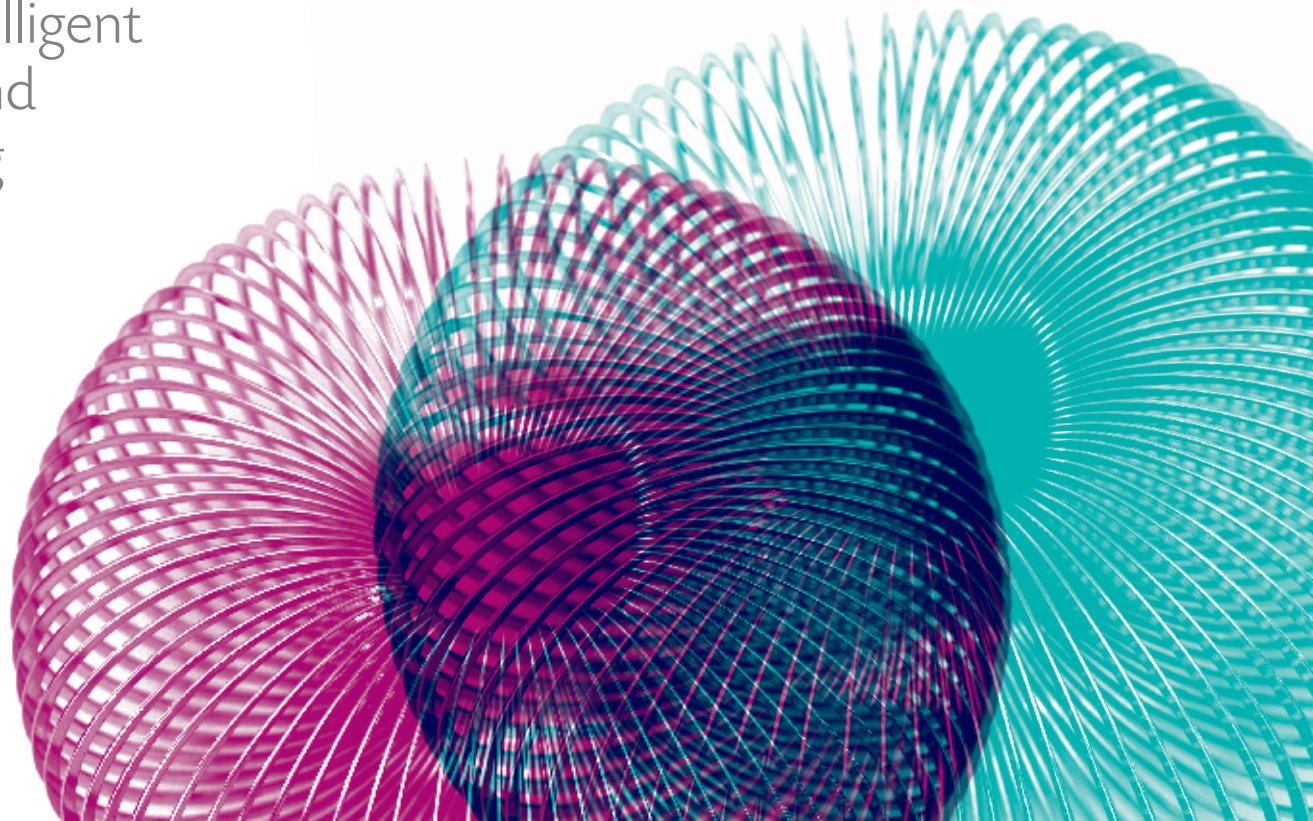


THIRD SECTOR COMMISSIONING GUIDE




A checklist to intelligent
commissioning and
intelligent bidding

Voluntary Norfolk
and National Council
for Voluntary Organisations



FOREWORD

I am pleased to endorse this new publication which recognises both the need for guidance in the commissioning of services by the public sector and, just as important, the need for improved bidding skills by the third sector.




The document is concise, helpful and clear, and should be of enormous help to both the public and third sectors. Importantly, the guide can be used as a framework for good practice in commissioning from across the spectrum of providers, from both the third sector and the wider provider marketplace.

This guide builds on some excellent work from Voluntary Norfolk which was used to great effect in the National Programme for Third Sector commissioner training. It is good news that this work has led to this joint publication between NCVO and Voluntary Norfolk which will be to the benefit of both sectors.

Helen Hughes
*National Adviser, Third Sector
and Communities Improvement
and Development Agency*

INTRODUCTION

At a time when public service commissioners and providers are increasingly called to deliver more effective services more efficiently, this guide focuses on what, in my experience, is a key driver of best value in third sector commissioning: transparent and proactive relationships between public sector commissioners and frontline providers.



The third sector has several roles to play in relation to public services, from giving voice to users' needs and getting involved in service delivery, to holding providers and the government accountable for the quality of services. Infrastructure organisations, such as Voluntary Norfolk, have a part to play in creating the right environment for commissioners and third sector providers to have constructive and meaningful engagement. This guide focuses specifically on the service delivery aspect and in particular on ways for frontline third sector providers to take a more active and prominent role in procurement processes for public service contracts.

Our sector is very diverse. It counts among its numbers organisations that are already successfully competing in the public service contract market and others who are still finding their place in it.

Similarly, commissioning practice in the public sector is mixed: a number of commissioning bodies have established relationships with third sector providers and infrastructure agencies and set up commissioning frameworks, while others are looking for ways of engaging with the third sector in a more efficient and structured manner. We recognise that there are a growing number of good practice examples in third sector commissioning throughout the country and we hope that this guide will be a catalyst and a source of inspiration to multiply these examples and establish more sustainable and lasting cross-sector partnerships for service delivery.

This publication builds on and complements Voluntary Norfolk's Third Sector Guide for Public Sector Commissioning. Developed in partnership with NCVO Public Service Delivery Network as a follow up to the original guide, this guide aims to widen its reach to commissioners and service providers throughout the country. The guide addresses both sides of the equation, prompting public sector commissioners and third sector providers to proactively engage with each other and seek an open, transparent and mutually advantageous relationship throughout the commissioning and procurement process.

Brian Horner
Chief Executive of Voluntary Norfolk and member of the NCVO Public Service Delivery Network Advisory Group

ABOUT VOLUNTARY NORFOLK

Voluntary Norfolk is the biggest voluntary sector infrastructure organisation in Norfolk and one of the largest in the UK, as well as being the major volunteering organisation in the county. Voluntary Norfolk supports the work of voluntary and community organisations through a range of services and by providing a voice for the voluntary and community sector within key strategic partnerships in the county.

www.voluntarynorfolk.org.uk

ABOUT THE NCVO PUBLIC SERVICE DELIVERY NETWORK

The Public Service Delivery Network is a free user-led resource for anyone interested in issues around third sector commissioning and service delivery. It aims to build knowledge and relationships across sectors to transform public services. Established in 2006, the network has over 1500 members across England, including voluntary sector service providers, public sector commissioners, support agencies and policy makers.

www.ncvo-vol.org.uk/psdnetwork



THE COMMISSIONING AND PROCUREMENT PROCESS

For the purpose of this guide we have divided the commissioning and procurement process into four main phases: analysing, planning, sourcing and monitoring.

ANALYSING	PLANNING	SOURCING	MONITORING AND REVIEWING
<ul style="list-style-type: none">• Knowing the market• Developing the supplier base• Identifying needs and designing service	<ul style="list-style-type: none">• Developing a procurement strategy• Writing a specification	<ul style="list-style-type: none">• Publishing contract opportunities• Prequalification• Invitation to tender• Contract and payment terms• Evaluation and clarification of tenders• Award of contract	<ul style="list-style-type: none">• Contract management• Service evaluation

ANALYSING

KNOWING THE MARKET:

COMMISSIONING

Do you know the number, size and capabilities of third sector providers and potential providers in the market?

Do you know what your current spend is with the third sector?

Do you know the proportion of your spend between in-house providers, private providers and third sector providers?

Can you separate the figures out across different specialisms or service areas?

Is there useful information about third sector providers held by the local infrastructure organisation that you could be accessing?

BIDDING

Do you know what services are being commissioned by public bodies in your field of work and area?

Have you found out which other organisations (public, third sector or private) provide services in your field of work?

Have you considered how your services fit with services being provided by other organisations in your area?

Do you know what your 'unique selling point' is that distinguishes the services you provide from those being provided by other organisations?

Do you know how your services will help to deliver commissioners' outcomes?

Are you talking to organisations that are providing similar or complementary services to yours about whether services could be provided more effectively if you work in partnership together?

DEVELOPING THE SUPPLIER BASE:

COMMISSIONING

Do you provide early notice of forthcoming procurement opportunities for all potential providers including the third sector?

Do you hold 'Meet the Buyer' events?

Do you produce a *How to do business with* guide?

Do you publish a named contact for enquiries from potential providers?

Have you considered investing in third sector infrastructure organisations to undertake capacity-building work to support provider networks?

BIDDING

Do you attend 'meet the buyer' events, provider forums and other opportunities to engage with commissioners?

Do you know where to look for contract advertisements? If not, are you trying to find out?


Are you actively seeking information on upcoming service needs and contracting opportunities to forecast future provision?

Have you contacted public bodies for information on specific service commissioning and/or their procurement process?

Have you made the relevant public bodies and commissioners aware of your organisation and services, 'unique selling point', local knowledge, track record of delivery and impact?

Are you aware of the areas where your organisation needs to have greater skills and knowledge? (ie, governance, accounting, full cost recovery, tendering, negotiation, contracting, monitoring, etc) and do you have a plan for addressing these areas?

Are you accessing support from your local infrastructure organisation, such as your council for voluntary service, around bidding and contracting?



IDENTIFYING NEEDS AND DESIGNING SERVICES:

COMMISSIONING

Have you considered what benefits working with the third sector could offer?

Are your consultation and decision-making processes open to the active involvement of relevant third sector organisations and networks?

Have you considered using a third sector organisation with specialist knowledge and expertise to act as a consultant for you in designing service solutions?

Have you considered the potential of a third sector organisation to undertake research or advocacy work – especially to access socially excluded groups?

Have you considered commissioning a specialist third sector organisation to deliver resources for you, for example, good practice materials, or staff training/induction?

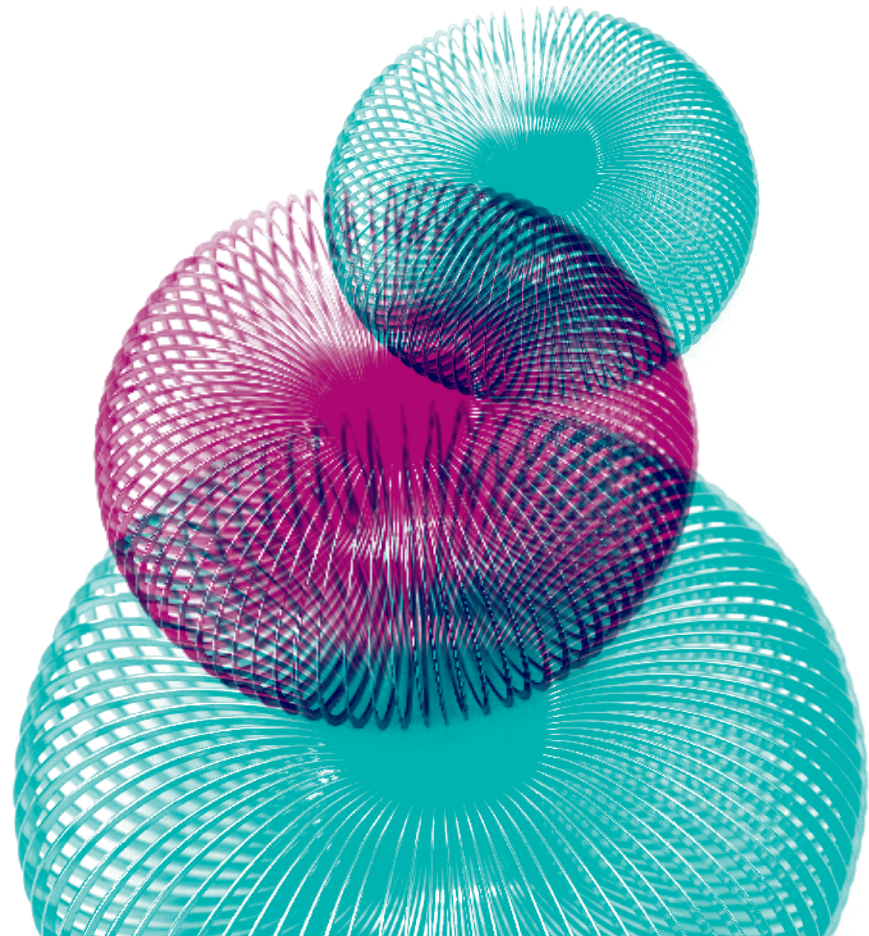
BIDDING

Are you involved in consultation processes and other opportunities to input into the design of services and give full voice to the needs of your beneficiaries?

If public bodies are not consulting with the third sector around service design, are you giving voice to the needs of your service users either independently or with other organisations/your local infrastructure organisation?

Have you considered contacting commissioners in public bodies offering your services as consultants and researchers to inform service design and/or advocacy for service users?

Have you considered promoting your innovative and unique approaches to commissioners and discussing if they would grant-fund a pilot scheme?



PLANNING

DEVELOPING A PROCUREMENT STRATEGY:

COMMISSIONING

Does your organisation/department have a clear policy on the use of different types of funding – grants, service level agreements, contracts and do you have a mechanism to help you choose the most appropriate funding approach to ensure outcomes are met?

Have you worked proactively with your procurement team to ensure that the procurement process is accessible to third sector providers?

If you are commissioning a 'Part B service' have you considered the impact on the third sector of going through a full European Union tendering process if this is not mandatory?

Have you given careful attention to the optimum length of contract?

Have you considered what impact your proposed procurement approach might have on smaller and local providers?

Have you considered benefits of dividing the contract into smaller lots?

Have you considered the value of having a mix of providers to deliver the contract rather than one main provider?

If only a small number of third sector organisations provide the service you want to commission, could you operate a 'preferred provider' (framework) approach?

Are there innovative approaches or pilot schemes for which grant funding would be more appropriate?

BIDDING

Have you read the policies and strategies of relevant public bodies in relation to third sector commissioning and procurement?

Do you have the right skills to compete in the procurement process? If not, what are you doing to build your skills around areas of need?

Have you considered partnership working as a way of being able to deliver larger contracts?

Have you planned to be able to respond timely to Pre-Qualification Questionnaires (PQQs) and Invitations to Tender (ITTs)?

Do you know what to look for in an ITT and what clarification questions to ask (ie, TUPE, etc)?

Have you considered providing feedback on aspects of the tendering process that could be improved (ie, timeframes, availability of information, proportionality of requirements, length and size of contracts)?

Do you know whether your potential buyer operates a 'preferred providers' (framework) approach and, if so, do you know how to access it?

SPECIFICATION
WRITING:

COMMISSIONING

Have your service specifications been informed by meaningful consultation with stakeholders and have you sought comments on draft specifications from providers?

Do you have a system for regularly inviting comment on draft specifications from the third sector?

Is your specification clear, exhaustive and free from jargon?

Have you considered what added value the third sector could offer when delivering a contract and reflected this additionality in the service specification?

Have you considered the whole life costs of the contract and how value for money can be achieved by including wider social, economic and environmental objectives in the specification?

Where appropriate, does your specification ask providers to demonstrate how they would address local service users' needs?

Have you allocated risk to the body best able to deal with it?

Are your specification requirements focused on the outcomes to be achieved, (not merely on outputs or activities)?

If appropriate, are opportunities for subcontracting and consortia bids from third sector providers identified and encouraged?

BIDDING

Are you seeking out and taking up opportunities to comment on or input into service specifications?

If so, are you making commissioners aware of issues such as outcome-based specifications, wider social, economic and environmental outcomes that could be achieved through the contract, opportunities for encouraging bids from partnerships, etc?

If there is no real involvement of service providers and users in the design of public services in your field, have you considered giving voice to users' needs independently or with other organisations/ infrastructure organisations?

SOURCING

PUBLISHING CONTRACT OPPORTUNITIES:

COMMISSIONING

Do you provide early notice of forthcoming procurements?

How widely do you publicise opportunities?

Do your distribution lists include third sector organisations and provider forums?

Do you encourage key suppliers to publicise opportunities for sub contracts?

Is your procurement timetable long enough to encourage bids from smaller providers, partnerships or consortia?

BIDDING

Do you know where contract opportunities are advertised? Are you checking regularly for updates?

If information on upcoming opportunities is not easily accessible, are you proactively seeking information directly from the public body, possibly with help from your infrastructure organisation?

PRE-QUALIFICATION:

COMMISSIONING

Are your pre-qualification criteria proportionate to the value of the contract and the level of risk?

Are your pre-qualification criteria carefully chosen so as to avoid unnecessarily ruling out potentially competent suppliers who may not have an extensive track record?

Have you taken into account the quality standards relevant to third sector organisations, including considering the use of passporting or proxy quality standards?

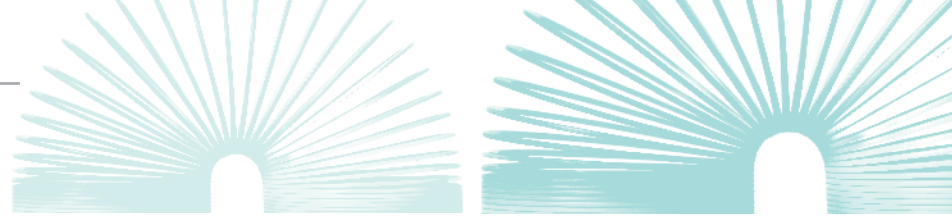
Have you considered developing a standard PQQ form within your public body to reduce administrative burdens on prospective bidders?

BIDDING

Are you able to supply evidence for all the requirements in the PQQ?

If you consider PQQ requirements to be excessively burdensome and not proportionate, have you considered providing feedback to the public body, possibly through your local infrastructure organisation?

Have you considered compiling a PQQ file that brings together all your relevant policies in one place?



INVITATION TO TENDER:

COMMISSIONING

Is the tender documentation clear, concise and jargon-free?

Have you provided prospective providers with information setting out the background to the project, the organisation's objectives and an outline procurement process and timetable, with roles and responsibilities made clear?

Have you provided guidance on TUPE to providers and considered supporting preferred providers to undertake assessments of TUPE obligations and any due diligence required for collaborative working?

Have you considered holding provider briefing events to explain the tendering timescales and your criteria for the tender?

Have you considered offering training to potential providers to enable them to improve their tender submissions?

BIDDING

Have you considered carefully whether this contract would be right in the long term for your organisation?

Do your governance arrangements allow you to tender for this contract?

Have you thought through the implications of winning the contract for your organisation (management, staff, financials, trustees, etc.)? Do you have the support of staff and trustees?

Do you know what information to look for in the tender documentation? Does the documentation provide all the information you need to assess the tender and, possibly, bid for it?

Does your bid fully reflect the full value your organisation would bring to the service and the way you would contribute to delivering the service outcomes?

Have you included full cost recovery in the pricing of your bid? If not, is this a conscious decision and have you considered how this will affect your organisation?

Have you factored the cost of monitoring, contract management and reporting into the price of your bid?



CONTRACT AND PAYMENT TERMS:

COMMISSIONING

Are the contract terms and conditions proportionate to the scale and complexity of the contract?

Have you allocated risk to the body best able to deal with it?

Have you considered what impact the payment terms might have on the cash flow of a third sector organisation and whether this might deter them from bidding?

Are your payment terms sufficiently flexible to make early or advance payments e.g. for start up costs?

Do you have a system for making frequent milestone payments?

Do you pay promptly?

Is there a clearly identified liaison person for payment problems?

Does the contract documentation provide an opportunity to resolve disputes in a way that is accessible to smaller third sector providers?

BIDDING

Have you read the contract carefully and sought legal advice if you do not fully understand every clause?

Are you clear whether the agreement is a contract or a grant?

Do you fully understand the different legal and contractual obligations between a contract and a grant?

Are you able to manage the terms and conditions of the contract?

If there are conditions that you don't agree to, do you challenge them?

Are you able to bear the risk allocated to you in the contract? If not, can you negotiate a change in the contract?

Will the proposed payment system allow you to deliver the service to the agreed standards?

Will you need advance payment? What is your contingency plan if payments are late or delayed?

If appropriate, does the contract allow you to innovate for improved service outcomes or is it overly prescriptive? Could you negotiate more flexible terms to make innovation possible?

Don't forget that you don't have to sign the contract if you feel that the conditions are not right.

SOURCING CONTINUED

EVALUATION & CLARIFICATION OF TENDERS:

COMMISSIONING

Have you explained the evaluation process to tenderers at the outset, including the criteria to be used and their relative importance?

Do your tender evaluation panels have the right skills to assess compliance with social impact criteria?

Have social considerations detailed in the specification also been reflected in the evaluation criteria and given appropriate weighting so that they can be properly assessed?

Are you treating third sector organisations the same as other bidders in how they set the price (inclusive of overheads and management costs) of delivering a contract?

BIDDING

Do you fully understand the evaluation criteria and weightings and how they have been used to assess your bid? If not, have you sought clarification and feedback?

Do you feel that your bid may have been penalised by an unfair assessment of your price setting?

If you think that you have not been treated fairly during the tender process have you considered providing feedback and, possibly, challenging the decision?

AWARD OF CONTRACT:

COMMISSIONING

Have you informed all bidders that feedback is available? On unsuccessful bids, do you offer feedback that is as helpful as possible and designed to promote future improvements?

If relevant, have you agreed transition arrangements in advance with providers?

Have you factored the transition period into your project timescales?

BIDDING

If your bid has not been successful have you asked for constructive feedback so that you can submit stronger bids in future?

If your bid has been successful are you confident that the project timescales are appropriate and allow for the transition period?

MONITORING & REVIEWING

CONTRACT MANAGEMENT:

COMMISSIONING

Are contract management arrangements made clear in the tender documentation (so that tenderers can allow for the resources and costs involved in their tender price)?

Do you seek early supplier involvement in the design of contract management procedures?

Is reporting proportionate to the size and complexity of the contract?

Where providers are jointly commissioned, do you have a standard reporting procedure?

Are your reporting requirements focused on measuring the key outcomes?

Do you have a simple and pre-agreed change control process?

Do you encourage and incentivise third sector providers to come forward with ideas for better ways of working (which can lead to benefits for both parties)?

BIDDING

Are you satisfied that you can work with the contract management arrangements? Are they proportionate with the size and complexity of the project?

Is the reporting procedure clear and standardised and does it allow you to focus on outcomes?

Have you set up appropriate monitoring systems from the start of the project?

If you are delivering the service in a partnership, do all partners have appropriate and standard monitoring and reporting procedures?

Is there a jointly pre-agreed process for making changes to the contract?

Do you feel that you are able to introduce innovative elements into service provision and are you rewarded for successful innovation?

SERVICE EVALUATION:

COMMISSIONING

Do you have mechanisms that fully involve service providers in service evaluation?

How do you take into account service user feedback?

Do you have third sector engagement in service review panels?

BIDDING

Do you have a process for taking into account service user feedback?

If user feedback point to the need for different services, do you have a planned approach to respond to this need? Does this require a renegotiation of some of the contract terms?

Are you involved in service review panels?

FURTHER INFORMATION

BEFORE SIGNING ON
THE DOTTED LINE
NCVO, 2006

www.ncvo-vol.org.uk

CC37: CHARITIES AND
PUBLIC SERVICE DELIVERY

Charity Commission, 2007
www.charity-commission.gov.uk

COMPACT
COMMISSIONING
GUIDANCE

The Compact, 2009
www.thecompact.org.uk

COMPACT FUNDING AND
PROCUREMENT CODE
OF GOOD PRACTICE

The Compact, 2005
www.thecompact.org.uk

EIGHT PRINCIPLES OF
GOOD COMMISSIONING

National Programme for
Third Sector Commissioning
www.idea.gov.uk

FINANCIAL RELATIONSHIPS WITH
THIRD SECTOR ORGANISATIONS:
A DECISION SUPPORT TOOL FOR
PUBLIC BODIES IN ENGLAND

National Audit Office, 2006
www.nao.org.uk

HEARTS AND MINDS:
COMMISSIONING FROM
THE VOLUNTARY SECTOR

Audit Commission, 2007
www.audit-commission.gov.uk

IMPROVING FINANCIAL
RELATIONSHIPS WITH THE
THIRD SECTOR: GUIDANCE TO
FUNDERS AND PURCHASERS

HM Treasury, 2006
www.hm-treasury.gov.uk

INTELLIGENT MONITORING
– AN ELEMENT OF FINANCIAL
RELATIONSHIPS WITH THIRD
SECTOR ORGANISATIONS

National Audit Office, 2009
www.nao.org.uk

PARTNERSHIP IN PUBLIC
SERVICES: AN ACTION PLAN FOR
THIRD SECTOR INVOLVEMENT

Office of the Third Sector, 2006
www.cabinetoffice.gov.uk

PATHWAYS THROUGH
PROCUREMENT: A GUIDE
TO PROCUREMENT LAW FOR
THE VOLUNTARY SECTOR

NCVO and NAVCA, 2009
www.ncvo-vol.org.uk
www.navca.org.uk

SOCIAL ISSUES IN
PURCHASING

Office of Government
Commerce, 2006
www.ogc.gov.uk

SUPPLY2GOV – OFFICIAL
GOVERNMENT LOWER-
VALUE CONTRACT
OPPORTUNITY PORTAL
www.supply2.gov.uk

THE COMPACT AND
PROCUREMENT LAW,
A GUIDE TO FREQUENTLY
ASKED QUESTIONS
The Compact, 2009
www.thecompact.org.uk

THINK SMART ...THINK
VOLUNTARY SECTOR
Office of Government
Commerce, 2004
www.ogc.gov.uk

THIRD SECTOR GUIDE
TO PUBLIC SECTOR
COMMISSIONING
IN NORFOLK
Voluntary Norfolk
www.voluntarynorfolk.org.uk

WORLD CLASS
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Department of Health
www.dh.gov.uk



INVESTOR IN PEOPLE



This publication can be made available in large print and alternative formats on request.

Please contact NCVO on 020 7713 6161 for more information.



**National Council for
Voluntary Organisations**

Regent's Wharf
8 All Saints Street
London N1 9RL

T: 020 7713 6161

F: 020 7713 6300

E: ncvo@ncvo-vol.org.uk

www.ncvo-vol.org.uk

Textphone: 0800 01 88 111

Free advice and support

www.askNCVO.org.uk

HelpDesk: 0800 2 798 798

or helpdesk@askncvo.org.uk

Charity Registration: 225922

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SteersMcGillan Design Ltd 01225 465546



Voluntary Norfolk

83-87 Pottergate
Norwich NR2 1DZ

T: 01603 614474

F: 01603 764109

E: admin@voluntarynorfolk.org.uk

www.voluntarynorfolk.org.uk

Charity Registration: 1112017