

# Good practice in tendering and contract management

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# Foreword

## Our Purpose

Our members are experts at delivering careers guidance, they range in size and experience, but they provide independent and impartial careers information, advice and guidance for people of all ages, to secure the economic and social health of the nation.

This document seeks to help and support those who commission information, advice and guidance services and services that help people to transition into education and employment opportunities to procure the very best providers by learning from experiences of the sector.

## Why

In today's competitive and rapidly evolving world, commissioners seek best value, but they often overlook the strains put on providers through procurement and contract management practices which could easily be improved. As a result, the hours invested in intensive procurement and contracting may not secure and retain the best provision and those providers who can make the greatest difference to the people they serve.

Great procurement is about sharing risks across the supply chain to ensure each partner is able to perform to the best of their ability without being hindered by unacceptable levels of risk.

During the composition of this guide it is fair to say that there have been some "horror stories" that can only be described as representing the worst possible approaches.

However, generally speaking, all too often there have been experiences of too much focus on achieving targets with insufficient focus on the customer journey, this is not about requesting case studies, but is about a basic understanding of what it feels like to be a human being accessing services at a time when you may feel at your most vulnerable. We believe that understanding the customer will produce the outcomes desired by commissioners.

This lack of customer understanding may be caused by the perceived disconnect between the commissioning process, contract management and the delivery of services, which feels difficult to achieve with reducing resources and funds to do things differently.

## How

Despite the current context and the constraints that exist due to the Public Contract Regulations, we believe that there are things that can be done by commissioners to close the gap. This applies to all commissioners; national, regional and local, and equally to subcontracted delivery models.

We accept the future will always be different, but in an age of always on and 24/7, we need **access to commissioners** to receive timely information and decision making.

We need **proportionate commissioning**.

We need to be truly encouraged to deliver the **highest standards of customer service and engagement**, ensuring that services make the biggest difference to those who need it most.

We recognise the challenges of commissioners with less funding and fewer resources and we hope that this guide goes some way to enabling these risks to be shared and reinforcing the importance of good commissioning and the great relationships that develop as a result.

Katharine Horler OBE

Chair

Steve Stewart OBE

Executive Director



# Design

## Effectively constructing and planning the process pre-procurement

Getting the design phase right is key to attracting and retaining the best providers. All too often, early information provides scant details on the services that are being tendered or on the scope and scale. Providers have to remain financially viable whilst delivering services and so there will always be an inevitable focus on how we can support children, young people and adults, but also on whether the service being commissioned is viable. Viability includes access to resources and so commissioners should not underestimate the time spent by providers to establishing subcontracting networks as a mechanism to meet specification requirements and the prevailing labour market conditions within the local area. This requires an adequate level of information to secure buy in and time to progress.

There are two key themes which when considered can improve the design process.

### Communication

Engage with potential providers at the earliest stage possible and share as much information as possible. Providers know and understand that circumstances change, be clear explain about what is fixed and about where you are seeking to utilise the experience of providers.

Use mechanisms such as webinar technology to engage providers as well as face to face events. If your only method of engagement is face to face, record the sessions and share them with all providers who register an interest.

### The specification document

Getting the specification right will ensure that the service is more closely aligned to the commissioners expectations and can save both commissioners and providers time and resources.

The specification should also consider similar work that has already been commissioned. Similar rates should operate across programmes ensuring open and equal competition for all programmes. Equally, rates paid must consider the demands placed on contract management, meeting contractual requirements and set-up costs alongside delivery needs, this will encourage a better response from the market.

### TIPS

Hold market engagement events and use the feedback to improve the specification.

Pay the same rates for the same or similar levels of work with consideration of other costs such as management and set-up.

Share all outcomes of all market research undertaken that can be used to improve the service.

Share information about the potential scale and scope before the tender process commences.

Adjust the design of the process to ensure proportionality.

Create clear funding schedules that allow providers to plan effectively and that allow smaller providers to engage either directly or through a subcontracted model.



# Design

Effectively constructing and planning the process pre-procurement

The specification must have:

- Clear information about payments which enable providers to calculate cash flow forecasts and wherever possible should include an element of upfront project implementation funding
- Consideration of the balance between economy, efficiency and effectiveness as well as equity to ensure a cost effective delivery model<sup>1</sup>
- Management fees that are standardised alongside clear guidelines to protect front line delivery funding and subcontractors such as the capping of management fees
- Capacity building approaches to develop potential subcontractor capacity and capability, ensuring a diverse subcontractor network best able to meet the needs of the diverse customer base
- Targets that take account of local areas and the vast differences between large cities and rural areas. Targets must also be realistic and recognise the very different needs of the diverse customer base across England allowing access to support and learning that is appropriate to need
- Clear and transparent funding schemes that allow smaller providers to engage, including a similar capped management fee for subcontractors.
- Longevity of contract to allow providers to establish a high quality service and customers to reap the benefits

## GOOD PRACTICE

The National Collaborative Outreach Programme (NCOP) brings together 29 partnerships of universities, colleges and other local partners to deliver outreach programmes to young people aged 13-18 has been cited as operating a tender process which made it “easy to bid” with open discussions and a collaborative approach where there is a mutual recognition of experience. The commissioner supports providers through making training and resources available and developing a meaningful relationship focused on achieving the best outcomes for young people.

The Careers and Enterprise Company has used webinar technology as a means of inclusive engagement with the market. Webinars are held and questions answered transparently. These sessions are then available for others to access if they were not able to attend through a weblink available on the website.



<sup>1</sup> National Audit Office (2018). Assessing Value for Money, Retrieved from Successful Commissioning Toolkit. <https://www.nao.org.uk/successful-commissioning/general-principles/value-for-money/assessing-value-for-money/>.

# Tender Process and Contract Award

From publishing the invitation to tender to issuing the contract

The tender process goes far beyond the need to meet EU procurement rules, this is the opportunity to seek best value and a lasting relationship that will ensure thousands of adults and young people are able to access services that can change their lives. The scale of this should not be underestimated. In 2018-19, it is expected that central government departments will spend £322.5 billion on the day-to-day ('current') running costs of public services, grants and administration<sup>2</sup>. Much of this expenditure will be incurred through the tender of goods and services.

## Communication

The information gained from market engagement events should already have found its way into the specification document. Following on from this commissioners need to be clear about roles and responsibilities throughout the process, naming who is responsible, how and when they should be contacted.

## TIPS

Run information sessions early in the process so that providers can adapt responses to ensure alignment with commissioner needs. Ideally allow at least two weeks prior to tender closure.



Always answer questions submitted as part of the tender process before the submission closure date. The sooner answers are received the sooner providers can adapt.



Avoid operating tender processes over school holidays, or if this is necessary allow a longer response time.



Provide clear documentation and timelines with an opportunity to ask questions and in the process of issuing the contract offer two-way support.



Promote the award of contracts nationally and locally to support the development of stronger networks on the ground.



Develop providers for the future, make the time to provide additional feedback when requested, whether the organization was successful or not.



Be clear about who leads on what within the commissioning organization and the provider especially during contract award.



After contract award ensure go live dates are realistic, if the procurement timescales have slipped, the go live date will need reviewing.



# Tender Process and Contract Award

From publishing the invitation to tender to issuing the contract

## Tender process

It is reported that the cost of running an EU compliant tender exercise for a contract of £2m averages at £100k<sup>3</sup>. Whilst it is likely that this cost has reduced slightly due to new technologies, it seems sensible that time is invested in ensuring that this is money well spent.

Using the specification which has been designed following feedback from the market place will improve the quality of responses as well as the breadth of respondents.

Make sure that the tender process clearly outlines the all steps within the process and includes initial discussions as well as one to one interviews. The presence of interviews at the final selection stage has been recognized by providers as an example of good practice where the human element can be included in the submission.

The use of electronic systems is welcomed, but consideration should be given to restrictive word counts and limited formatting which often prevents the inclusion of diagrams which we believe could more succinctly provide information to the commissioner, reducing the need for clarification and again improving the quality of the response.

Always be thoughtful about word count. During this process we encountered tenders valued at £3-4m which required submission of eight questions of 500 words each; 4,000 words in total. Alongside this we encountered tenders worth in the region of £50k which required submissions of 5,000 words.

## UK GOVERNMENT SHOULD MAKE A CHANGE

Providers are aware of the vast range of procurement portals in use and the need to pre-qualify on numerous different systems some run by government departments and others not. These include the Register of Training Organisations for the Education and Skills Funding Agency and Department for Work and Pensions and there are many more.

As a result of our work we are calling for the Government to reduce the number of portals where providers are required to pre-qualify, ideally to one system.

The Crown Commercial Service portal is recognised as an example of good practice and could be expanded to include the delivery of services.



# Contract and Provider Management

The ongoing relationship to get the best services possible

The Crown Commercial Service and the Office of Government Commerce before them set out three key headings against which we can provide insights into the contract management process. They both outlined the key steps of contract management as:

- Performance management
- Relationship management
- Contract administration

The full model can be found [here](#).

## Performance management

We welcome the opportunity to work with commissioners to improve performance, part of this is about sharing performance data to allow benchmarking and identification of good practice. This can be achieved through national good practice events and prime contractor interaction.

Additionally we believe that all public funds should demonstrate impact. To that end we would want all contracts to require reporting of impact measures from day one with an independent evaluation of customers.

Finally, if we want to deliver a truly customer centric approach, we should involve customers in face to face feedback as part of the contract review process.

## TIPS

We know that evidence is important, getting strong evidence can take time to gather. Allow reasonable notice and involve providers in generating ideas as to what can be obtained during delivery.



Invite providers to meetings with as much notice as possible and we suggest at least one week. With notice a provider can attend well prepared and better able to meet needs.



Allow sufficient time between receipt of contract and go live



Provide clear instructions and operational guidelines that are understood by providers



Make use of induction sessions and offer training and regular meetings as a supply chain



Avoid bureaucracy, supply templates co-designed with providers.



Use a provider portal to ensure consistent and timely communication to all this could include newsletters, systems and processes..





# Contract and Provider Management

The ongoing relationship to get the best services possible

## Relationship management

Providers will have demonstrated a commitment to delivering the service effectively and efficiently through the tender process. Building a trusted relationship is key in moving forwards and this is most easily achieved through knowledgeable contract managers.

Providers want to perform well and key to this is outlining clear transition arrangements with mutually agreed and realistic deadlines. To achieve this early meetings between the commissioner and provider are key, identifying issues, jointly discussing implications and taking a different approach through flexibility.

## Contract administration

Providers invest significant resources in planning projects and services, whilst it is inevitable that some changes may occur after a tender process has been completed, these should be kept to a minimum and where changes are necessary information must be communicated early and clearly to allow providers to adapt. An example of good practice is changes made to the National Careers Service funding guidelines following provider feedback where a two way process led to improved outcomes for all involved.

## GOOD PRACTICE

Providers found that the Her Majesty's Prison and Probation Service provided a good example of good practice with a more progressive Payment by Results approach. Elements of practice used included:

- monthly face to face review meetings with commissioner and Prime with all actions followed up promptly
- use of a service help desk provided by the commissioner for logging routine enquiries and issues that are followed up promptly
- commissioner attendance at staff conference to listen to feedback from front line staff, which resulted in change to evidence requirements
- national performance data shared for all prime contractors to monitor themselves against other delivery areas
- subcontractors have annual meetings with the commissioner to raise any queries and ensure fair treatment by the prime contractor



## **Conclusion**

Good commissioning is vital to the delivery of good services to the public. This document is the work, ideas and experiences of many involved in the commissioning of services. Its aim is to improve the work that is already taking place and help you to work smarter.

## **About**

Careers England Ltd is the sole trade association for organisations involved in the provision of Careers Education, Information, Advice and Guidance (CEIAG) products and services in England for people of all ages.

## **Acknowledgements**

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This paper in no way reflects the views of any individual member of Careers England but is designed to provide useful feedback for future commissioning and delivery processes.

## **Endorsements**

“We welcome this report as it captures the best practises that the Merlin Standard proposes. The Merlin Standard supports the development, recognition and promotion of sustainable excellence, and positive partnership working within supply chains. The Standard seeks to encourage best practice in supply chain management across public, private and third sectors in the UK and Internationally. It is built upon eight fundamental and integrated principles: Design, Procure, Contract, Funding, Develop, Performance Manage, QA & Compliance, and Review & Close. Although produced with the active involvement of the welfare to work sector, the Standard is generic by design and applicable to any organisation delivering on a contract through a supply chain. For more information about excellence in managing supply chains, please visit the Merlin Standard website.”

Paul Bridle, Chairman – Assessment Services Ltd

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