



# Cultural commissioning models

## Sub-contracting model



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## What is it

The sub-contractor model provides opportunities for smaller providers to benefit from commissioning opportunities through being sub-contracted to a main provider. In the context of arts and culture commissioning, the main provider may be from that sector or may be a provider of another sector such as healthcare or social care who sub-contracts arts elements.

## How does it work?

The model involves the design of commissioning contracts in a way that either mandates or encourages the use of sub-contractors to deliver on specific outcomes, or to support delivery. Sub-contracting can provide an opportunity for arts and cultural organisations to become involved in a larger contract, in particular to provide the main provider with access to particular communities or to people in a particular client group or they can offer particular skills. In turn arts and cultural organisations can benefit from the experience of the larger main provider in tendering and in managing contracts.

An element of market-shaping is likely to be necessary to ensure that commissioners and providers can work together to design a contractual framework that is workable for all while focused on the outcomes commissioners are looking to be delivered. Commissioners can play a role in bringing providers and facilitating relationships between main providers and potential sub-contractors, e.g. through provider events or convening meetings between interested providers.

Service specifications can be used to specify criteria such as the type of sub-contract provider (i.e. arts and culture), value of sub-contracts (either absolute value or percentage of total), outcomes to be delivered or supported by sub-contractors etc.

## Who are the commissioners?

A sub-contractor model could be applied in any commissioning situation, e.g. commissioned by a local council, Clinical Commissioning Group or other.

## How is the service contract organised?

The main provider will have a contract with the commissioners to deliver against specific outcomes, as in all commissioning models. That contract may specify the use of sub-contractors or may simply allow for it. The provider will in turn contract with one or more sub-contractors. These latter contracts may be for the duration of the main contract or can be for shorter periods of time within the main contract's delivery period. Similarly, sub-contracts can be in place from the start of the commission or may be entered into at any point on an as-needed basis.

Where the use of sub-contractors is mandated in the award it is likely that elements of the sub-contracts will also be mandated. For example, in Kent the award of a £50M Waste Management contract required that 0.1% of the value (i.e. £50,000) be ring-fenced by the successful provider to support arts and cultural projects, with a focus on recycling. A quality question attracted 5 per cent of the total evaluation score, with an 'encouragement' towards working with the arts and culture sector.

## How is the service evaluated?

This works on two levels. Firstly, the over-arching commissioned service will have its own monitoring arrangements, with milestones and outcomes against which providers will have to report and demonstrate

achievement. Secondly, there will be a service contract between the main provider and any sub-contractor which will govern what services are to be delivered and the relevant performance metrics. The latter should relate to the over-arching outcomes which the main provider is required by their own contract with the commissioner to meet.

## Building sustaining working relations

With several providers involved, potentially delivering services that are quite different in their nature it is important that commissioners develop strong networks among themselves as well as with their providers. In a local council context, that might involve those responsible for commissioning working outside departmental silos to support each other, build skills and develop commissioning contracts to meet shared objectives.

For providers it will be necessary to develop strong working relationships not only with the commissioners and with clients, as in a standard contractual situation, but also with each other. A lead provider may be managing, and be responsible for the successful delivery of, a number of sub-contracts. It is important that commissioners recognise this and use their own market-shaping role to support relationship-building.

This relationship building among contractors can happen either before or after the award of a commission. A main provider could engage with several potential sub-contractors to develop a proposal in response to the brief, or might win the commission on their own strengths with the sub-contracting of other providers either mandated, encouraged or permitted in the contract award.

## Scalability

There is significant potential to scale up this model. For instance, sub-contracting could initially be a very small element of a main provider's contract with the commissioner and be increased as confidence in the model, and in each other, grows. It can also

be tested on a single contract and expanded to future commissions once lessons have been learned and processes, as well as partnerships, put in place.

The model also provides a structure in which to scale up existing practices around the funding of the arts. A common traditional model in local councils is to grant-fund lots of small organisations, and moving away from this to a commissioning model can mean those small organisations being excluded because they are unable to bid for larger more outcomes-focused contracts; however, they can be enabled through sub-contracting to be part of a wide network of service providers all contributing towards achieving those outcomes.

## Potential challenges

A sub-contracting model can support the involvement of a range of providers bringing different specialist expertise, but it requires that commissioners are able to work collaboratively within their own organisations to bring together the appropriate people with these specialisms in order to inform the design, award and monitoring of the commission.

Commissioners need to specify at the point of awarding the contract to the main provider where responsibility lies for the performance of any sub-contractors. This is likely to lie with the main provider but if they are new to this way of working they may need support from the commissioning team to develop, let and monitor the sub-contracts.

In some organisations, for example local councils, procurement systems may not be set up to cater for this degree of flexibility in sub-contracting. Some give and take may be needed on both sides to design a process and a model that works for all involved.

Some smaller organisations are wary of subcontracting because of the danger that the main provider will 'cream off' most of the money in the form of a management charge. However, sub-contractors are often in a potentially strong negotiating position to combat this, because their involvement could be the deciding factor in determining whether the contract is won or lost.

## Top tips

- Flexibility is key to bringing together the right providers to deliver the required outcomes;
- A degree of market-shaping is likely to be needed to ensure that potential providers understand what is being asked of them and are helped to build the relationships with arts and culture providers and other possible sub-contractors that will enable them to respond;
- Dialogue with potential providers will also help to ensure their input to programme design, ensuring clarity about required outcomes and the processes by which they will be achieved in joint working with the sub-contractor(s) and be measured; and
- Commissioners and main providers need to remain open-minded about the provider most suitable to help achieve outcomes or deliver a service and accept that this may necessitate working outside conventional service boundaries and silos

## Examples

- **Kent County Council** – the council is one of the Culture Commissioning Programme’s two Commissioning Partners, and its Arts and Culture Service is repositioning itself to be more proactive in identifying key partners, providing strategic direction and attracting investment to an otherwise disparate sector; and
- **Safe Ground** – works to promote relationship skills as tools for empowering people to change, so reducing the risk of reoffending and building stronger communities