Dava Street Govan G51 2JA	<a href="http://www.dsl-businessfinance.co.uk">www.dsl-businessfinance.co.uk</a>
<b>Highland Opportunity Limited</b>	81A Castle Street Inverness IV2 3EA	<a href="http://www.highland-opportunity.com">www.highland-opportunity.com</a>
<b>Lloyds TSB Bank</b>	Lloyds TSB Bank plc BX1 1LT	<a href="http://www.lloydstsb.com">www.lloydstsb.com</a>
<b>The Royal Bank of Scotland Commercial Banking</b>	2nd Floor 100 West George Street Glasgow G2 1PP	<a href="http://www.rbs.co.uk">www.rbs.co.uk</a>
<b>Social Investment Scotland</b>	2nd Floor 1–2 St Andrew Square Edinburgh EH2 2DB	<a href="http://www.socialinvestment.scotland.com">www.socialinvestment.scotland.com</a>
<b>Triodos Bank</b>	32 Annandale Street Lane Edinburgh EH7 4LS	<a href="http://www.triodos.co.uk">www.triodos.co.uk</a>

Organisation	Address	Website
<b>Charities Aid Foundation</b>	7th Floor St Andrew's House 18–20 St Andrew Street London EC4A 3AY	<a href="http://www.cafonline.org">www.cafonline.org</a>
<b>Lloyds TSB Foundation for Scotland</b>	Riverside House 502 Gorgie Road Edinburgh EH11 3AF	<a href="http://www.ltsbfoundationforscotland.org.uk">www.ltsbfoundationforscotland.org.uk</a>
<b>Scottish Procurement Directorate Scottish Executive</b>	Meridian Court Glasgow G2 6AT	<a href="http://www.scotland.gov.uk/procurement">www.scotland.gov.uk/procurement</a>

# 12: Terminology

**For clarity throughout the guide the following terms are used:**

**Added Value** – The distinctive or specialist contribution made by carrying out activities. For example, social enterprises can add value to the delivery of public services in terms of their capacity to innovate or their closeness to the needs of their clients or the communities in which they operate.

**Adequate Publicity** – a degree of advertising of contracts which is sufficient to enable open competition and meet the requirements of the principles of equal treatment, non discrimination and transparency.

**Attribution** – In situations where more than one organisation plays a role in generating added value this should be explicitly recognised. The value added has to be shared between participating agencies, and only the proportion of returns generated by the organisation under consideration should be taken into account in evaluating their contribution, i.e. recognise only the proportionate resulting gains.

**Best Value** – Best Value is a formal requirement for all local authorities.

Best Value was introduced to ensure continuous improvement in the performance of public services. It encourages consideration of what services should be delivered according to local need, an options appraisal of the most appropriate way to deliver those services to meet the identified need, sound management of resources (economy, efficiency and effectiveness) while maintaining an appropriate balance between quality, cost, achieving equalities and sustainable development. Although specific guidance and a statutory framework for Best Value is provided by the Local Government in Scotland Act 2003 it is recognised that the principles of Best Value are applicable across the whole of the public sector.

**Commissioning** – Commissioning is the strategic function of identifying priorities and outcomes, assessing the needs of people in an area or the requirement for goods or services by a public agency, allocating resources and then designing and securing the appropriate goods or services.

**Community and Voluntary Organisations** – Often referred to as the voluntary sector this broad sector includes organisations for the public benefit, not-for-profit, managed by a voluntary committee or Board, independent of the statutory sector, non-profit-distributing, usually charities that deliver services, campaign or support volunteering and active citizenship.

**Community Benefit Clauses** – Clauses that can be included in the procurement process that allow social and environmental considerations to be included in the contract specification and used in the selection and award procedures.

The European Union has clarified that community benefit clauses (or social and environmental clauses) can be included, provided that suppliers who are not local are not disadvantaged or discriminated against and the contract complies with government procurement policy and Best Value. To comply with the policy and legal

framework the community benefit requirements must be part of the core purpose of the contract and must provide a benefit to the agency. Community benefit clauses should be supported by strategic documents such as Community Plans.

**Contract** – A contract is the term used to describe a legally binding agreement between a purchaser and a supplier for the supply of goods, services or works.

**Deadweight** – The term used to refer to what would have happened anyway without such intervention.

**Full Cost Recovery** – FCR refers to an organisation recovering the full cost associated with providing a service or other output. It is a widely accepted accountancy principle. Full cost recovery is broadly interpreted to mean the total cost of all the resources used in supplying a service, including the direct costs of producing the output, a full proportional share of overhead costs and any selling and distribution expenses. Both cash costs and notional (non-cash) costs should be included, including depreciation, inflation and finance charges.

**Impact** – The term Impact refers to the benefits or changes (i.e. outcomes) that have come about as a result of the work or activity of a project or the organisation once the deadweight and attribution is taken into account. These include short-term, long-term, intended, unintended, positive and negative effects. Impact is less tangible and therefore harder to measure than inputs and outputs.

**Inputs** – Any resources invested in the activity, service or contract.

**Investment Readiness** – This term is usually associated with securing equity investment in a business from private investors. Within the social economy the term is used to describe a stage of development for an organisation where the funding and finance is seen in terms of investment orientation rather than solely grant orientation.

**Options Appraisal** – The term ‘option appraisal’ covers a range of decision-making techniques used to assess competing approaches. In the case of Best Value service reviews, the term refers to competing approaches with respect to the future management and delivery of local authority services.

**Outsourcing** – This is the term used within the public sector to describe the arrangements for a service that is provided by another organisation. The service will continue to be funded and facilitated by the public sector but the delivery is made by an external service provider.

**Outputs** – Outputs are the direct and tangible products resulting from the activity, i.e., people trained, trees planted, services delivered and products sold.

**Outcomes** – The benefits or changes that have come about as a result of the work or activity of a project or the organisation. These include short term, long term, intended, unintended, positive and negative effects.

**Procurement** – The whole process of acquiring from third parties covering goods, services and capital projects. The process spans the whole-life cycle from initial concept through to the end of the asset or the end of a services contract.

Public Sector Business/Public Procurement Market/Public Service Contracts/Public

Service Markets – These terms are used interchangeably to describe the broad range of commercial contracts that are offered by the public sector.

**Public Social Partnership (PSP)** – The shared responsibility for the delivery of public services by social economy organisations and the public sector is referred to as Public Social Partnership (PSP).

**Registered Social Landlords (RSLs)** – In Scotland, a registered social landlord is a landlord registered with Communities Scotland. The criteria for registration are set out in the Housing (Scotland) Act 2001. They are organisations that provide housing for let and other associated services but they do not trade for profit. The commonest form of registered social landlord in Scotland is a housing association although it includes housing trusts and housing co-operatives. Their main purpose is to let housing for people in need. In common with the widening role of Communities Scotland, RSLs have adopted a wider role in community regeneration and the promotion of social inclusion.

**Service Level Agreement** – Service Level Agreements (SLAs) originated within the public sector to specify the nature and quality of services provided between departments. This then expanded to include interagency arrangements and became the term used to describe a schedule that is an adjunct to commercial contracts with suppliers. The term has now gained common currency as describing new grant-funded delivery arrangements between the public and voluntary sector. The term Service Level Agreement is used here to describe a grant that is ‘outcome related’. It is seen as a different arrangement to a commercial contract.

**Social Added Value** – Social added value describes the benefits a business or organisation provides in terms of its social and environmental impact.

**Social Clauses** – See Community Benefit Clauses

**Social Enterprise** – A social enterprise is an organisation that trades in the market for an explicit social purpose. Social enterprises are assumed to have three distinct characteristics: they have a clear social aim, they are socially owned (non-profit-distributing) and they have an enterprise orientation where greater than 50% of their turnover is derived from sales or contracts.

**Social Return On Investment (SROI)** – SROI measures an organisation’s added value by calculating the social, environmental and economic benefits it creates and by attributing a financial value to them. It is based on standard accounting principles and investment appraisal techniques.

**Standstill Period** – (Also known as the alcatel rule) The standstill period refers to the 10 day period following the issuing of award letters in line with a tender during which no work should be undertaken in respect of that particular contract. This time is used ensure that ample opportunity is given to unsuccessful bidders to appeal before work begins.

**Value for Money (VfM)** – Value for money is defined as the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user’s requirement.

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- Communities Scotland (Scottish Centre for Regeneration)
- Forth Sector
- Highlands and Islands Enterprise
- North Lanarkshire Council
- Scottish Council for Voluntary Organisations (Lead partner)
- Scottish Enterprise
- Scottish Executive (Social Enterprise Team)
- Scottish Social Enterprise Coalition
- Social Firms Scotland
- Social Investment Scotland
- Volunteer Development Scotland

Social Economy Scotland works in partnership (nationally and transnationally) to support the social economy to increase its role in the delivery of innovative, high quality services, thereby enhancing its contribution to community regeneration, sustainable economic development and labour market integration in Scotland. To support this aim, Social Economy Scotland has funded a range of pilot projects under the following themes: Public Social Partnership and Procurement; Access to Finance; Quality and Impact; Business Development and Raising the Profile.

For more information see [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)

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