



Making Socially Responsible Public Procurement Work:

71 Good Practice Cases

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Introduction (EN)

Socially responsible public procurement (SRPP) is about achieving positive social outcomes in public contracts. Procurement affects a large number of people, whether as users of public services, those involved in production and delivery, or staff of the buying organisation. Beyond those directly affected, SRPP has the potential to influence the broader market on both the demand and supply sides.

By purchasing wisely, public buyers can promote employment opportunities, decent work, social inclusion, accessibility, design for all, ethical trade, and seek to achieve wider compliance with social standards. For some products, works and services, the impact can be particularly significant, as public purchasers command a large share of the market in sectors such as construction, healthcare and transport.

Public buyers are major investors in Europe, spending 14% of the EU's gross domestic product. By using their purchasing power to opt for goods and services that deliver positive social outcomes, they can make a major contribution to sustainable development. Increasingly, the need to address all three pillars of sustainability (social, environmental and economic) in procurement is recognised by both the public and private sectors.

The 2014 Public Procurement Directives¹ make it clear that social aspects can be taken into account throughout the procurement cycle, from preliminary market consultation, through to the use of reservations and the light regime, and to social award criteria and contract performance conditions. Public buyers across Europe are starting to take advantage of these opportunities and demonstrate real social impact in their purchasing. Despite this, Member States are not yet fully exploiting the possibilities of public procurement as a strategic tool to support social policy objectives.

This case study collection aims to improve awareness and understanding of the potential of SRPP, by



showcasing 71 examples of how public procurers have achieved social benefits in practice. The case studies demonstrate correct bidding procedures and effective policies, and act as inspiration – both for procurers but also for operators in the social economy – with the aim to stimulate replication across Europe.

For more information on how the social aspects of the EU Public Procurement Directives were transposed at a national level, plus further good practices on SRPP, with a particular focus on access to public markets by social economy enterprises, see the *Buying for Social Impact* report. In addition, the European Commission is currently updating the *Buying Social* guidance, which will provide practical advice on implementing SRPP (expected 2020).

¹ Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts ('the Concessions Directive'); Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC ('the Public Sector Directive'); and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sector and repealing Directive 2004/17/EC ('the Utilities Directive'). This guide refers primarily to Directive 2014/24/EU, however most of the same possibilities for pursuing SRPP also exist under the other two directives.



What is SRPP?

SRPP aims to address the impact on society of the goods, services and works purchased by the public sector. It can be a driver towards:

- Promoting employment opportunities and social inclusion
- Providing opportunities for social economy enterprises
- Encouraging decent work
- Supporting compliance with social and labour rights
- Accessibility and design for all
- Respecting human rights and addressing ethical trade issues
- Delivering high quality social, health, education and cultural services

What is included in this collection?

This selection of good practice case studies was developed between September 2019 and March 2020. The work builds upon previous and current activities related to SRPP at European, national and local government levels.

Good practice cases were sought from public buyers across Europe and beyond, and as a result, 71 cases from 27 countries are presented in this collection, from 22 Member States plus 5 non-EU countries. As the application of SRPP varies across Member States, the cases range from entry-level/beginner level, through to intermediate and advanced. They address a diverse selection of products and services, as well as encompassing all aspects and phases of public procurement (including the pre- and post-tendering phases) and a broad range of public buyers, ranging from local governments to central purchasing bodies and hospitals.

The collection is sorted according to sectors to help the reader navigate more conveniently. Good practice cases that cover more than one sector or relate to policies or processes are grouped together at the end. Sectors covered by this collection include: cleaning services; construction; food and catering services; furniture; gardening services; healthcare; information and communication technology; social services; textiles; plus transport, mobility and waste.

Main Outcomes

The presented collection of SRPP good practice shows the diversity of the current application, and the range of opportunities available to public buyers to use their procurement strategically to deliver real social outcomes, improving the quality of human lives in Europe and beyond.

In collecting these case studies, it was possible to observe the extent to which different mechanisms allowed under the European Procurement Directives are being applied in practice.

For example, the use of employment clauses under Art. 70 is very widely established, but these vary in terms of their ambition and sophistication. At the basic level, clauses can help stimulate employment opportunities for people at “distance to the labour market” (meaning, people who face barriers to employment, such as disabilities, lower levels of education or skill, lack of experience or long-term unemployment, or other barriers as defined by the public buyer). More advanced approaches are embedded in wider social policy initiatives, including the provision of help desks for procurers and suppliers, ‘match-making’ services between unemployed people and specific job roles, or ‘soft’/indirect support for job seekers to help them reintegrate into the workforce. Some employment clauses also specify the terms on which recruited employees or apprentices should be able to progress during the public contract, or set specific training requirements. Many examples of awarding reserved public contracts to sheltered workshops/social enterprises which employ disabled and disadvantaged workers also exist, in particular for contracts relating to maintenance, gardening services, and social services.

On the other hand, the research indicates that some of the available social provisions under Directive 2014/24/EU appear to be under-exploited. This includes use of the flexibility provided under the light regime and active use of exclusion grounds based on non-compliance with environmental, social and labour law (as provided

for under Art. 57(4)). It is possible, however, that public authorities are applying such criteria without explicitly labelling them as SRPP.

The possible social risks and potential benefits of public buying to some extent depend on the product or service being bought. For example, some sectors have a higher proportion of vulnerable workers, or a greater potential for job creation. Certain products may include raw materials sourced from conflict zones or regions with low labour standards, but can be certified as socially sustainable through quality labels. The below provides an overview of each of the sectors covered in this collection, and some main conclusions about each.



Cleaning Services

Ten cleaning service and facility management case studies from nine European countries are included in this collection, including a case from the European Commission itself, plus cases from regional government, public companies, and a number of small- to medium cities. SRPP considerations in the cleaning sector typically include requirements for good working conditions (including occupational health and safety, gender equality, measures to promote work-life balance), award criteria and contract performance clauses which promote job creation and training, plus reserved lots for social enterprises.

The case studies demonstrate that there is no ‘one-size-fits-all’ approach, and that dialogue with the market is a good first step for assessing local possibilities. In some parts of Europe, this dialogue is important for ensuring that social criteria are achievable and do not hinder competition. In other parts, with high levels of competition and little difference in the price of offers, award criteria can send a strong signal, and are an important factor for differentiating between bids.

Some lessons shared by public buyers include the importance of matching unemployed people to suitable roles, for which third-party organisations working with target groups can be important partners. Monitoring during the contract

implementation is also important, and appropriate penalties for non-compliance should be included in the contract.



Construction

Seven case studies from the construction sector are included, from five European Member States (plus one case study from Canada). SRPP considerations in the construction sector are typically focussed on working conditions and the creation of employment opportunities for target groups. In addition, one case also considers the serious human and labour rights violations which can be found in the mining and processing of natural stone, and the use of quality labels (backed by independent auditors) to ensure socially responsible sourcing of construction materials.

The construction sector has specific challenges when it comes to employment, including the variable volume of projects and particular market cycle. Construction sites might also be geographically difficult to reach, and the employment opportunities available are not suited to all abilities. As with the cleaning sector, SRPP can be facilitated by a service providing advice on social clauses to procurers and suppliers, or appropriate actions can be identified in collaboration with suppliers through market consultation.



Food and Catering Services

The collection includes six food and catering examples from six different European countries. Several of these deal with reserved tenders, with the goal of supporting social enterprises and the employment of people with disabilities or other groups with barriers to labour market participation. In addition, the fair sourcing of commodities with global supply chains (including coffee, tea, sugar, chocolate, and bananas) is considered in several case studies.

A key lesson reported by public buyer reserving contracts is the importance of considering the capacity of social enterprises and their ability to bid for public contracts. Market research is thus

an important tool to ensure public buyers receive competitive bids capable of delivering the desired products or services.



Furniture

Two furniture procurement case studies are included, from two EU Member States (Italy and Romania). On the one hand, furniture itself should be suitable for all users, in order to support accessible work and public spaces. This can be achieved through the use of technical specifications. Standards demonstrating compliance with labour and health & safety regulations also exist for new furniture, while old furniture can be donated to charitable organisations. With regards to standards, the importance of widespread use in public tenders was stressed, in order to increase uptake by manufacturers of such standards.



Gardening Services

Three case studies from two EU Member States focus on reserved contracts for gardening services. Reserved contracts are used in this sector, due to the types of labour it requires and its ability to create jobs for people who face barriers to labour market participation or who are at risk of exclusion. One lesson from these case studies is the importance of investing time in pre-procurement activities, such as market research, in order to make sure that local social enterprises have the necessary capacity to deliver the reserved contracts. The cases also demonstrate that by reserving contracts, it is possible to strengthen the social economy sector and increase the stability of employment opportunities for people at risk of exclusion.



Healthcare

Three case studies – from Finland, Norway and Ukraine – consider SRPP in the healthcare sector. Two focus on making public contract opportunities more accessible to non-profit operators, in recognition of the additional societal value such operators provide. In addition, one of the case studies considers the purchase of protective gloves as a product with known issues in the production process, including

employee rights, working conditions and health impacts. Lessons from the health sector include the importance of understanding the market and capacity of providers. Focusing on desired health outcomes, rather than prescribing specific processes to be followed, is also important when procuring effective healthcare services.



Social Services

Twelve cases from six Member States, plus a case from South Korea, are included in this collection. Case studies examine how the procurement process can be used to deliver effective services, co-designed with suppliers and users, which deliver additional social value. Cases show the importance of integrated services, which are holistic in their outlook, but which also provide access to varied providers, including social enterprises and non-profit entities. While processes such as co-design and results-oriented contracting add time to the average length of procedure, they can also result in more effective and inclusive services, which are tailored to users' needs.



Information & Communication Technology (ICT)

Four cases from three EU Member States are included in this collection. These include case studies on the purchase of ICT equipment, plus one case on making websites accessible for all citizens. ICT equipment has the particular challenge of long, complex supply chains, which is a challenge to contracting authorities and suppliers alike when trying to ensure compliance and verification. Cases show that a suite of measures exist, including Code of Conducts, technical specifications, award criteria and contract performance clauses, all of which aim to increase transparency, and establish due diligence as standard practice.



Textiles

Five examples of textile procurement are included in the collection, from five different EU Member States. Three consider different approaches to increasing compliance with ILO conventions in the textile supply chain, including selection criteria,

award criteria and contract performance clauses. Two cases also focus on job creation conditions, either as part of a supply contract or a collection of textile waste contract. While the case studies show that suppliers are able to verify compliance, and that a range of labels exist which can assist with verification of working conditions, monitoring these conditions during the performance of a contract remains a challenge. Dialogue and partnership is essential, however, to understand the supply chain, and potential risks and opportunities to be addressed through public procurement.



Other Sectors

One case study focuses on the procurement of transport services in Warsaw, Poland. In this case, employment conditions were attached to the delivery of the services, creating positions for 120 people who are unemployed/ distant from the labour market. It was recognised that while all public contracts lead to job creation, specific clauses to this effect increase the impact. The collection also includes a case study from the waste management sector, also from Poland. This case likewise focuses on creating employment opportunities for people who face barriers to employment, using a reserved contract approach.

Finally, an innovation partnership case study from Lille, France is included in the collection. In this case study, the buyer entered into an agreement with a local social enterprise to research and develop a new approach to collecting waste oils in the city, and converting these into biofuels for public vehicles.



Policy

The Collection ends with 17 case studies, from 11 EU Member States plus two non-EU countries, looking at cross-sectoral or policy level initiatives which support SRPP. These include policies requiring the use of social clauses to support employment of specific groups (nine cases), policies focused on supporting access to public contracts by social enterprises and not-for-profit organisations (six cases), and two cases from the Netherlands on Social Return on Investment policies.

Introduction (FR)

L'approvisionnement public socialement responsable (par ses sigles en anglais, SRPP de « Socially responsible public procurement ») vise à obtenir des résultats sociaux positifs dans les marchés publics. Les marchés publics touchent un grand nombre de personnes, qu'il s'agisse des utilisateurs des services publics, des personnes impliquées dans la production et la livraison ou du personnel de l'organisation acheteuse. Au-delà des personnes directement concernées, le SRPP a le potentiel d'influencer le marché au sens large, tant du côté de la demande que de l'offre.

En achetant judicieusement, les acheteurs publics peuvent promouvoir des possibilités d'emploi, un travail décent, l'inclusion sociale, l'accessibilité, le design pour tous, le commerce éthique, et chercher à obtenir un plus grand respect des normes sociales. Pour certains produits, travaux et services, l'impact peut être particulièrement important, car les acheteurs publics détiennent une grande part du marché dans des secteurs tels que la construction, les soins de santé et les transports.

Les acheteurs publics sont un des principaux investisseurs en Europe, puisqu'ils dépensent 14 % du produit intérieur brut de l'UE. En utilisant leur pouvoir d'achat pour opter pour des biens et des services qui ont des retombées sociales positives, ils peuvent apporter une contribution majeure au développement durable. Les secteurs public et privé reconnaissent de plus en plus la nécessité de prendre en compte les trois piliers de la durabilité (sociale, environnementale et économique) dans les marchés publics.

Les directives sur les marchés publics de 2014² indiquent clairement que les aspects sociaux peuvent être pris en compte tout au long du cycle de passation des marchés, depuis la consultation préliminaire du marché jusqu'à l'utilisation des réserves et du régime allégé, en passant par les critères d'attribution sociaux et les conditions d'exécution des contrats.

Les acheteurs publics de toute l'Europe commencent à tirer parti de ces possibilités et à faire preuve d'un réel impact social dans leurs achats. Malgré cela, les États membres n'exploitent pas encore pleinement les possibilités des marchés publics en tant qu'outil stratégique pour soutenir les objectifs de la politique sociale.

Ce recueil d'études de cas vise à améliorer la sensibilisation au SRPP et la compréhension de son potentiel, en présentant 71 exemples de la manière dont les acheteurs publics ont obtenu des avantages sociaux dans la pratique. Les études de cas démontrent des procédures d'appel d'offres correctes ainsi que des politiques efficaces, et servent d'inspiration - à la fois pour les acheteurs mais aussi pour les opérateurs de l'économie sociale - dans le but de stimuler la réplication à travers l'Europe.

Pour plus d'informations sur la manière dont les aspects sociaux des directives européennes sur les marchés publics ont été transposés au niveau national, ainsi que sur d'autres bonnes pratiques en matière de SRPP, en mettant l'accent sur l'accès aux marchés publics par les entreprises de l'économie sociale, voir le rapport *Acheter pour l'impact social*. La Commission européenne est également en train de mettre à jour le guide Acheter social, qui fournira des conseils pratiques sur la mise en œuvre du SRPP (prévu pour 2020).

QU'EST-CE QUE LE SRPP?

Le SRPP vise à traiter l'impact sur la société des biens, services et travaux achetés par le secteur public. Il peut être un moteur en vue de :

² Directive 2014/23/UE du Parlement européen et du Conseil relative à l'attribution des contrats de concession (« la Directive sur les concessions ») ; directive 2014/24/UE du Parlement européen et du Conseil sur les marchés publics et abrogeant la directive 2004/18/CE (« la Directive sur le secteur public ») ; et directive 2014/25/UE sur les marchés publics passés par les entités opérant dans les secteurs de l'eau, de l'énergie, des transports et des services postaux et abrogeant la directive 2004/17/CE (« la Directive sur les services d'utilité publique »). Ce guide se réfère principalement à la directive 2014/24/UE, mais la plupart des mêmes possibilités de poursuivre un SRPP existent également dans les deux autres directives.

- Promouvoir les opportunités d'emploi et l'inclusion sociale
- Offrir des opportunités aux entreprises de l'économie sociale
- Encourager le travail digne
- Soutenir le respect des droits sociaux et du travail
- Accessibilité et design pour tous
- Respecter les droits de l'homme et aborder les questions du commerce éthique
- Fournir des services sociaux, sanitaires, éducatifs et culturels de haute qualité

QUE CONTIENT CE RECUEIL ?

Cette sélection d'études de cas de bonnes pratiques a été élaborée entre septembre 2019 et mars 2020. Le travail s'appuie sur les activités précédentes et actuelles liées au SRPP aux niveaux européen, national et local.

Des cas de bonnes pratiques ont été recherchés auprès d'acheteurs publics de toute l'Europe et d'au-delà. C'est ainsi que 71 cas de 27 pays sont présentés dans ce recueil, provenant de 22 États membres plus 5 pays tiers hors UE. Comme l'application du SRPP varie d'un État membre à l'autre, les cas vont du niveau débutant au niveau intermédiaire et avancé. Ils portent sur une sélection diversifiée de produits et de services, et englobent tous les aspects et toutes les phases des marchés d'approvisionnement publics (y compris les phases précédant et suivant l'appel d'offres) ainsi qu'un large éventail d'acheteurs publics, allant des gouvernements locaux aux centrales d'achat et aux hôpitaux.

Le recueil est classé par secteurs pour aider le lecteur à naviguer plus facilement. Les cas de bonnes pratiques qui couvrent plus d'un secteur ou qui concernent des politiques ou des processus sont regroupés à la fin. Les secteurs couverts par ce recueil comprennent : les services de nettoyage, la construction, les services de restauration et d'alimentation, le mobilier, les services de jardinage, les soins de santé, les services sociaux, les technologies de l'information et de la communication, le textile, ainsi que les transports, la mobilité et les déchets.

PRINCIPAUX RÉSULTATS

Le recueil de bonnes pratiques en matière de SRPP présenté montre la diversité de l'application actuelle et l'éventail des possibilités offertes aux acheteurs publics d'utiliser leurs marchés de manière stratégique afin d'obtenir de réels résultats sociaux, améliorant ainsi la qualité de vie des personnes en Europe et au-delà.

En rassemblant ces études de cas, il a été possible d'observer dans quelle mesure les différents mécanismes autorisés par les directives européennes sur les marchés publics sont appliqués dans la pratique.

Par exemple, l'utilisation de clauses d'emploi en vertu de l'article 70 est très largement établie, mais ces clauses varient en termes d'ambition et de sophistication. Au niveau de base, les clauses peuvent contribuer à stimuler les possibilités d'emploi pour des personnes « éloignées du marché du travail » (c'est-à-dire des personnes qui se heurtent à des obstacles à l'emploi, tels que des handicaps, des faibles niveaux d'éducation ou de compétences, le manque d'expérience ou le chômage de longue durée, ou d'autres obstacles définis par l'acheteur public). Des approches plus avancées sont intégrées dans des initiatives de politique sociale plus larges, notamment la mise en place de services d'assistance pour des acheteurs et des fournisseurs, des services de mise en relation entre les chômeurs et des postes spécifiques, ou un soutien « doux » ou indirect aux demandeurs d'emploi pour les aider à réintégrer le marché du travail. Certaines clauses d'emploi précisent également les conditions dans lesquelles les employés ou les apprentis et stagiaires recrutés doivent pouvoir progresser pendant le contrat public, ou fixent des exigences spécifiques en matière de formation. Il existe également de nombreux exemples d'attribution de marchés publics réservés à des ateliers protégés/entreprises sociales qui emploient des travailleurs handicapés et défavorisés, en particulier pour les marchés relatifs à l'entretien, aux services de jardinage et aux services sociaux. D'autre part, la recherche indique que certaines dispositions sociales disponibles au titre de la

directive 2014/24/UE semblent être sous-exploitées. Cela comprend l'utilisation de la flexibilité prévue dans le cadre du régime allégé et le recours actif aux motifs d'exclusion fondés sur le non-respect du droit environnemental, social et du travail (comme le prévoit l'article 57(4)). Il est toutefois possible que les autorités publiques appliquent de tels critères sans les qualifier explicitement de SRPP.

Les risques sociaux éventuels et les avantages potentiels des achats publics dépendent dans une certaine mesure du produit ou du service acheté. Par exemple, certains secteurs ont une plus grande proportion de travailleurs vulnérables ou un plus grand potentiel de création d'emplois. Certains produits peuvent comprendre des matières premières provenant de zones de conflit ou de régions où les normes de travail sont peu élevées, mais peuvent être certifiés comme socialement durables par des labels de qualité. Vous trouverez ci-dessous un aperçu de chacun des secteurs couverts par ce recueil, ainsi que quelques conclusions principales sur chacun d'entre eux



Services de nettoyage

Dix études de cas de services de nettoyage de neuf pays européens sont incluses dans ce recueil, dont un cas de la Commission européenne elle-même, plus des cas de gouvernements régionaux, d'entreprises publiques et d'un certain nombre de petites et moyennes villes. Les considérations relatives aux SRPP dans le secteur du nettoyage comprennent généralement des exigences de bonnes conditions de travail (y compris la santé et la sécurité au travail, l'égalité des sexes, les mesures visant à promouvoir l'équilibre entre vie professionnelle et vie privée), des critères d'attribution et des clauses d'exécution des contrats qui favorisent la création d'emplois et la formation, ainsi que des lots réservés aux entreprises sociales.

Les études de cas montrent qu'il n'existe pas d'approche universelle et que le dialogue avec le marché est une bonne première étape pour évaluer les possibilités locales. Dans certaines régions d'Europe, ce dialogue est important pour garantir que les critères sociaux soient réalisables et n'entravent

pas la concurrence. Dans d'autres régions, où la concurrence est forte et où les différences de prix entre les offres sont faibles, les critères d'attribution peuvent envoyer un signal fort et constituent un facteur important de différenciation entre les offres.

Parmi les enseignements partagés par les acheteurs publics, on peut citer l'importance de l'adéquation entre les chômeurs et les postes à pourvoir, pour laquelle les organisations tierces travaillant avec les groupes cibles peuvent être des partenaires importants. Le suivi pendant l'exécution du contrat est également important, et des sanctions appropriées en cas de non-respect devraient être prévues dans le contrat.



Construction

Sept études de cas du secteur de la construction sont incluses, provenant de cinq États membres européens (plus une étude de cas du Canada). Dans le secteur de la construction, les considérations relatives aux SRPP sont généralement axées sur les conditions de travail et la création d'opportunités d'emploi pour les groupes cibles. En outre, un cas examine également les graves violations des droits de l'homme et du travail qui peuvent être constatées dans l'extraction et la transformation de la pierre naturelle, ainsi que l'utilisation de labels de qualité (soutenus par des auditeurs indépendants) pour garantir un approvisionnement en matériaux de construction socialement responsable.

Le secteur de la construction est confronté à des défis spécifiques en matière d'emploi, notamment le volume variable des projets et le cycle particulier du marché. Les sites de construction peuvent également être géographiquement difficiles d'accès, et les possibilités d'emploi disponibles ne sont pas adaptées à toutes les capacités. Comme pour le secteur du nettoyage, le SRPP peut être facilité par un service de conseil sur les clauses sociales à l'intention des acheteurs et des fournisseurs, ou des actions appropriées peuvent être identifiées en collaboration avec des fournisseurs par le biais d'une consultation du marché.



Services de restauration et d'alimentation

Le recueil comprend six exemples d'alimentation et de restauration provenant de six pays européens différents. Plusieurs d'entre eux traitent d'appels d'offres réservés, dans le but de soutenir les entreprises sociales et l'emploi de personnes handicapées ou éloignées du marché du travail. En outre, l'approvisionnement équitable en produits de base avec des chaînes d'approvisionnement mondiales (y compris le café, le thé, le sucre, le chocolat et les bananes) est envisagé dans plusieurs études de cas.

Une leçon clé rapportée par les acheteurs publics réservant des contrats, est l'importance de considérer la capacité des entreprises sociales et leur capacité à soumissionner pour des marchés publics. L'étude de marché est donc un outil important pour s'assurer qu'ils reçoivent des offres compétitives capables de fournir les produits ou services souhaités.



Mobilier

Deux études de cas de marchés publics de meubles sont incluses, provenant de deux pays européens (Italie et Roumanie). D'une part, le mobilier lui-même doit être adapté à tous les utilisateurs, afin de favoriser l'accessibilité du travail et des espaces publics. Cela peut être réalisé par l'utilisation de spécifications techniques. Il existe également des normes démontrant le respect des réglementations en matière de travail et de santé et sécurité pour les nouveaux meubles, tandis que les vieux meubles peuvent être donnés à des organisations caritatives. En ce qui concerne les normes, l'importance d'une utilisation généralisée dans les appels d'offres publics a été soulignée, afin d'accroître l'adoption de ces normes dans le secteur de l'ameublement.



Services de jardinage

Trois études de cas provenant de deux pays de l'UE portent sur des contrats réservés pour des services de jardinage. Les contrats réservés sont utilisés dans ce secteur, en raison des types de travail qu'il requiert et de sa capacité à créer des emplois pour les personnes éloignées du marché du travail ou menacées

d'exclusion. L'une des leçons tirées de ces études de cas est qu'il est important d'investir du temps dans les activités préalables à l'approvisionnement, telles que les études de marché, afin de s'assurer que les entreprises sociales locales aient la capacité nécessaire pour exécuter les contrats réservés. Les cas démontrent également qu'en réservant des contrats, il est possible de renforcer le secteur de l'économie sociale et d'accroître la stabilité des possibilités d'emploi pour les personnes menacées d'exclusion.



Soins de santé

Trois études de cas - de Finlande, de Norvège et d'Ukraine - examinent le SRPP dans le secteur des soins de santé. Deux d'entre elles visent à rendre les possibilités de marchés publics plus accessibles aux opérateurs sans but lucratif, en reconnaissance de la valeur sociétale supplémentaire que ces opérateurs apportent. D'ailleurs, une des études de cas porte sur l'achat de gants de protection, en tant que produit dont les problèmes sont connus dans le processus de production, notamment les droits des employés, les conditions de travail et les impacts sur la santé. Les leçons tirées du secteur de la santé comprennent l'importance de comprendre le marché et la capacité des fournisseurs. Il est également important de se concentrer sur les résultats de santé souhaités, plutôt que sur le processus de prescription, afin d'obtenir des services de santé efficaces.



Services sociaux

Huit cas provenant de six États membres, plus un cas de la Corée du Sud, sont inclus dans ce recueil. Des études de cas examinent comment le processus de passation de marchés peut être utilisé pour fournir des services efficaces, qui sont conçus conjointement avec les fournisseurs et les utilisateurs, qui apportent une valeur sociale supplémentaire. Les cas montrent l'importance des services intégrés, qui sont holistiques dans leur perspective, mais qui donnent également accès à des prestataires variés, y compris les entreprises sociales et les entités à but non lucratif. Si des processus tels que la co-conception et les contrats axés sur les résultats allongent la durée moyenne de la procédure, ils

peuvent également déboucher sur des services plus efficaces et plus inclusifs, qui soient adaptés aux besoins des utilisateurs.

Technologies de l'information et de la communication

Quatre cas provenant de trois États membres de l'UE sont inclus dans ce recueil. Ils s'agit notamment d'études de cas sur l'achat d'équipements TIC (Technologies de l'information et de la communication), ainsi que d'un cas sur la mise en place de sites web accessibles à tous les citoyens. Les équipements TIC sont confrontés au défi particulier des chaînes d'approvisionnement longues et complexes, ce qui constitue un défi tant pour les pouvoirs adjudicateurs que pour les fournisseurs lorsqu'ils tentent d'assurer la conformité et la vérification. Les cas montrent qu'il existe une série de mesures, notamment un code de conduite, des spécifications techniques, des critères d'attribution et des clauses d'exécution des contrats, qui visent toutes à accroître la transparence et à faire de la diligence raisonnable une pratique courante.

Textiles

Cinq exemples d'achats de textiles sont inclus dans le recueil, provenant de cinq États membres différents. Trois d'entre eux envisagent différentes approches pour accroître le respect des conventions de l'OIT (Organisation internationale du travail) dans la chaîne d'approvisionnement textile, notamment les critères de sélection, les critères d'attribution et les clauses d'exécution des contrats. Deux cas portent également sur les conditions de création d'emplois, soit dans le cadre d'un contrat de fourniture, soit dans le cadre d'un contrat de collecte de déchets textiles. Si les études de cas montrent que les fournisseurs sont en mesure de vérifier la conformité et qu'il existe une série de labels qui peuvent aider à vérifier les conditions de travail, le contrôle de ces conditions pendant l'exécution d'un contrat reste un défi. Le dialogue et le partenariat sont toutefois essentiels pour comprendre la chaîne d'approvisionnement, ainsi que les risques et les opportunités potentiels auxquels il faut faire face dans le cadre des marchés publics.

Autres secteurs

Une étude de cas porte sur l'acquisition de services de transport à Varsovie, en Pologne. Dans ce cas, des conditions d'emploi ont été attachées à la prestation des services, créant des postes pour 120 personnes sans emploi / éloignées du marché du travail. Il a été reconnu que si tous les marchés publics conduisent à la création d'emplois, des clauses spécifiques à cet effet en augmentent l'impact.

Le recueil comprend également une étude de cas du secteur de la gestion des déchets, également en Pologne. Cette affaire porte également sur la création d'opportunités d'emploi pour des personnes éloignées du marché du travail, en utilisant une approche de contrat réservé.

Enfin, une étude de cas de partenariat d'innovation de Lille, en France, est incluse dans le recueil. Dans cette étude de cas, l'acheteur a conclu un accord avec une entreprise sociale locale pour rechercher et développer une nouvelle approche de la collecte des huiles usagées dans la ville, et de leur conversion en biocarburants pour des véhicules publics.

Politique

Le recueil se termine par 17 études de cas, provenant de 11 États membres de l'UE et de deux pays tiers, qui examinent les initiatives intersectorielles ou de niveau politique qui soutiennent le SRPP. Il s'agit notamment de politiques exigeant l'utilisation de clauses sociales pour soutenir l'emploi de groupes spécifiques (neuf cas), de politiques axées sur le soutien de l'accès aux marchés publics par les entreprises sociales et les organisations à but non lucratif (six cas), et de deux cas des Pays-Bas quant au retour social dans les politiques sur investissement.

01 A socially responsible framework agreement for cleaning services

Name of procuring authority, Country: Government of Catalonia, Spain

Product or service sector: Cleaning services

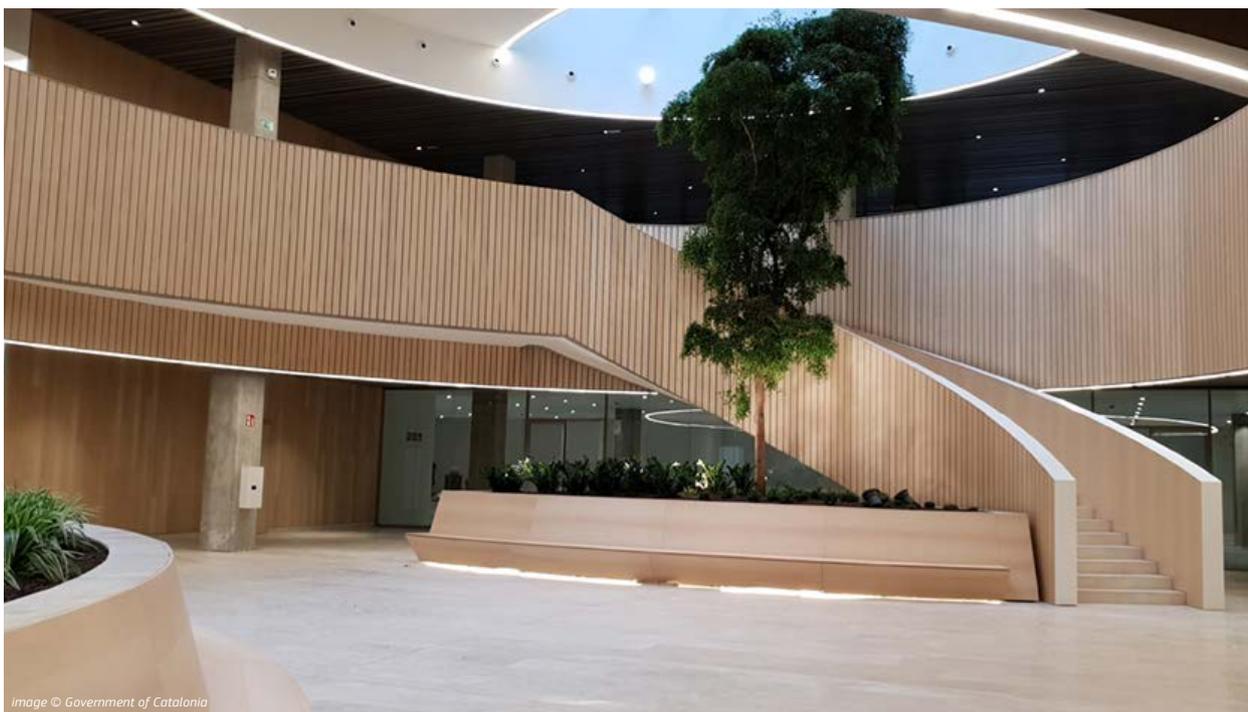


Image © Government of Catalonia

Introduction/procurement objective

In 2018, the Catalan Government launched a new framework agreement for socially responsible and environmentally-friendly cleaning services for its administrative buildings across six territories (city of Barcelona, the rest of the province of Barcelona, as well as the provinces of Girona, Lleida, Tarragona, and the offices of the Government of Catalonia based in the city of Madrid). Out of nine lots, one lot (worth €5 million) was reserved for special employment centres and reintegration companies, which provide workers with disabilities with remunerative employment and facilitate their access to the labour market. Other social considerations in the tender included:

- Social award criteria (covering occupational health and safety aspects, gender equality measures, measures to promote work-life

balance, training for workers, and limitations on hazardous substances in textiles of the uniforms),

- Social contract performance clauses, whereby companies had to abide by the working conditions of the cleaning service collective bargaining agreement, and
- A criterion for assessing the existence of abnormally low priced bids.

The tender also included mandatory environmental requirements. In addition, the compliance with social and environmental contract clauses was ensured by the contracting authority through auditing.

48 companies took part in the bidding, and a total of 39 companies were selected as potential providers in one or several lots of the mentioned framework agreement. By October 2019, 187 contracts had been awarded, representing a total amount of over €51 million.

Subject matter

Framework Agreement for Cleaning Services

Stage of procurement phase and criteria

At the award stage, points were awarded to bidders who could prove their commitment towards socially responsible employment practices through a Quality Plan. This Quality Plan was worth 49 points in total, and covered the following aspects:

- Occupational health and safety measures (up to 10 points)
- Measures to promote equal treatment and opportunities for women and men (up to 10 points)
- Measures to promote work-life balance (up to 5 points)
- Incident resolution procedure (up to 12 points)
- Methodology for evaluating the quality of service (up to 12 points).

In order to be assessed on the first three points, bidders were asked to complete annexes indicating their proposed activities to meet each criterion, the objective of these activities, the actions that will be followed, the timeline for implementing the activity and indicators against which progress can be measured.

For occupational health and safety and promotion of equal treatment, a maximum of two activities could be presented, each worth up to 5 points (out of the total available 10 points). With regards to work-life balance, again a maximum of two activities could be presented, worth up to 2.5 points each (out of the total available 5 points).

In order to evaluate the incident resolution procedure, bidders were asked to submit a report (maximum 6 pages) with a description of their proposed procedure. A maximum of 12 points were available, with the following breakdown:

- Procedure for resolving incidents attributed to the contractor, for example, staffing issues or availability of appropriate materials or tools

(6 points).

- Procedure for resolving incidents not attributed to the contractor, for example, leaks or incidents of vandalism (6 points).
- Scores were allocated using the following scale:
- Comprehensive description of the action procedure, which adequately meets needs (6 points)
- Description of the action lacks detail, or does not effectively meet needs (3 points)
- There is no description provided, or the description contains obvious errors (0 points).

The tender was awarded to the most economically advantageous tender. If two bids received the same score, preference would be given to the bidder employing a higher percentage of persons with disabilities.

Social policy objective and/or reference standard

Improve the working conditions of service sector employees working in public sector buildings, promote gender equality and improve work-life balance.

Verification

A Monitoring Commission was created to ensure the correct execution of the framework agreement and verify compliance with the obligations assumed by the companies. It is composed of the following government departments:

- Supplies and Services department
- Office of Supervision and Assessment of Public Contracts
- Four representatives of the Central Commission of Sub Administrations
- Representatives of the main trade unions and business associations of the cleaning sector

The Monitoring Commission audited suppliers by checking their payroll, working time logs and employment contracts. Where discrepancies are detected (for example, in the recording of working time, use of overtime, or partial non-payment of salaries or appropriate social security contributions, the Monitoring Commission provides the supplier



with the opportunity to respond to and address issues. If an adequate justification or solution is not provided, penalties can be applied.

In case of a serious breach (i.e. non-compliance with any of the mandatory technical specifications) the contracting authority can choose to impose a penalty of up to 10% of the budget of the contract, or terminate the contract. For a minor breach (i.e. optional actions offered by bidders in response to the award activities), a penalty of up to 2% of the contract budget can be applied.

Contract value

The estimated value of the framework agreement is fixed for its entire duration, including its possible extension, at just under €76 million. It has an initial duration of two years, and cannot exceed four years.

Instrument

- Art. 67 on contract award criteria of Directive 2014/24/EU.
- Spain's Public Sector Contract Law (TRLCSP), approved by Royal Legislative Decree 3/11 on 14th November.

Actors

- Contracting Authority: the Ministry of Territory and Sustainability and the Central Supplies Commission of the Ministry of Economy).
- Framework agreement participants: 39 cleaning service providers.
- Monitoring and evaluation: Monitoring Commission (described above)

Social impacts

- This framework built on an earlier framework which ran between 2014 and 2018, the first audit of which took place in December 2016. As a result of this auditing, some cases of non-compliance were found, and the Catalan Government was able to work with the suppliers to improve the social performance of the services.
- The Central Supplies Commission has continued

this monitoring, with the elaboration, by the Monitoring Commission, of the new compliance auditing programme for 2019. All the companies with contracts based on the framework agreement in execution throughout 2019 have been audited.

Other benefits

- This framework also included technical specifications for environmentally-friendly cleaning products. These have the additional benefit of avoiding harmful chemicals, therefore reducing health risks for both cleaning staff and building users. More information on the environmental benefits of this case can be found [here](#).

Lessons learned and future challenges

- Monitoring is important, but it requires personnel and economic resources which the contracting authority must plan for in advance.
- Appropriate penalties for non-compliance should be included within the contract.

Contact

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Pilar Baldellou García, Technical and Studies Manger, Central Supply Commission, pbaldellou@gencat.cat

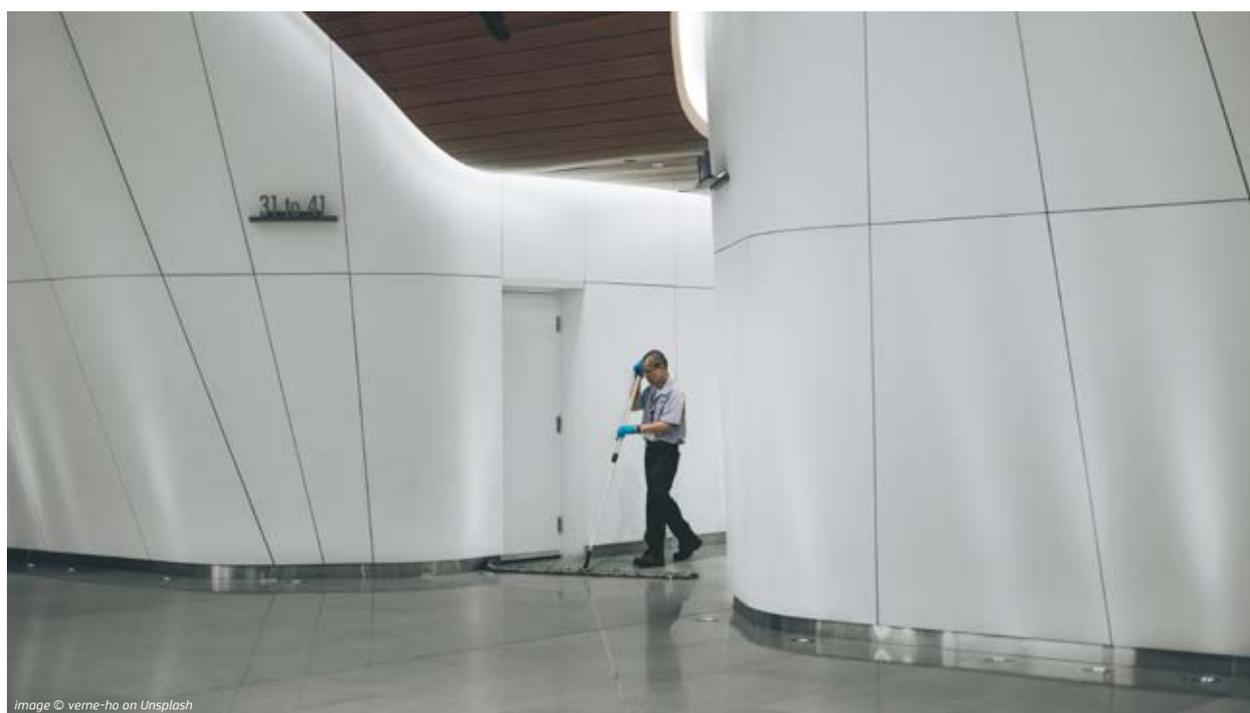
"The Framework Agreement for Cleaning Services of the Central Supplies Commission (CCS 2016 4) has become a reference contracting instrument which, knowing how to anticipate the new regulations, it has promoted innovative elements that are undeniably impacted on social, environmental, technical and quality improvement of our sector, cleaning services in the public domain."

*Aurora Huerga,
President of the Sectoral Commission for Building-Cleaning
Services of Catalonia*

02 Market consultation for increased employment in cleaning services

Name of procuring authority, Country: City of Helsingborg, Sweden

Product or service sector: Cleaning services



Introduction/procurement objective

The City of Helsingborg invited several potential service providers to a market consultation meeting to discuss and inform about different social requirements that the City intended to use in a procurement of cleaning services. One aim of the market consultation was to discuss different possibilities to create job opportunities for unemployed people. The City of Helsingborg wanted to know the opinion of market players on social criteria and to hear their ideas on how requirements regarding employment and internships could be met in the public procurement. This approach was considered by the City to be more constructive than simply setting minimum requirements for the number of apprenticeships or jobs created as part of the tender.

Subject matter

Procurement of cleaning services in the City of Helsingborg through a framework agreement.

Stage of procurement phase and criteria

Pre-procurement stage

The City put emphasis on the market dialogue prior to tendering. Invitations to the market dialogue were sent to twenty potential bidders. Six of these companies responded and contributed with input and questions. The response to the market dialogue from these potential bidders was very positive. The dialogue created a relationship between the City and these companies. Four of the six companies which eventually became suppliers to the municipality took part in the market dialogue.



The Labour Department of the City has an internal vocational training programme in cleaning services with the aim that the unemployed persons who participate will receive the necessary certificate required for employment by the market actors. When the City invited potential bidders to a market consultation, their internal vocational training programme for unemployed citizens was presented. The Labour Market Administration within the City stated that they could assist the companies by matching demand and supply so that the unemployed citizens could get internships or supported employment when a contract was signed. They also shared the CVs of their trainees, so that the suppliers could get to know the potential employees better.

Through the dialogue, the City of Helsingborg also gained knowledge from the potential bidders regarding the market experience with requirements in other procurements relating to cleaning services.

Contract performance stage

The City also included a dialogue requirement relating to the performance of the contract. The supplier and the City needed to discuss the possibilities for offering internships or jobs.

Social policy objective and/or reference standard

In their procurement policy, the City of Helsingborg aims to cooperate with suppliers to make sure that citizens that are unemployed and far from the labour market will have greater opportunities for employment. To accomplish this objective, a key aspect mentioned in the procurement policy is market dialogue. The policy states that market dialogue shall be transparent and open. The Labour Market Administration is responsible for the content and information shared with potential suppliers in market dialogues.

Verification

The City of Helsingborg has an ongoing dialogue and continuous follow-up discussions with the suppliers of the framework agreement about the possibilities

of internships or employment. These dialogues are carried out regularly. The next step will be to create workshops together with the companies that won the bid. The City also had workshops with other companies working in provision of cleaning services so that these companies could prepare and be aware of requirements regarding employment in upcoming tenders.

Contract value

Framework agreement for four years with an annual value of 35 million Swedish crowns or €3.3 million.

Instrument

- Art. 40 (preliminary market consultations) and art. 70 (conditions for performance of contracts) of Directive 2014/24/EU.
- Chapter 17, Section 1 of the Swedish Act on Public Procurement (“LOU”) (2016).

Actors

- Contracting authority: City of Helsingborg.
- Suppliers selected for the framework agreement:
 - Förenade Service
 - Lassila & Tikanoja
 - Samhall
 - Sydsvenska städ
 - Sodexo
 - MIAB

Social impacts

The City of Helsingborg has succeeded in influencing the companies through its market dialogue approach. The companies have become more positive towards internship or employment requirements and more willing to cooperate with the Labour Market Administration for recruitment and matching. During the first year of the framework agreement, five citizens got jobs or internships through these requirements. The City has identified the following social benefits:

- More unemployed people get jobs and become self-sufficient.

- By reducing unemployment payments, public costs for such social benefits decrease while income-taxes increase.
- Increased competence and awareness of multicultural issues in recruitment among cleaning service providers

Other benefits

- Using pre-procurement market engagement results in a well-informed preparation phase and better quality of procurement documents, while still creating more jobs.
- The City of Helsingborg has found that market dialogue has generated good effects in job creation.
- The companies prefer dialogue to specific requirements of employment or internships.

Lessons learned and future challenges

- The idea of running a workshop together with the market was unfortunately not successful due to very few companies participating. It is therefore necessary for the contracting authority to get better knowledge of different markets and what type of dialogues are of interest to market actors early on.
- It should be written in contracts that the dialogue should take place as soon as possible. If the contract has been running for a while and there has been no contact between the supplier and the City it can be more difficult to achieve employment outcomes.
- Matching unemployed people to suitable job roles and following-up during the contract are key factors for success.
- The Labour Market Administration would recommend using more specific employment requirements where possible, in combination with dialogue.

Contact

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"It's very satisfying too see that our curiosity about what the market can offer gives good results in the end."

*Magnus Nilver,
Officer, City of Helsingborg*



03 Employing Roma people in cleaning services for Budapest's public chimney sweeping company

Name of procuring authority, Country: FŐKÉTÜSZ Capital Chimney Sweeper Ltd., Hungary

Product or service sector: Cleaning services



Image © KRiemer on Pixabay

Introduction/procurement objective

Budapest's public chimney sweeping company - FŐKÉTÜSZ Capital Chimney Sweeper Ltd. - which is fully owned by the municipality of Budapest, tendered for a cleaning service for its headquarters and other premises. FŐKÉTÜSZ decided to provide an opportunity for companies that employ Roma people to undertake this contract, due to high levels of unemployment among this group. This procedure was chosen as the contracting authority's first attempt at using evaluation criteria beyond price, as it was considered easy to control and an effective way of integrating Roma people in the labour market.

The population of Budapest is 1,752,286 as of 2019, of which the Roma population is 20,151 (by self-declaration). However, it is estimated that the Roma population living in Budapest may reach or

even exceed 100,000. Data on the labour market situation of the Roma in Hungary is scarce, however, evidence shows that the number of employed people between 15-64 is lower among Roma (39%) than among non-Roma (65%; data from 2015). Whereas lower education levels and regional concentration in areas with less favourable employment conditions play a role in these figures, low employment rates among Roma are also linked with discrimination in labour markets. Public employment programmes and public works schemes have traditionally been a source of employment among Roma people³.

Subject matter

Framework agreement concerning the provision of a cleaning service for the headquarters and other

³ European Commission, *Civil society monitoring report on implementation of the national Roma integration strategy in Hungary, September 2018*

premises of Budapest's public chimney sweeping company, with the inclusion of employment opportunities for Roma people in the award criteria.

Stage of procurement phase and criteria

This procedure involved the inclusion of social considerations in the award criteria. It is one of the first cases, if not the first one, showing the use of the best price-quality ratio (BPQR) award criterion instead of the lowest price in Hungary.

Social considerations were weighted at 20% and included the following three sub-criteria:

- The tenderer had to show evidence of having a cooperation agreement with any Roma public interest foundation⁴, which has been registered for at least 3 years.
- The tenderer had to undertake to employ Roma employees that are registered as disadvantaged persons during the contract period.
- The tenderer had to ensure that the number of Roma employees constituted at least 8% of the whole staff.

Price was weighted at 80%.

The agreement between the bidders and a Roma public interest foundation had to be signed by the time of the submission of the tender.

Social policy objective and/or reference standard

The social policy objective was to integrate Roma people in the employment market. The type of labour required in this contract is unskilled, and was therefore considered suitable for work integration clauses.

⁴Pursuant to Act CLXXV of 2011 on the Freedom of Association, Non-profit Status and the Operation and Support of Civil Organisations (Civil Act) a foundation can be registered as a public interest foundation if the activity of the foundation is considered of public benefit, it has adequate resources to meet the society's and the individuals' common needs and its support by the society is demonstrable.

Verification

The contracting authority verified the public benefit organisations indicated in the cooperation agreements on www.birosag.hu (official website of the Hungarian court). The bidders also had to submit the proof of the public registration of the public benefit organisation. Out of the four bidders, two declared to have a cooperation agreement with a Roma public interest foundation; however, this could only be verified for one. The successful bidder was a business (Fort Facility Ltd.) which had a cooperation agreement with Roma Civic Association, a Roma public interest foundation.

Contract value

The contract value was below the EU threshold: the maximum value of the framework amounted to HUF 42,000,000 (equal to €135,641.15), with a minimum value of HUF 30,000,000 (equal to €96,886.53). The contract was signed in December 2017 and lasted for two years.

Instrument

- Art. 67 on contract award criteria of Directive 2014/24/EU.
- The Hungarian National Social Inclusion Strategy (2014). Hungary was the first Member State to submit the Hungarian National Social Inclusion Strategy (in December 2011), which was drawn up in the light of the Commission Communication on the EU Framework for National Roma Integration Strategies. In 2014, the government reviewed and updated the strategy, which is being implemented in the form of three-year action plans and is subject to an annual government report based on the strategy's monitoring system. It can be viewed [here](#).

Actors

- Contracting authority: publicly-owned FŐKÉTÜSZ Capital Chimney Sweeper Ltd.
- Contracted service provider: Fort Facility Ltd.
- Policy-maker: The municipality of Budapest set



the public procurement strategy and supervises its own public companies.

- Verification support: the Roma Civic Association – a public interest foundation – helped in this case to verify the identity of the Roma people to be employed by the contractor.

Social impacts

- This procedure was the first of its kind in Hungary to include social considerations in award criteria, thus contributing to the social and professional integration of Roma people. The contracting authority is absolutely satisfied with the provision of the cleaning services.
- The cooperation with the contractor and the Roma public interest foundation was very good. According to point f) of section 3 of the agreement concluded between the successful tenderer and the Roma public interest foundation, the successful tenderer agrees to employ Roma employees amounting to at least 8 - 10% of its average headcount.
- The collaboration between the contracting authority and Roma Civic Association continues. In 2019, the Equal Opportunities Plan of FŐKÉTÜSZ was updated with contributions from Roma Civic Association.

Other benefits

- In 2019, FŐKÉTÜSZ applied similar social considerations in the award criteria of a public procurement procedure for the provision of call centre services. In the contract awarded following the public procurement procedure, the successful tenderer undertook to employ at least one disadvantaged or severely disadvantaged Roma employee during the term of the contract.
- The municipality of Budapest is developing a “Green, sustainable, innovation and responsible public procurement strategy” that should be adopted in the first quarter of 2020. Although the strategy and the procedure in question are not directly linked, this procedure set a precedent for the use of social considerations in public procurement in the city of Budapest and Hungary overall.

Lessons learned and future challenges

- Preparation and post verification are crucial in the implementation of socially responsible public procurement. Throughout the preparation of the procedure, it is important that the contracting authority examines whether the social criteria to be applied are achievable and do not hinder competition. It is also recommended that contracting authorities monitor the implementation of contracts and record useful lessons which could be relevant when preparing future similar procurement procedures.
- Applying social criteria is not common in Hungary yet, therefore it may reduce the competition. Prior market engagement is a good opportunity to monitor the market and the number of potential bidders, as well as to define the estimated value of the procurement.

Contact

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“Contracting authorities do not have to be afraid of using social aspects in procurement procedures, as the market is ready for it.”

*Dr. Kittka Dalma,
Head of Department, Budapest Mayor's Office,
Public Procurement Department*

04 Employment training and apprenticeships as the deciding award criteria

Name of procuring authority, Country: Municipality of Aarhus, Denmark

Product or service sector: Sewerage work: service and maintenance



Image © Municipality of Aarhus

Introduction/procurement objective

The Municipality of Aarhus has been giving increasing attention to the social and economic impact of procurement, which can be achieved through the creation of employment opportunities for long-term unemployed citizens. With this in mind, the procurement department wished to examine the potential of including training and employment opportunities as procurement objectives. A framework agreement for sewage services was selected as a pilot in 2019, and Aarhus decided to focus on apprenticeships together with training and employment opportunities. Previous contracts for sewage services had been evaluated based on price alone.

In Denmark, it has been made obligatory for contracting authorities to consider apprenticeships as a condition related to the performance of certain

contracts. In this case, however, the procurement department chose to instead focus on the award criteria.

The choice of instrument was made after a market dialogue in which the procurement department learned that they could expect the price difference between the tenderers to be marginal, as suppliers seemed to have similar expenses for material and wages. They also learned that several potential bidders had experienced recruitment difficulties. The framework agreement will last six years (2019-2025). The tender notice gives the following reasons:

- To open up competition due to high investment costs in materials. The depreciation of investments in materials will take more than 4 years;
- To meet environmental and employment



conditions, including specific environmental requirements for transport equipment.

Subject matter

A framework agreement on sewage services

Stage of procurement phase and criteria

Award criteria

The most economically advantageous tender was identified on the basis of the best price/quality ratio using the following criteria and weights:

- Price (80%)
- Quality (20%), divided into the sub-criteria of environmental performance (10%) and employment measures (10%)

Contract performance stage

The contract includes performance clauses on:

- Wages and working conditions, according to ILO-convention No. 94
- Apprenticeships and work retention
- Social responsibility (ILO conventions no. 29 and 105; 100 and 111; 138 and 182; 87, 98 and 135; and 155).

Wages and working conditions must be aligned with ILO convention no. 94. The contractor has to ensure that the employees whom they employ in Denmark to carry out the task receive a wage and general terms of employment that are no less beneficial than those applying for the same kind of work under a universally binding collective agreement within the given field (i.e. under a representative labour market union agreement). This condition applies to any subcontractors, and benefits and working hours are included in its scope.

Concerning apprenticeships and work retention, it was obligatory for the contractor to have a written staff policy which includes an education and retention policy for the people employed on the contract.

Regarding social responsibility, the contractor, as well as subcontractors, is obliged to comply with international conventions, listed in Annex X of Directive 2014/24/EU, concluded by Denmark, including:

- Forced work (ILO-convention no. 29 and no. 105)
- Non-discrimination (ILO-convention no. 100 and no. 111)
- Child labour (ILO-convention no. 138 and no. 182)
- Freedom of organisation (ILO-convention no. 87, no. 98 and no. 135)
- Work environment (ILO-convention no. 155)
- The contractor is required to respect basic human rights including the UN Universal Declaration on Human Rights and the Charter of Fundamental Rights of the European Union.

Social policy objective and/or reference standard

To create apprenticeship opportunities within skilled employment as well as employment and training opportunities for unemployed citizens.

Verification

- To verify the sub-criterion of “employment measures”, the tenderer was asked to report the number of employees in employment training or apprenticeships expected to work on the contract.
- Concerning employment criteria which represented in total 10% of the award criteria, various forms of training and apprenticeships were assigned different values, which were then added to assign a cumulative score:
 - Adult apprentice: 10
 - Apprentice: 8
 - Wage support scheme for unemployed: 3
 - Internship scheme for unemployed: 3

Contract value

The estimated total value of the framework contract was DKK 15 million (approximately €2 million).

Actors

- Project lead and contracting authority: The City of Aarhus' Department of Procurement and Tenders
- Interdepartmental working group representing end users of the sewage services across the municipal organisation.
- Correspondence with the Department of Employment regarding the employment measures criterion.

Social impacts

- Because the competition on price was very tough, the employment measures criterion ended up being a deciding factor. In the subsequent dialogue with the unsuccessful bidders, it was clear that the use of this criterion had a strong signalling effect. Thus the main social impact of the tender is that it has shown the market that the municipality is willing to reward social responsibility. It is expected that the result of the tender will motivate potential suppliers who have not previously considered this option to create apprenticeships or training opportunities.
- Apprentices contracted or subcontracted through this framework contract and subsequent replications of this approach will directly benefit in gained professional experience. The community at large will also benefit from a better trained workforce.

Lessons learned and future challenges

- Combining award criteria with minimum requirements rewards potential bidders who are capable of over-fulfilling the minimum requirements.
- The contract does not include milestones for monitoring to what extent the contractor meets the employment criteria throughout the contract period. For a similar tender it would be advisable to include specific provisions in the contract, which oblige the contractor to continuously fulfil the employment criteria. This could involve annual milestones and penalty fees in the case of non-compliance.

- Social award criteria can be useful for procurement in new or unknown markets where the contracting authority finds it difficult to formulate minimum requirements and/or conditions related to the performance of the contract. Overly lenient requirements can mean that the contracting authority misses out on potential impact, while overly strict requirements can mean they receive no or very few bids.

Contact

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"Because the competition on price was very tough, the employment measures criterion ended up being a deciding factor. This has sent a clear signal to the market, that the Municipality is willing to prioritise social responsibility."

*Jakob Laursen,
Procurement Consultant
Municipality of Aarhus, INDKØB & UDBUD,
Borgmesterens Afdeling*



05 Improving working conditions as a way to improve the quality of cleaning services for Czech Television

Name of procuring authority, Country: Czech Television (Česká televize), Czech Republic

Product or service sector: Cleaning services



Introduction/procurement objective

Long-term lowest-price only procurement of cleaning services has contributed to poorer working conditions and also indirectly to lower the quality of the services. Cleaning services are characterised by low-paid workers, high employee turnover rate, etc. Czech Television, as the contracting authority, used multiple instruments with the general aim of obtaining a good quality cleaning service, including by ensuring decent conditions for the workers involved. Czech Television made a reasonable link with the stability of the team and the material quality of the service provided.

Subject matter

Tender for cleaning services in sites owned by Czech Television (CT), a public TV-broadcasting institution located in Prague, Czech Republic.

Stage of procurement phase and criteria

Pre-procurement stage

Preliminary market consultation focused on the working conditions of the employees (including remuneration and organisation of work) and on ensuring the quality of the services performed. Based on the outcomes of the consultation, CT decided to introduce in the contract review or option clauses to adjust to possible changes in minimum wage regulation, and paid particular attention to elements such as working conditions, stability and continuous development of the team. CT also demanded a detailed description of the planned delivery of the contract proposed by the bidder (Plan of cleaning practice) and incentivised long-lasting responsibility of an individual employee for an assigned area.

The contract was divided into 5 lots. For lots 1 to 4, there was a limit to bid on no more than 2 lots at a time.

Specifications

Labelling was required to prove compliance with technical specifications and environmental characteristics of the cleaning products at hand.

Award criteria

The following award criteria were described in the call for tenders:

- Quality award criteria (45% of the total) consisted of:
 - Organisation of the team (these characteristics should ensure quality and stable work management. For example: assigned and stable work-place and time-frame for the work in hand of the individual employees, which provide them with the opportunity to get used to the tasks in hand and to improve their routines in the course of time; also clear description of supervision and quality check responsibility were part of awarding criteria, which may also lead to improvement of work performance of the team members) - 9%
 - Organisation of work - 9%
 - Method, instruments, cleaning products and routines to secure quality cleaning services (including several prescribed routines with low impact on the environment) - 9%
 - Management of the tender, contract management and management of the quality of the service - 9% and
 - Continuous improvement of the team (including stability of the team through measures to reduce employee turnover, continuous capacity building, etc.) - 9%
- Price (55% of the total).

Contract performance stage

The following contract performance clauses were used:

- To ensure quality control, the tenderer was required to allow an employee of CT to report and monitor the execution of the cleaning services.
- The cleaning products to be used had to be environmentally friendly. For example, the bidder was allowed to rely on eco-labels.

Social policy objective and/or reference standard

- Overall good management of the service, including human resources management, with the ultimate objective of improving the working conditions of employees responsible

for the contract performance. CT considers this objective (overall quality of working conditions of the respective staff) to be connected with the quality of the services performed. Staff, who are properly managed, trained and equipped, and who work in decent working conditions, are more likely to be stable, offer continuous and quality service, and workers may perform their duties better.

- Cleaning services should be performed in an environmentally friendly manner.

Verification

- The bidders had to submit a plan for the cleaning practice, describing information relevant to the quality of the service. The plan also contained a description of the team and of the management of skills and capacity development of the respective workers.
- The stability of the team was evaluated on the basis of:
 - Percentage of terminated contracts over the number of employees in the previous year;
 - Percentage of limited term contracts over the number of employees in the previous year;
 - Percentage of temporary agency work⁵ over the number of employees in the previous year.
- The contracting authority is entitled to demand documents with regard to environmental characteristics of the cleaning products.

Contract value

The estimated total contract value is €2,400,000 (60,125,000 CZK) over four years.

- Lot No. 1: approximately €80,000 (3,430,000 CZK)
- Lot No. 2: approximately €1,500,000 (37,570,000 CZK)
- Lot No. 3: approximately €250,000 (6,165,000 CZK)

⁵ An agency worker is employed by an agency which temporarily supplies him to an employer <https://www.citizensadvice.org.uk/work/rights-at-work/agency-workers/agency-workers-what-you-need-to-know/>



- Lot No. 4: approximately €440,000 (10,960,000 CZK)
- Lot No. 5: approximately €80,000 (2,000,000 CZK)

Instrument

- Articles 18.2, 40, 46, 67 and 70 of Directive 2014/24/EU

Actors

- Contracting authority: Czech Television
- Participants in preliminary market consultation:
 - ZENOVA Services, s.r.o.
 - HONDL Global Services, a.s.
 - European Cleaning Services, s.r.o.
 - 111UKLID.CZ Trade, s.r.o.
- Contracted service providers:
 - OCS Trading, s.r.o. (Lots No. 1 and 3)
 - INEX Česká republika, s.r.o. (Lots No. 2 and 4)
 - No bids were received for lot No. 5

Social impacts

- Division of the tender into lots improves accessibility to participate in public procurements for smaller suppliers.
- A significant portion of award criteria points are awarded based on the approach of the bidder to their employees and to the overall management of the service and its quality. Good management of the work and of the staff are crucial for stability of the team, development of employee's skills and overall quality of performance. This not only contributes to the development of working skills of the individuals, but affects the overall quality of the service.
- Assessment of the quality of employment (including working conditions and stability of the team) not only improves wellbeing of the workers, but also their contentment, which positively impacts the employee turnover rate and ultimately leads to better quality services.

Other benefits

- The specific nature of the service requires knowledge of the premises and of the user of the service. Frequent changes in the team may lead to difficulties and accompanying expenses, for example, due to the introduction of a new employee to the site. The stability of the team therefore appears to be an important condition for the quality of the cleaning service.
- The tendency to award contracts on the basis of the lowest price only can easily lower the quality of the services, with a high risk of discontentment of the employees, as well as a high employee turnover rate.
- An effort to take into account the working conditions of the employees is easily transferable to other contracting authorities and other services performed by low paid staff.

Lessons learned and future challenges

- To ensure the quality of services, the contracting authority has to put more effort into the preparatory phase of the tender, contract management and management of the quality of the service.
- In the next similar tender, the contracting authority will probably use preliminary market consultation again.
- In the future, Czech Television would like to find ways to set Key Performance Indicators for the cleaning services and to recognise outstanding performance of a supplier, for example, with an award.

Contact

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06 Social responsibility as award criteria for cleaning contract, Denmark⁶

Name of procuring authority, Country: Municipality of Ballerup, Denmark

Product or service sector: Cleaning services



Image © bogitw on Pixabay

Introduction/procurement objective

In February 2019, the Municipality of Ballerup adopted a new procurement policy, which gives high priority to social responsibility.

The policy⁷ has six main objectives:

1. Applying the regulatory framework to the benefit of citizens and businesses
2. Focus on factors other than price as illustrated below:
 - Suppliers shall declare that they comply with human rights, labour rights, environmental and anti-corruption requirements;

- The municipality must include social considerations in procurement procedures whenever possible (and employment clauses in procedures for service and construction work contracts), and explain the reasons when deemed not possible;
 - If there is a suspicion that a supplier is not complying with its social responsibility obligations, the municipality conducts a follow-up and has the option to cancel the contract.
3. Using market dialogue and cooperating with businesses
 4. Launching and implementing joint tendering
 5. Using digital procurement and e-commerce
 6. Ensuring a high level of compliance.
- The contract on cleaning services was chosen as a suitable pilot in which this provision was applied for the first time.

The contract will run from 1 April 2020 to 31 December 2023, including an option to extend the contract up to two times for a period of 12 months each.

Subject matter

Daily cleaning services and periodic window cleaning services at 157 different municipal buildings, including public schools, daycare centres, libraries, swimming and sports arenas.

Stage of procurement phase and criteria

⁶ <https://ted.europa.eu/udl?uri=TED:NOTICE:440930-2019:TEXT:DA:HTML>

⁷ https://ballerup.dk/sites/default/files/udbuds-og_indkoebspolitik_2019_0.pdf



Award criteria

- In the contract award process the most economically advantageous tender was identified on the basis of the best price/quality ratio using the following weights:
- Price: 60%
- Quality assurance: 20%
- Social responsibility: 20%. In this tender, social responsibility meant the creation of employment opportunities for unemployed people receiving a welfare benefit and for persons on long-term sick leave.

Contract performance stage

The tender documents also included:

- A labour clause obliging the tenderer to meet overall labour market standards with regards to wage and working conditions.
- A clause on social responsibility, which contains a list of specific requirements on human rights, labour rights, environment and anti-corruption, based on the ten principles of the UN Global Compact. In particular, the contractor undertakes to ensure compliance with fundamental human rights, and basic labour rights protected by the conventions of the International Labour Organisation (ILO).

Social policy objective and/or reference standard

The social objective of the municipality was to create employment opportunities for two target groups:

- “Activity ready” unemployed welfare recipients, who experience other challenges than unemployment. They need a specially designed training trajectory, including supporting measures to attain employment.⁸
- Persons on long-term sick leave. Many in this category will be able to resume a job when they are fit for work again. They will need a training trajectory, potentially including supporting measures to return to the job market.

Verification

- To verify the sub-criterion of “social responsibility”,

the tenderers were asked to submit a proposal, which should include:

- A description of the methodology through which the tenderer planned to help the above mentioned target groups get closer to employment. As an example, this could be done by describing a “training trajectory” and the activities included therein.
- The number of courses/trajectories offered for each of the two target groups.
- The tenderers’ descriptions were scored on a scale ranging from 0 (the best possible fulfilment of the criteria) to 8 (the lowest possible fulfilment), based on the number of courses/trajectories offered and to the proposed methodology and its estimated probability of a successful impact.
- The score was subsequently converted to a corresponding price equivalent. This calculation was made by dividing the average price offered by the total numbers of tenderers with the attained “social responsibility score”. In this way the contract was given to the tenderer with the lowest combined evaluation score equalling the sum of the following:
 - (Price offered x 0.6) +
 - ((average price offered by tenderers / 8 x quality assurance score) x 0.2) +
 - ((average price offered by tenderers / 8 x social responsibility score) x 0.2)

Contract value

Estimated 187,000,000 DKK, excluding VAT (approximately €25 million)

Instrument

- Art. 67 (on contract award criteria) and art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.
- The Danish Competition and Consumer Agency’s Guide to Social Clauses requires that state,

⁸ The Danish active labour market policy differs between, whether an unemployed person is considered to be “job ready” or “activity ready”, the latter potentially requiring training and/or supporting measures to attain employment.

regional and municipal contracting entities consider the use of social clauses on education and internship agreements, and to give an explanation if no social clauses are used.

- New procurement policy by the Municipality of Ballerup to enhance social responsibility.⁹

Actors

- Contracting authority: the Department of Procurement of Ballerup Municipality
- Contracted service provider: Coor Service Management A/S
- Social clause integration support: The Municipal Employment Centre of Ballerup, which will be the preferred recruitment partner of the winning tenderer.

Social impacts

- The tender, including the social responsibility criteria it contained, was very well-received by the market.
- The winning tenderer, Coor Service Management A/S, works with a triple-bottom-line sustainability focus. The company is well experienced and has achieved success in collaborating with a number of Job Centres in Denmark, among these a ground breaking OPI-project.
- The winning tenderer offered a solution containing a method considered to support the achievement of positive processes for the target group (candidates with problems other than unemployment), including:
 - Establishing four training courses at four selected locations in Ballerup. A permanent service manager and “buddies” from the contractor plan and complete training courses and recruitment courses for the candidates. The “buddies” are an old-fashioned master teaching feature.
 - Four candidates are brought into training at a time. Each time a candidate attains employment, a new candidate can begin training. The contractor expects eight candidates to participate each year.
 - The candidates will be part of the team at the workplace and there will be a gradual

training, starting with an appropriate number of hours per week. The goal is for apprentices to attain regular jobs, possibly as a “flex job” or employment with a wage subsidy.

- The training course is individually adapted to the candidate.
- The contractor sets up close cooperation with the Job Centre. This includes involvement on visitation, training courses, language training and supportive measures

Lessons learned and future challenges

- Suppliers and the market appear to be very mature and ready to work with social responsibility, especially at this time, as in Denmark it is difficult to recruit workforce within specific industries.
- The procurement policy has given the procurement department a strong mandate to include social considerations, which has facilitated the process.

Contact

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“By using social award criteria, we make social responsibility an object of competition. This gives the market freedom to decide the extent, as well as the design, of the social responsibility effort, as opposed to the contracting authority formulating requirements based on an informed guess. The market appear to be increasingly ready to work with social responsibility, and we have been very satisfied with the outcome of the procurement process.”

Mette Kongsgaard Jensen,
Chief of Procurement
Municipality of Ballerup, Indkøb - Center for Økonomi

⁹ Approximately 7 out of 10 Danish municipalities have an official procurement policy.



07 Including homeless people by providing cleaning services to the Municipality of Wrocław

Name of procuring authority, Country: Wrocławskie Mieszkania Limited Company, owned by the Municipality of Wrocław, Poland

Product or service sector: Cleaning services



Introduction/procurement objective

The call for tenders was reserved for social economy organisations and it concerns the provision of cleaning services for the Municipality of Wrocław. It also contributes to the implementation of the Social Economy Development Strategy elaborated by the City of Wrocław to tackle issues related to social and vocational reintegration. The strategy includes strengthened socially responsible public procurement to better address social challenges and involve social economy organisations. A particular social challenge to be addressed is homelessness: there are around 1,000 homeless people living in the City, which is the fourth highest homeless population in Poland.

This call followed a similar contract from 2017 to 2018, which helped social economy providers to

gain more experience in public tenders and public services provision. This time the value of the contract was tripled.

Subject matter

Provision of cleaning services in premises and associated facilities of the Municipality of Wrocław.

Stage of procurement phase and criteria

The contract was reserved for sheltered workshops and economic operators whose aim includes social and professional integration of persons belonging to socially marginalised groups employing a minimum of 30% disabled or disadvantaged workers in accordance with Art. 20 of Directive 2014/24/EU. It also required that the contractor or sub-contractor should employ without interruption

during the performance of the contract disabled or disadvantaged persons directly performing the activities specified in the call for tender.

Social policy objective and/or reference standard

- Promotion of social economy organisations
- Promotion of fair employment conditions
- Work integration of disadvantaged workers

Verification

- At the stage of application: declaration submitted by the bidder about the fulfilment of the criteria of employing at least 30% of disadvantaged workers or workers with disabilities.
- During the performance of the contract: the contracting authority is entitled to carry out inspections within the scope of the contract. The inspections may be carried out without the presence of the contractor and without notifying the contractor of the inspection date. The contractor shall pay a penalty each time it fails to fulfil its obligation to employ persons directly performing the activities listed in the agreement. The contracting authority also has the possibility to cancel the contract if the contractor does not fulfil its obligations and does not provide satisfactory clarification.

Contract value

368,590 PLN (equivalent to €86,100) for a one-year contract (from April 2019 to April 2020)

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU (transposed by Art. 22 par 2 of the Polish Public Procurement Act)
- City of Wrocław *local social economy programme*
- City President's ordinance recommending the use of social aspects in all public purchases.

National Polish law defines the following categories of persons belonging to socially marginalised groups:

- Disabled persons within the meaning of the Act of 27 August 1997 on the vocational rehabilitation, social resettlement, and employment of disabled persons (Journal of Laws of 2011, item 721);
- Unemployed persons within the meaning of the Act of 20 April 2004 on the promotion of employment and labour market institutions (Journal of Laws of 2016, items 645, 691, and 868);
- Persons deprived of liberty or released from prisons, referred to in the Act of 6 June 1997 – Criminal Executive Code (Journal of Laws item 557), experiencing difficulties with integration into society;
- Persons with mental disorders within the meaning of the Act of 19 August 1994 on protection of mental health (Journal of Laws of 2016, items 546 and 960);
- Homeless persons within the meaning of the Act of 12 March 2004 on social assistance (Journal of Laws of 2016, item 930);
- Persons granted by the Republic of Poland a refugee status or subsidiary protection referred to in the Act of 13 June 2003 on the protection of foreigners in the Republic of Poland (Journal of Laws of 2012, item 680; of 2013, item 1650; of 2014, item 1004; of 2015, item 1607; and of 2016, item 783);
- Persons up to 30 years of age and persons who have reached 50 years of age, having a job-seeker status and unemployed;
- Persons belonging to disadvantaged minorities, in particular national and ethnic minorities within the meaning of the Act of 6 January 2005 on national and ethnic minorities and regional language (Journal of Laws of 2015, item 573; and of 2016, item 749).

Actors

- Wrocławskie Mieszkania Limited Company (owned by the Municipality of Wrocław) – contracting authority
- Wrocławska Social Cooperative (which employs people at risk of social exclusion) – service provider, which won the contract.



Social impacts

- Wrocławska Social Cooperative employs people at risk of social exclusion, especially homeless people (90% of the workforce). The cooperative provides training to homeless people, including on how to get a driving licence. This is part of the overall activity of the cooperative, for which it receives some public funding, and it was not required by the contract in question.
- With this contract, they employed four homeless people.
- The contract allowed the cooperative to grow and achieve social and professional reintegration of people involved in providing the cleaning services under the contract.

Other benefits

- This contract was an opportunity for the social cooperative to build trust with the municipality, showing them that social economy providers can ensure quality services.
- Reserved contracts and social clauses are still not so commonly used in Poland. With the Local Programme for Social Economy and the ordinance of the president of Wrocław to promote social economy organisations including through public procurement, the situation has improved visibly.

Lessons learned and future challenges

- One of the challenges of the City of Wrocław is that a well-developed social economy ecosystem is lacking, with just a few social enterprises with low capacity to answer calls for tender. This is the reason why the city decided to award smaller contracts so that social enterprises and NGOs can gradually acquire experience to be able to participate in bigger tenders.
- The public procurement market in Poland, especially in large cities, is facing very specific challenges (low unemployment rate, large amount of contracts on the procurement market), so public tenders do not have many bidders and interested businesses have huge problems to find proper employees. This does not encourage

contracting authorities to introduce additional criteria in public procurement. However, for some citizens integrating in the labour market is still a challenge, which is why the city is gradually introducing incentives to participate in public procurement for social enterprises and NGOs offering 'sheltered' workplaces and working on professional integration, to incentivise them to submit offers.

- The contract was also intended to show contracting authorities that public procurement could be a powerful tool for implementing public policies. It is crucial to show contracting authorities how many social issues can be solved by using public procurement.

Contact

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08 Social clauses to strengthen social cohesion in cleaning and maintenance services for the European Commission

Name of procuring authority, Country: Office for Infrastructure and Logistics, European Commission (EC), Belgium

Product or service sector: Cleaning and maintenance of green spaces



image © nuronilva on Unsplash

Introduction/procurement objective

In 2019, the Office for Infrastructure and Logistics of the European Commission sought provision of cleaning services and maintenance of indoor and outdoor green spaces of its buildings located in the Brussels Capital Region. With this procurement, the contracting authority intended to strengthen social cohesion by providing training and socio-professional integration opportunities. The tender documents foresaw the use of two types of social clauses. All the services provided by the contractor also had to

respect the environmental requirements in force at the Commission, in particular, those set within the framework of its EMAS policy.

Subject matter

This call for tender concerns:

- The provision of cleaning services for the European Commission's buildings located in the Brussels-Capital Region (72 buildings)
- Cleaning of blinds, sails, draperies and flags
- Supply of hygienic products
- Pest control
- Snow removal services around buildings (including the supply of snow removal salt)
- Maintenance of plants and green spaces, either inside (patios, courtyard, garden, planters, etc.), or outside, including the aisles, basins, and sidewalks adjoining the buildings concerned and their parking lots

Stage of procurement phase and criteria

The call for tender included two types of contract performance clauses.

During the execution of the contract, the contractor has to provide training in cleaning to all workers employed with a permanent or temporary (lasting more than six months) contract involved in the execution of the cleaning service contract. The contractor has to provide training plans detailing the mandatory training and annual re-training for all staff, regardless of seniority of employment with the contractor, as well as individual official training certificates for its staff on site (issued by an external body, or where appropriate proof of



internal training), at the latest two months after the entry into force of the contract.

The contract requires cleaning staff to be regularly trained and informed on cleaning methods, dosage and precautions to be taken with cleaning products, packaging and waste (sorting and disposal), as well as the use of machinery. The contractor has to submit training certificates proving that all persons assigned to the services covered by the contract have received the necessary and adequate professional training, from a technical, safety and environmental point of view.

Training should be provided according to the proposed modules by the Cleaning Training Centre, or specialised modules as needed. For workers who received basic training more than 8 years ago, a revision module is also needed. The minimum training time to be provided per worker during the duration of the contract is 20 hours. Every year, the contractor must provide training to at least 20% of the total number of workers on permanent or fixed-term contracts assigned to the execution of this contract, and to all its personnel by the end of the execution of the contract. This training may be replaced by language training for those workers with insufficient knowledge of French.

The second type of contract performance clause requires the contractor to carry out socio-professional integration measures for job seekers who are particularly difficult to place or socio-professional integration measures for people with disabilities within the framework of the performance of the services related to the maintenance of plants and green spaces. This requirement may be met by subcontracting a social economy enterprise(s) whose main objective is the social and professional integration of disabled or disadvantaged people in which at least thirty percent of the staff of these workshops, economic operators or programmes are disabled or disadvantaged workers.

The contractor selects the green spaces to be maintained by applying such a clause, which must be at least 25% of the total annual amount included in the above-mentioned services.

Social policy objective and/or reference standard

- Through this contract, the contracting authority wishes to improve professional skills and safety of the staff performing the contract by requiring training of all the employees that will take part in its execution (the number foreseen is 700 employees).
- The second objective is to promote the socio-professional integration of persons with disabilities or disadvantaged workers, within the meaning of art. 20 of Directive 2014/24/EU.

Verification

- An important first step in implementing and monitoring the social clause is to hold a kick-off meeting between the contractor and the contracting authority. This kick-off meeting takes place within one month of the award of the contract and will cover all the social clauses to be implemented. On this occasion, the social clauses are discussed in detail, and a date on which these must start, or date of pre-assessment, is fixed.
- Once a year, the contractor communicates the list of workers who have undergone training. A copy of the certifications and attestations of the cleaning training centre and/or the language training centre must be made available to prove this.
- At the entry into force of the contract, the contractor sends the following documents to the contracting authority relating to the social economy enterprise(s) to which it will subcontract services:
 - The commitment duly signed by each social economy enterprise as defined above;
 - Proof that the social economy enterprise(s) have valid approval or meet the conditions of application of art. 20 of Directive 2014/24/EU; this proof will be reported either by the delivery of an authorisation (temporary or indefinite) valid at the time when the social economy enterprise(s) is contracted or by submitting a file demonstrating compliance with the conditions of art. 20 of Directive 2014/24/EU.

- A pre-evaluation meeting is organised within two months from the award of the framework contract, to check the good understanding of the social clause. A third meeting is held upon the conclusion of the framework contract to verify the proper execution of the social clause.
- The contracting authority and its representatives have the right to inspect and monitor the execution of the social clause. Any breach of the provisions of the social clauses noted during execution, either by the contracting authority or by any other person duly authorised for this purpose, may be considered by the contracting authority as a failure to perform.

Contract value

The duration of the contract is four years. The contract value is €20 million per year, for a total amount of €80 million.

Instrument

Art. 70 (on conditions for performance of contracts) and art. 20 (on reserved contracts) of Directive 2014/24/EU.

Actors

- Contracting authority: Office for Infrastructure and Logistics of the European Commission
- Social clause formulation support: Actiris, the public employment service of the Brussels-Capital region of Belgium
- A representative from the Belgian trade unions, cleaning sector, who was consulted in preparation of the procedure
- Employees of the contractor performing the procured cleaning services, who may benefit from professional training and labour inclusion foreseen in the contract.

Social impacts

- It is estimated that about 700 employees will be employed in the execution of this contract. Most of them are low-skilled and/or have a disadvantaged background. It is expected that

the obligation to provide them with training and employment opportunities will contribute to improve their social and professional inclusion, safety, as well as an enhancement of their skills.

Lessons learned and future challenges

- It is not possible to use a one-size fits all approach when designing a social clause in a procurement procedure. For example, in parallel to this procurement procedure, the Office for Infrastructure and Logistics collaborated with Actiris to design an adequate social clause in a procedure related to construction works. However, in that case, the social clause was different and tailored to a different market. Social clauses have to be designed taking into account the specificities of the procedure and of the market.
- The collaboration with Actiris, a qualified body with expertise in implementing social clauses, has proved to be crucial in the design of the most appropriate social clause for this specific procedure.
- Five technical offers were submitted in response to this procedure. This shows that the market is ready to respond and implement procedures for large contracts embedding social clauses.

Contact

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09 Ensuring socially responsible working conditions in the Maltese cleaning sector

Name of procuring authority, Country: Courts of Justice Department, Malta

Product or service sector: Cleaning services



Image © Jean Beaufort, Public Domain Pictures

Introduction/procurement objective

In an effort to mitigate precarious working conditions as well as to encourage the submission of equally priced rates/price, in 2019 the Maltese Courts of Justice Department decided that the provision of services with high intensity of precarious and low-quality jobs, such as cleaning, shall be procured through the best price-quality ratio award criterion (BPQR) instead of price or cost only.

To this end, the contracting authority used social award criteria which were linked to the subject-matter of the contract and proportionate to the services being procured.

Subject matter

Provision of Cleaning Services using Environmentally Friendly Cleaning Products at the Courts of Justice

Department (Malta) and the Office of the Attorney General.

Stage of procurement phase and criteria

The BPQR is established by weighing technical quality against price on a 60/40 basis respectively. The following evaluation grid is used:

- Training, skills and capabilities of employees: maximum 6 points
- Contract management and operations (Timekeeping, Level of Service, Contingency Plans, Methodology, Reporting Requirements, Green Public Procurement - cleaning products): maximum 64 points
- Equal opportunities and working conditions: maximum 30 points.

Concerning equal opportunities, the economic operator is to submit:

- Evidence that economic operator is an Equal Opportunities employer in line with the Equality Mark or equivalent (add-on) (2 points)
- Proof that the economic operator meets the Legal Requirements for the employment of disabled people (mandatory) (2 points)

Concerning employment conditions, the economic operator is to submit proof indicating the following:

- Existing / Potential employees have a written contract (mandatory) (2 points)
- Wages are paid by credit transfer - costs of which are borne by the contractor (mandatory) (2 points)
- Planned schedule of payment dates for the years 2019 and 2020 indicating the dates when wages are paid to employees (add-on) (maximum 3 points)
- Employees are provided with a detailed payslip (mandatory) (3 points)
- Proof of insurance cover for employees in case of injury during work (add-on) (3 points)
- Declaration by the contractor of freedom of employees (no restrictions imposed) to join a Trade Union (mandatory) (3 points)
- Copy of a Valid Collective Agreement that is in place and registered with the Department of Industrial and Employment Relations (Add-on) (3 points)
- Transport allowance or provision – (add-on) (2 points)
- Health and Safety resources (quality assurance systems employed by the contractor to ascertain a good/safe working environment) (mandatory) (5 points)

‘Sole traders/Companies with no Employees’ that are sub-contracting the services to known third parties at tendering stage, were also to provide the necessary proof/evidence as per the set requirements of the ‘Company with Employees’ on behalf of the sub-contractors.

Social policy objective and/or reference standard

The call for tenders has been designed to ensure that economic operators:

- Offer basic training in Cleanliness and Hygiene to their employees.
- Promote equal opportunities and comply with the legal requirements concerning employment of persons with disabilities.
- Ensure decent working conditions and comply with basic social and labour rights.
- Have a quality assurance system, including health and safety at work.

Verification

Bidders had to submit the following documents to meet the equal opportunities and working conditions award sub-criteria:

- A copy of the NCPE Equality Mark certificate (or equivalent)
- Proof/evidence through appropriate documentation from the job centre or the relevant state body that the economic operator meets the legal requirement for employment of persons with disabilities
- A copy of a contract agreement between the bidder and an employee
- Agreement with a Bank or written communication between bidder and Bank confirming direct credit settlement of wages
- A copy of a payslip
- A copy of the company’s Employers’ Liability Insurance Cover
- Declarations by the economic operator that no restrictions are imposed on employees to join a trade union
- Copy of a Valid Collective Agreement (if applicable).

Nine offers were submitted. According to the Evaluation Report, three bidders had a final average technical score above 65 points. The other six bidders were considered to be technically non-compliant as they failed on one or more mandatory criteria.



Contract value

€486,944.80 excluding VAT over a period of 36 months

Instrument

- Art. 67 on contract award criteria of Directive 2014/24/EU

Actors

- Contracting authority: Department of Contracts (Central Government Authority)
- Final Beneficiary: Courts of Justice Department
- Contracted service provider: Specialist Group Cleaners Ltd.
- Tenderers: Economic Operators providing specific service being procured
- End Recipient: Employees employed by the winning bidder

Social impacts

- The Ministerial Procurement Unit (MPU) on behalf of the Contracting Authority advised that the “procedure adopted in this tender had a positive impact in terms of employers’ awareness regarding the need to provide good working conditions to the employees providing the service. Given that the tender as drafted requested a number of mandatory requirements in relation to good working conditions, it resulted in better working conditions for the employees concerned”.

Other benefits

- This practice can be replicated in other sectors with high intensity of precarious jobs. Malta’s Public Administration intends to promote the use of the BPQR mechanism in procurement procedures to improve the working conditions in the sectors with low quality jobs.
- Procurement Calls are published on the Government’s e-Procurement System (hosted on www.etenders.gov.mt), as well as in the OJEU (if above the EU threshold). Contracting authorities

may search the system for similar procurements so as to review the BPQR criteria as well as the Procurement Call in general, making it easier for others to replicate this practice.

Lessons learned and future challenges

- The practice from a conceptual viewpoint shall be maintained, however, the Department of Contracts shall continue to refine the Award Criteria to be used when drafting a BPQR Matrix for the provision of a service with high intensity of precarious jobs.
- Although the Department of Contracts has published templates for the provision of services with high intensity of precarious jobs, contracting authorities are advised to tailor-make the BPQR Award Criteria according to their procurement exigencies.
- Consultation with competent authorities when drafting the Award Criteria is recommended, so as to ascertain that criteria are not restrictive and offer wide competition.
- Nonetheless, consultation and guidance from the Department of Contracts is highly recommended so that there is sharing of knowledge and updating of templates, as and where applicable.

Contact

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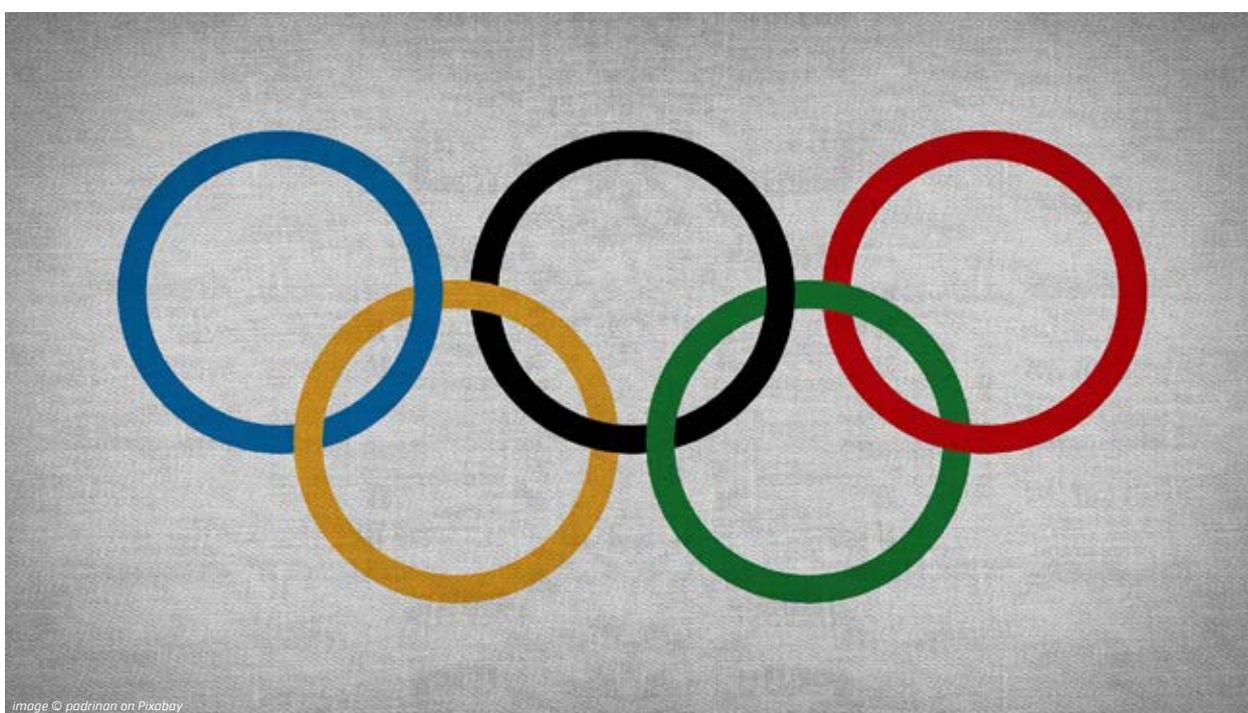
“As a Contracting Authority we believe that each and every worker providing a service to the Contracting Authority should enjoy good working conditions that promote and protect the rights and dignity of each worker and keeps true to the Government of Malta values of being the ideal employer.”

*Anthony Cachia,
Director General (CONTRACTS), Ministry for Finance and
Financial Services*

10 Inclusive and sustainable Facilities Management for the 2024 Olympic Games

Name of procuring authority, Country: PARIS 2024 Organising Committee for the Olympic and Paralympic Games, France

Product or service sector: Facilities Management (repair and maintenance, general management, cleaning and hygiene supply, waste management, food supply)



Introduction/procurement objective

The PARIS 2024 Organising Committee for the Olympic and Paralympic Games is committed to delivering the “most inclusive and sustainable Games in history”. On the procurement level, this approach is translated into strong actions on environmental and social responsibility by PARIS 2024 and its suppliers.

In order to enhance access to Olympic Games-related contracts for social economy enterprises, PARIS 2024 launched the “ESS 2024 Solidarity Platform”¹⁰ in May 2018, in partnership with the City of Paris, SOLIDEO (public company overseeing the Olympic and Paralympic works), LES CANAUX (not for profit association supporting Social and Solidarity Economy, social innovation and circular

economy actors) and the Yunus Centre (NGO supporting social business and inclusion). With the purchases related to Olympics infrastructure amounting to €3 billion, ESS 2024’s objectives include:

- Channelling 25% of the value of purchases to social businesses and SMEs.
- Ensuring that 10% of hours worked in construction, equipment and maintenance operations are carried out by disadvantaged workers.

In order to achieve these objectives, ESS 2024:

¹⁰ <https://ess2024.org>



- Provides strategic and legal watch on calls for tender, job opportunities and expectations of the organisers of Paris 2024.
- Sets up meetings between social businesses, the organisers of the Games, and major corporations, to promote social businesses as potential suppliers to be included in consortia or as subcontractors of large suppliers.
- Provides tools and support to help social businesses meet bid requirements.
- Tracks and measures the social and environmental impact of Paris 2024, in cooperation with universities, SEE stakeholders, think tanks, international organisations etc.
- Monitors best practice from other countries and disseminates best practice implemented by French awarding authorities sourced for the Games.

As an example of how the Platform is supporting socially responsible public procurement, a procedure for “Facilities Management” is explored below.

Subject matter

Mixed framework contract for facilities management, including supply of cleaning and hygiene products, waste management, general facility management, food supply, delegated management of contracts and regulatory control, for PARIS 2024 headquarters.

Stage of procurement phase and criteria

The procurement process was launched in autumn 2019 as a negotiated procedure with a call for competition according to articles L. 2124-3 and R. 2124-3 of the French Public Procurement Code. During the first stage of the procedure, economic operators were called by the awarding authority to express their interest in participating in the competition by October 4th 2019.

The call was defined objectively, and was open to all interested enterprises, regardless of legal form or member state of establishment. Candidates were assessed against 3 criteria:

- Professional capacity (40%).
- Technical capacity (40%).
- Financial capacity (20%).

In the second phase of the procedure (launched at the end of October 2019) the selected candidates submitted their initial tenders, which were assessed according to the MEAT criterion. 30% was given to price, while 70% to quality and other criteria (including 10% attributed to quality, hygiene, security and respect for the environment and 5% to Progress and Innovation Planning).

The criterion ‘Progress and Innovation Planning’ aimed to capture how the delivery of the services could be organised to ensure an improved delivery model, focusing in particular on the critical factors influencing quality, cost and corporate social responsibility performance.

At the end of the application phase, two companies were selected to carry out a visit to the premises concerned by the procurement procedure and submit an offer: Samsic and Arteis. On receipt of offers, Paris 2024 Olympic and Paralympic Games Organising Committee met the two candidates selected for negotiation. At the conclusion of the negotiation, the bidders submitted their final tenders, which were assessed on the same criteria used for the assessment of initial tenders. The contract was awarded to Arteis. Vitaservices, a work integration social enterprise, is a sub-contractor of Arteis.

Vitaservices is part of Vitamine T Group whose mission is to include in the labour market long-term unemployed people, refugees, asylum seekers, single households with children, young people not in education, employment and training (NEETs), senior workers facing difficulties in re-adapting their skills or re-entering the labour market, and people at risk of poverty or living in disadvantaged areas.

Social policy objective and/or reference standard

During performance of contracts, providers are required to:

- Respect social legislation and legislation on the employment of persons with disabilities.
- Guarantee decent working conditions.
- Promote the inclusion and development of human resources (i.e. employing people from vulnerable or disadvantaged groups, promoting equality between men and women, and improving skills, especially of people from vulnerable groups, enhance equal opportunities to employment).
- Take action to enhance local economic development (i.e. creation and maintenance of new jobs, partnerships with local actors, and projects aiming to develop skills and know-how in the area hosting the Paris Olympics)
- Tenderers are asked to present the actions by which they will contribute to the objectives of the CSR strategy promoted by the awarding authority.

Providers are invited to present to the contracting authority all the measures put in place to fulfil these obligations. The contracting authority can require the provider at any time to give evidence of the measures taken.

Verification

In the application phase, bidders and sub-contractors had to submit a detailed technical report showing all the human resources, materials, and techniques they would use for the execution of the contract. Bidders were invited to put in place processes and actions to create value for their staff and the community, concerning notably:

- The general governance of the company;
- The employment of fragile or disadvantaged people;
- The promotion of professional equality between men and women;
- The development of staff skills, in particular the capacities and employability of vulnerable or disadvantaged groups; and
- Diversity and equal opportunities at work.

The contracting authority verifies the execution of the contract by the means of meetings with

the contractor, and monthly, quarterly and annual activity reports. Contractors and subcontractors have to report the above mentioned points during progress meetings with the contracting authority and in the activity reports.

Performance is monitored by two types of indicators: operating indicators and key management indicators. The operating indicators will be monitored monthly and address the following elements:

- Respect for quality levels
- Compliance with response times
- Monitoring of preventive maintenance
- Availability of equipment
- the number of complaints
- Compliance with safety rules

Each indicator is evaluated from 0 to 10 points, for a maximum total amount of 100. In case the results achieved are assessed less than 80, penalties are applied (defined during the signature of the contract).

The key management indicators will be monitored during the quarterly and annual review and contract review meeting. The indicators will measure the overall performance of the contract: customer satisfaction; responsiveness; proactiveness; control of services; progress plans. Bidders had to propose their monitoring and measurement plans, to be agreed with the contracting authority.

Contract value

The contract foresees both a lump sum share and a purchase order and subsequent contract share. It is concluded without minimum or maximum value or quantity.

The services subject to the contract will be paid:

- In accordance with the unit price schedule annexed to the contract agreement, for the part executed by purchase orders.
- In accordance with the lump sum of the global and fixed breakdown (DPGF) annexed to the contract agreement, for the part executed in the



lump sum.

- In accordance with the lump sum amount of the subsequent contract, for the part executed by subsequent contracts.

Prices are not subject to revision.

The value of the subcontracting contract between Arteis and Vitaservices is €80,850 for a minimum duration of 11 months and €132,200 for a maximum duration of 18 months. After 11 months, the contract can be renewed on a monthly basis, until the end of May 2021.

Instrument

- Art. 70 (on conditions for performance of contracts) and art. 71 (on subcontracting) of Directive 2014/24/EU
- Paris 2024 “Legacy & Sustainability Strategy”, which requires all providers to commit to 4 CSR fields (hygiene, environment, occupational safety and social aspects), and present in their tenders specific CSR actions for added social and environmental value.
- The awarding authority accompanied the contract documents with a Negotiation Regulation, setting rules for the particular negotiation procedure.

Actors

- Contracting authority: PARIS 2024 Organising Committee for the Olympic and Paralympic Games
- Participants in negotiation: Samsic and Arteis
- Contractor: Arteis
- Sub-contractor: Vitaservices, a work integration social enterprise
- Supporting actor: ESS Solidarity Platform

Social impacts

- During its first six months of operation (from May 2018), the ESS 2024 Platform achieved the following:
 - 20 contracts have been awarded to social and solidarity economy enterprises in various

fields (catering, consulting, and logistics).

- 350+ social and solidarity economy organisations participated in workshops and meet-ups about the delivery of Paris 2024.
- Two international seminars with London 2012 and Rio 2016 for the exchange and dissemination of good practices.
- 40 partners are involved in the ESS 2024 platform activity.
- Launch of the deployment of the ESS 2024 platform throughout the French territory in October 2019.
- The ESS Solidarity Platform’s support and services proved to be useful, as Vitaservices won the contract. ESS Solidarity Platform facilitated the encounter between Vitaservices and the bidder Arteis, as well as with Vitaservices and the Chief Purchase Officer of PARIS 2024. The Platform also plays a very important role in raising contracting authorities’ awareness about the specificities of work integration of disadvantaged workers.
- Vitaservices had to employ six employees from the former contractor. This is an obligation that exists in France to protect employees of cleaning service providers. In addition, Vitaservices employed a team leader and a person that is considered a disadvantaged worker according to art. 20 of Directive 2014/24/EU. Vitaservices replaces employees that are on sick leave, holidays, paternity, maternity or parental leaves with people who are following work integration pathways.

Other benefits

There is a high potential for replication of this initiative among contracting authorities in other countries, sport associations or corporations which organise large scale athletic, cultural etc. events, as well as public authorities awarding large scale public works.

Lessons learned and future challenges

- The most crucial lesson drawn from the overall initiative seems to be the importance of a broad and multi-level consensus regarding inclusivity

and sustainability as a primary goal. For Paris 2024 Olympics, inclusivity and sustainability lie at the core and identity of the Games. This visionary approach has inspired a broad collective commitment.

- The “Facilities Management” example testifies to the use of subcontracting as a useful tool to enhance the participation of small and medium size economic operators, including social enterprises. Unfortunately, PARIS 2024 does not have “facilitators” who monitor how the work integration process happens in practice during the execution of contracts, among other tasks they perform. Although these are foreseen by French law in larger contracts, not all contracting authorities in France have the resources to provide facilitators.

Contact

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ESS 2024
LA PLATEFORME SOLIDAIRE

“The example of VitaServices affirms that the commitments made by Paris 2024 to organise Games in which social economy enterprises can play an active role have become reality since 2019! These first achievements, made possible thanks to the support offered by the ESS 2024 Platform, are precious for increasing this trend in the future months.”

*Christophe Divi,
Director ESS 2024*



11 Using third-party labels to ensure the delivery of socially-responsible natural stone for construction works

Name of procuring authority, Country: District of Friedrichshain-Kreuzberg, Berlin, Germany

Product or service sector: Construction



image © FLMH Labor für Politik und Kommunikation

Introduction/procurement objective

When repaving Mehringplatz in 2018-2019, the district of Friedrichshain-Kreuzberg in Berlin decided to strengthen its socially responsible procurement by launching a pilot tender for certified responsible natural stones. This was chosen as a focus due to the serious human and labour rights violations that are often observed in the sector, including serious risks to health and life for those working in mining and processing, as well as child labour practices, underpayment and a lack of health and safety measures.

According to the Berlin Tendering and Procurement Act, contractors are obliged to demonstrate compliance with labour and social standards. However, the previous reliance on self-declarations

was not providing reliable evidence for decision-making. Friedrichshain-Kreuzberg decided to make more use of the quality labels which have been developed in recent years to demonstrate compliance with ILO and other standards, such as the *Xertifix*¹¹ or *Fair Stone*¹² labels, or equivalent standards.

¹¹ *Xertifix* aims to fight child and slave labour in the mining and processing of natural stones in countries such as India, China and Vietnam. The label guarantees compliance with minimum social standards, in relation to conditions and practices within quarries and all processing plants involved in the countries of origins. A *Xertifix PLUS* label is also available, with additional requirements. All production facilities which have been awarded the *Xertifix* label are inspected twice per year.

¹² *Fair Stone* is an international Social Standard for natural stone imports from developing and emerging markets. It is awarded to products produced in compliance with the ILO-Core Labour Conventions, which are traceable with the software *Tracing Fair Stone*, and consider health and safety and environmental measures.

Subject matter

Reconstruction of Mehringplatz

Stage of procurement phase and criteria

Within their offer, tenderers were required to indicate in which countries/ territories the stones they will use for the execution of this contract are extracted and manufactured, and submit a declaration committing themselves to the provision of stones which comply with all labour and social standards which are mentioned in the technical specifications. If this declaration is not submitted, the tender will not be considered further.

Bidders were asked to provide certificates or equivalent proof that stones would be sourced from responsible mining and manufacturing facilities when submitting bids. For stones sourced from counties listed in the DAC country list of developing countries (OECD list of all low and middle income countries)¹³, compliance with the required social standards can be proved by either:

- Possession of the Xertifix certificate
- Possession of the Fair Stone certificate
- Possession of all other proofs, with detailed, product-specific information equivalent to the required standards, subject to independent auditing.

In addition, as contractors in this sector generally only buy stones after the contract has been awarded, the final proof of compliance with labour and social standards can only be provided on delivery of the stones.

The selected contractor is required to exclusively source natural stones for the delivery of this contract from quarrying and processing operations which demonstrably comply with all ILO core standards (listed below – ‘Social policy objective and/or reference standard’). In addition, the contractor must commit to further improvements in the following additional labour and social standards:

- Occupational health and safety for the workers

(protective clothing, minimizing contact with silica and other mineral dust)

- Payment of statutory minimum wages in accordance with requirements in the country of extraction and processing

Social policy objective and/or reference standard

- Prohibition of forced labour under ILO Conventions No. 29 and No. 105
- Freedom of association and protection of the right to organise in accordance with ILO Convention No. 87 and the Right to Collective Bargaining in accordance with ILO convention No. 98
- Child labour ban under ILO Conventions 138 and 182
- Payment of equal wages for equal work in accordance with ILO Convention No. 100 and non-discrimination in employment and occupation, as defined in ILO Convention No. 111.

Verification

Evidence of compliance with labour and social standards must both be provided when submitting bids and upon delivery of the stones, in the form of a certificate from an independent certification organisation (or equivalent proof which fulfils the conditions listed), which confirms that social standards were checked in the quarries and manufacturing operations which provided the stones.

The contractor carrying out the work must have complete and verifiable documentation for inspection, available to present to the contracting authority on request. If the contractor violates any contractual obligations, a penalty of 1% of the contract value can be applied per violation, or in

¹³ This approach may be justified under the equal treatment principle, which requires that comparable situations are not treated differently, and different situations are not treated in the same way, unless such treatment is objectively justified. In this case, the different risk profile regarding violation of core labour rights which applies in developed and developing countries is considered to justify their different treatment in the questionnaire.



case of several violations, up to 5% of the contract value. Should the contractor lose their certification as a responsible supplier through their own misconduct, the contracting authority has the right to terminate the contract, and the contractor has to pay the resulting costs to the contracting authority, in particular the cost of reopening the tender.

Instrument

- Art. 43 on labels of Directive 2014/24/EU.
- The tender also meets and exceeds the requirements set out in the Berlin Tendering and Procurement Act (BerlAVG, 8 July 2010) 8.1 - no goods subject to the performance of the contract have been obtained or manufactured in disregard of the minimum standards set out in the ILO core labour standards.¹⁴

Actors

- Contracting authority:
District Office of Friedrichshain-Kreuzberg
- Supporting organisation:
sustainable development NGO WEED

Social impacts

- By using independently-verified quality labels, Friedrichshain-Kreuzberg is ensuring that stones purchased in this contract are only from socially responsible sources.
- By promoting independent verification in the mining and stone processing sector, it helps increase transparency in a sector where social and labour right violations frequently occur, and promoting standards which go beyond the core ILO conventions.

Lessons learned and future challenges

- This tender seeks to address the lesson learned from previous contracts, which showed that self-declarations alone were not providing enough information to inform reliable decision-making and ensure social responsibility ambitions were being realised.
- Using quality labels backed by independent

auditors is a strategy relevant in a range of sectors with a similar supply chain, such as service or works contracts where contractors only purchase materials after the contract has been awarded.

- Friedrichshain-Kreuzberg also asked for more than core ILO requirements. They believe that going beyond these - in terms of pay and occupational health and safety - is necessary to purchase truly socially responsible products.

Contact

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¹⁴ <http://gesetze.berlin.de/jportal/?quelle=jlink&query=VergabeG+BE&psml=bsbeprod.psml&max=true&aiz=true>

12 Creating employment opportunities through work integration clauses

Name of procuring authority, Country: Département of Ille et Vilaine, France

Product or service sector: Construction



image © C. Ille et Vilaine

Introduction/procurement objective

In 2018, the Department of Ille et Vilaine published calls for tender for three new schools in the municipalities of Guipry-Messac, Laillé and Bréal-Sous-Montfort. Mandatory contract performance clauses relating to social and professional integration were included in each, in accordance with Art. 30 of the French public procurement Order 2015-899 (since replaced by *Order 2018-1074*, which is integrated in the Public Procurement Code).

Subject matter

A framework agreement on sewage services

Stage of procurement phase and criteria

Together, the three contracts were broken into 52 lots, 28 of which included mandatory contract

performance clauses requiring the employment of people meeting particular difficulties of integration, in accordance with Article 38-1 of the Ordinance (2015-899) (which states that social considerations are acceptable, provided they are linked to the subject matter of the contract).

The decision of which lots to include employment clauses in was guided by the technical departments and the Social Clauses Platform - a dedicated team assisting with the integration of work clauses. First, lots need to have large labour requirements (some lots relate to highly technical activities, and require only a few, highly qualified workers). Second, the contracting authority needs to be sure that unqualified or qualified workers can be found among the target audience, to ensure that the contract can be delivered, and that contract performance clauses are achievable.



To support tenderers with this, Ille et Vilaine provided their 'Activation of Social Integration Clauses' guidebook for companies as an annex to the tender. This explains how the term 'people meeting particular difficulties of integration' is defined, and the contact details of organisations which can support recruitment from each of these groups.

People meeting difficulties of integration are defined as follows:

- 'Active Solidarity Income' ("RSA") recipients (i.e. jobseekers) and their dependents;
- Long-term job seekers (those registered as unemployed for more than 12 months);
- Workers recognised as disabled (as defined by article L 5212-13 of the Labour Code);
- Beneficiaries of the Specific Solidarity Allowance (SSA), the Disabled Adult Allowance (AAH) and the Disability Allowance;
- Young people below French 'Level 5' educational attainment (i.e. with no further training or educational attainment beyond school level);
- People carrying out a course in the SIAE (Structures d'insertion par l'Activité Economique – a collection of associations, workshop and integration sites or temporary integration companies, which have agreements with the State to support workers with social and professional difficulties);
- People employed in the GEIQ (Groupement d'Employeurs pour l'Insertion et la Qualification – a group of companies committed to providing training and experience for workers)
- Beneficiaries of professionalisation or apprenticeship contracts.

For each school construction contract, the number of hours of integration employment was defined per lot, ranging from 105 to 860 hours in lots such as joinery, painting, electrical works and landscaping. Bids which did not commit to fulfilling these clauses were considered irregular and excluded from the competition. On being awarded the contract, the economic operator was required to submit proposals to the contracting authority on how they planned to meet the employment clauses within seven days,

by completing the "insertion section" annex to the contract documents.

Social policy objective and/or reference standard

Since 2005, the Department of Ille et Vilaine has been committed to integrating social clauses into its public procurement and promoting ethical, equitable and environmentally responsible procurement. Its Sustainable Purchasing Policy was adopted in June 2018, and by 2021, Ille et Vilaine aims to generate 70,000 hours of annual work in public contracts through the integration of social clauses into contracts and use of reserved tenders. In 2018, it exceeded this annual target, achieving 80,556 hours of employment clauses for 355 people.

Verification

Ille et Vilaine has established a system for monitoring social clause implementation across all its contracts. A monitoring commission has been established (including representatives working in procurement, integration, local social development, education, and environment functions), which is in charge of checking progress and planning social clause integration in future procurement procedures.

Contract value

The 28 contracts for the construction of three schools which resulted from lots with social clauses represent a total amount of €22,374,885 excluding VAT, allocated as follows:

- Guipry-Messac secondary school: €7,591,457 excluding VAT;
- Laillé secondary school: €8,008,063 excluding VAT;
- Bréal sous Montfort secondary school: €6,775,365 excluding VAT.

Instrument

- Art. 70 on conditions for performance of contracts of Directive 2014/24/EU

Actors

- Contracting authority: Département d'Ille et Vilaine
- Social clause integration support: a dedicated Social Clauses Platform, which supports procurers to use clauses, and provides companies with a kit to help them implement the clauses (including definitions and contact details for supportive organisations), and can even assist some companies to search for candidates. In the Guipry college, for example, the Platform was actively supporting integration and employment organisations to secure employment opportunities for their clients at the construction site.
- Contracted suppliers: 22 companies (including three companies that won two lots and one company that won four lots)

Social impacts

- The contract was awarded in March 2019. A minimum of 7,230 hours of employment for the benefit of the target groups is expected as a result of these three construction projects. An assessment will be carried out at the end of the project to verify this.
- Of the winning tenderers, 16 are based in the department and the rest are based in other locations in France.

Lessons learned and future challenges

- Several difficulties can arise in the implementation of social clauses, including balancing forecasted employment needs with flexible worksite requirements, and managing company expectations of the target group of employees.
- The general lack of mobility of the target group (i.e. not having access to cars or being able to afford fuel) may negatively impact their ability to access certain construction sites. This is especially an issue for those outside of the city and agglomeration, far from public transport networks.
- A dedicated social clauses team had a key role

in the successful implementation of the social clauses. This was key to success.

- Work integration clauses are now being used by many public authorities in France, strengthening the role of public procurement as a lever to support employment and integration. In addition to construction, they can be applied to all kinds of contracts, including service and project management tenders.

Contact

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13 Building a Bridge with Community Benefits

Name of procuring authority, Country: Windsor-Detroit Bridge Authority (WDBA), Canada

Product or service sector: Civil engineering/construction works



image © nadine-shaabana on Unsplash

Introduction/procurement objective

The Gordie Howe International Bridge will be a new border crossing between the cities of Windsor, Ontario, Canada, and Detroit, Michigan, USA. The existing toll bridge, which carries almost 30% of the total merchandise trade between Canada and the United States, is privately owned and opened in 1929. Once built, the new bridge will have the longest span of any cable-stayed bridge in North America. In addition to six lanes for motor traffic, the bridge includes a multi-use path for cyclists and pedestrians, as well as border inspection facilities at each end. Construction commenced in 2018, and the bridge is expected to open in 2024.

From the beginning of the project, it was seen as an opportunity to deliver community benefits. Community benefits are identified advantages that may improve economic, social or environmental conditions for local stakeholders. Two areas on either side of the border (Sandwich in Windsor and

Delray in Detroit) were identified as being particular targets for these benefits. For example, the project will also help to redirect traffic away from Windsor's inner city streets, easing congestion. Including community benefits in infrastructure projects is a growing trend in Canada, and the Gordie Howe International Bridge illustrates the vital role of consultation with local people to define and deliver these benefits.

Subject matter

Design, build, finance, operate and maintain the Gordie Howe International Bridge

Stage of procurement phase and criteria

The project is being carried out by means of a public-private partnership (PPP). Prior to the procurement, an International Crossing Agreement between the Government of Canada and State of Michigan set guidelines for the project, including community

benefits to be shared equally between the two countries. The procurement process began in 2015 and included several stages to develop and refine the community benefits approach:

- Prior to the procurement, WDBA researched international best practice in delivering community benefits for similar projects;
- From 2015 to 2017, WDBA led a large-scale engagement and consultation with local residents, businesses, schools, indigenous groups, public agencies, not-for-profit groups, environmental and social activists and other stakeholders;
- At qualification stage, potential bidders were evaluated on the basis of their prior experience related to development and execution of community benefit plans and community consultation processes;
- A database collecting over 230 unique ideas for community benefits to be included in the project was developed by WDBA and shared with the bidding consortia;
- The bidding consortia were invited to conduct their own engagement with local people, and a series of 'meet the bidders' events were held, attended by 125 different groups representing local stakeholders;
- The Request for Proposals (RfP) set out a framework and priorities to aid in the development of the bidders' Community Benefits Plans.

Social policy objective and/or reference standard

The vision for Community Benefits on the Gordie Howe International Bridge project is to deliver a series of initiatives, based on public input, that create measurable benefits for the host communities. The plan will:

- Provide economic opportunities in the host communities;
- Contribute positively to workforce development programmes;
- Deliver neighbourhood improvements;¹⁵ and
- Ensure clear commitments and accountability from all parties for its delivery.

To realise these objectives, the principles of the "I-CARE" framework are applied:

Integrated - Community Benefits are an integral component of the Project carried out during the construction and operation periods.

Collaborative - Community Benefits reflect the input of the host communities and are delivered through partnerships, ensuring that the interests of the respective communities are taken into account.

Accessible - Community Benefits are easy to understand, easily accessible, regularly measured and publicly reported.

Regional - Community Benefits are reflective of the character of the region, tailored specifically for the region and provide value to the region.

Enterprising - Community Benefits are comprised of new methods, ideas and innovative approaches to engage and benefit the neighbouring communities

Verification

The Community Benefits Plan formed part of the final *Project Agreement* signed by WDBA and the successful consortium, Bridging North America (BNA). At the post-procurement stage, on appointment BNA presented their plan to the community groups and other stakeholders and undertook a further six-month consultation to confirm the activities proposed in the Plan and form partnerships for delivery. During this phase, over 70 meetings were held on both sides of the border with a combined total of over 1,000 attendees and 400 surveys were received and analysed.

During the delivery phase of the project, BNA will report monthly to WDBA on community benefits. Community Benefits will also be reported on publicly four times a year. A number of specific metrics are included in the Project Agreement, for example,

¹⁵ The neighbourhood improvements delivered via the project are related to its impact on the affected communities and form part of the project as defined in the procurement documents.



benchmarking of the wages paid to workers, hiring of indigenous peoples and contracting with businesses owned by them, and the provision of training, pre-apprenticeship and apprenticeship opportunities.

Contract value

CDN \$5.7 billion (€3.8 billion)

Instrument

Community Benefit Agreements (CBAs) are legal agreements between government, developers/owners, and community stakeholders to achieve defined social outcomes from major developments and infrastructure projects. In Canada, CBAs form part of the majority of projects funded under the *Investing in Canada Infrastructure Program*. This CDN \$180 billion (€120 billion) initiative provides funding across five priority infrastructure streams: public transit, green infrastructure, social infrastructure (e.g. affordable housing, childcare), trade and transportation, and rural and northern communities.

Actors

- Contracting authority: WDBA (contracting authority)
- Strategic Partners (under a Crossing Agreement): Government of Canada; State of Michigan
- Community groups: Detroit community stakeholders; Windsor Community stakeholders
- Contractor: Bridging North America (BNA) (consortium comprised of Canadian, American and international companies)
- Subcontractors

Social impacts

The Community Benefits Plan has two components:

1. Workforce Development and Participation Strategy

The Workforce Development and Participation Strategy includes over 80 separate initiatives. Examples of the benefits to be delivered include:

- Working with local unions and workforce development organisations to deliver pre-apprenticeship and apprenticeship programmes and to coordinate training;
- Organising and hosting an annual session to inform unions, local contractors, post-secondary education institutions, business owners and associations about how they can support delivery of the project and qualify for upcoming business opportunities;
- A speaker series to increase primary and secondary school students' awareness of the project as well as careers in trades, and to facilitate mentorship opportunities between students and project staff;
- Identifying and implementing research and learning placement opportunities for post-secondary institutions;
- Implementing fair labour hiring practices and provisions, including timely resolution of employment issues and prompt payment obligations;
- Offering mentorship opportunities to Canadian Indigenous Women and other women in the host communities;
- Supporting a portion of child care costs to enable unemployed or underemployed people to participate in project workshops and training opportunities (within established criteria);
- Enabling English-as-a-second-language (ESL) speakers to participate in job training sessions for job interviews, online searching tools, creating resumes and the recruitment process.

2. Neighbourhood Infrastructure Strategy

The Neighbourhood Infrastructure Strategy includes the following benefits:

- Cycling infrastructure including the expansion of connecting paths and a local design contest for bicycle racks;
- An observation platform to allow students, residents and tourists to observe the construction of the bridge;
- Improvements to local streets and parks, including planting trees and seed funding for an eco-passage (bridge) that will provide safe

- passage for area wildlife, including species at risk;
- Annual investment allowance for community groups to support their events, programming and infrastructure improvements;
- A series of business development workshops targeted at local businesses;
- A home repair programme to assist local residents with improvements to roofs, furnaces, windows and insulation up to per household cap.

The first public report on the community benefits impact of the Gordie Howe Bridge will be published in 2020. The first release of funding for community initiatives has supported a community art project in Windsor targeting youth involvement and reflecting the history and culture of the community, a business development programme to support small businesses and start-ups in Southwest Detroit, and several other initiatives. The funding released as of March 2020 amounted to over CDN\$ 475,000.

Lessons learned and future challenges

- While extensive consultation took place prior to and during the procurement process, it was challenging not being able to share the RFP requirements or the submitted Community Benefits Plans until the project reached financial close. Following financial close, the winning consortium had to set up its operations, hire staff, find offices and make the transition from bidding to delivery.
- Stephanie Campeau, WDBA's Director of Stakeholder Relations, believes that the work done at the early planning stages to build connections and trust with local groups proved valuable as the project's profile grew. "To have community benefits that truly work and are accepted by local people, you need to start early," she says, "the best thing anyone said to me was 'You listened'."

Contact

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14 Work inclusion through conditions for the performance of contracts in Castilla y León (Spain)

Name of procuring authority, Country: Government of Castilla y León (regional Department of Health), Spain
Product or service sector: Construction



Introduction/procurement objective

By its *Agreement 44/2016, of 21 of July*, the regional government of Castilla y León established provisions for the implementation of socially responsible public procurement (SRPP) in contracting procedures carried out by regional public authorities. This Agreement provides for the application of social clauses in public procurement procedures through social criteria, reserved contracts and measures facilitating the employment of people excluded from labour markets.

This specific procedure aimed at providing employment opportunities to people belonging to disadvantaged groups or at risk of social exclusion with low chances to find employment as a result. The contract required the employment of people in these groups as a condition for the performance of the works. The groups of people targeted by this

procurement procedure were most of those listed in the Agreement of 2016 [Annex I, section II.1, letters (a) to (f)].

Subject matter

Expansion and retrofit of a hospital in the city of Soria (Castilla y León, Spain).

Stage of procurement phase and criteria

The procedure included a condition for the performance of the contract, relating to the employment of persons at risk of social exclusion. This covered a total of 14,600 hours (70 hours per week x 4.34523 weeks/month x 48 months). The inclusion of disadvantaged persons was to be realised through employment contracts of a minimum duration of 3 months (a shorter duration could be agreed by the contracting authority for

specific parts of the works lasting less than 3 months) and at least 20 hours a week.

People eligible to perform the works under this provision may belong to any of the following groups:

- minimum income recipients or members of a household benefitting from minimum income.
- people who are not eligible for minimum income due to either a length of residence that is insufficient to qualify for minimum income or having completed the full length of minimum income benefits.
- young persons between 18 and 30 years of age who have been under child protection; young offenders older than 16 years of age and ex-offenders below 30 years of age.
- people with substance abuse issues or other forms of dependence that are currently under treatment.
- offenders and ex-offenders with a legal entitlement to work.

Social policy objective and/or reference standard

Provide employment opportunities to persons that lack access to labour markets or are at risk of social exclusion.

Verification

Before the start of the works, the winning tenderer had to submit a plan that spelled out how work inclusion would be implemented, including the type of jobs and tasks to be performed by the employees. In order to prove compliance with the above performance condition, the successful tenderer had to submit the following documents for each new employee benefitting from inclusion within one month of his or her placement:

- Work contract, stating its type, duration and working hours.
- Proof of registration in the social security system.
- Identification of the employee with evidence of social exclusion issued by a public social service agency.
- The tenderer had to accompany each report of

work executed with a statement that there have been no changes to the agreed work inclusion plan.

Contract value

€32.1 million over 48 months

Instrument

- Art. 70 on contract performance conditions of Directive 2014/24/EU.
- Agreement 44/2016, of 21 of July, of the regional government of Castilla y León, establishing mandatory guidelines for contracting authorities belonging to regional government bodies towards socially responsible public procurement.

Actors

- Contracting authority: Castilla y León
- Contracted service provider
- Employed persons
- Public social services: The winning tenderer is free to select the employees that will perform the work under the work inclusion programme provided that they belong to any of the eligible groups. At the tenderer's request, public authorities can refer suitable candidates through social services agencies operated by the Department of Family and Equal Opportunities of the regional government that are dealing with the eligible groups of people at risk of exclusion.

Social impacts

- The main objective of the provision is to increase the chances of sustainable integration in the labour market of beneficiaries of work inclusion opportunities.
- The contractor has to designate a person within the team in charge of supervising and accompanying employees at the workplace to ensure the success of placements. This person is the reference person for the contracting authority throughout the monitoring of this performance condition.
- At the end of the contract, the contractor will



meet the contracting authority to assess the work inclusion programme, the progress made in the employability of beneficiaries, skills gained and the challenges faced. The integration of beneficiaries as permanent employees, as well as the continuation of such work inclusion programmes within the employment practices of the contractor, will also be explored. Representatives from the regional Department of Family and Equal Opportunities may also take part in such assessments.

Lessons learned and future challenges

Contracting authorities often have reservations against the use of such procedures because of the risk of legal challenge. As a result, pioneering experiences can trigger significant action. This contract is the first of its kind and has been replicated in other contracting procedures issued by the Regional Government of Castilla y León. Among these are:

- Construction of an elderly care home and a day care centre in care centre in Salamanca (A2019/001392, link to the procedure can be found [here](#)). This contract foresees 8,680 hours of work for people at risk of social exclusion and includes women affected by gender-based violence as a target group.
- Construction of a primary health care centre in Calzada de Vanduciel (Salamanca) (2020008538, link to the procedure can be found [here](#)), including 1,140 hours of work.
- Construction of a primary health care centre (Parada del Molino) in Zamora (2020008470, link to the procedure can be found [here](#)), including 1,520 hours of work.
- Construction of a primary health care centre in Bembibre (León) (2020008470, link to the procedure can be found [here](#)), including 1,370 hours of work.

The main challenge ahead is to promote the enforcement of work inclusion clauses as conditions for the performance of work contracts tendered by contracting bodies under the supervision of the Regional Government of Castilla y León, whenever

the duration and budget of such works make it feasible. The envisaged target is that at least 3% of the total number of hours worked in the execution of the contract are performed by workers benefitting from a work inclusion programme.

Contact

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“The work inclusion project included in the expansion and retrofit of a hospital in the city of Soria is enabling people at risk of social exclusion to enter the labour market. This is an example of social responsibility in public procurement which is being followed in other contracts of the Junta de Castilla y León.”

*Jesús Fuertes Zurita,
Secretary General, Department of Family and Equal
Opportunities, Junta de Castilla y León (Spain)*

15 Roadworks for labour market inclusion

Name of procuring authority, Country: Eurometropole of Strasbourg (local authority), France

Product or service sector: Construction, road works.



image © sumanamul15 on Pixabay

Introduction/procurement objective

For more than two decades now, the city and the Eurometropole of Strasbourg has been implementing social clauses in its public procurement contracts, which are systematically analysed taking into account the purpose of each contract, the labour required and the technical capacity. This system, which can be replicated by any local authority, has been strengthened by the application of Strasbourg's Strategy for the Promotion of Socially and Environmentally Responsible Purchasing (SPASER).¹⁶

On 7 April 2019, the Eurometropole of Strasbourg *published a call for tender* to select operators for the repair of Rue Coulaux in the Port du Rhin neighbourhood. This aimed at providing employment opportunities for people far from the labour market, belonging to disadvantaged groups or at risk of social exclusion with low chances to find employment as a result.

Subject matter

The renovation of a road in the Port du Rhin neighbourhood in Strasbourg, France.

Stage of procurement phase and criteria

The contracting authority launched an open procedure below threshold (Art. 27 Decree 2016-360 of 25 March 2016) and divided the contract into two lots.

Lot 1 related to the renovation of the roadway, which, in accordance with Art. 38 and 52 of Ordinance 2015-899 of 23 July 2015 (French law), required contracted operators to commit to employing persons "far from the labour market"

¹⁶ SPASER is a national instrument introduced by the national law on public procurement and by the law on social economy that requires local authorities spending more than 100k/a year to adopt a strategy on socially and environmentally responsible public procurement.



(people in the process of work integration or priority groups who encounter particular difficulties in accessing employment)¹⁷ with the aim of labour market integration.

As a contract performance condition for lot 1 exclusively, the contracted operator had to commit to employing people far from the labour market for 245 hours during the whole duration of the contract. The employment opportunities during the execution of the contract enable the people employed to acquire or improve qualifications and experience with a view to increased employability and sustainable integration.

The offers were evaluated as follows:

- Price of the services: 80%
- Technical capacity of the contractor: 10%
- Environmental protection performance: 10%.

Social policy objective and/or reference standard

Providing employment opportunities for individuals far from the labour market. The groups of people targeted by this procurement procedure are listed in the Special Conditions of Contract (SCC).¹⁸

Verification

For lot 1 only:

During the performance of the contract, the Relais Chantiers¹⁹ verifies the documents to establish if there is genuine promotion of employment among the relevant groups of individuals at the request of the representative of the Eurometropole of Strasbourg. For this purpose, at the end of each quarter, the contracted operator will send the Relais Chantiers the information relating to the “job promotion” service, for example:

- Information on the recruitment carried out directly or indirectly, including all of the pay slips,
- certificates of subcontracting or certificates of provision of personnel in the event of recruitment through Work Integration Enterprises or Temporary Work Integration Enterprises.

- Other obligations of a social nature provided for by the contract, where applicable.

To this end, the contractor has to designate an interlocutor who will report to the Relais Chantiers on the effective implementation of the employment of persons far from the labour market. The interlocutor is the reference person for the contracting authority throughout the monitoring of this performance condition.

Contract value

€366,657.46 (VAT not included)

Instrument

- Although it is below the EU threshold, the contract requires the employment of people excluded from the labour market as a condition for the performance of the works, in line with Art. 70 of Directive 2014/24/EU as well as a division into lots, in line with Art. 46 of division into lots, of Directive 2014/24/EU.
- SPASER – French strategy for the promotion of socially and environmentally responsible public procurement

Actors

- Contracting Authority: Eurometropole of Strasbourg

¹⁷ More specifically: young people with a low level of training; young people who have never worked; jobseekers who have been registered with the Job Centre for more than one year continuously or who have been in recurrent unemployment for more than two years or who are over the age of 50; social benefits beneficiaries, particularly beneficiaries of the RSA and A.S.S. programmes; individuals being integrated into the labour market through Social Economy Integration Enterprises (SIAE); disabled workers recognised by the Commission for Rights and Autonomy of People with Disabilities (CDAPH), etc.)

¹⁸ The ‘Cahier des Clauses Administratives Particulières (CCAP)’ is the contractual document containing all the legal and financial stipulations governing the performance of the contract, such as terms of payment, financing, any guarantees, delivery terms, penalties, performance deadlines, verification procedures, etc. The SCC is also the contractual document for the execution of the contract.

¹⁹ A public-private association set up to manage work integration clauses in public procurement contracts on behalf of the contracting authorities in the Strasbourg employment pool.

- Contracted service providers
- Social clause integration support: Relais Chantiers
- Employees of the tenderer

Social impacts

- The main objective of the procedure is to increase the chances of sustainable integration in the labour market of beneficiaries of work inclusion opportunities. The available data from 2015 from Relais Chantiers shows that since 2010, through the implementation of contracts like the one in question, more than 3.5 million hours of work have been completed (equivalent to more than 450 full-time contracts over five years).

Lessons learned and future challenges

- An evaluation confirms that the social clauses that have been used in the city's public procurement markets for many years is positive. This evaluation study of the future of the beneficiary groups confirms that the system responds to concerns about the integration and qualifications of people who are far from employment.
- In particular, it indicates that 55% of the groups benefitting from a social clause are still in employment or training 6 to 12 months after their assignment, while 39% of them are still employed in the company that gave them their first chance.

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16 The Skien Model for quality of employment in the construction sector

Name of procuring authority, Country: Municipality of Skien, Norway

Product or service sector: Construction



Image © Tankesmen Agends

Introduction/procurement objective

The Municipality of Skien aims to promote decent work and fight work-related crime, social dumping and the exploitation of workers across supply chains. To do so, it has implemented standard contract terms, applicable for selected goods, services and building and construction contracts, which are perceived as especially sensitive to labour rights. This set of collective contractual requirements applicable to 'high-risk' sectors is called the Skien Model. The Skien Model was implemented under a city council resolution in 2014, and reviewed in 2019. A summary of the model (in Norwegian) can be found [here](#). The model is mandatory for all building and construction contracts and is used on contracts for goods and services as long as it is practical and proportional. By spelling out such standards, Skien aims to create a level playing field amongst suppliers and create an enabling framework for compliant

employers that invest in quality employment and corporate social responsibility. Skien is also part of an intermunicipal procurement partnership - the Grenlandskommunenenes innkjøpsenhet - with five other municipalities (Bamble, Drangedal, Kragerø, Porsgrunn, Siljan). In January 2019, these municipalities also adopted the Skien model.

Stage of procurement phase and criteria

Informal employment and work-related crime is difficult to measure, however, it has an estimated economic impact of around 1.2% of national GDP, or NOK 28 billion (approximately €3 billion).²⁰

²⁰ As reported by Economics Norway, in a work commissioned by the Norwegian Ministry of Labour and Social Affairs: <https://www.eurofound.europa.eu/publications/article/2017/norway-strategies-to-tackle-work-related-crime>

In light of challenges with work related crime and the illegal labour market within the construction sector, the Municipality of Skien has put procurement at the heart of its initiatives towards decent work, fair working standards and quality employment. The Skien Model is the result of a joint effort between the Municipality of Skien as a contracting authority and all other relevant stakeholders in public procurement. Discussions were held with construction business organisations, who shared the main challenges faced in their activity, and trade unions, who put forward their ideas for appropriate actions and procurement requirements to achieve improved outcomes. Contracting authorities acknowledged the need to improve labour standards whilst ensuring that the level of requirements did not create additional obstacles for the participation of reliable suppliers in public procurement. The Municipality sought a coordinated approach among the other contracting authorities which are part of the intermunicipal procurement partnership on how to address working conditions and standards through procurement. This has resulted in the creation of standard provisions and contracts that generate a higher degree of predictability among suppliers as well as a safe operating environment for procurement practitioners.

The model deals with the following areas:

- *Use of mainly stable employees*

Stable employment relationships, on the one hand, promote increased security among workers and, on the other hand, make it easier for authorities to verify payment of wages by contractors and ensure occupational safety and health. However, the building and construction sector requires some degree of flexibility due to the varying volume of projects or the cycle of the market. Therefore, the Municipality requires that workers involved in the execution of contracts must be employed by contractors in accordance with Norwegian law, which prohibits 'zero-hour contracts'. In addition, the Model also requires that the use of temporary workers (supplied by work agencies) is pre-approved by the contracting authority. In addition, suppliers are obliged to prove that temporary workers used

in the execution of the works have employment contracts ensuring pay levels according to legally binding collective agreements.

- *Use of apprentices*

In order to promote specialisation and adequate training levels in relevant sectors, the Municipality has required specific use of apprentices in contracts involving specialised work. In addition, it is required that suppliers are affiliated with an apprenticeship scheme. In order to ensure that this requirement does not disproportionately affect smaller contracts and providers, it only applies to contracts with a duration over 3 months and a value exceeding NOK 0.5 million (approximately €50,000) for building and construction contracts and a value exceeding NOK 2 million (€200,000) for contracts for goods and services. Any other exceptions must be approved by the Municipality.

- *Use of skilled workers*

The promotion of adequate qualifications and skill levels limits the possibility of exploiting vulnerable workers who lack knowledge of the trade or their rights. In addition, the use of apprentices calls for skilled workers on site who are able to act as mentors. The Skien Model requires that a majority of the employees involved in the execution of building and construction contracts hold a relevant vocational qualification.

- *Limit on number of levels of subcontractors*

A limitation on the maximum number of subcontractors enables better follow-up and control of work conditions and standards applied by the contracting authority. To this end, the Municipality has established as a rule a maximum of one level of subcontracting under the main supplier. While there is no restriction on the number of subcontractors or the proportion of the contract subcontracted, all subcontractors must be under direct control of the main contractor in order to avoid fragmentation of responsibility. The subcontractors must be identified in the contract. This provision accounts for possible specialisation needs within a contract and does



not impair access to public procurement by smaller operators. Therefore, contracting authorities are allowed to make exceptions to this rule prior to competition for market-related reasons or during the performance of the contract for special or unforeseen reasons only.

- *Prevention of human rights' breaches across the supply chain*

The supplier is obliged to have incorporated guidelines that include respect for basic human rights and the ILO's core conventions in its own operations and for its supply chain. Control measures must be carried out and reports must be made on specific follow-up of subcontractors throughout the supply chain. In addition to the above, the Municipality sets out additional requirements:

- No payments in cash: all wage payments and other compensation shall be paid to the individual worker's bank account. Wage payments must be paid to a bank account, and the employer must be able to trace the payment. All payments other than wages made by the supplier in connection with the execution of contract will also be paid by electronic means and be traceable. Suppliers are obliged to identify their bank on request.
- *Minimum wage levels and working conditions:*

Suppliers to the municipality must ensure that employees enjoy wage and working conditions that are not lower than those mandated by the relevant nationwide collective wage agreements.

Verification

The requirements are part of the contract terms, so by taking part in the competition, contractors are committed to abide by these terms during the period of execution. Upon request, tenderers must provide documentation on the wages and employment conditions of their employees. Bidders must certify compliance with *ILO Convention No 94 on Labour Clauses in Public Contracts*. The contracting authority may levy a daily penalty on bidders if they or any of their subcontractors use illegal or non-

compliant labour and the situation is not remedied before a deadline set by the client in writing. The daily penalty will be equivalent to one thousandth of the contract value but no less than NOK 1,000 (approximately €100) per business day until the situation is remedied. In the event of a confirmed breach of the terms of the Model and the contractor's inability to solve it, the contracting authority may rescind the contract with a suspension period on future participation in procurement procedures.

Contract value

Depends on the specific contracts being tendered.

Instrument

- Art. 18.2 on mandatory social clause and Art. 70 on contract performance conditions of Directive 2014/24/EU. The use of these provisions must be in line with the Posted Workers Directive (Directive 96/71/EC as amended by Directive (EU) 2018/957).

Actors

- Contracting authority: Skien Municipality and its services, agencies, etc.
- Trade unions and employers organisations (the model is based on a tripartite cooperation between municipalities and social partners)
- Building and construction suppliers
- Workers

Social impacts

- Effective and socially responsible public procurement - and a model that has inspired other municipalities to take responsibility.
- Building public reputation by taking social responsibility.
- Protect decent work and improve the quality of work.
- Better control on occupational health and safety (safer work environments).
- Promotes training of apprentices and use of skilled workers and an increase in regional businesses affiliated with an apprenticeship scheme.

- Promotes serious and reliable contractors, that in turn gives stability, quality and predictability.
- Fair competition and level playing field among suppliers.
- Less tax evasion and fraud - less labour crime.

In a report on efforts to eliminate social dumping in public procurement, the Office of the Auditor General notes that many local authorities have room for improvement in this area and has recommended to follow Skien's example. In fact, an increasing number of Norwegian local authorities are adopting the Skien Model. By 2019 approximately 180 of 426 municipalities in Norway implemented different types of procurement models to secure socially responsible public procurement. The Skien model is the pioneer model, and there are several different models in use in Norwegian municipalities. Some models copy the Skien Model, others are adjusted to meet the interests and needs of different areas, branches and politics.

Lessons learned and future challenges

- Dialogue with social partners and stakeholders in the sector is key to set out requirements in a realistic way, and ensure compliance and effective results.
- It is important to adopt an incremental approach to requirements. In this regard, the standards adopted in the building and construction sector build upon previous measures undertaken by the Municipality, which have been accelerated in this sector in light of perceived high risks of non-compliance.
- Standard clauses and contracts are useful for operationalising compliance with standards across the board. Common standards on core/horizontal issues such as workers' rights and quality of employment is compatible with the adaptation of procedures to specific needs by contracting authorities.
- The Model was reviewed in 2019, to adjust and improve it based on practical experience to date, and to comply with national and EEA-law after the transposition of the 2014 Procurement Directive. The municipality considered how the model affected the market, the workers and

the needs and policies of the municipalities. For example, the early model required that wages were paid to a Norwegian bank account. Skien asked itself however, if this was really necessary - the municipality only needs to be able to trace the money, which can be done even if the bank account is not Norwegian. Also, the old version of the Model only required the use of apprentices by Norwegian contractors, but this is now a general requirement (when there is a need for promoting apprentices.)

- The model will be reviewed every second year, to be adjusted to how markets and work related crime change and develop, and also adjusts to the requirements from the municipality.
- Follow-up and control of the requirements in the model is a continuous challenge. Digitalisation, real time information and systematic data collection are crucial tools towards this aim.

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"The procurement model of Skien has given us an important tool in the fight against social dumping and work-related crimes, not only in Skien, but almost 200 municipalities that have followed by implementing similar models. These models protect decent work, improve the quality of work, promote a safer working environment and give youth an incentive to pursue a career in the construction business. We've also seen that criminals are being pushed out of the market."

Hans Christian Gabrielsen,
Leader of the Norwegian Confederation of Trade Unions (LO)



17 Grangegorman's Employment Charter, Ireland

Name of procuring authority, Country: Grangegorman Development Agency, Ireland

Product or service sector: Construction

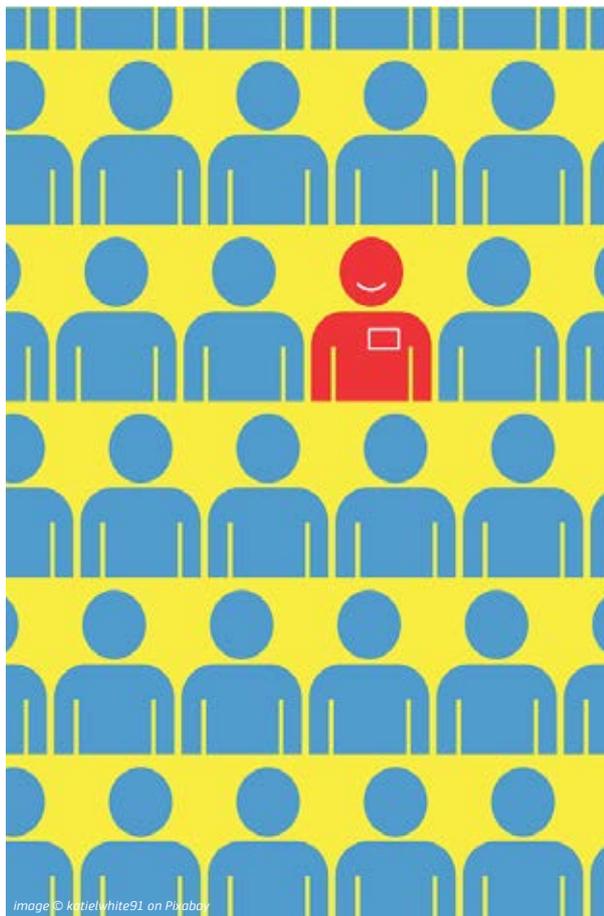


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Introduction/procurement objective

The Grangegorman Development Agency (hereinafter GDA), together with the Employment and Training Coordinator and the Grangegorman Labour and Learning Forum (GLLF), have developed and implemented a *Grangegorman Employment Charter*.

Following a *2009 study* on employment opportunities arising from the Grangegorman Development in Dublin's North Inner City, a strategy was formed and then developed into the Charter. This was introduced in 2012, a time of high unemployment in Ireland (approximately 16%) and even higher unemployment in areas around the Grangegorman Development, which included communities

experiencing high levels of deprivation and disadvantage. The development centred on the delivery of major educational, health and amenity infrastructure. At the core of the development is the consolidation of TU Dublin, Ireland's largest University on the Grangegorman site. The traditional engagement and community outreach activities of TU Dublin were very helpful in building support for the employment charter within surrounding communities and in delivering elements of support.

The aim of the Charter is to ensure that the local community, particularly individuals in a situation of unemployment, can benefit from the employment opportunities that arise from the Grangegorman project – which involves the development of a new urban quarter in Dublin's north inner city.

The Charter sets out what contractors and subcontractors can do to optimise employment and training opportunities arising from the Grangegorman Development project for residents of the Grangegorman neighbourhood. The Charter also outlines how this will be monitored and reported on.

All contractors and subcontractors who are awarded contracts are briefed to ensure that they have a clear understanding of what is required of them in terms of reporting, including forward planning, and that they identify potential jobs for which local recruitment can be undertaken. The Charter applies to the contractors for the specific work that is the subject of contracts with the GDA. It is designed to respect the contractor's rights under Irish and European law and is to be interpreted accordingly.

Stage of procurement phase and criteria

The good practice refers to the post-procurement phase.

The tender documents make reference to the Grangegorman Employment Charter, which contains contract performance conditions related to social considerations. The Charter is non-binding and the contracted company can choose whether to abide by it. Until now all contractors have committed to it.

The obligations under the Charter apply only in respect to the performance of the works and the contract. The GDA seeks to ensure that a minimum of 20% of new jobs created on projects related to the new development will be on offer to residents of the Grangegorman neighbourhood and, after that, to residents of surrounding areas. If the contractor agrees to follow the Charter, it commits to using all reasonable steps to fill at least 10% of new jobs created for the delivery of the project with new entrants or long-term unemployed. It will treat locals equally and give specific consideration to their employment.

Furthermore, the contractor, within four weeks of contract commencement and/or in advance of projected employment opportunities, will participate in a 'meet the Contractor day' (provided for by Art. 5 of the Grangegorman Employment Charter). The goal of this day is to introduce the project and the contractor to local people and businesses to enable the contractors to network and develop suitable employment and training opportunities for local residents.

Social policy objective and/or reference standard

The GDA Employment Charter is a support measure that aims to integrate persons distant from the labour market and long-term unemployed people into the labour market through the use of contract performance conditions related to social considerations, i.e. the implementation of the Charter by contractors.

Verification

- The GDA Design Team is responsible for monitoring the implementation of the Charter by contractors and reports accordingly to the Employment Coordinator.

- Monthly meetings are held between the Employment Coordinator and the contractor's Liaison Officer to monitor and review the implementation of the Charter.
- The Employment Coordinator monitors and reviews the effectiveness of measures taken to achieve any commitments or targets of the Contractor under the Charter.
- The Contractor's Liaison Officer, in conjunction with the Employment Coordinator, also monitors and reports on the number of local people employed on the project.

Contract value

Varies from contract to contract

Instrument

- Art. 70 on conditions for performance of contracts of Directive 2014/24/EU.

Actors

- Contracting authority: Grangegorman Development Agency
- Awarded contractors and subcontractors, including:
 - Contractor 1: John Sisk & Son and FCC Construcción (sub-contractors: SISK, FCC, Sodexo, Building Management Services, Kennedy Security, Duggan Systems Ltd., Techrete Ireland & UK, Crown Roofing Ltd., Wintrop Engineering, Cleartech, Designer Group).
 - Contractor 2: Energy Centre, John Paul Construction
 - Contractor 3: Purcell Construction

Social impacts

- The structural and social regeneration of the Grangegorman neighbourhood for a sustainable future for local residents and businesses;
- Social inclusion by offering employment and training opportunities to marginalised social groups;
- As the local community is involved in the



development, a sense of local ownership of the project has developed. Thanks to this approach, the project has received engagement and support from the local community;

- Created a synergy between the public and private interests for the benefit of the Grangegorman community;
- Optimisation of employment and training opportunities arising from the Grangegorman Development project;
- Support through training, apprenticeships and employment opportunities for people far from the labour market, particularly long-term unemployed individuals;
- Compliance is measured on a month by month basis by calculating the number of local employees in any given month in relation to the total number of employees on site for that month. Individual workers are not identified and only the percentage of local workers in each month is tracked. Average numbers on site per year: 2015 – 130 total/24 local i.e. 19% were local employees; 2016 – 49 total/8 local i.e. 17%; 2017 – no construction; 2018 – 275 total/35 local i.e. 13%; 2019 – 760 total/76 local i.e. 10%. This drop reflects the gradual improvement of the labour market situation and decreased unemployment rates in Ireland. As a result, the Charter has adapted to target people that are far from the labour market and have more specific support needs.

Other benefits

- The model has been replicated by the Technological University (TU) Dublin, which shows the transferability of this good practice;
- Details of contractors working on the Grangegorman Development are also published on the GDA's own website (www.ggda.ie/employment-and-training) which allows people, including those living beyond the geographical range of the Charter, to contact employers directly if they wish;
- Interagency work as a result of the Charter, i.e. the (sub)contractor notifies the Employment Coordinator of vacancies, this Coordinator then passes the details on to Intreo (Department of

Employment Affairs and Social Protection), who circulates them to relevant agencies, such as the Local Employment Services;

- A 'meet the contractor' event was held on 21 January 2020 at Grangegorman Development Agency. The event was aimed at people from local communities as well as communities from across the city (in particular, those who experience high levels of economic and social disadvantage). The response exceeded expectations; the GDA engaged with approximately 400 people from across those communities interested in working in facilities management roles in the new TU Dublin Quads at Grangegorman, which are scheduled to open in the coming months. These are the first permanent jobs on the Grangegorman Development and some of the first employment opportunities for women (construction remains a gendered sector in Ireland).

Lessons learned and future challenges

- The GDA continues to apply the Charter, although a changed labour market makes it more challenging to achieve the original targets.
- They are therefore now looking at how they can support organisations and projects (including social enterprises) who are focusing on the 5% who remain outside the labour market, according to what the Irish Government deems to be outside of 'full employment'.
- For this, the Grangegorman Labour and Learning Forum (GLLF) has established a Grangegorman Business & Enterprise Group, whose aims are to raise awareness of the potential from the Grangegorman Development for local businesses and to explore how the GLLF might support local businesses (particularly small and micro-enterprises).

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18 Reserved tender for social enterprises

Name of procuring authority, Country: Department of Vendée, France

Product or service sector: Food and catering



Introduction/procurement objective

Based on a decision of its Council, the Department decided in 2010 to promote the use of high-quality and organic products in schools (colleges).

The idea was to link an agri-food centre through different tenders with organic producers of vegetables, fruits and dairy products.

A needs analysis conducted in 2010 concluded that there was a social enterprise employing disabled people dealing with agri-food services and certified organic producers, which could potentially be linked through the Department's contracts. After advertising a reserved tender, the Department of

Vendée awarded a contract in 2011 to the social enterprise identified during the needs analysis, which employs about 10 people with disabilities in providing agri-food services. Following re-advertisement in 2015, the contract was renewed for six years.

The services are provided to more than 30 schools located in the Department's territory. The products processed represent, on average, over 100 tonnes per year.

After signing the first contract, the Department included the possibility to deliver the raw products to the social enterprise in tenders for the supply of food awarded in 2012 and 2016. A buyers' group was established between the Department and the schools, encouraging the use of the agri-food centre.

Subject matter

Agri-food services: storage, processing (cleaning, peeling and cutting), packaging of raw products and the delivery of processed products.

Stage of procurement phase and criteria

The tender was reserved for organisations employing between 55% and 100% disabled people. There was no geographic requirement in the tender published. The advertising defined the requirements in an objective way in order to receive responses from different bidders.

Only one bidder made an offer after the tender was published. This offer was analysed in accordance with the award criteria defined in the tender:

- Price: 35%, based on an estimated annual volume of processed food;
- Environmental performance: 25%, based on



services proposed and energy sources used to realise these services in an environmentally friendly way;

- Technical quality: 25%, based on the quality of the personnel and institutional organisation and on the yield guarantees provided for the processing of the food.

The winning bidder was the organisation ADAPEI-ARIA 85. This social enterprise works with people with disabilities and offers them not only a workplace, but also medical and social support. In total, more than 1400 people are employed by the organisation in France and around 10 are employed in the enterprise which executes the contract awarded in Vendée.

Social policy objective and/or reference standard

The initial contract, which was awarded prior to the adoption of the 2014 EU Procurement Directives, was reserved in accordance with Art. 15 of the 2006 French Public Contracts Code.

Verification

- Verification scheme put in place in order to check on the percentage of disabled people employed. A verification scheme is required by French law for “adapted enterprises” to conclude a contract with French authorities in order to define aims (percentage of disabled people, support and mobility plan for the disabled people) to be approved and to have financial aid given by the state authorities. The state authorities have to conduct regular controls. There is also a provision in the contract requiring the contractor to provide an activity each year report presenting: percentage of disabled people mobilised for the execution of services, different types of services provided and number of hours worked by the disabled people concerned.
- The bidder is asked to provide details continuously during the contract execution about the volumes of vegetables, fruits and dairy products processed, deliveries to schools and compliance with regulations on organic products.

- The contracting authority included in the specifications the right to conduct an analysis of the produce supplied by an official laboratory authorised to carry out such analyses (e.g. LEAV, Laboratory of Environment and Food of Vendée).
- The tender outlined the sanctions in the case of non-compliance. The sanctions are defined in the tender (financial penalty if the payment is not made) and in the contract concluded by the organisation with the state authorities: lower aids, non-renewal or termination of the contract.

Contract value

The contract is valued at about €105,000 per year for agri-food services dealing with the preparation of organic food (especially vegetables, fruits and dairy products).

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU.

Actors

- Contracting authority: Department of Vendée.
- Contracted service provider: social enterprise ADAPEI-ARIA 85
- Beneficiaries: More than 30 schools (colleges), the municipality of Olonne-sur-Mer and a high school in Luçon purchase the different food products.
- Tender support: RESECO (formerly known as RGO, Réseau Grand Ouest), an independent association whose goal is to unite and connect municipalities, as well as to support their activities in green and socially responsible public procurement.
- Contracted service providers
- Social clause integration support: Relais Chantiers
- Employees of the tenderer

Social impacts

By awarding a reserved contract to a social enterprise working with people with disabilities, the

Department of Vendée ensured a positive social impact and promoted the use of locally-produced organic food, with the following outcomes:

- The agri-food services contracted support the employment of 10 people.
- More than 1.8 million meals containing more than 100 tonnes of organic products are delivered to the 34 schools each year. Organic products represent 10 to 15% of the content of the meals served.

Other benefits:

- An anticipated 281.59 tonnes of CO₂ emissions will be saved annually through the catering project.
- The reduction in transportation will lead to expected primary energy savings of 1.03 GWh/year. With shared deliveries realised by the social enterprise, the volume of deliveries is reduced by two thirds (2,200 deliveries if the schools receive the products on their own; approximately 700 deliveries using the social enterprise's services.) This practice created business opportunities for small producers with lower logistical costs and located in nearby areas. Under this scheme, more than 30 small producers of organic vegetables, fruits and dairy products are currently supplying food worth about €170,000 per year.
- Further benefits include the establishment of the buyers' group leading to cost reduction for procurement and contract management and the services realised by the social enterprise such as the medical and social support provided to its employees.
- In France, combating food waste is a policy goal. This project raises students' awareness of the importance of reducing food waste and of sustainable development.

Lessons learned and future challenges

- This has been a successful model for establishing a shared and global purchasing approach to the food and catering sector, covering the three pillars of sustainable development – environmental, social and economic.

- The approach has effectively linked the needs of agri-food service suppliers to the supply needs of various buyers through the awarding of a reserved contract to a social enterprise.
- The Department of Vendée is now considering broadening the programme to include other buyers (retirement homes, schools and municipalities). Since 2016, the Department of Vendée has taken a similar approach to fish and meat procurement.
- The project has been highlighted in Europe (through RESECO, who was involved in this project) and in France, especially by an e-community dealing with catering and managed by RESECO and the CNFPT (Centre National de la Fonction Publique Territoriale): <https://e-communautes.cnfpt.fr/alimentation-restauration-collective>, which is an organisation connecting different actors for technical and legal formations.

Contact

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"Public procurement law is not only a constraint, it's mostly a tool for the implementation of structuring local projects, such as this one, in the territories."

Mickaël TESSIER,
legal expert in tenders for Department of Vendée



19 Socially responsible procurement of food and beverages by the City of Oslo

Name of procuring authority, Country: City of Oslo, Norway

Product or service sector: Food and catering



Introduction/procurement objective

The City of Oslo has 50 agencies. Each is responsible for its own procurements to support daily operations. The Agency for Improvement and Development (AID) is the central advisory unit for procurement. AID prepares and administers the city's cross-agency framework agreements and also provides guidance, standard contract templates, training and advisory services to all agencies.

In 2017-2018, AID carried out procurement for three framework agreements for food and beverages, fruits and vegetables and dairy products. In addition

to comprehensive environmental requirements, including requiring organic alternatives, the City of Oslo used a number of social criteria and contract clauses to ensure respect for fundamental human and labour rights in the supply chains for high risk agriculture products.

The city uses social criteria in all contracts where production processes imply risks of adverse impacts on international human rights and labour rights. The current Socially Responsible Public Procurement (SRPP) requirements are aligned with the main international frameworks such as the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct.

Subject matter

Procurement of food and beverages, including fruits, vegetables and dairy products for various facilities and services provided by the City of Oslo, e.g. child care services, retirement homes etc.

Stage of procurement phase and criteria

This procurement was organised as a competitive procedure with negotiation.

Selection criteria:

To be considered as a potential supplier for the City of Oslo, the company had to document the quality management and a suitable traceability system suitable to verify compliance with social clauses throughout the supply chain.

Specifications:

- Fair trade coffee (All coffee must be fair trade

certified and labelled Fairtrade or equivalent);

- Fair trade bananas (All bananas must be fair trade certified and labelled Fairtrade or equivalent).

Award criteria:

- Marks were awarded for other products of fair trade origin (Other products offered as fair trade must be labeled Fairtrade, UTZ or equivalent).

Contract performance conditions:

- The contract includes Oslo's standard social contract performance clauses (see description below under 'Instrument')

Social policy objective and/or reference standard

A new Procurement Strategy was developed in 2017 through dialogue with internal and external stakeholders. It is founded on sustainability principles. The main objective is that Oslo shall conduct appropriate and cost-effective procurement processes, providing sound and sustainable solutions in both the short and long-term. The sub-objectives state that procurement shall contribute to making Oslo a greener, more socially inclusive and more innovative city that provides its residents, businesses and industry with solutions and services in line with their present and future needs. Sub-goal 3 addresses social aspects of procurement and includes strategic guidance that states that "the municipality must not deal with suppliers who can be associated with violations of fundamental human rights, ILO's core conventions or international law that Norway is subject to through UN resolutions." Furthermore, "the City of Oslo must work to actively ensure that the municipality's global supply chains safeguard fundamental human rights, ILO core conventions and international rules that Norway is subject to through UN resolutions. Finally, "the municipality is to use category management (strategic management of product groups through trade partnerships) to increase the portion of fair trade products.

City Council Regulation against Child Labour: Oslo's first City Council Regulation against Child

Labour was adopted in 1996. Its provisions were used in a limited number of contracts. In 2005, it was extended to all standard contracts for goods with high risk of human and labour rights violations.

The "Oslo Model": In 2012, Oslo applied to become a member of the UN Global Compact. A revised regulation on implementation of the Ten Principles in the procurement function was adopted. It also included a reinforced standard social contract performance clause, and social selection criteria. The clause and criteria were used in all high risk contracts for goods. The latest regulation, known as the Oslo Model and adopted in 2017, further develops and strengthens the social requirements and extends their use to contracts for services and construction works which include high risk products such as building materials.

Ethical Trade Norway: In 2017, Oslo became a member of Ethical Trade Norway. Ethical Trade Norway is a multi-stakeholder initiative, represented by NGOs, Trade Unions, Businesses and the Enterprise Federation of Norway. It is a resource centre and an advocate for ethical trade practices. Through its membership to Ethical Trade Norway, Oslo aims to signal its commitment to work towards ethical trade through public procurement. The City encourages its suppliers and partners to embrace ethical trade.

Fair Trade City: Oslo is also a Fairtrade-city. A Steering Committee comprised of representatives from the municipality, business enterprises and NGOs has been established and is taking actions to promote fair trade²¹ in the core actions of the city, including in procurement, and among its citizens. The most important step in this area in the past two years has been category management in order to increase the share of fair trade-certified goods procured by the municipality.

²¹ The term "fair trade" refers to trade conditions which ensure that workers in supply chains for the goods purchased have decent working conditions and receive at least the current minimum wage and that producers have good trading conditions through a minimum price for goods.



Verification

Suppliers must take active measures to promote international human rights and ensure that working conditions in the whole supply chain are at least in accordance with the fundamental human rights, the ILO core conventions and relevant national labour regulations in producing countries. The following verification techniques were used:

- Self-assessment form completed in 2018;
- Internal monitoring process 2019-2020;
- Coordinated monitoring process 2019-2020: the City of Oslo is leading a team of experts on coordinated monitoring of social criteria in contracts for food and beverages together with a number of other public authorities in Norway. This is part of a project that was initiated and led by Ethical Trade Norway. The goal is to emphasise the effectiveness of the monitoring process as several major public authorities join their forces towards common suppliers and also to save resources both for public authorities and for suppliers.

In case of non-compliance, the City of Oslo would first warn, then sanction a supplier as it has in other contracts. The city administration has issued warnings on termination of other contracts twice. In the first case, this was done after a third-party audit at a production site for work clothing in China. In the second case, the warning was issued after a third-party audit at the main office of a former medical equipment supplier in Norway. However, in both cases the suppliers applied corrective measures, which were well documented and approved by the administration. As such, a contract has never had to be terminated solely due to a breach of social contract clauses related to global supply chains. However, the local authority is entitled to terminate a contract due to a breach of child labour or other fundamental labour and human rights laws, even where suppliers apply corrective measures.

Contract value

The estimated annual contract value for the three contract areas of food and beverages, fruits and

vegetables and dairy products amounts to NOK 80 million (€6.9 million). In 2018, the total was NOK 78,720,462 (€6.8 million).

Instrument

- Art. 18.2 on compliance with applicable obligations in the fields of environmental, social and labour law of Directive 2014/24/EU.

Actors

- Contracting authority: City of Oslo
- Contracted service providers
 - Food and beverages – Servicegrossistene AS
 - Fruits and vegetables – Cater Drammen AS
 - Dairy products – Tine SA

Social impacts

The City achieved more responsible suppliers as a result of the use of social selection criteria, with the following outcomes:

- The share of publicly procured Fairtrade-certified and organic bananas increased from 3% to 50% in the first four months of 2019.
- Over the same period, the share of fair trade-certified coffee went up from 9% to 13%.

This shows that establishing central framework agreements and using category management are effective instruments in strengthening ethical trade. The City works together with suppliers to make the market more socially responsible and to increase the supply of fair trade and organic alternatives at a good price.

Other benefits

- The share of organic food also increased alongside Fairtrade.

Lessons learned and future challenges

The next steps for continued improvement of social responsibility in Oslo's procurement will be to:

- Consider social award criteria, e.g. based on a risk assessment for selected products
- Consider progressive social contract performance clauses, such as an increasing share of other selected fair trade products during the contract period.

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"As a Signatory City to the UN Global Compact, Oslo is committed to enact and promote the Ten Principles on human rights, labour rights, environment and anti-corruption. By using public procurement as a strategic tool, we strive to influence business actors to integrate corporate social responsibility and sustainability in their supply chains."

*Katja Khardikova,
City of Oslo*



20 Mandatory fair trade clause in the Madrid municipality contracts

Name of procuring authority, Country: City of Madrid, Spain

Product or service sector: Food and catering



Image © skitterphoto on Pixabay

Introduction/procurement objective

On 18 July 2016, the municipality of Madrid passed a regulation on the insertion of mandatory social clauses in public contracts, concessions and authorisations of the local authority.

The regulation requires public bodies to apply a fair trade clause in their procurement, making it mandatory to include at least one fair or responsibly traded product of the selected category in the tender. The clause encompasses selected products chosen in the purchasing of food for catering and restaurant services.

The regulation was part of a wider plan from the municipality of Madrid to foster a positive environment for responsible consumption and fair trade, already enshrined in the 2011 Municipal Ordinance on consumption (see Art.48, 49 and

50 on responsible public procurement and social criteria).

As part of the implementation phase of the local legislation, online modules and examples were provided for companies applying to tender (see Verification section). The provision was intended to make the process smoother and more accessible to all enterprises.

Stage of procurement phase and criteria

The regulation provides for the inclusion of a fair trade clause in the object of the procurement, its title and announcement. The mandatory insertion of the fair trade clause can be done either as a special performance clause of the contract or as an award criterion, depending on the characteristics of the procurement. Providing a label (see Reference Standard section) or equivalent is considered

strictly necessary for the procurement. In the case of award criteria, fair trade can make up to 10% of the points. The law defines and distinguishes fair trade products according to the concept of fair and responsible trade as follows:

- The term “fair” refers to the respect of labour rights and the protection of the environment in line with the declaration of the European Parliament on Fair Trade and Development 2005/2245.
- The term “responsible” refers to the same EP Declaration 2005/2245; it is worth noting that the concept of responsible trade does not encompass specifications for a minimum price and for the awarding of a fair trade premium to producers; it is thus a less stringent definition than that of fair trade.

The products included in the regulations are coffee, tea or other infusions, sugar, candies, biscuits, cocoa and chocolate products. Fair trade criteria for those products should be attained in the case of catering services, restaurants, cafeteria, canteens, and vending machines. In those cases, at least one of those products has to be 100% fair or responsible.

The clause is also compulsory for minor contracts. According to the Spanish law, minor contracts cover specific needs or actions not systematically repeated over time, and their estimated value should not be higher than €15,000.

Social policy objective and/or reference standard

The regulation on fair trade practices for local authorities was part of a wider initiative for the improvement of fair trade in Spain. Between 2000 and 2016, the overall expenditure on fair trade products increased from €10 million to €40 million. To support this development, the national government and local authorities have committed to increase citizens’ awareness on the matter and to increase public spending on fair and responsible trade. The 2016 municipal regulation was issued as part of responsible trade promotion, as stated in the 2011 ordinance on consumption for the city of Madrid.

As reference for the definition of a fair trade product, the regulation spells out the obligation to incorporate the following standards and organisations:

- **World Fair Trade Organisation:** the leading organisation active on fair trade verification and standardisation;
- **FairTrade:** International fair trade organisation, providing for a FAIRTRADE mark to producers and businesses meeting international standards;
- **Naturland Fair:** international organisation of organic agriculture acting in 58 countries worldwide;
- **EcoCert:** international sustainability association providing fair trade certifications, including sustainable farming and responsible sourcing;
- **Fair for Life:** international fair trade organisation focusing on human rights and fair working conditions;
- **Símbolo de Pequeños Productores:** international network of small and medium ecological producers operating mainly in Latin American countries;
- **Rainforest Alliance Certified:** certification of environmental, social and economic sustainability of the product;
- **UTZ certified:** sustainability label encompassing the whole supply chain;
- Other labels and organisations with an equivalent aim and purpose.

Verification

- The bidder certifies that it uses a fair trade product via an online module available from the Madrid Administration. Verification takes place during the awarding stage.
- Enterprises have the possibility to look at a template during the tender process and at examples to facilitate the completion of the documents.
- Due to the novelty of the process, both for the administrative staff and the contracted enterprises, the municipality of Madrid provided its employees with specific training on fair trade practices.



Instrument

- Art. 43 on labels of Directive 2014/24/EU
- Decree issued by the Municipal Authority of Madrid in July 2016, implementing a January 2016 National Framework Decree. National framework decree of the Ministry of Economy on the incorporation of social clauses in public procurements of the city's authorities (19 January 2016). The provisions were subsequently enshrined in the Public Procurement Law of September 2017 on the transposition of Directive 2014/24/EU.

Actors

- Contracting authority: Municipality of Madrid (Dept. of Procurement and Services and Dept. of Economy, Innovation and Employment)
- Bidders and contracted suppliers

Social impacts

- The regulation has led to increased attention by businesses and public authorities to the use of fair and responsible trade products in their catering services. The products covered by the regulations are the ones most affected by fair trade consumption: in 2016, coffee accounted for 43% of all fair trade sales, followed by sugar and sweets (40%), tea (3%) and other foodstuffs (7%).
- The regulation has thus helped the social conditions of workers in cacao, tea and sugar production by selecting products on the basis of a fair trade label. 126 contracts with fair or responsible trade clauses have been issued by Madrid municipal authorities in the period 2016-2018; 46 in 2018. This includes contracts for 47 nursery schools with canteen services.

Lessons learned and future challenges

- The municipality of Madrid has consistently used fair trade labels as a means to increase the positive social impact of the local administration.
- City officials have stressed the importance of computerised monitoring for the effective

implementation of the contracts, due to the large number of contractors and products involved. In addition, an urgent measure to provide effective ethical fair trade procurement and expand the scope of its use would be to provide for standardisation of labels.

- Due to the success of the initiative, the city council is currently considering expanding the range of products included in the list for fair trade.

Contact

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"An urgent measure to provide effective ethical fair trade procurement and expand the scope of its use would be to provide for standardisation of labels. It would also be necessary to report on the availability of measures adopted in each Member State to ease the work of the procurement manager and assure a correct functioning of the Single Market."

*Angel Rodrigo Bravo,
General Director of Contracting and Services, Madrid City Council*

21 The use of division into lots for reserved contracts with complex budget structure

Name of procuring authority, Country: Municipality of Corfu, Greece

Product or service sector: Food and catering



Image © KaiSPE, Corfu – New Horizons

Introduction/procurement objective

During the early 2000s and as a result of the mental health system reform, social entrepreneurship for social and work integration of people with psychosocial problems has been strongly promoted in Corfu. In this context, the Municipality of Corfu has achieved a high level of awareness regarding “social buying” and an important experience in the use of reserved tenders for work integration social enterprises.

In this particular case, the idea was to upscale the social purchasing activity of the Municipality by procuring the catering services for two different

municipal units with different funding sources (one education unit funded through a grant provided to the municipality by the Greek Ministry of Interior, and one social welfare unit co-funded by EU and national funds through a NSRF project) through one single reserved tender.

Subject matter

Provision of school lunches for the Corfu Music School and provision of prepared meals for women and children hosted at the Corfu Social Hostel for Victims of Domestic Violence.

Stage of procurement phase and criteria

The tender was launched by the municipality of Corfu on 28 December 2017 as a reserved tender for work integration social enterprises based solely on the criterion of cost (lowest price). The call was defined in an objective way and clearly stated that it was open to all work integration social enterprises based in Greece or any other Member State that were active in the catering sector and at least 30% of whose employees are persons with a disability or disadvantaged workers.

The particularity of this tender was the initiative of the awarding authority to divide the contract into lots in order to overcome the complexities arising from the fact that these two municipal units had different funding sources (different duration, different payment procedures etc.). The two lots were defined as follows:

- Lot 1: Catering services for the Corfu Music School for a period starting from the date of contract signature and ending on 31 December 2018 or later in the case of remaining supplies (and until depletion of supplies).



- Lot 2: Catering services for the meals provided to women and children hosted at the Municipal Hostel for Victims of Domestic Violence for a period starting from the date of contract signature and ending on the completion date of the co-funded project, 31 November 2018.

The contracting authority indicated in the contract notice that tenders could be submitted for one or both lots.

During the procurement stage, only one tender was submitted. The tenderer was KoiSPE Corfu New Horizons, a local social enterprise for the work integration of people with psycho-social problems with strong activity in the catering sector. The lack of more bidders should be attributed to the challenges linked to the nature of services procured (fresh meals) in combination with the geographical position of the island of Corfu, since enterprises based elsewhere should be able to secure the transfer of fresh meals by boat from the mainland (at least 1.5 hours) every day.

The contract was awarded to the sole tenderer, KoiSPE Corfu New Horizons. The provider performed the services competently and in accordance with the contract.

Social policy objective and/or reference standard

The social policy objective was to upscale the access of work integration social enterprises to the local public contract market through the use of one single reserved tender covering the purchase needs for more municipal units despite their different funding sources.

Verification

Verification of work integration purpose and required percentage of disadvantaged employees takes place both during the tendering stage, as well as during contract performance. Bidders (and later the contractor) are asked by the Contracting Authority to submit relevant certificates issued by competent authorities. In Greece, these certificates are issued by the Social Entrepreneurship Registry

of the Ministry of Labour and Social Affairs and (particularly for KoiSPEs) the Mental Health Directorate of the Ministry of Health.

The contract was performed successfully until the end of December 2018 for Lot 1 and end of November 2018 for Lot 2.

Contract Value

The total contract value for both lots was €177,653 without VAT, with Lot 1 having a value of €113,243 and Lot 2 a value of €64,410.

Instrument

- Art. 20 (on reserved contracts) and art. 46 (on division of contracts into lots) of Directive 2014/24/EU
- Transposed by art. 20 and art. 59 of Greek public procurement Law No 4412/2016

Actors

- Contracting authority: Municipality of Corfu
- Contracted service provider: KoiSPE Corfu New Horizons, a social enterprise under the legal form of KoiSPE (Limited Liability Social Cooperative) based in Corfu and specialised in the work integration of people with psycho-social problems.
- Supporting actors: EAADHSY, which is the Hellenic Independent Authority for Public Procurement (responsible for auditing and guiding national awarding authorities) and the Region of Ionian Islands (responsible for the management of the NSRF Regional Operational Programme through its special regional Managing Authority) provided their technical assistance and advice to the Municipality in order to address the complexity related to the different funding sources of the contract. Their positive approach and cooperation contributed to the success of this effort.

Social impacts

The winning bidder, KoiSPE Corfu New Horizons has

234 members (mental health professionals and people with psycho-social problems) and a large range of entrepreneurial activity, such as catering, cleaning, food production and processing, parking lots management and open space care. It employs 85 persons, 60 of whom are people with mental illness. Therefore, the percentage of workers with disabilities is over 70%, surpassing the 30% minimum stipulated in the tender.

The social impact of this specific call has not been measured. However, KoiSPE Corfu New Horizons has measured (through external evaluation carried out by independent experts - a psychiatric and a HR expert) the social impact of its economic activity for the last five years (2014-2018), around half of which relates to the performance of public contracts. According to the available data, the social impact achieved by KoiSPE Corfu New Horizons on the health and well-being of the people with mental illness it employs include:

- Significant reduction of relapses (-35%)
- Significant improvement in communication indicators at work (+25%)
- Reduction of the need to use mental health service
- Occupational and social inclusion
- Improvement of stress management
- Improvement of learning skills
- Significant revenue assistance

In general, the economic activity of KoiSPE Corfu New Horizons has also contributed to the local economic and social development of the island, achieving the following benefits:

- Community awareness
- Sustainability of local social entrepreneurship
- Development of good practices for other vulnerable groups
- Reduction of the need of services from the local health and social welfare sub-systems

Other benefits

- The case has high replication potential for other contracting authorities in Greece and other

countries implementing projects under NSRF – especially at the regional level.

Lessons learned and future challenges

This case was a bold effort by a small local government authority towards a more complex model for reserved tenders. The main lessons learned can be summarised as follows:

- Social procurement can be applied successfully even if the contract budget has complex funding sources.
- Division of a contract into lots is a smart approach, which can be used not only to facilitate social enterprises' access to the public contract market, but also in order to provide flexibility in complex procurement cases.
- As the main challenge in such cases is that all parties participating in the funding of the contract budget agree on the use of a single reserved tender in spite of the different funding mechanisms, the key to success is close cooperation between the awarding authority and the competent NSRF Managing Authority. Empowerment provided by national procurement auditors can also be of critical importance.

The main future challenge is raising awareness among local awarding authorities and regional NSRF managing authorities regarding the streamlined promotion of social procurement in public contracts linked to EU co-funded projects.

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"Dividing the contract for the provision of catering services for the Municipality of Corfu enabled the KoiSPE Corfu New Horizons - a social enterprise employing people with mental health issues - to win the contract"

Athanasios Papavlassopoulos,
General Director of KoiSPE Corfu New Horizons



22 Reserved contracts for work insertion to achieve multiple sustainability goals

Name of procuring authority, Country: Federal Public Planning Service for Social Integration, anti-Poverty, Social Economy & Federal City Policies (PPS SI), Belgium (<https://www.mi-is.be>)

Product or service sector: Food and catering



Image © BE FEAD, Sara Heyvaert

Introduction/procurement objective

PPS SI is a federal public agency of Belgium with the mission to guarantee a dignified existence for all those living in poverty through the design, implementation, evaluation and follow-up on an inclusive federal policy for social integration. In this context, PPS SI is also responsible for the management of the FEAD (Fund for European Aid to the most Deprived) operational programme in Belgium, which provides food assistance to people in need. As the national FEAD Managing Authority, PPS SI procures all food products to be distributed

for free to people living under the poverty threshold.

In this particular case, the objectives of the awarding authority were threefold:

1. Securing healthy and nutritious products for the most deprived people in Belgium,
2. Contributing to the prevention of food waste by requiring the use of unsold vegetable surpluses as raw materials and,
3. Enhancing work insertion of disadvantaged workers by reserving the contract award process for work insertion social enterprises.

Subject matter

Preparation, packaging and transport to predefined storage areas of soup prepared with vegetable surpluses. The soup would be one of the food products to be distributed for free to the most deprived under the national FEAD Programme of Belgium.

Stage of procurement phase and criteria

The procurement process was launched by PPS SI in 2018 as a competitive procedure with negotiation reserved for sheltered workshops and economic operators whose main aim is the social and professional integration of people with disabilities and disadvantaged persons. The value of the contract was below the EU threshold, and the use of this procedure allowed bidders to tailor their offer to the expectations of the Contracting Authority and to negotiate on price, in the event that this exceeded the available budget.

The call was defined in an objective way, inviting all types of work integration social enterprises either

based in Belgium and fulfilling the “insertion social economy” criteria set in article 59 of the Law of 26 March 1999 (relative to the Belgian Action Plan for Employment of 1998), or based in any other Member State or a country that is a party to the Agreement on Government Procurement (GPA) and fulfilling equivalent criteria under the relevant national legislation.

In view of the complexity and innovative character of the particular procurement, the awarding authority organised an information session for potential bidders prior to the deadline for submission of tenders.

The award of the contract was based on the most economically advantageous tender, corresponding to the best price to quality ratio assessed on the basis of two criteria:

1. Proposed price per unit of the end product (70% of the total score)
2. Description of the proposed approach for the performance of the contract (30% of the total score), including 3 subcriteria:
 - The reliability of the proposed source of vegetable surpluses;
 - The credibility of the proposed production process of the soup; and
 - The credibility of the proposed delivery schedule of the product to the storage areas indicated by the awarding authority.

During the procurement stage, only one tender was submitted by a consortium of several social enterprises, which was eventually awarded the contract. The lack of more tenders can be attributed to the highly demanding character of the technical specifications for the services (stringent technical specifications for food products, strict delivery deadlines, deliveries in refrigerated environment etc.), which exceeded the capacity of other operators in the social enterprise sector.

The successful consortium has performed the services competently and in accordance with the contract during the period October 2018 to July 2019.

Social policy objective and/or reference standard

The social policy objective of this procurement, as clearly stated in the call for tenders, was the pursuit of social and professional integration for people with a disability or disadvantage. In Flanders, employees of work insertion social enterprises include people with (light) mental or physical disabilities and other people who are not able to work in the regular employment market (people with severe psychological problems, including refugees who went through traumas, people lacking necessary social skills, etc.).

Verification

Before awarding the contract, verification included:

- Administrative requirements of the bidders (social economy enterprise, solvency, etc.)
- Origin of the vegetable surpluses
- Production and packaging methods
- Planning of the deliveries

The administrative requirements were verified by the Purchasing experts of the Financial Department, on the basis of the information available via the financial and fiscal databases (Knuspuntbank) and via the register for recognised social economy enterprises. The verifications on the other three elements were done by the FEAD Managing Authority on the basis of the documents included in the offer.

During the contract, verification included:

- Quality control of the product
- Quality of the deliveries

The FEAD Managing Authority verified the quality of the products and the deliveries. For the quality of the products, they take samples and get them tested in a laboratory. For the quality of the deliveries, they carry out one or more spot checks at the moment of a delivery.

After deliveries, verification corresponded to matching of all delivery documents with the



invoices to ensure the full quantity of products had been delivered as planned. Although there were no performance criteria of “social” nature, PPS SI imposed a set of environmental performance criteria, such as the use of recycled paper and prioritisation of electronic exchange of data in order to limit paper use, in compliance with its EMAS label for the minimisation of the environmental impact of its activities.

Contract value

The total value of the contract amounted to €134,500 (not including VAT).

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU
- Transposed by Art. 15 of the Belgian Public Procurement Law of 17 June 2016

Actors

- Contracting authority: Public Planning Service Social Integration (PPS SI)
- Contracted service provider: Consortium of 10 work insertion social enterprises led by Trabajo Arbeidskansen vzw.
- Supporting actors: The Belgian Federation of Food Banks supported the process by accepting deliveries of the product to their premises and further distributing it to PPS SI’s FEAD partner organisations.

Social impacts

In this first pilot effort, the idea was to explore how a single procurement could be designed in a way which would enhance social, economic and environmental sustainability goals. The contracting authority hopes to build on this experience to set up similar projects under ESF+ in the next programming period 2021-2027, together with other regional authorities.

The reservation of the contract for sheltered workshops and employment programmes magnified

the social impact, while the competitive procedure with negotiation was used to challenge bidders to provide a product designed to prevent food waste (soup prepared with vegetable surpluses). Although the formal evaluation of this process has not been concluded yet, the most important impacts include the following:

- Social enterprises had the opportunity to test their ability to produce fresh food products according to strict technical specifications and to invest in the necessary equipment and systems.
- The contracted consortium of 10 social enterprises collaborated to deliver on this contract, and thus will be better adapted to collaborate with other social enterprises and compete for public contracts in the future.
- The awarding authority had the opportunity to secure a sustainable and healthy food product for the most deprived, as well as to actively use vegetable surpluses and avoid food waste.

Other benefits

- By inciting recovery of vegetable surpluses for the soup, the contracting authority achieved a reduction in food waste and corresponding decrease in organic waste volume to be treated by regional waste management. Use of these vegetable surpluses also demonstrate a resource efficient and economical way to manage the Belgian implementation of the FEAD Programme.

Lessons learned and future challenges

- The case has a high replication potential for awarding authorities in all other EU Member States implementing projects under the FEAD Programme. For those who are interested in conducting similar procurements, the following tips should be taken into account:
- The capacity of social enterprises and their ability to create a consortium is a crucial factor for success. The contracting authority should research market capacity to ensure they receive competitive bids capable of delivering the desired products or services.

- This case is marked by strong innovative aspects because it promotes simultaneously social viability (social procurement) and natural resources viability (prevention of food waste) in the context of an EU Programme implemented nation-wide.

The main lessons learned can be summarised as follows:

- Socially Responsible Public Procurement can contribute both to social and natural resources viability when awarding authorities combine different tools in an imaginative way.
- The nature of the FEAD Programme as a food distribution programme makes it a suitable context for the achievement of sustainability goals in the field of food waste prevention.

Future challenges include the following:

- Supporting social enterprises in order to enhance their capacity to respond successfully to this type of procurement.
- Improving technical requirements in a way that will make the logistics easier and more cost efficient (e.g. limit the need for refrigerated storage).
- Designing special cooperation techniques between the FEAD Programme and ESF programmes (e.g. local ESF initiatives) in order to enhance funding sources for employment and training costs involved in this type of procurement.

Contact

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"The food project is an initiative aimed at fighting against poverty, but it can also support social enterprises and reduce food waste."

Alexandre Lesiw,
President, SPP IS



23 AQUA Mühle & Cities of Feldkirch and Bregenz team up for social food services

Name of procuring authority, Country: City of Bregenz, Austria and City of Feldkirch, Austria

Product or service sector: Food and catering



Image © AQUA Mühle

Introduction/procurement objective

In 2017 and 2018, two municipalities in Western Austria, Bregenz and Feldkirch, made use of the possibilities the procurement law provided to promote social and ecological sustainability. The goal of the two tenders analysed was to provide healthy food to all public schools and kindergartens, while simultaneously contributing to a social goal.

The public tenders for catering for all public schools and kindergartens thus included award criteria based on employment of long-term unemployed people and persons with disabilities. Both contracts

were won by a work integration social enterprise, AQUA Mühle.

Subject matter

Inclusion of social and environmental considerations in tenders related to the provision of food to public schools and kindergartens in the county of Vorarlberg, Austria.

Stage of procurement phase and criteria

Award criteria: A total of 100 points were awarded based on the following criteria:

- price (50)
- quality of menu planning (5)
- formal criteria regarding menu planning (20)
- quality of food (10)
- reducing environmental burden (5)
- reducing response period (5)
- employing long-term unemployed people (2.5)
- employing people with disabilities (2.5)

Social policy objective and/or reference standard

The basic reference standard was the Austrian Bundesvergabegesetz 2006, which allows for the inclusion of aspects related to social policy and ecological criteria (5. Abschnitt: Grundsätze des Vergabeverfahrens, §19 (6); 6. Abschnitt: Die Ausschreibung – 4. Unterabschnitt: Bestimmungen über den Leistungsvertrag, §99(1)).

The social aim of this procurement was inclusion of disadvantaged people through labour market integration, in order to fight long-term unemployment and link social, economic and ecological sustainability.

Verification

AQUA Mühle was awarded both contracts as the tenderer with the highest overall score, and also received points for inclusion of long-term unemployed and disabled persons as employees.

Regarding the employment of people with disabilities, AQUA Mühle provided a declaration by the public health insurance company (Gebietskrankenkasse) of employees' disability status. For long-term unemployed workers, the tenderer submitted internal documentation as proof to the contracting authority.

Internal indicators and calculations concerning the share of ecological food products were provided to the contracting authority, as well as disclosure of the main food suppliers.

To date, there has been no further evaluation of these criteria.

Contract value

Both contracts had a duration of one year. The contract in Bregenz had a value of approximately €300,000, while the contract in Feldkirch was for approximately €400,000. Combined, they represent 150,000 meals in public schools per year.

Instrument

- Art. 67 on award criteria of Directive 2014/24/EU.

Actors

- Contracting authority: Bregenz municipality and Feldkirch municipality,
- Contracted supplier: AQUA Mühle is a work integration social enterprise with a large range of activities, including food services, that is well-established in the region; it won the two contracts. AQUA Mühle offers training and employment for long-term unemployed and other vulnerable groups. The organisation has long-standing experience regarding food services. It provides

catering to public institutions as well as to private organisations and individuals, runs a café and produces healthy convenience products.

Social impacts

- Inclusion of social criteria in this procurement contributed to labour integration of long-term unemployed and disabled persons in the area. The contracting authorities were able to ensure quality food for their public schools, while also achieving social and environmental goals.
- As the contracted entity was a local company, an added benefit of the employment for the procurement is that the generated wealth stays within the community.

Other benefits

- Environmental benefits were achieved through reduced transport in the region related to the provision of school meals, as well as promotion of more ecological food.
- In principle this practice is transferable, although not all work integration social enterprises have the size, experience and potential to participate in tenders such as this.

Lessons learned and future challenges

- More communication with the contracting authority prior to the start of the contract might be helpful, as it allows to better assess possible future scenarios affecting the subject matter of the contract. For example, the contractor is of the opinion that increased dialogue between the contracting authority and the contractor on aspects such as possible changes regarding the contract volume (e.g. additional kindergartens) would be useful.

Contact

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24 Emilia-Romagna opts for furniture with reduced environmental and social impact

Name of procuring authority, Country: Intercent-Emilia Romagna, Italy

Product or service sector: Furniture



Introduction/procurement objective

The 'Regional Agency for the development of electronic markets of Emilia Romagna' (Intercent-ER) is a pioneering regional institution for collective purchases funded by the regional government of Emilia Romagna.

Since its activation in 2006, Intercent-ER acts as a central purchasing unit for the regional public administration and manages the eProcurement system. Having established itself as a leading institution in green and social public procurement and sustainable practices, it has won the Italian Social Procurement Award at the Compraverde Forum (an annual national event on sustainable public procurement in Italy) for two consecutive years.

In 2018, a procurement procedure encompassing

the purchase of furniture for public administration offices was launched. The objective of the tendering process was to provide the offices with a renewed set of furniture with reduced environmental impact. Moreover, the disposal of the replaced furniture was also part of the procurement, with the objective to donate it to a charitable organisation, such as the Red Cross or other voluntary work organisations registered in Italy or in a foreign country.

Subject matter

Purchase of new furniture with reduced environmental and social impact

Stage of procurement phase and criteria

The procurement process started on 21/11/2017 with publication on the Intercent-ER website and on the OJEU portal. A two-stage procedure was

used. Two rounds of Q&A were allowed during the open phase and published on the website in a transparent way. The procurement was divided into 3 lots, based on the material and technical specifications of the furniture. The goal of the division was to help specialised suppliers to apply for the call. The contracts would last for 24 months, with the possibility of a renewal for 12 months after the expiration date. The contract was awarded on the basis of the most economically advantageous tender, with attention paid to the technical quality, environmental and social standards in offers. Seven enterprises participated in the procurement; three different companies were awarded lots respectively for metallic furniture, wooden furniture and chairs.

Award Criteria

The award criteria were weighted as follows:

- Cost - 30%
- Technical Offer - 70%

The Technical Offer included social criteria that provided 7 out of 70 points (10%) and were divided as follows:

- 2 points for holding the SA 8000 certification, or equivalent, against child, forced and discriminated labour
- 2 points for holding the BS OHSAS 18001 label, or equivalent, on safety and health protection
- 3 points for the reuse of old furniture, proved by a declaration in the tender

In addition, up to 5 points were available for holding EMAS, ISO 14001 or Carbon Footprint standard or equivalents.

Contract performance conditions

The contract terms also included a mechanism to assess and ameliorate the supply-chain in the monitoring phase of the contract through the establishment of an evaluation system. The monitoring mechanism relies on the declaration by the bidding enterprises on how the clauses in

the contract will be performed in light of the social objectives of the tender. Once the documentation is received, Intercent-ER staff monitor and verify compliance, as described in the verification section below. Bidding companies are encouraged to map the supply chain of their products and to verify compliance with the social norms of the bidding organisation, to avoid social dumping.

Social policy objective and/or reference standard

The social policy objectives of the tendering procedure were twofold:

- Regarding the fostering of social labels and standards, the administration wanted to ensure an adequate social standard for enterprises working with the regional authority and thus foster a policy of social sustainability across the region.
- Concerning the reuse of old furniture, the social objective aimed to create an environment of positive partnerships between the public administration, private enterprises and not-for-profit organisations.

The tendering process relied on two main social reference standards in the award criteria, SA 8000 and BS OHSAS 18001:

- SA 8000 is an international certification standard that encourages organisations to develop, maintain and apply socially acceptable practices in the workplace; it includes issues of child labour, freedom of association, discrimination, working hours and managerial systems with attention for the employees.
- The BS OHSAS 18001 label concerns the occupation and health assessment of the workers. Organisations that apply for the BS OHSAS 18001 standard should ensure a system of safety and health protection for their employees

The environmental standards were in compliance with the Ministerial Decree of 11 January 2017 regarding technical specifications of the furniture and energy savings. The Decree's main objective



was to foster energy savings in the public administration in light of the European Objectives for the year 2020.

Verification

The procurement was particularly attentive of the follow-up verification mechanism for ensuring effective performance of the tender. Verification comprised the following:

- The awarded company agrees to accept external audits for the verification of minimum social standards;
- Within 6 months of award of the contract, the company should provide Intercent-ER with a clear and documented vision of the supply-chain for the products to be delivered;
- A monitoring and evaluation system along the supply-chain should be in place with the “continuous improvement” of environment and social standards at its core;
- Within 12 months of the start of the contract, the contractor should provide a document on the corrective actions undertaken on the supply-chain.

Contract value

The contract has a total value of €4.1 million for 2 years, subdivided as follows:

- Lot 1: €1.65 million (wooden furniture)
- Lot 2: €1.05 million (metal furniture)
- Lot 3: €1.38 million (office seats).

Instrument

- Art. 67 (on contract award criteria) and art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.
- The Italian legislative decree of 18th April 2016.

Actors

- Contracting Authority:
 - The Emilia Romagna region
 - Intercent-ER - regional public purchasing authority, who coordinates the procurement

- Participants in preliminary market consultations
 - Armet s.r.l.;
 - Mobilferro s.r.l.;
 - Metalplex s.p.a.;
 - L.T. Form2 s.r.l.;
 - Laezza s.p.a.;
 - Moschella sedute s.r.l.;
 - SO.C.A.M. Società Cooperativa
- Contracted service providers
 - Lot 1 (wooden furniture): Metalplex s.p.a
 - Lot 2 (metal furniture): Mobilferro s.r.l.
 - Lot 3 (office seats): Moschella sedute s.r.l

Social impacts

- The procurement has marked an innovation in the approach of regional authorities towards the implementation of social criteria in public procurement. Intercent-ER has witnessed the interest of local entities and NGOs working on sustainable development and social sustainability. Due to the recent start of the contract, at the moment no destination organisation has been identified to receive the used furniture; however, the process is being monitored by Intercent-ER.
- The region began a path towards sustainable public procurement practices in 2011; since then, socially responsible criteria have been included in thirty contracts issued by Intercent-ER. The initiative has been considered a success. Nowadays, the majority of the tendering enterprises and bidders looking for public procurement opportunities are more likely to hold the SA 8000 certification; moreover, an increasing number of them compete on the ground of socially responsible characteristics.

Lessons learned and future challenges

- Intercent-ER is eager to continue using socially responsible procurement, with even more ambitious targets. However, the administration has stressed the importance of dissemination instruments, mostly training, among both the regional administration offices and the enterprises to provide for more concrete results.

- Intercent-ER will continue to reward and value corporate social responsibility in tendering enterprises as a means to optimise social undertakings and resources in the region. Moreover, the regional authority hopes to pursue and link national and regional strategies for social integration through integrated public procurements, as well as the development of a socially responsible market on the supply and demand sides. Thus, social procurement would be central for the implementation of responsible demand in product sectors more resistant to change; Intercent-ER is committed to a wider presence of SRPP clauses in future contracts.

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"Intercent-ER is eager to continue using socially responsible procurement, with even more ambitious targets; it will be central for the implementation of responsible demand in product sectors more resistant to change"

Intercent-ER Communication



25 Centralised procurement of office furniture for Romanian public institutions

Name of procuring authority, Country: National Office for Centralised Procurement (NOCP), Romania

Product or service sector: Furniture



Image © MagicDust on Pixabay

Introduction/procurement objective

The objective of this public procurement procedure is to manage the centralised acquisition of office furniture in conditions of economic efficiency and at the same time to increase the awareness of the actors involved (contracting authorities and bidders) about the social aspect.

NOCP, as a centralised body for public procurement, investigates customers' needs (government and public institutions) regarding office furniture. After that, NOCP decides which products will be purchased in the centralised system, defines the

technical specifications for the selected items and purchases the office furniture in a centralised way by establishing a framework agreement with a minimum of three economic operators.

NOCP is in the preparation stage of the acquisition of office furniture. This pre-procurement phase aims to identify the specific needs of the Romanian government and public institutions, as well as to test the interest of potential economic operators to implement social considerations in the procedure. It is expected that the procedure will be launched in April 2020.

Subject matter

Office furniture

Stage of procurement phase and criteria

Pre-procurement:

The pre-procurement stage was announced in SEAP (Electronic System of Public Acquisitions in Romania) and was carried out in 3 steps:

1. Submission of a questionnaire by means of an open consultation,²² which was completed by 6 economic operators;
2. At the stage of writing the procurement documents, a first meeting with potential economic operators was held to inform them about the intention of NOCP to launch an acquisition with social and environmental criteria;

²²<http://e-licitatie.ro/pub/notices/mc-notice/view/100059944>; NOCP also sent invitations to 25 economic operators, 4 profile clusters and the Furniture Manufacturers Association in Romania.

3. A second meeting was held in the form of a market consultation with potential bidders after having collected the needs of the public authorities, with the aim of finalising the procurement documents.

Five economic operators took part in the second meeting. After having assessed the public authorities' needs, a third meeting will take place.

The following questions were asked in the market consultation:

- Do you agree with the promotion of social responsibility policies in the field of public procurement by establishing evaluation factors in this regard? *The answer from potential suppliers was, in unison, yes.*
- What social responsibility policies do you propose for this centralised framework agreement? *Answers from potential suppliers included: investments in the community (social projects), inclusion, use of technology to solve social problems, business ethics, users' rights, economic and social equity, environmental protection, equal opportunities and moral integrity.*

Technical specifications:

One of the lots relates to the provision of height-adjustable office furniture, to ensure all staff are able to use equipment suitable to their needs. This includes those with physical disabilities or lumbar disorders, who may stand to work.

Award criteria:

The contract will be awarded on the basis of the most economically advantageous tender. Criteria will be weighted in the following way:

- Price: 80%
- Additional product guarantee (warranty): 10%
- The value of the proposed social project: 10%.

Regarding the warranty, the following points are given:

- 0 points if the economic operator offers a 3-year warranty (minimum requirement)
- 5 points for 4-year warranty
- 10 points for a 5-year warranty.

The social project will involve the provision of furniture in social services, such as special schools or kindergartens or elderly homes. The bidders will be informed in the procurement documents (notice of participation, specification, framework agreement and subsequent contract) about the fact that the social project would need to be directly related to the products provided, in compliance with art. 67 of Directive 2014/24/EU. The social project will have to be completed in the first year of the contract.

Contract performance conditions:

The contract documentation contains a "Declaration regarding the observance of environmental, social and labour conditions throughout the duration of the works contract".

Social policy objective and/or reference standard

The social policy objective of this procedure is to provide effective and inclusive public services taking into account the specific needs of the users. One specific objective of the Romanian National Strategy for Social Inclusion of Persons with Disabilities (2014-2020) is to provide facilities regarding the arrangement of work space for persons with disabilities (depending on the type of disability), such as architectural adaptations or adapted furniture. In this respect, people with disabilities will be able to carry out individual or team activities if they have suitable furniture according to their needs. Moreover, NOCP will take appropriate measures to ensure that economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law and national law in the performance of public contracts. The declaration included in the contract documentation is modelled on Art. 18 of Directive 2014/24/EU, which requires compliance with applicable environmental, social and labour law.



Verification

The proposed social projects will be evaluated based on the amount of invested capital. The release of the financial guarantee of good execution will be dependent upon the fulfilment of the declared project. A set of minimum technical requirements have been requested from the bidders for the lot regarding the height-adjustable office furniture and non-compliant bids will be rejected.

Contract value

The total value of the contract has not yet been determined, but it is estimated that it will exceed the threshold for advertisement in the Official Journal set by the Commission Delegated Regulation (EU 2019/1828) of 30 October 2019.

Instrument

- Articles 18(2), 40, 42, 67 and 70 of Directive 2014/24/EU.

Actors

The actors involved in the procurement are:

- Contracting authority: NOCP, as the centralised body for public procurement;
- Beneficiaries: Contracting authorities registered in the Users Registry who will transmit their needs to the NOCP;
- Employees of the contracting authorities who will be the end users of the purchased furniture;
- Economic operators who will submit tenders to participate in the centralised procedure and their employees.

NOCP will purchase on behalf of the contracting authorities registered in the Users Registry who have transmitted their needs. As of February 2020, 2,978 users are registered in the Users Registry, according to: http://onac.gov.ro/wp-content/uploads/2019/10/RU_07.10.2019_ONAC.pdf

Considering that the first centralised public procurement for printing paper involved 1,153

public institutions, it can be anticipated that over 1,000 users will participate in the centralised public procurement of office furniture.

Social impacts

- By allocating additional points for the social aspect with regard to the funds allocated to social projects, NOCP intends to direct some of the bidders' profit towards social projects.
- In order to promote labour inclusion of people with disabilities and/or atypical height, NOCP has created a specific lot aimed at these groups to facilitate their workplace integration.

Other benefits

- As this procedure is the first centralised procurement of office furniture in Romania, the impact of using social criteria is expected to be very high, as the purchases made by NOCP will be taken as a benchmark by other national contracting authorities.
- Moreover, the procurement procedure of NOCP may be replicated by other centralised procurement units from other EU countries.

Lessons learned and future challenges

- n/a, as the procedure is still ongoing.

Contact

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"The Romanian National Office for Centralised Procurement (NOCP) acquires furniture for public institutions by creating a lot for disabled and atypical people, as well as taking height into consideration. Together with price and warranty, NOCP used a social factor as an award criterion in this acquisition."

*Alin Ion Izvoran Director,
National Office for Centralised Procurement*

26 Collaboration with Social Cooperatives for labour market inclusion in Tuscany

Name of procuring authority, Country: ESTAR, Italy

Product or service sector: Gardening



image © stevepb on Pixabay

Introduction/procurement objective

An open procedure for the maintenance of green area services for Tuscan healthcare establishments was launched in May 2017 by the contracting authority ESTAR (a technical-administrative regional support entity, established by Law 40/2005).

The procurement objective was to include the participation of type b social cooperatives (hereinafter 'social cooperatives') and promote the work integration of people with disabilities and disadvantaged people, while ensuring a positive impact on the environment. This was achieved by:

- dividing the contract into lots (eight out of eleven of which were reserved for social enterprise); and,
- including environmental and social requirements.

Subject matter

Maintenance of healthcare establishments' green areas in the region of Tuscany, Italy.

Stage of procurement phase and criteria

Award criteria

The award criteria used for the reserved lots 1-8 were:

Social criteria (total 22 points):

- Actions and procedures relating to the recruitment, selection and placement of workers to be integrated in the job market - 4 points
- Work organisation methods - 7 points
- Methodology for the support of the workers during the performance of the service - 7 points



- Trainings, including number of hours and objectives per individual - 4 points

Environmental criteria (total 40 points):

- Using techniques which avoid the need to use pesticides (phytopharmaceuticals)- 12 points
- Using irrigation practices and technologies which diminish water consumption - 2 points
- Planting native plant species that are appropriate to the characteristics of the territory (i.e. climate, watering needs and endemic illnesses) - 5 points
- Using compost as a fertiliser - 8 points
- Using recycled or reused containers and wrapping - 5 points
- Using products which conform with European ecological criteria - 8 points

Contract performance conditions

The contracts for each of the eight lots contain social and environmental clauses for the social cooperatives to implement. The social clauses require the contracted social cooperatives to:

- Promote stable employment of the contracted employees by committing to offer an employment contract for the whole duration of the tender contract, i.e. 72 months; and
- Commit to employ for the whole duration of the contract the staff previously employed to carry out the same services at the premises of the Health Agencies, staff that belongs to the categories of disadvantaged worker or with disabilities (employment safeguard clause); the contractor can employ new staff belonging to the same categories to fulfil the obligation of having at least 30% of the workforce employed to perform the services specified in the contract.

In addition, environmental clauses require the contracted social cooperatives to adopt methods, techniques and products which do not use an excessive amount of water or certain pesticides, and where relevant make use of recycled and reused materials.

Social policy objective and/or reference standard

- Provide work integration opportunities for employment to persons that are disabled or disadvantaged.
- Promote access to public procurement markets by social cooperatives.
- Ensure decent work standards for people employed in social cooperatives.

Verification

Monitoring is carried out by the Health Agencies of Tuscany Regions and ESTAR (central purchasing body). Health Agencies define the schedule and the ways monitoring will happen, on the basis of their regulations. ESTAR can carry out ad hoc monitoring activities on the verifications carried out by Health Agencies, such as spot checks and inspection visits, to ensure that the contractual obligations are being fully fulfilled. These ad hoc checks can regard the obligations included in the technical specifications, as well as the services included in the technical offer of the contractor that were subject to evaluation by the contracting authority.

Contract value

About €24 million for the eight reserved lots, out of a total contract value of €40 million for all eleven lots (duration of 72 months)

Amounts per lot:

- Lot 1: €3,110,000
- Lot 2: €6,000,000
- Lot 3: €3,400,000
- Lot 4: €810,000
- Lot 5: €1,910,000
- Lot 6: €625,000
- Lot 7: €3,610,000
- Lot 8: €4,685,000

Instrument

This practice stems from a Memorandum of Understanding (MoU) signed on 10 April 2017 for a duration of five years, between the Tuscan Region, ESTAR, ConfCooperative Toscana, Federsolidarietà,

Legacoopsociali, Lega Coop Toscana and the General Italian Cooperatives Association (AGCI), with the aim of promoting relations between the public institutions and social cooperatives. The Memorandum specifies that contracting authorities commit to using tools such as reserved contracts above and below the threshold for social cooperatives and division into lots to guarantee the participation of SMEs.

The Region of Tuscany developed the Regional Law 31 October 2018, n. 58 “Norms for social cooperation in Tuscany”, the MoU was a cornerstone for the development of this law. In this new law, the Region of Tuscany puts in place innovative responses that address both job placement for disadvantaged and disabled people, and the management of social services, health care and educational services.

Actors

- Contracting authority: ESTAR – central purchasing body
- MoU stakeholders: Social Cooperative organisations
- Contracted social cooperatives and their employees

Social impacts

- The awarded social cooperatives are strengthened through their involvement in public procurement, which as a result contributes to capacity building for the operators and ensures the sustainability of their programmes and projects. Because of the nature of the functioning and work of social cooperatives in Italy, this also translates into labour market integration of disadvantaged individuals as well as benefitting from the support measures they offer.

Other benefits

- The inclusion of environmental criteria for the products and techniques involved in maintaining green services reduces the environmental impact of the services, and may also benefit the health of workers.

Lessons learned and future challenges

Despite the successful implementation of this specific practice, to date the contracting authorities have not published as many calls for tenders using the tools of the MoU (i.e. reserved contracts or division into lots) as was anticipated by the signatories, who report that very few contracts of this type have been published. Therefore, the future challenge will be to translate the policies of the region into concrete actions. The political will which is needed to implement socially responsible public procurement exists, as demonstrated by the MoU and the Tuscan Regional law of 2018. However, in order to encourage and support contracting authorities (officials and directors) to introduce social considerations in their calls for tender, there is a clear need for more targeted awareness raising and training on socially responsible public procurement.

Contact

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“Social cooperatives have managed to transform disadvantages and vulnerabilities into opportunities, and job creation is a central part of this. Social coops have successfully integrated individuals in a situation of vulnerability into society and the labour market, acting as a competitive enterprises and key actors of local development. But we cannot do this alone!”

Confcooperative-FEDERSOLIDARIETÀ Toscana



27 Reserved contracts for gardening services in Castilla – La Mancha

Name of procuring authority, Country: Regional Government of Castilla - La Mancha, Spain

Product or service sector: Gardening



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Introduction/procurement objective

The Department identified an opportunity to launch this procurement procedure for gardening services in the form of a reserved contract. Whilst national and regional legislation on public procurement promotes reserved contracts as a tool for professional and social inclusion among people with different forms of disadvantage, contracting authorities are still reluctant to apply such procedures in some cases. This is often due to lack of knowledge of social economy operators and their potential to respond to public authorities' needs.

In this procedure, pre-procurement was therefore key to understand the opportunities available in the market, ensure that contract requirements were suited to the specific nature of Work Integration Social Enterprises (WISEs) and their employees and, therefore, guarantee a successful delivery

of the service. The procedure also includes social considerations for the execution of the contract. The total value of the contract is significantly below the threshold for application of Directive 2014/24/EU.

Subject matter

Gardening services to be performed at the headquarters of the regional Department of Economics of Castilla - La Mancha and a training centre in the City of Toledo.

Stage of procurement phase and criteria

The call for tenders was published on 2 August 2019.²³

²³ https://contrataciondelestado.es/wps/wcm/connect/e632650d-197a-4981-95c0-ff6bcf877dc6/DOC_CD2019-843013.html?MOD=AJPERES (in Spanish)

The Department aimed to launch this procedure as a reserved contract for WISEs. The Department devoted significant efforts to the pre-procurement phase in order to ensure that the contract requirements for the gardening service would be suited to the characteristics of WISEs and their workers. This market research represented one of the Department's first experiences with pre-procurement.

After the initial market research phase, the Department investigated further on the specificities of WISEs, including the collective agreement applicable to this type of operator.

The procedure included social considerations as conditions for the performance of the contract. The contract included an obligation to establish employment relationships that conform with the applicable collective agreement with regard to pay, training and social security obligations.

In addition, under the contract terms, employment contracts had to have a minimum duration of 20 hours per week. The contractor was required to provide the contracting authority with information regarding the working conditions of the persons employed in the execution of the contract.

The contractor was also required to integrate a gender dimension in the performance of the contract (for example, a commitment to equal treatment and to present gender-disaggregated data). The gender perspective was to be included in all documents, reports, data, etc.; all dissemination materials were to be gender-neutral.

The qualitative award criteria addressed the use of indigenous plants, non-chemical herbicides, sustainable plant protection products and organic fertilisers. The weight of these criteria was a maximum of 10 points (2.5 for each), while the remaining 90 points were determined by price only. Tie-break criteria for offers that were equally scored included the following social criteria (in this order): a) tenderer with the greatest share of workers with disabilities or other forms of social exclusion, with preference for the number of permanent workers

in case of an equal share; b) lowest share of fixed-term contracts and c) greatest share of women employed.

Social policy objective and/or reference standard

- Provide opportunities for employment to persons that are far from labour markets and are at risk of social exclusion.
- Promote access to public procurement markets by WISEs.
- Ensure decent work standards for people employed in WISEs.

Verification

The contracting authority monitors and reports on compliance with social clauses on a quarterly basis. To this aim, it may request a written declaration from the contractor when needed.

The contractor is also required to nominate a person responsible for liaising with the contracting authority and oversee the execution of the contract, with special attention to the organisation of tasks among workers, their presence at work or any changes in the team.

Contract value

€23,747 over 2 years.

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU
- Transposed in Spanish legislation (Law 9/2017, disposición adicional 4a), whereby competition is restricted to sheltered workshops, sheltered employment programmes and Work Inclusion Social Enterprises (WISEs) employing at least 30% of persons with disabilities or other forms of disadvantage.

Actors

- Contracting authority: The Department of Economics, Government of Castilla - La Mancha
- Contracted service providers: WISEs



- Employees of the contracted enterprise: Workers in charge of performing the gardening services are employed by the contractor. When a new contract for the service is launched, there is a commitment to absorb the current employees in accordance with Directive 2001/23/EC.

Social impacts

- The contract has facilitated the work integration of three full-time employees with disabilities – both physical (two) and intellectual (one) – within a mainstream work environment at the public administration.
- Employees are fully integrated with the rest of the employees at the Department, who acknowledge the value of their work. The service has been carried out successfully without major problems and is fully in line with the specifications and expectations of the contracting authority.

Lessons learned and future challenges

- The experience has been fully positive and, for this reason, the Department has shared the details of this procedure with other contracting authorities in order to encourage its replication. Whilst there is an obligation under a regional law to reserve at least 6% of the value of contracts for specific services, contracting authorities are sometimes reluctant to apply such procedures as they are perceived as relatively new and thus unfamiliar.
- Once the present contract is concluded, a new tender will be launched following the same approach. In this case, the Department aims to increase the weight of quality criteria in the award criteria (still largely determined by price). It also aims to reach other target groups, for example by establishing partnerships with public employment services and social services who can refer WISEs with relevant profiles.
- Investing time in the pre-procurement stage has ensured a good fit between the specification of the service and the solutions available in the market for reserved contracts.

Contact

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“The contract for gardening services performed at the regional Department of Economy, Enterprise and Employment in Toledo is one example of the commitment of the Regional Government of Castilla - la Mancha to achieve the inclusion of people with disabilities into jobs whilst ensuring the highest quality of services provided.”

*María Jesús Hernández García,
Provincial Secretary of the Provincial Delegation of Economy,
Business and Employment, Junta de Comunidades de Castilla
- La Mancha*

28 Reserved contracts as a tool to protect the most vulnerable people and the environment

Name of procuring authority, Country: Municipality of Salamanca (Spain)

Product or service sector: Gardening



Image © Alexas Fotos on Pixabay

Introduction/procurement objective

The Municipality of Salamanca established the promotion of reserved contracts in its public procurement activity by Agreement on November the 11th 2016. The *Agreement* was a direct response to provisions introduced by Spanish legislation pointing at the key role of reserved contracts to boost the social economy. It set out a minimum share of local outlays earmarked for reserved contracts – at least 17.56%. According to the Agreement, reserved contracts shall apply to specific types of services: gardening, pest control, cleaning, catering, collection of second-hand clothes, waste collection and management, and oil recycling.

The main objective of the reserved contracts being executed by Work Integration Social Enterprises (WISEs) is to develop personalised pathways

towards work and social integration for people at risk of social exclusion through the performance of environmental services. By bringing together social, environmental and economic goals, both contracts make a positive contribution to social and employment policies of the Municipality.

The call for tenders was published in the OJEU in March 2018.

Subject matter

Cleaning and maintenance services for local parks, green spaces, urban trees and sports centres, reserved for WISEs.

Stage of procurement phase and criteria

The award criteria for the gardening contract included a number of social provisions beyond the



requirements specifically linked to eligibility for reserved contracts.

- Price (up to 35 points)
- Employment of people in disadvantaged situations beyond the minimum share required (up to 10 points)
- Use of low-emission vehicles and machinery (up to 5 points)
- Use of new plant species (up to 5 points)
- Social criteria (15 points); including setting a gender equality plan (5 points), measures enabling work-life balance (5 points) and training programme for employees (5 points)
- Environmental criteria (15 points); including emission control measures (5 points), awareness raising actions (5 points) or waste management organisation (5 points)
- Quality of service organisation (15 points)

The tender was won by the WISE, La Encina. La Encina has operated in Salamanca since 2000, when it was created by the local Caritas (the social aid organisation of the Catholic Church).

Social policy objective and/or reference standard

- Reduction of poverty rates and social exclusion levels through the promotion of inclusive labour markets.
- Address the needs of the most vulnerable groups of people in order to enable their participation in labour markets.
- Improve and reinforce active inclusion policies through a holistic approach to interventions that benefit from the experience of civil society organisations in dealing with the targeted groups

Verification

Verification of contract requirements took place during the awarding phase. After that, the Municipality monitors compliance with requirements – both social and technical – throughout the execution of the contract. The contractor is also obliged to submit an annual report of activities.

Contract value

€2,177,403.48 over 4 years (including a possible extension of 2 additional years).

Instrument

- Art. 20 (on reserved contracts) and Art. 67 (on contract award criteria) of Directive 2014/24/EU.
- The opportunity to use reserved contracts was first taken up by the Municipality of Salamanca in its Agreement of 2016. In December 2018, a new local Act (Instrucción) further emphasised the commitment of the Municipality of Salamanca to socially responsible public procurement and called for a mainstreamed introduction of social criteria in all contracting procedures. These social criteria should, in particular, promote increased quality of employment, improved opportunities for employment for people that are far from labour markets²⁴ (including persons with disabilities), the promotion of equality, accessibility, environmental sustainability, fair trade and increased transparency in all stages of contracting procedures.

Actors

- Contracting authority: Municipality of Salamanca
- Contracted service providers: Work Integration Social Enterprises
- Social clause integration support: Public employment and social services
- Beneficiaries: Employees, either referred to La Encina by local public employment and social services, or engaged through personalised inclusion pathways provided by the local Caritas.

²⁴Disadvantaged persons eligible for employment clauses also include: a) minimum income recipients or members of a household benefitting from minimum income; b) people who are not eligible for minimum income due to either a length of residence that is insufficient to qualify for minimum income or having completed the full length of minimum income benefits; c) young persons between 18 and 30 years of age who have been under child protection; young offenders older than 16 years of age and ex-offenders below 30 years of age; d) people with substance abuse issues or other forms of dependence that are currently under treatment; e) offenders and ex-offenders with a legal entitlement to work; f) long-term unemployed persons; g) women victims of gender-based violence and h) homeless persons accompanied by support services.

Social impacts

- New employment opportunities for people in a situation of social exclusion have been created thanks to reserved contracts, enabling social inclusion and cohesion.
- Increased social and economic return to the city by enabling local social economy operators with a social aim to take part in activities that promote sustainable development at local level.
- Generation of positive outcomes for both the local community and employees, who gain access to income opportunities that improve their levels of quality of life.
- Development of sustainable practices with the environment.

Other benefits

- Partnership with civil society organisations can contribute to the sustainability of public employment and social services.
- Access to public procurement by not-for-profit operators has increased, giving greater space to social purpose businesses that put people at the centre of their activity.

Lessons learned and future challenges

- There has been collaboration between the contracting authority and the social economy since 2000 in the form of ad hoc agreements. However, the Agreement on reserved contracts has widened the space for formal employment and well-established work conditions for people in disadvantaged situations in Salamanca.
- Partnerships between public authorities and civil society can address societal challenges in an effective manner. A key element of such an innovative governance structure is the effective participation of people at risk of social exclusion. Their voice is key to understanding how they experience integration pathways and which improvements are needed.
- Reserved contracts have been a lever for the work and social inclusion of people with different forms of disadvantage and for whom access to mainstream labour markets is very difficult.

The main groups represented as employees are migrants without resources, people with a history of substance abuse issues or long-term unemployed persons.

- The provision of environmental services has enabled WISEs to increase their specialisation with a more sustainable approach to their activity. La Encina, for instance, no longer uses herbicides or chemical products for plant health, and now uses low emission machinery.

Contact

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“Reserved contracts for work integration social enterprises enable professional and social inclusion among people at risk of social exclusion. They are an efficient social policy and promote social cohesion and local development.”

Ana Fe Félix,
Manager, La Encina



29 Delivering services to people living with HIV in Ukraine

Name of procuring authority, Country: National Public Health Centre, Ukraine

Product or service sector: Healthcare



Image © Anna Shvets on Pexels

Introduction/procurement objective

Ukraine has reformed the legal and technical framework for public procurement in recent years, including through the development of the well-known *ProZorro* platform. The primary aims have been to increase transparency and reduce opportunities for corruption, while increasing trust amongst businesses and thus encouraging greater competition for public contracts. Under Ukraine's *Association Agreement* with the EU, public procurement law is gradually being harmonised with the EU Procurement Directives. In April 2020, a new Public Procurement Law (PPL) will come into effect, introducing several new provisions relevant to socially responsible public procurement.

One of the social challenges faced in Ukraine is caring for 240,000 people living with HIV. While progress has been made on reducing the number of AIDS-related deaths and new HIV infections, in 2018 less than half of people with HIV knew

their status and only 35% received treatment. In 2019, Ukraine's national *Public Health Centre* (PHC) took over responsibility for the procurement of services for people living with HIV, which were previously provided by international humanitarian organisations. This is part of a *broader set of reforms* to Ukraine's healthcare system, including establishment of a central procurement body for medicines. The NGO *100% Life*, the largest patient-led organisation in Ukraine, also plays a key role in supporting the delivery of HIV services throughout the country and wider region.

Subject matter

Care and support services for people living with HIV

Stage of procurement phase and criteria

The market for provision of the required services is quite limited in Ukraine, which resulted in a number of cancelled tenders in 2019. The PHC

decided to award separate contracts to cover all the regions and support services for HIV patients. The qualification (selection) criteria for the contracts include the following requirements:

- Evidence of previous experience in performing similar contracts. A similar contract is understood as a service agreement, charitable aid, grant, subgrant or other agreement confirming at least two years of experience in providing services such as HIV prevention and treatment, care support and social protection for groups at increased risk of HIV and people living with HIV.
- Availability of staff with relevant qualifications, knowledge and experience, including at least one employee with a higher level qualification in social work, social pedagogy, medicine, public health or psychology and at least five employees who have completed specialised training courses on care of people with HIV or other chronic conditions.

The technical specifications define the type of support and care services to be provided, including:

- Obtaining informed consent from participants
- Assessing the healthcare needs of participants
- Developing individual support plans – this includes structured thematic sessions focused on the specific needs of each participant and ensuring the availability of social support to improve their quality of life and health.
- Ensuring active redirection (including referral to medical institutions, harm reduction programmes, treatment of drug addiction, etc.)

Increasing participants' motivation and awareness to look after their own health, including sharing information about their HIV status with relatives and friends and safe behaviour.

In delivering the above services, providers are required to:

- Adapt the time and place of service provision to the needs of the recipients;
- Demonstrate understanding of diagnosis and treatment trajectories from the moment a client

receives a positive result of the rapid HIV test;

- Develop methods of motivating clients, including those with complex needs;
- Apply an internal monitoring system and assign individual specialist/s responsible for its implementation.
- Ensure continuous availability of a training system for the direct providers of services.

Social policy objective and/or reference standard

In 2013, UNAIDS set the *90-90-90 targets* for global progress on HIV treatment by 2020:

- 90% of people living with HIV will know their HIV status;
- 90% of people who know their HIV-positive status will be accessing treatment, and
- 90% of people on treatment will have suppressed viral loads.

Ukraine's government and parliament have adopted various laws, decrees and decisions on the treatment of HIV and tuberculosis, which can be accessed [here](#). These determine the basic legal, organisational and financial framework for the activities of public authorities that are directly responsible for HIV/AIDS in Ukraine.

Verification

Evidence of previous similar contracts carried out; curricula vitae for relevant staff; project plan.

Contract value

Ten contracts with estimated values ranging from UAH 250,000 (€10,000) to UAH 10.9 million (€405,000). The contracts cover the following Ukrainian regions:

- Dnipropetrovsk
- Donetsk
- Transcarpathians
- Zaporizhzhia
- Poltava
- Sumy
- Kherson
- Cherkasy
- Vinnytsia
- Volyn



Instrument

There is no equivalent in Ukrainian law of the 'light regime' for social, health and other specific services, meaning these are subject to the same rules as other public contracts. Under the 2016 PPL, use of procedures other than the open procedure and award criteria other than cost was limited to special cases. The 2020 PPL introduces a number of new provisions:

- Possibility to reserve below-threshold contracts for enterprises employing disabled persons;
- Mandatory exclusion of bidders convicted of child labour or human trafficking offences;
- Mandatory exclusion of bidders owing tax or social security debts unless an arrangement has been entered into with the relevant tax authorities;
- Possibility to use the restricted procedure (in addition to the open procedure and competitive dialogue available under the 2016 PPL);
- Requirement for technical specifications to take into account accessibility criteria for persons with disabilities or design conditions for all users, for all procurement which is intended for use by natural persons;
- Ability to apply life-cycle costing;
- Introduction of rules on abnormally low tenders;
- The use of non-cost (qualitative) award criteria is permitted, however these cannot exceed 30% of the marks available, except in competitive dialogues where there is no such limit. It should be noted that the vast majority of contracts in Ukraine are awarded on the basis of lowest price, with an electronic auction used to identify the lowest priced bid. In the future, under the PPL 2020, more qualitative approaches may be taken to procuring HIV services.

Actors

- Contracting Authority: National Public Health Centre of Ukraine (responsible for procuring the services)
- 100% Life (organisation supporting and representing patients)
- Ministry of Health of Ukraine (oversight of the PHC)

- Prozorro Platform (publication and participation in tenders)

Social impacts

- Increasing awareness and directing a higher number of HIV-infected people towards treatment will help to reduce the number of new infections, while improving quality of life for affected people and their families. Cooperation with qualified and experienced organisations, including NGOs, and the focus on involving patients in their own care are considered key to the success of these contracts.

Other benefits

- Transparent contract award procedures, including those for health services and medicines, bring wide-ranging benefits to Ukrainian society. By increasing transparency and levels of competition for public contracts, it is estimated that ProZorro has been responsible for a 10% saving in public expenditure, which can be directed towards social needs. Citizens and businesses are able to see how public money is spent, building greater trust in state services.

Lessons learned and future challenges

- Tendering for HIV support services requires an understanding of the market and the use of targeted criteria to ensure a good result.
- Requirements for previous experience and staff qualifications must be proportionate to ensure that a range of organisations, including NGOs and social enterprises, can participate in the tender.
- Technical specifications should also reflect the outcomes desired from the services, without being too prescriptive.

Contact

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30 Responsible procurement of protective gloves for healthcare in Finland

Name of procuring authority, Country: City of Tampere (Tuomi Logistiikka Oy), Finland

Product or service sector: Healthcare



image © Ri_ya on Pixabay

Introduction/procurement objective

The production methods of protective gloves for healthcare are known to involve issues related to employees' rights and health, working hours and working conditions. These problems have been pointed out by Finnwatch, a non-governmental organisation focusing on global corporate responsibility, as well as by other organisations. The production, use and disposal of protective gloves also poses various environmental problems, for example, vinyl gloves made from PVC used to be worn in healthcare. Because of the material, such gloves were complicated to dispose of. Waste management of PVC waste is extremely problematic due to its chlorine content. Vinyl gloves also expose the wearer to chemicals and cause skin problems for many.

The City of Tampere (Tuomi Logistiikka Oy) therefore

launched a procurement procedure for protective gloves for use in healthcare in which suppliers were required to use responsible production methods. The municipality also considered environmental aspects by considering the life-cycle costs of the protective gloves rather than taking into account only the acquisition price.

Subject matter

Procurement of protective gloves for healthcare in the City of Tampere

Stage of procurement phase and criteria

The municipality included requirements relating to production methods in the procurement documents in accordance with Art. 18.2 and art. 42 of Directive 2014/24/EU.



The suppliers/ manufacturers were required to comply with the ILO Declaration on Fundamental Principles and Rights at Work across the global value chain related to the production of the protective gloves. The requirements were set as contract performance clauses. Life-cycle costs were also taken into account as a contract award criterion.

Social policy objective and/or reference standard

Through its procurement, the City of Tampere seeks to promote global responsibility, the wellbeing of employees and the environment and a more equitable economy. This procurement therefore aimed for cost savings, environmental quality and social considerations. The City also wanted a more sensible product selection; while in previous contracts nearly ten types of protective gloves were available for use, the city now aimed for only one type of protective glove.

Verification

Offers had to be accompanied by a self-assessment questionnaire relating to social and ethical aspects developed by the Finnish Ministry of Employment. The questions aimed to clarify production's social responsibility in risk countries. These questions concerned the manufacturing conditions of the goods supplied in the contract regardless of whether the goods are manufactured by the supplier or a sub-supplier. The tenderers in this procurement filled in the questionnaire and were also requested to submit a sustainability report or a similar statement to examine their application of the ILO declaration. The implementation of corporate responsibility is monitored annually throughout the agreement period by the City of Tampere.

Contract value

The contract value for the purchase of protective gloves was about €300,000 between January 2016 and October 2016.

Instrument

- Art. 42 technical specifications) and art. 18.2

(principles of procurement – compliance with applicable environmental, social and labour law) of Directive 2014/24/EU.

- The Finnish law on public procurements and concessions states that contracting authorities shall endeavour to arrange their procurements so that they can be carried out in the most economical, high-quality and systematic way possible by utilising existing competitive conditions and taking into account environmental and social aspects.

Actors

- Contracting authority: The City of Tampere
- Supplier: Abena Finland Oy
- End-user of the gloves: public healthcare workers and the patients they treat

Social impacts

The focus on life-cycle costs led to procurement of nitrile gloves rather than vinyl gloves. Nitrile gloves have a more expensive initial price per unit; however, it is cheaper overall to procure a larger volume of nitrile gloves if life-cycle cost is considered. It also reduces the costs for logistics. The cost is therefore around €100,000 less than the previous protective glove contract. At the same time, the City of Tampere is able to reduce the environmental effects of its procurement while paying attention to employees' rights and work conditions.

In summary,

- Significant cost savings were achieved by considering life-cycle costs. This resulted in a more streamlined product selection and products of a higher quality.
- The procurement promotes cleaner material cycles since the disposal of nitrile gloves are more environmentally friendly than the disposal of vinyl gloves.
- The procurement takes the social aspects of the production chain into account.

Other benefits

- Nitrile gloves provide better protection and mechanical strength than latex gloves. They are non-allergenic and can be discarded by incineration.
- Lower costs of logistics by streamlining protective glove procurement to only one glove type.

Lessons learned and future challenges

The City of Tampere learned that it is possible to buy better quality gloves with lower costs, less environmental impact and more sustainable production.

Contact

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"With our procurement we were able to promote more effective material cycles and take sustainability of the production chain into account."

*Wihlman Nina,
Category Manager, Tuomi Logistiikka Oy*



31 Oslo's strategy for the promotion of not-for-profit providers of health and social care services

Name of procuring authority, Country: Municipality of Oslo, Norway

Product or service sector: Healthcare



Image © Mariamichelle on Pixabay

Introduction/procurement objective

Non-profit organisations have a long tradition in the provision of health and social services to people with care needs in Oslo. Acknowledging the societal value brought by not-for-profit operators, the Municipality of Oslo sought to reinforce access to public procurement markets by this type of provider and achieve the goal that at least 25% of the total number of places in nursing homes in Oslo are operated by not-for-profit providers by 2025.

As of June 2019, commercial operators run 1,188 places in nursing homes in Oslo, which represent 29% of the total. Not-for-profit operators currently run 746 places, or about 18% of the total. The remaining 53% of places are publicly-run.

Social policy objective and/or reference standard

The provision of health and social care services is a statutory obligation that the municipality of Oslo may choose to fulfil itself as a direct provider or, alternatively, may enter into contracts with operators that provide the service on its behalf. Such contracts should to the greatest possible extent be equal to the requirements observed by the municipality when it acts as a direct provider.

The contracts for health and social care services are usually high-value and last for several years (often up to 10 years). It is crucial that such services meet the needs identified by service users and service user groups. This means that price is not necessarily the most relevant element in the assessment of services, which may also need to adapt service provision according to users' changing needs.

The Oslo Strategy for Increased Access and the Promotion of Not-for-Profit Providers of Health and Social Care Services is integrated within a broader strategic approach to public procurement undertaken by the Municipality of Oslo (City Government proposition 1104/17). This strategy has the general objective to simplify and make more strategic use of public procurement rules, and is in effect since January 2017, after the transposition of Directive 2014/24 into national legislation (Law number 73 of 17 June 2016 and Regulation number 974 of 12 August 2016 on Public Procurement).

In order to achieve the 25% not-for-profit provider target, the municipality aims to phase out some of the contracts currently held by commercial operators whilst putting in place a set of measures aimed at increasing the participation of not-for-profits in the local procurement market.

The Oslo municipality has put the spotlight on health and social care services because of the added social dimension of their activity. In this regard, the municipality aims to ensure that the public resources spent on a socially-aimed activity come back as benefits to the community.

The strategy has foreseen four main instruments in order to achieve the expected target. These instruments are diverse and act upon the full procurement cycle.

- **Reserved contracts:** The strategy aims to maximise the room for the use of reserved contracts for not-for-profit operators as a way to increase their overall weight in the provision of health and social care services. Contracts entered into as a result of a reserved contract cannot exceed three years, in line with Art. 77.
- **Introduce considerations of special relevance to not-for-profit operators:** For contracts that are open to all types of competitors, the strategy aims to place special emphasis on quality criteria, either as part of technical specifications, award criteria, qualification requirements, execution criteria or the general terms of the contract. Among these considerations are: user needs for quality, continuity, universal design, acceptable pricing, accessibility and a comprehensive service offering, expertise and experience, user participation and safeguarding user integrity. The client can also emphasise their needs for diversity, continuity and innovation. The mobilisation of resources in the user's immediate environment is also a priority.
- **Include contract provisions that ensure the quality of services to citizens and good working conditions for employees:** The City Council has adopted the Oslo model for the health and care sector (city council case 1006/19). This code of good practice establishes the obligation that workers performing a contract for the city of Oslo shall mainly be permanent employees. This also applies to subcontractors. The health and social care sector workforce has a significant share of part-time workers - on average 2 out of 3 in Norwegian municipalities. Long, rotating shifts and night work make it difficult to enforce full-time work requirements. For this reason, the municipality shall require that contracted workers are as close as possible to full time and that this objective is at least promoted whenever possible. According to the code, all workers with contact with patients and users must communicate well in Norwegian, both orally and in writing. This requirement will be mandatory but justified for the individual job categories and related to the content of the position. The Norwegian Labour and Welfare Administration (NAV) shall be the main channel for new hires in the sector. The city council also strives for the sector to be as inclusive as possible with workers that may need additional support or accompaniment to enable their full integration on the job.
- **Dialogue with not-for-profit actors:** In order to strengthen the position of the not-for-profit actors in the health and social care service sector, the municipality will promote a systematic dialogue with not-for-profit care providers and the associations representing their interests. This dialogue will focus in particular on what is needed to deliver services of high quality to



the municipality and the community, what is feasible for them as providers and how their access to public procurement can be improved. For each tender on health and social services, the municipality shall engage in pre-procurement actions aimed at assessing the extent to which not-for-profit organisations can take part in each competition.

Contract value

Will depend on the specific contracts being tendered. For information, the Municipality of Oslo spent over 59 billion krona (5,9 billion euro) on health care, nursing, care and social services in 2018 (Statistics Norway).

Instrument

- Art. 20, 40, 67, 70 and 77 of Directive 2014/22/EU.
- Oslo Strategy for Increased Access and the Promotion of Not-for-Profit Providers of Health and Social Care Services

Actors

- Contracting authority: The City of Oslo
- Contracted suppliers: Not-for-profit providers of health and social care services
- Employment clause integration support: Norwegian Labour and Welfare Administration (NAV)
- Participants of dialogue: Provider organisations and users' groups
- Users: Recipients of health and social care services

Social impacts

- The Strategy was only passed in October 2019 and social impacts remain to be identified or quantified. The main objective of such a provision is to increase the share of places in nursing homes operated by not-for-profit providers of health and social care services. By increasing the share of not-for-profit operators to at least 25% by 2025, the City also wants to encourage a multiplying effect, as many of

these operators work under and for a social aim. The benefits of the contracting of not-for-profit providers by the city will, therefore, return to the community at large.

Lessons learned and future challenges

- The Strategy, which was passed in October 2019, is in its implementation phase.

Contact

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32 Labour Market Integration for Immigrants using a Social Impact Bond

Name of procuring authority, Country: Ministry of Economic Affairs and Employment, Finland
Product or service sector: Social services



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Introduction/procurement objective

During 2015, Finland experienced a rapid increase in the number of people arriving in the country. As part of the response, the Ministry of Economic Affairs and Employment undertook a project to help recently arrived immigrants to access the labour market. The unemployment rate for migrants was about twice that for Finns.

Following research and market consultation, the Ministry decided to run the project as a social impact bond (SIB) — a form of social outcomes contracting in which a private partner provides financing and takes on the performance risk. With SIB contracting, the public body pays only when certain performance outcomes are achieved. In this case, the performance indicators were based on reduced need for unemployment payments and increased tax revenue from the employment of

participants in the programme.

This project, called the Koto SIB, was one of the first to be implemented in Europe and was co-financed by the European Investment Fund and the European Commission along with a number of other private and institutional investors.

Subject matter

A procurement procedure was launched at the end of 2015 to appoint a project manager for the SIB. The project manager would be responsible for tasks including:

- establishing an investment fund
- marketing the fund to external investors, such as foundations and private individuals
- finding instructors and jobs and organising training for the participants



The target number of participants in the programme was set at 2,500 over three years, with services to include education and job-specific training. Once placed in employment, participants would receive ongoing professional, language and cultural support.

Stage of procurement phase and criteria

In December 2015, a Prior Information Notice (PIN) was published in the Official Journal requesting information from the market. The PIN described the Ministry's interest in setting up a social impact bond to test new models of education and employment to accelerate the employment of immigrants. Several organisations responded to the PIN and an information day was held, during which draft documents were provided and market actors could make comments.

In March 2016, a contract notice was published under the open procedure, inviting proposals for the project management of the SIB. The project manager would be responsible for tasks including:

- The design and management of the project
- Organising migrant training and employment activities in line with the project's outputs, in cooperation with service providers
- Monitoring, interim and final reporting

The award criteria focused on the project plan (60%) and experience of the project manager's personnel (40%). Only one tender was received in response to the call, from Epiqus Oy (now FIM Vaikuttavuussijoitukset Oy). This reflects the innovative nature of the project and the relatively small number of firms operating in this market. A range of service providers were included in the bid as subcontractors, in order to provide education, training and job placement at different locations across Finland.

Social policy objective and/or reference standard

The main social policy objective of the procurement was to provide employment opportunities and encourage integration of immigrants within the

Finnish job market. The project was also seen as an opportunity to test the SIB model in Finland and to determine its replication potential.

Verification

The project manager's payment is defined by comparing taxes generated and unemployment benefits saved by:

- Participants in the SIB programme, and
- A control group being integrated by means of a traditional model.

The comparison will be made at the end of the contract period. If the project results in savings for the government, the project manager will receive half of them. In addition, the project manager receives a fee of €1,500 for each participant who receives more than 70 days of training.

Contract value

The contract had an estimated value of €8,625,000. However, the total contract value will be determined based on performance as per the contract terms. The total value of the investment fund under the SIB is €14.2 million.

Instrument

- Art. 40 (on Preliminary Market Consultations) and Art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.

Actors

- Procuring body: Ministry of Economic Affairs and Employment, Finland
- Strategic partners: Hansel (Central Purchasing Body); SITRA (Finnish innovation fund)
- Project manager: Epiqus Oy
- Other investors: European Investment Fund
- Service providers
- Programme participants

Social impacts

- Results to date suggest that about 50% of the participants in the Koto SIB found employment, which is considerably better than the control group.
- Participants in the programme receive one-on-one coaching, in addition to language training and job placements. The training normally lasts 3-4 months.
- Support is also provided to employers, some of whom did not have previous experience employing immigrants.
- By the end of 2019, there were a total of 2211 participants in the Koto SIB, with 869 people being employed. A wide variety of jobs and employers are involved, with the most common ones being in the catering/restaurant sector, logistics, cleaning and manufacturing jobs. The demographic distribution of programme participants is 63% male and 37% female, in part reflecting the higher number of male migrants in Finland.
- Participants with higher-level education have also been offered training in business and entrepreneurship, including a [tech start-up programme](#).

Other benefits

- The Ministry has realised savings of at least €20 million through this initiative since 2016. The success of the Koto SIB has led to the use of this model by other Finnish public authorities, for example to provide youth services.
- The Ministry also decided to procure a second project using a similar model, this time in order to provide employment assistance to long-term unemployed people who are not migrants. This project was tendered using the competitive dialogue procedure, and the contract started in 2019.

Lessons learned and future challenges

- Sonja Hämäläinen, Migration Director at the Ministry and commissioner of the project, says: 'It's vital to the project and its success to have an

intermediary who understands the complexity of impact investment because there are so many things that come into play. There's collecting private investment, there's contracting the new project manager, there's measuring impact in a new way... having an independent intermediary who can bounce back ideas with you is key to success.'

Contact

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"Going back in time, I would definitely do the tendering through a negotiation process. I would say it's vital to the project and its success to have an intermediary who understands the complexity of impact investment because there are so many things that come into play. There's collecting private investment, there's contracting the new project manager, there's measuring impact in a new way...having an independent intermediary who can bounce back ideas with you is key to success"

Sonja Hämäläinen,
Ministry of Economic Affairs and Employment



33 Co-designing the procurement of public housing maintenance

Name of procuring authority, Country: Seoul Housing and Communities Corporation, Republic of (South) Korea
Product or service sector: Social services



Introduction/procurement objective

This initiative is a case of co-designing public procurement of services by Seoul Housing and Communities Corporation (SH) and the Seoul Social Economy Center (SSEC). The aim of the initiative was twofold:

- to ensure a good living environment for the residents of public rental housing, which are mainly low-income households, by providing quality maintenance services from social economy organisations and enterprises (SEOs)
- to open a new market for social enterprises in a large-scale public apartment complex.

In Korea, there are four categories of SEOs legally defined: social enterprises, cooperatives, community businesses, and self-help enterprises. In this case, the consortium was made up of a

cooperative and a social enterprise. First proposed by the SSEC and a few SEOs in 2017, the SH and SSEC came up with a maintenance office for public housing (rented apartments) following a social economy model. This integrated management model is community-owned and provides more housing welfare perspectives.

It includes not only traditional building maintenance (e.g. cleaning, security, plumbing, electricity, elevators, etc.), but also community services in the apartment complex (e.g. employment advice for residents, community care of elderly and children, management of community spaces, cultural events, etc.).

Subject matter

Provision of maintenance and management of public rental housing, as well as of community services

Stage of procurement phase and criteria

Seoul Housing and Communities Corporation (SH) designed the bidding process to ensure participation of SEOEs in the initiative by adding the following elements:

- Co-designing the contracting process with the social economy sector
 - Lowering the barriers of qualification to participate in the bidding to ensure SEOEs who are new market entrants could participate;
 - Using a reserved contract for social economy enterprises
- Coaching SEOEs to acquire the certification to manage collective housing as a public apartment complex.

The instrument used in the public procurement procedure was a reserved contract for social enterprises (similar to art. 77 of Directive 2014/24/EU), based on Article 9, Methods of Contracting in South Korea's *Act on Contracts to Which a Local Government is Party and* Article 12 "Preferential purchase by Public Institutions" of the *Social Enterprise Promotion Act*, as amended until 30 June 2013.

The following economic operators were eligible to bid (joint bids were encouraged):

- Housing management service (85% of the overall contract): housing management company
- Housing welfare service (15% of the overall contract): welfare corporation or social enterprise as defined in articles 7 and 8 of the Social Enterprise Promotion Act.

The following criteria were used in the evaluation of offers:

- Capacity of the enterprise: 80% (Evaluated based on: financial status and credit of the enterprise, previous experience in similar projects in terms of size and content, number of technicians with required skills, percentage of investment in research and development, risk management policies and time management)

- Competitiveness on the suggested cost of the whole project: 20%

SH chose a consortium of SEOEs made up of a cooperative and a social enterprise which performed the functions of a maintenance service operator and social service provider. The initiative started in 2017 in an apartment complex in Shinnae town, Jungrang district, Seoul, where the contracted SEOEs are in charge of managing maintenance offices for the whole complex (1,300 households).

Social policy objective and/or reference standard

The social policy objective of the procedure was to facilitate the participation of social economy organisations in a tender for the provision of quality maintenance services in public rental housing. Another objective was to create jobs for the residents of the apartment complex, where the concentration of low-income families is high.

Verification

The contracting authority verified that the economic operators fulfilled the criteria in compliance with national laws.

The value of the contract for the management of the maintenance office is around €300,000, and the contract for job creation in community care services is around €1.1 million.

Therefore, the total value of the contracted services was €1.4 million over two years (from October 2015 to October 2017), though the bidding was divided into three contracts (two in maintenance, one in community care).

Instrument

- Art. 9 "Methods of Contracting" of the *Act on Contracts to Which a Local Government is Party*, which allows reservation of a contract, similar to that based on art. 77 of Directive 2014/24/EU
- Art. 12 "Preferential purchase by Public Institutions" of the *Social Enterprise Promotion Act*, as amended until 30 June 2013



- Korea is a party to the WTO Government Procurement Agreement, and the measures applied are consistent with this agreement.

Actors

- Project leader and contracting authority: Seoul Housing and Communities Corporation (SH) – a municipal corporation in charge of constructing and managing public rental housing
- Support for social enterprises: Seoul Social Economy Centre (SSEC)
- Bidders: Social Economy Organisations—including “Green Environment Korea”, which provided the services
- Beneficiaries: Residents of the apartment complex, who participated both as consumers and as employees of the service provider in the implementation.

Social impacts

- In this case, a government office and the social economy sector collaborated from the design stage of the procurement process with a common interest to provide a better service and environment for residents of public housing.
- SEOEs are recognised for their specialties in technical and social aspects of developing and maintaining public housing. The public corporation enhanced the social value of the tender by revising their conventional bidding practice in favour of SEOEs.
- The service provider created jobs for the residents of the public rental housing, mainly house-spouses/carers looking for part-time jobs or unemployed residents.

Other benefits

- The case could be easily replicated and expanded to other public and private collective housing (huge apartment complex with thousands of households), which is the most prevalent type of urban housing in the city of Seoul. Therefore, this model can open a new business area for social economy enterprises with great prospects and social impacts.

Lessons learned and future challenges

- The described model was originally designed as an integrated proposal of various services aligned with the needs of residents (including building management, care and vocational training) as a kind of circular economy model in one residential building complex. However, the fact that different providers were responsible for the provision of different services sometimes made it difficult to provide the services in a coherent and comprehensive way.
- In a potential replication of this case, the size of the contract should be scaled up and the procurement should encompass more integrated services. The contract duration should be increased in order to give more stable provision of services.
- More flexible conditions in forming a consortium among enterprises are recommended.

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“The idea of a social economy model for maintenance of a public rental apartment complex, which is community-owned, employs local people and provides more housing welfare perspectives, was co-designed and implemented by social economy actors and public offices.”

Ahreum Kim,
Former Manager, Global Social Economy Forum (GSEF)
Secretariat

34 Co-design and implementation of a service aimed at improving the knowledge and skills of parents with minors

Name of procuring authority, Country: Municipality of Brescia, Italy

Product or service sector: Social services



Introduction/procurement objective

The procedure foresees the selection of economic operators suitable to participate in a co-design process of a service addressed to families with minors (children under the age of 18) with the municipality of Brescia. The final aim of the service that will be provided in a later stage is to:

- Favour the correct development and growth of every child in their families, by fostering family relationships and by protecting the child or minor from any disorder that might affect their wellbeing
- Support a better inclusion of families in local communities.

This service will be addressed to families with

minors living in the municipality of Brescia that spontaneously seek out the service or are required to work with it following a court ruling.

Where the standards of a service to be procured are well defined, the municipality can launch a standard public procurement procedure. However, if it wants to better define its standards or introduce new innovative elements, a co-design process can be an interesting way to involve economic operators and find new ideas for improved service design and delivery.

In the past, the municipality of Brescia organised its services for children and their families in a centralised way. In 2015, they implemented a reorganisation of the services: five territorial services were set up with one person responsible for



each service. With this call, the municipality wanted to improve how the existing service is organised at a territorial level by creating territorial and multi-professional teams focusing on community work.²⁵ The aim of community work is to prevent hardship and marginalisation of families, and in the most extreme cases, to protect children, as well as to avoid as much as possible their separation from their families.

The idea of this call for tender came from the regular dialogue and cooperation between the municipality of Brescia and the actors that participate in the “Piano di Zona” (Local Area Plan) of Brescia. Such a plan is required by Italian law no. 328/2000, which defines the rules concerning the planning and reorganisation of social policies and services. This plan is the instrument for the programming of the provision of social services at the local level. It defines the priorities, strategic objectives, ways, means and human resources that are necessary to implement an integrated system of public services and social interventions.

Subject matter

Co-design of a service aimed at improving the knowledge and skills of parents with minors

Stage of procurement phase and criteria

The first stage of the procedure was an open procedure aimed at selecting the economic operator(s) with whom to develop the activities of co-design of the service in question. Offers were evaluated on the basis of the best price-quality ratio. Points from 0 to 80 were assigned to the quality of the project, while a maximum of 20 points were available for the economic offer.

The quality criteria were the following:

- Organisation of the service: Maximum 40 points allocated as follows:
 - Overall development of the project proposal (20 points) with particular reference to the activities required for each professional profile and the achievement of the overall

aims and objectives of the service

- Description of the procedures and methods for the design, evaluation and planning of the interventions in collaboration with the public social service (10 points)
- Description of the ways in which the different professional profiles collaborate with the specific ongoing services (such as the PIPPI family counselling project²⁶, or foster care project) and the new services to be implemented (e.g. educational services at the municipal kindergartens) (10 points)
- Professional team: Maximum 25 points, allocated as follows:
 - Quantity and quality of the staff that will be employed in the service to be co-designed (specifying the number of full-time and part-time staff, average length of service in the job, specific additional experience and qualifications in the field to that specified in the requisites) (10 points)
 - Coordination and support mechanisms for the creation of a common language among the different professional figures involved (methodologies to strengthen team building, tools for the development of multi-professional integrated evaluations, specific performance objectives for each professional and of identification of the interim and final results achieved) (10 points)
 - Training and technical continuing education plan proposed to the personnel, except for the compulsory training required by law and that proposed in the economic offer (5 points)

²⁵ Community work is the process by which social workers and other professionals help people to improve their relationship with and belonging to the local community in which they live by the means of collective actions

²⁶ The PIPPI. Programme (Programme of Intervention for the Prevention of Institutionalisation) started in 2010, as the result of a collaboration between the Ministry of Labour and Social Policies, the University of Padua, 10 Italian Cities and social services aimed at the protection and protection of minors. The Programme pursues the aim of innovating intervention practices in order to reduce the risk of maltreatment and the consequent removal of children from their families of origin. This is achieved by articulating in a coherent way the different areas of action involved around the needs of children living in such families, taking into account the perspective of the parents and the children themselves in building the analysis and response to these needs.

- Work with the community: Maximum 15 points, allocated as follows:
 - Description of the ways of working with different professional profiles together with the institutions and actors active in the territorial area, as well as of the instruments to facilitate the collaboration (10 points)
 - Innovative proposals to develop and strengthen parents' knowledge and skills (5 points)

The different professional profiles work with the families in the following way:

- The psychologist offers support from a psychological, educational, social and clinical point of view.
- The educator's task is to support the relationships between parents and children and within the family by working at the family's home in the context of their daily life.
- The social worker has the task of ensuring that the care and hygiene needs of the households are fulfilled.
- The foster care counsellor supports the undergoing foster care projects or those to be activated.
- The ethno-clinical consultant has the responsibility of facilitating the understanding, relationships and negotiations between a foreign family and the different services and professionals involved.
- The cultural and linguistic mediator has the task of facilitating the communication of the services to families from non-Italian cultures.
- The coordinator of the service guarantees the quality of the service, supervises the implementation of the activities, the staff involved and monitors the efficiency and efficacy of the service.

Social policy objective and/or reference standard

- Improving the strategic programming and operational planning of the described services
- Enhancing the development of community work in the five territorial areas of Brescia
- Increase the preventive approach of the services

in question to avoid situations of hardship, abuse or disorders that might affect children and minors

- Improve inclusion of the families benefitting from the service in the local community and prevent educational poverty.

Verification

In relation to the technical and financial capacity, the fulfilment of the requirements for the six following professional profiles (psychologist, educator, social worker, foster care counsellor, ethno-clinical consultant, cultural and linguistic mediator, and coordinator of the service) was verified by the contracting authority by checking the curricula vitae of the professionals proposed by the bidder.

Contract value

The yearly contract value for the service is €600,275, excluding VAT, for a total amount of €2,401,102.10, excluding VAT, for four years. This amount has to be complemented by the resources that the selected economic operator(s) must provide in terms of co-financing.

Instrument

- Art. 74-77 on the light regime for social and other specific services of Directive 2014/24/EU
- Art. 55 of Legislative Decree no. 117 of 3 July 2017 (Code of Third Sector), which defines the instrument of co-design of services, among other forms of collaboration, between the public administration and third sector actors
- Italian law no. 328/2000, which defines the rules concerning the planning and reorganisation of social policies and services.

Actors

- Contracting authority: The municipality of Brescia
- Partners of Brescia's Local Action Plan: municipalities, associations, social cooperatives, Caritas (a confederation of Roman Catholic relief, development and social service organisations)



and the parishes that are actively involved in the planning and delivery of social policies and services at the local level.

- Contracted service provider: A group of three social cooperatives: (in this call, two groups made of three social cooperatives each participated by submitting a tender).
- Users of the co-designed service: Families with minors (both parents and children)

Social impacts

The activities started after summer 2019, and impacts have not been assessed yet. Key indicators will be the expected reduction in number of cases in which children are separated from families and those of domestic violence against women. The main social impacts achieved so far are:

- Co-designing this service with social cooperatives has resulted in higher-quality services, due to inclusion of perspectives from social cooperatives that are experienced in the field and aware of the circumstances of the families using the service.
- Co-design has contributed to the implementation of a preventive approach in the child protective services and in the services addressed to minors and their families, together with other projects and interventions launched by the municipality
- Partnership work among the different actors involved (in particular with schools; enhanced support to families with the help of other families) has been strengthened.
- Safety nets have been created around families in situations of hardship, aimed at preventing situations of isolation and marginalisation.

Other benefits

- The procedure to initiate co-design of services has already been replicated in Brescia. This call is the second edition in the frame of services to children, minors and their families. A procedure to initiate co-design processes to reorganise the services aimed at fighting against extreme poverty and social exclusion was also launched. A similar call could be launched in the area of disability.

Lessons learned and future challenges

- The timeframe required to set up a similar administrative procedure for co-design of services is 30% longer than that required for a standard public procurement procedure, which involves related personnel costs and very good organisation and planning from the municipality.
- It was necessary that a preliminary strategic planning exercise took place in the context of the Local Action Plan prior to the launch of this co-design process. The planning served to identify the needs, priorities and resources that the municipality had in terms of overall social service provision. This exercise helped to define the standards of the service.
- Competent staff with knowledge of co-design processes and of the social situation at the local level is essential, both from the municipality and the other actors involved. It is also necessary to have informative data available about the social situation.

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"Using public procurement to co-design a service for children and their families with relevant partners led to an improved strategic and operational planning of services. It also contributes to the implementation of a preventive approach in the child protection system to avoid situations of hardship, abuse or disorders that might affect children."

Massimo Molgora,
Human Services and Education Area
Manager, Municipality of Brescia

35 Participatory Definition of Quality Standards for the design, organisation and provision of care services and their inclusion in public procurement

Name of procuring authority, Country: Miejski Ośrodek Pomocy Społecznej, Gdynia (Municipal Centre for Social Services in Gdynia), Poland

Product or service sector: Social services



image © Gaba Kucz, Gdynia

Introduction/procurement objective

In 2011 and 2012, the City of Gdynia organised the event “Gdynia’s Dialogue on the Quality of Care Services”. The aim was to identify and confront the needs and expectations of care services’ stakeholders in order to improve the quality of care services. It was an opportunity for a wide debate with the participation of all of the interested parties: over 1,000 people participated, including care beneficiaries and providers. Care beneficiaries

and providers met both in groups and individually; those who were not able to participate in any of the 18 sessions were visited and interviewed in their homes. Participants were asked what they believe a good care service to be.

As a result, common quality criteria, guidelines and standards that should lead to an improvement of care quality and the quality of work in the care sector were formulated.

The care services standards defined were then integrated into public procurement procedures. By setting requirements regarding the employment of caregivers (such as minimum salary, existence of a proper contract and of a training fund - for specialised trainings and professional courses developing care qualifications and skills - or contribution to a local training fund by the employers), the local authorities aim to improve the image of the caregiver profession and the level of education of caregivers. The motto of “Gdynia’s Dialogue on the Quality of Care Services” was: *“We want to see. We want to hear. We want to decide together.”*

Subject matter

Provision of effective and inclusive care services taking into account the specific needs of the care beneficiaries.

Stage of procurement phase and criteria

Pre-procurement:

The first outcome of the pre-procurement process



was “The Charter of Quality Care Services” that described overarching values and the main quality criteria identified by stakeholders, such as: efficiency, good management, positive approach to cooperation, information flow, mutual respect, availability, responsibility, adaptability and solidarity.

Specifications

In procurement procedures, technical specifications for care services include the essential requirements identified based on the consultation. The most advantageous tender is chosen on the basis of the following award criteria:

- Price - 45%,
- Quality and quantity of caregiving staff assigned to the contract - 45% (quality assessed by reference to professional qualifications of the assigned staff)
- Working conditions for caregivers – 10%

Contract performance conditions

Contracts include stringent requirements to ensure decent working conditions for caregivers (including salaries and working time) and the possibility of self-development and raising professional qualifications. For example, until 2014, the contractor was required to create a training fund in the amount of 1% of the payroll fund to be used for specialised training for caregivers.

Social policy objective and/or reference standard

“Gdynia’s Standard of Care Services Provided at the Place of Residence” was developed, as there are still no legal standards for care services standards or guidelines recommended by the Polish Ministry of Family, Labour and Social Policy.

The document describes how to organise and provide care services of good quality in a way that meets the needs of local stakeholders. The objectives of care services and expected results are defined first, then the catalogue of local care services is presented, including a wide offer of personal and domestic services.

Next, the duties and rights of care service organisers, providers and caregivers are established, as well as requirements for professional qualifications of caregivers. The main values regarding the employment of caregivers are as follows: the adoption of an eight-hour working day and existence of an employment contract, decent wage conditions, non-discrimination with regard to terms and conditions of employment, and access to vocational training.

The standard was established by the Mayor of the City of Gdynia as a local canon of delivering care services and since May 2011 must be included in specifications and contract clauses.

Reference standards included relevant ILO core conventions such as:

- The ILO Constitution – Art. 427
- C100 - Equal Remuneration Convention
- C111 - Discrimination in respect of employment and occupation
- C140 - Paid Educational Leave Convention
- C175 - Part-Time Work Convention

Verification

Verification and monitoring is based on the following indicators:

- Quantitative and qualitative criteria for the provision of care services, in accordance with “Gdynia’s Standard of Care Services”,
- Ensuring remuneration for the caregivers complies with Polish law (legal minimum hourly rate, which is not below the applicable pay standards specified in Polish law, and which depends on the level of education and professional qualifications),
- Ensuring the required working conditions and personal protective equipment,
- Ensuring the required form of employment (contract of employment),
- Ensuring the working time standards (eight-hour working day),
- Providing access to training for caregivers,
- Educational level of caregivers, including the number of fully qualified caregivers,

- Replacement of care staff, efficiency in the organisation of substitutions.

Contract value

Between 2011-2018 there were 39 public procurement procedures with social clauses and 39 contracts for care services were concluded with a total value of PLN 49.1 million, or approximately €11.4 million.

Instrument

- Art. 67 (on contract award criteria) and art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.
- Local regulation - Gdynia Mayor's ordinance no: 2073/11/VI/R, 24 May 2011.

Actors

Over 1,000 direct and indirect stakeholders of care services participated in the dialogue process, including:

- End users (senior citizens and members of their families)
- Front line staff (caregivers),
- Voluntary workers
- Social workers
- Managers of service purchaser and service providers
- Local authority.

Social impacts

- A common vision of good quality care in the local environment.
- Improving the quality of the working conditions in the care sector, which is seen as one of the undervalued sectors with poor working and pay conditions.
- Improving the competencies and the level of education of caregivers,
- Improving the image of the caregiver profession.
- Improving the quality of care services for users and thus the quality of their everyday lives.

Other benefits

- Gdynia's experience in running a participative process to determine the essence and social value of public services and using pro-employment instruments in public procurement confirms that they can be a tool for improving the quality of these services, influencing the labour market and promoting socially responsible business.
- The participatory process that led to the definition of socially responsible public procurement standards has been successfully tested and implemented and is still functioning today. The process is replicable for other social services and can also be carried out by other organisations.

Lessons learned and future challenges

- Ongoing demographic processes and changes in the family model are already a serious challenge for social policies and will undoubtedly involve the need to constantly adapt both the scope and scale of care services, as well as the level and effectiveness of expenditure for this purpose.
- A participatory approach to planning, organising and providing care services makes them more effective, inclusive and tailored to the individual needs of recipients, while enabling the provision of decent conditions for their implementation for contractors.

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"Better quality of care means better quality of life. For this reason, the City of Gdynia decided to introduce Participatory Definition of Quality Standards for the design, organisation and provision of care services in public procurement."

*Wihlman Nina,
Category Manager, Tuomi Logistiika Oy*



36 Social care services delivered by several organisations

Name of procuring authority, Country: Welfare Department of Riga City Council, Latvia

Product or service sector: Social services



Introduction/procurement objective

In the city of Riga, social care services are currently delivered by several organisations through the use of a Framework Agreement. This tool has been used by the Welfare Department of Riga City Council for the past six years.

Prior to this, the contracting authority used to publish a call for tenders that was usually won by one single operator with a very limited capacity in terms of territorial coverage in the execution of the services. The Latvian Samaritans challenged this practice before the State Public procurement office (as an appellate body), arguing it represented a monopolisation of delivery of the social services in Riga. The case was resolved in favour of the Latvian Samaritans. This has translated into the cease of procuring practices which allow for monopoly, replaced with a more transparent, competitive and open procuring procedures. To achieve this, the contracting authority has been using Framework

Agreements for social care services in the city of Riga. These services are subject to the Light Regime under Art. 74-77 of Directive 2014/24/EU.

The services procured under the framework include assistance in the provision of personal care and/or domestic work for persons who, because of their age or disability, cannot provide for it themselves. The targets are persons who either live alone or where the members of the family living with the person cannot provide the necessary care, because of their age, health or employment situation. The Framework Agreement also covers the provision of care for minors with disabilities.

Subject matter

Framework Agreement with Multiple Operators for Provision of Home Care Services to Users of Riga Social Service in 2020.

Stage of procurement phase and criteria

The Framework Agreement was awarded under the procurement procedure for Social Care services (as referred to in Annex 2 of the Latvian Public Procurement Law) which is a type of open procedure. The social services providers are expected to deliver 250,000 hours of services and provide an emergency service 130 times for the duration of the contract. Individual contracts are signed with the recipients of the service and care plans must be agreed upon in accordance with the general terms.

Bidders had to meet the following criteria, concerning their technical and professional capacity:

- Employing social carers with at least a first level of tertiary education in social care, or at least a vocational secondary education in the field of social care (after leaving a vocational secondary or other educational establishment carrying out vocational secondary education programmes) and carers (meeting reduced educational requirements)
- Ensuring the regular development of professional competence, in compliance with Cabinet Regulation No. 338 of 13 June 2017 on "Requirements for social service providers", paragraph 9.

In the technical offer, bidders had to provide the following information:

- The district units and the number of caregivers and hours of home care services provided;
- The arrangements for the provision of services, including the arrangements to handle clients' complaints and the resources to be used;
- The duration of the service, the organisation of the working time of caregivers and compliance with regulatory requirements;
- The content of the service for adults and minors, including information on compliance with regulatory requirements, working methods and materials used for the work, service documentation and document custody.
- Bidding enterprises and organisations are evaluated on the basis of their capacity in terms

of territorial coverage, the staff's qualifications and experience, and the infrastructure they have at their disposal.

Six tenders were received and all six providers were admitted to the Framework Agreement.

Social policy objective and/or reference standard

Riga Municipality decided to use a Framework Agreement (as per Art. 33 of Directive 24/2014/EU) to ensure:

- Physical accessibility of the services i.e. the services are delivered locally, near the users' place of living;
- High quality of services i.e. the organisations are able to provide home care services, have experience and meet professional requirements;
- Availability i.e. the Framework Agreement allows for the formation of a network of social services providers in Riga and it increases the availability of the provision of home care services.

The objective of the public contract is to improve the quality of life of the individual and/or family, provide basic personal needs, assist with domestic work and provide personal care for persons who have objective difficulties in caring for themselves due to age or disability.

Verification

- The Procurement Commission examined the compliance of technical offers with the requirements laid down in Article 1.6 of Cabinet Regulation No. 338 of 13 June 2017 on "Requirements for social service providers".
- When submitting the tender documents, bidders had to provide a certification from a specialist confirming that the bidder meets the specific requirement relating to professional development.
- The assessment of the quality of service provided by the tenderer is carried out by the Riga Social Service specialists as necessary.
- Bidders must perform a self-assessment of service quality at least once a year.



- Contract monitoring is performed by the Service Provider's employees.
- Yearly reports and invoices are submitted to the contracting authority.

Contract value

Estimated: The total value of the framework will not exceed €12,877,609 excluding VAT. The expenditure per person per hour cannot exceed €4.44 and expenditure for home care services in emergency situations cannot exceed €30 per day. The initial duration of the Framework Agreement is one year, starting on 1 January 2020.

Instrument

- Art. 74-77 on the light regime for social and other specific services of Directive 2014/24/EU.
- Cabinet Regulation No. 338 of 13 June 2017 on "Requirements for social service providers".

Actors

- Contracting authority: Welfare Department of Riga City Council
- Organisations that are part of the Framework Agreement:
 - "Latvijas Samariešu apvienība", the Samaritan Association of Latvia
 - "Latvijas Sarkanais Krusts", the Latvian Red Cross
 - "Biedrība SIA Mājas aprūpe", a social enterprise providing home care service in Riga
 - "Svētā Jāņa Palīdzība", a Latvian member of Johanniter International, a voluntary humanitarian organisation
 - "SIA Pirmais Patronāžas Serviss", an organisation active in social work activities for the elderly and disabled
 - "AS Aprūpes birojs", an organisation that provides professional healthcare services to patients at home

Social impacts

- Improvement of social services and their territorial coverage for people unable to care for

themselves in the city of Riga, and consequently, improvement of quality of life for these persons and their families.

- Each user can choose the most appropriate service provider according to different criteria, for example, religious or non-religious organisation.

Other benefits

- Social care services are delivered by several organisations; there is no monopoly for one particular organisation. Social enterprises have improved access to public contracts.
- Competition is regulated and the best service provider is not selected based only on the lowest price, but by the most appropriate offer for the user.

Lessons learned and future challenges

- The use of a Framework agreement is particularly advantageous because there are a large number of social care organisations which can deliver appropriate social care services for Riga Municipality, but there is no single organisation capable of delivering on all the social services needed in the territory. This tool has enabled the creation of a network of social services providers in Riga, because of their collaboration in the context of the Framework Agreement, while also strengthening the not-for-profit social services sector by providing them with access to public procurement they did not use to have before.
- The duration of the framework agreement is of one year and can be renewed annually up to a maximum of four years. Some other local municipalities have stipulated (in their local normative acts) that the agreement can be signed for the term of three years. If the term of the agreement is longer than one year, it grants more stability for the service users and the service providers. However, in cases where agreements are longer than one year, it is more difficult for new service providers to enter the market.
- In cases where the social care service provided is housing, the terms of the agreement should be longer than one year. However, some local

municipalities carry out their procurement processes on an annual basis, so there is a risk that users will have to move from one housing place to another each year.

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37 Procurement of social services for independent living in Kasiadorys, Lithuania

Name of procuring authority, Country: Municipality of Kasiadorys, Lithuania

Product or service sector: Social services



Image © Kasiadorys district municipality and Enterprise

Introduction/procurement objective

The Lithuanian Progress Strategy 2030 provides a strategic framework to guide public authorities' action in order to respond to social, economic and environmental challenges over the next few years. One of the main pillars of the Strategy lies in enabling the direct involvement of communities, not-for-profit actors and NGOs to address such challenges more effectively. This has had some key implications with regard to the organisation of public procurement and the role of public authorities as direct providers of social services. Firstly, the Strategy states that the public sector should only provide services when NGOs, civil society organisations and private enterprises cannot provide them. Secondly, as indicated by the National Progress Programme 2014-2020, at least 15% of public social services provided at local level should be procured and performed by such private

operators. The objectives of promoting an increased delivery of social services by private operators are:

- Ensuring higher quality levels of service through improved social impact measurement;
- Overcoming lack of expertise and experience in service scaling-up and
- Promoting the development of outcome (impact)- based approaches to the public purchase of services, rather than those based on activities and inputs.

Enterprise Lithuania, a non-profit agency under the Ministry of Economy and Innovation aimed at the promotion of entrepreneurship and business development, has produced a *Public Services Transmission Guide*. The guide targets local authorities and aims to increase knowledge on public procurement rules, impact measurement methods and available funding and to give

advice on key legal issues. Enterprise Lithuania has also accompanied some local authorities in their procurement design for support services for the promotion of social and economic integration of people with mental health issues. At present, people with mental health issues live independently in community-based settings. However, in addition to caring for their wellbeing, public authorities seek to promote people with mental health issues' integration in society and boost their quality of life. In particular, people with mental health issues lack opportunities to participate in society, have hobbies and be acknowledged as valuable members of their communities beyond negative stereotypes. A major obstacle for economic integration is the lack of job opportunities that are available in the communities (or at a reasonable distance) and fit each person's capacities.

In December 2019, the municipality of Kaisiadorys launched the first procedure to purchase support services for independent living aimed at increasing the autonomy and integration of people with mental disabilities. The impact of the service will be measured after six months. The payment of the service is based on a dual system whereby the provider will get a bonus if the expected result is reached or will be penalised if not.

Subject matter

Procurement of services for the promotion of independent living at home for people with mental disabilities and leading to their employment and social integration.

Stage of procurement phase and criteria

In order to implement the above mentioned outcome-based approach and ensure the availability of suitable tenderers, the contracting authority made use of the opportunities available under the Lithuanian Law on Public Procurement, which implements Directive 2014/24/EU. In particular, it used pre-procurement market consultation and a competitive procedure with negotiation. Other key elements were the definition of the expected objectives of the procedure, both in the short

and long-term, and setting out the dual payment system.

Pre-procurement consultations involved potential social services providers and communities. Consultations aimed to find out whether service providers would be able to achieve the results expected by the municipality, discuss possible terms of the contract and identify the terms that could pose a difficulty for providers. These dialogues were also organised to find potential collaborations between providers in case a single provider was unable to meet all the objectives defined by the municipality by itself. Consultations touched upon quality criteria for services, which were defined by the municipality and validated by potential providers and stakeholders involved in that phase.

The evaluation of tenders was made on the basis of the best price-quality ratio. Price (cost per person per month) had a weight of 60% and quality the remaining 40%.

Quality was assessed against three criteria, and tenderers were invited to propose a set of parameters for each:

- Service recipients can support themselves through employment and earn income; measured by the number of months a year in which people are employed – after the conclusion of the contract with the service provider – and their level of earnings (maximum 15 points).
- Service recipients are able to take care of their own hygiene and self-management (maximum 15 points).
- Description of the service(s) proposed, addressing how the service delivery has an impact on the target group and follows the objectives pursued by the contracting authority (including, involvement of volunteers in the outcome action and partnership with local NGOs and private businesses) (maximum 10 points).

The operationalisation of such criteria, as proposed by the winning tenderer, defines the impact measurement and payment.



Offers were invited to propose a price of the service per person per month. The maximum value of the contract equals: Fixed price per person per month*10 (# of users)*12 (# of months)

The procedure was open to all types of operators and was awarded to a not-for-profit service provider, in line with the strategic objective of the Transmission Guide to expand the role of social economy operators as providers of services, in particular those covered by the light regime.

Social policy objective and/or reference standard

- Social skills development: the procured services aim to increase the sense of responsibility and ownership over the lives of people with mental health issues. This includes independent living, learning how to engage with the community and increasing their social participation. The support given should lead to an increased ability of users to communicate and voice their needs, as well as to have ownership over their decisions and actions.
- Match employment opportunities with each person's abilities and competences: gaining access to paid employment and having the right to manage their own income triggers people's effective right to decide on their lives and their autonomy.
- Provide a holistic set of support services enabling the inclusion of people with mental health issues in work and society: providing a full set of social services that address each person's needs beyond health care is a key precondition to ensure the sustainability of their integration.

Verification

In order to facilitate the assessment of proposals, the contracting authority defined its strategy, setting out medium-term expected results and long-term expected effects, as well as a methodological approach to measure these upon verification.

Contract value

The contract was launched in December 2019 and

will end in November 2020 (12 months), with a possible extension of 12 additional months. The total value of the awarded contract was €55,000 for 1 year, with a possible extension of one additional year by the same amount.

Instrument

- Art. 40 of (on preliminary market consultations and Art. 74-77 (on the light regime for social and other specific services) of Directive 2014/24/EU.

Actors

- Contracting authority: Municipality of Kaisiadorys
- Contracted service providers: health and social care services providers, both private and not-for-profit.
- Support: Enterprise Lithuania (and their consultants), have accompanied the municipality throughout the full procurement cycle, from the identification of the service needs until the launch of the procedure and its award. They also support the contracting authority in the implementation of the contract. Their next milestone is their first impact measurement after six months.
- Beneficiaries: Persons with mental disabilities, as recipients of the contracted service.

Social impacts

- The main objective of the services provided is to increase the social and economic integration of people with mental health issues who live in community-based settings.
- The municipality was able to capitalise on the experience and expertise of non-public operators, in particular not-for-profit providers of social services, to seek innovative ways to deliver services for people with mental health issues.
- This procurement served to mainstream outcome-based public purchasing as a way to boost the effectiveness of social services and give best value for money.

Lessons learned and future challenges

- The implementation of this new approach was not easy due to the limited number of service providers available able to perform the contract as required by the contracting authority. Nevertheless, the municipality made an effort to invite both private and not-for-profit providers that were already providing similar services and to ensure that communities (user groups, disability organisations, etc.) could make their voices heard. Emphasis on consultations and negotiation is a key element of the Transmission Guide.
- Municipalities must be assisted in the implementation of impact procurement and its communication to the market, as this approach to contracting procedures is more complex than traditional ones. On the other hand, public authorities –especially at the local level– often lack practitioners that are used to working with socially-aimed providers and dealing with the challenges linked to pre-procurement.
- Municipalities should plan their procurement activity over the long-term, as impact-based procedures are more complex and call for deeper analysis at every procurement stage.
- It is crucial to work with potential suppliers to raise awareness of the benefits to be gained from market consultations and communicate why they should be taking part in these.

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"The outsourcing of services to the non-governmental sector is not an end in itself but increases the positive impact and reduces the cost of providing public services. Promoting social entrepreneurship is also an important aspect of this process. Thus, we see the strategic use of public procurement as an opportunity to stimulate the growth of the social economy and promote change by addressing societal challenges for a better future."

*Daina Kleponė,
Lithuania Managing Director*



38 Result-oriented youth assistance services, including Social Return requirements

Name of procuring authority, Country: City of Rotterdam, the Netherlands

Product or service sector: Social services



Introduction/procurement objective

In 2014, a new Youth Act was established in the Netherlands, which restructured and decentralised youth services to allow more local approaches. As a result, 15 municipalities in the Rijnmond region (a province in the west of the Netherlands) joined together to form the Common Rijnmond Youth Assistance scheme (GR-JR), chaired by the municipality of Rotterdam. When retendering its youth services in 2018, GR-JR decided to use a result-oriented funding model, which would shift the focus from outputs to outcomes, in order to incentivise greater contractor responsibility for results and encourage innovation.

In order to ensure the continuous and appropriate supply of care, GR-JR has subdivided youth services into different lots and uses a framework agreement so that several providers can be contracted per lot.

The initial duration of the framework agreement is three years (starting 1 January 2018), and it can be extended twice, each time by one year. The services being provided under the framework are covered by the light regime (Art. 74-77 of Directive 2014/24/EU).

Subject matter

Youth assistance - Lot A: Foster Care (temporary or long-term placement of young people in a stable home situation)

Stage of procurement phase and criteria

GR-JR used an open procedure, and tenderers were scored against the following award criteria:

- Staff knowledge, expertise and experience (30 points)

- Implementation of result-oriented youth assistance (40 points)
- Cooperation - how the tenderer will collaborate with other actors to ensure holistic youth assistance (30 points)

As payment is only made on results, tenderers were asked to provide descriptions of how they will implement the result-oriented youth assistance, including:

- How the organisation is equipped to ensure effective and efficient use of the new opportunities allowed by result-oriented funding, including to define goals, priorities and actions, and how it will ensure time and resources are available to deliver the necessary results;
- The extent to which the organisation recognises, controls and manages risks upon the introduction of result-oriented funding methodology;
- The extent to which the organisation provides integral care covering the full breadth of youth services and cooperates with other care providers where relevant.

Bids were assessed on a scale from 0 to 5 (from 'Bad' to 'Excellent'). The assessment team consisted of at least five members, including policy officers and contract managers within the GR-JR.

Finally, GR-JR included 'Social Return' clauses in the contracts with the eventual winners. Service providers must fulfil a wider social return obligation focused on providing work-related opportunities to people furthest from the labour market (i.e. people who are receiving jobseekers benefits, or young people in training programmes). This is based on Rotterdam's Social Return Protocol, which lists all activities considered relevant and a methodology for valuing these activities. Non-fulfilment results in a fine worth 125% of the sum not fulfilled.

Social policy objective and/or reference standard

This tender is a result of the National Youth Act (1 March 2014), which aims to enable young people to grow healthily and safely towards being independent and sufficiently self-reliant to participate in society.

In addition, Rotterdam applies social return clauses in all contracts worth over €50,000 with the aim of creating employment opportunities for people who would otherwise find it difficult to work.

Verification

To prove their core competencies of working with the client group, bidders must provide a reference from a similar job, completed no more than three years before the deadline for bids.

GR-JR will monitor performance of the service using four nationally defined indicators: client satisfaction, goal realisation, failure and waiting times. The service supplier can also request additional indicators, where these provide a good overview of achieved results. In addition, the service supplier's performance will be monitored quarterly from four perspectives:

- Feedback from the Local Team (defined team of municipality staff working on youth assistance) on the method of cooperation, accessibility, transparency, treatment of service users, cooperation with other organisations, and speed of actions.
- Checking complaints from service users through annual interviews with young people.
- Output implementation.
- Number of youths treated and average client price.

GR-JR and the supplier will discuss results and necessary actions four times per year. A financial statement is submitted annually to calculate payment, based on total allocated scheme budgets for the total of assisted/supported Youths. This statement must be accompanied by an auditor's report (unless the annual turnover is less than €125,000, where a self-declaration will suffice).

In addition, the supplier must report on the fulfilment of the social return clause. GR-JR provides a 'Social Return Protocol', which lists applicable social return activities, and the financial value of these activities. For example, employing a person receiving unemployment benefits counts as



€30,000 per year towards the contractor's social contribution, or €20,51 per hour. This goes up to €35,000 per year or €29.92 per hour if the person has been unemployed for more than one year. To track contributions, suppliers must register social return activities in GR-JRs Social Return registration system. The supplier must demonstrate that the employee falls under one of the target groups, in addition to providing a payslip or employment contract.

There are various ways in which social return in the Netherlands can be incorporated into public procurement. Options include setting special terms and conditions of performance, the inclusion of award criteria, or the reservation of a contract with sheltered employment companies. For other example, see the cases in this collection from Wageningen ([p. 227](#)) or Haarlem ([p. 229](#)).

Contract value

The contract for youth assistance services over three years had a total value of €50 million (€18 million for Lot A)

Instrument

- Art. 46 (on division of contract into lots) and art. 67 (on contract award criteria) of Directive 2015/24/EU. In addition, Art. 74-77 sets out the light regime on social and other specific services, allowing greater flexibility regarding procedures and encourages the use of qualitative criteria.
- 2014 Directive implemented in the Netherlands via the Public Procurement Act 2020 (amended per 1 July 2016).

Actors

- Contracting authority: City of Rotterdam and GR-JR
- Contracted service provider: Enver
- Beneficiaries: Youth receiving assistance services under GR-JR, plus employees recruited to fulfil social return obligations.

Social impacts

- By using a result-oriented funding mechanism, GR-JR are able to ensure that the youth services procured are providing real outcomes, and not just outputs. It encourages innovation and collaboration by not being overly prescriptive about what the service is, but rather focusing on what it should achieve.

Other benefits

- The labour market in Rotterdam is changing. Its port used to employ a lot of low-skilled people, but automation and other changes in the labour market mean there are no longer jobs for these workers. In addition, the port has been relocated further away from the city, and travelling there has become too difficult for many low income job seekers.
- Through Rotterdam's social return policy, every public sector contract worth over €50,000 is reviewed by a social return expert for social return opportunities. A contract must allocate between 0%-50% of the contract value to providing employment opportunities, with an average of 5% per contract.
- For example, one of the winners of this tender was Enver, an organisation which supports young people and their families in the region of 'Zuid-Holland' (South Holland) through the delivery of quality youth services, with a social return obligation worth 2% of all its contracts with GR-JR. In addition to providing quality, community-based services, Enver directly offers jobs and internships to people that are far from the labour market, including people who receive social benefits, young people who are vulnerable and need extra support, and people with physical or mental disabilities.
- Overall, in 2018, Rotterdam's Social Return initiative resulted in 2519 persons with a distance to the labour market being hired by companies.

Lessons learned and future challenges

- Social return activities must be matched to the realities of the sector. In healthcare for instance, although there are a lot of vacancies, these positions require people with relevant diplomas and are currently not able to be filled by people that are far from the labour market.
- As such, Rotterdam updated its social return policies in 2019 to offer employers more flexibility and opportunities for customisation. This has allowed new approaches that are more relevant to the target group, such as tackling debt problems (which affect 50% of people on social benefits) and bringing people closer to the labour market by allowing education and (on the job) training, and language courses as an official social return activity.
- Monitoring the implementation of social return requires suppliers to report their activities, along with evidence. The feedback from suppliers is that the administrative burden is currently high. As such, Rotterdam is working with several organisations to find solutions which work for both parties.

Contact

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39 Cross-border co-design and co-management of mental health services

Name of procuring authority, Country: GECT GO/EZTS GO, European Grouping of Territorial Cooperation “Territory of municipalities: Comune di Gorizia (I), Mestna občina Nova Gorica (Slo) and Občina Šempeter-Vrtojba (Slo)”, Gorizia, Italy

Product or service sector: Social services



Introduction/procurement objective

This good practice emerged in the framework of the *Health-Zdravstvo Project*, an Interreg Slovenia Italy co-financed project that ran from 2014-2020, implemented by the GECT GO/EZTS GO as sole beneficiary. The project aims to strengthen and improve the delivery and quality of health and social services for the population living in the cross-border area between Italy and Slovenia through a pilot of integrating health services and facilities.

The procurement objective was to create innovative cross-border projects to meet the needs of young people with mental health issues, both in terms of providing care and in social and labour market integration.

European groupings of territorial cooperation (EGTCs) have been created to foster cross-border, transnational and interregional cooperation between Member States and their regional and local authorities. EGTCs enable these partners to implement joint projects, exchange experiences, improve the coordination of spatial planning and form single legal entities to overcome the difficulties posed by different legislation and procedures in different territories.

Subject matter

Co-design and co-management of innovative and experimental approaches interventions, services and personalised projects aimed at the social inclusion of young people with mental health problems.

Stage of procurement phase and criteria

The call for tenders, elaborated by a joint Working Group,²⁷ required bidders to submit a preliminary project proposal indicating the criteria, methods of concrete implementation and operational proposals for co-management of individual and collective interventions supported by a Health Budget.²⁸ The project proposals should contain elements of innovation, experimentation, quality and a strong and clear cross-border impact. The proposals were evaluated for the development of the following programmes:

- **Co-management and territorial support programme:** Project proposals with the objective of ensuring the coordination and monitoring of all of the cross-border activities which are co-designed and co-managed, aimed, among other things, at encouraging exchanges and the consolidation of the working relationship of the operators involved.
- **Work training programme:** Project proposals aimed at providing opportunities for job training with high capacity to accommodate people with different mental health problems. The proposals will provide different training opportunities for the users in at least three types of entrepreneurial activities (e.g. green, social agriculture, administrative areas, catering, peer support working, cultural and communication activities, etc.), also taking into account a cross-border territory perspective.
- **Social programme:** Project proposals in the area of socialisation activities for the users. Activities which are of a rehabilitative nature, aimed at building social relationships through cultural and educational activities with opportunities to socialise are most welcome.
- **Housing programme:** Project proposals aimed at providing individualised housing support, either by supplying private housing or shared accommodation. The partner undertakes to make residential apartments available, preferably in the area of Mestna občina Nova Gorica (Slovenia), for a maximum of four people, equipped with customisable private spaces.

The maximum overall score that can be assigned to the proposals is set at 100 points, distributed as follows:

- Project proposal (including the points above): maximum score 85 points
- Financial business plan: maximum score 15 points

Social policy objective and/or reference standard

The social aim of this procurement is the social and labour inclusion of young people with mental health issues, in the context of creating a network of cross-border health services to be applied to other areas of healthcare services.

Verification

At least every six months, the Working Group meets to monitor the project objectives. The agenda of the bi-annual review meeting shall be divided into the following items:

- verification of the rehabilitation objectives achieved
- verification of stakeholder information levels
- review of work sharing arrangements within the joint team
- sharing good practices and discussing difficult situations

The results of this meeting shall be recorded in minutes and kept by the Working Group coordinators.

Contract value

The total contract value was €367,213.11 over a period of 18 months.

²⁷ Made up of: psychologists, educators, social workers, nurses etc. from the following Slovenian and Italian entities: Health Centre Nova Gorica (ZD Nova Gorica); Idrija psychiatric hospital (PB Idrija); Mental Health Centre CSM – AAS2; as well as coordinators.

²⁸ The Health Budget represents an innovative managerial possibility to promote home care, able to focus on the beneficiaries' self-determination skills and the possibility to customise the care according to their needs (such as health, care, rehabilitation, housing, employment and social needs).



Instrument

- Art. 74-77 on the light regime for social and other specific services of Directive 2014/24/EU

Actors

- Contracting authority: GECT GO/EZTS GO
- Tenderers: Italian and Slovenian third sector entities/not-for-profit operators
- Contracted service supplier: 'La Collina Società Cooperativa Sociale Onlus Impresa Sociale', an Italian social cooperative
- Technical support: Insiel, the ICT in-house company of the Friuli Venezia Giulia Region
- Members of the Working Group and institutions involved in the project:
 - The Slovenian Ministry of Health
 - The Central Directorate for Health, Social Policies and Disability of the Friuli Venezia Giulia Region of Italy
 - The Slovenian National Institute for Public Health, NIJZ (Nacionalni inštitut za javno zdravje Republike Slovenije)
 - The Slovenian Institute for Health Insurance, ZZZS (Zavod za zdravstveno zavarovanje Republike Slovenije)

Social impacts

- Thanks to the project, there is an exchange of good practices between social and health professionals through the specially created Italian-Slovenian Working Group, which was involved in the co-designing of the content of the call for tender.
- A good practice in focus is the Health Budget, which is commonly applied in Italy but not in Slovenia. The tender aims to apply the good practice of the Health Budget concept of ad hoc personalised care for users to the Slovenian territory of Nova Gorizia.

Other benefits

- This case is a real novelty in the territory, as a special opportunity to exchange good practices, offer better quality services to citizens, and

transfer skills and knowledge across the border.

- The project also strengthened the collaboration between Italian and Slovenian third sector/not-for-profit providers.
- It is a good practice that is transferable to other places. It may be replicated by European regions in the form of interregional cooperation, as well as in countries outside of the EU.

Lessons learned and future challenges

- Italian third sector entities proved to be much better prepared to answer the call for tenders. For more meaningful cooperation, Slovenian not-for-profit service providers could benefit from training and capacity building to be able to bid for public procurement contracts.
- Since October 2019, all calls for tenders in Italy are to be published on electronic platforms. Slovenian bidders came across some issues when applying through the Italian electronic platform of the Friuli Venezia Giulia Region²⁹ because it required information that only Italian entities hold, such as a fiscal code. Furthermore, the procuring authorities found that bidders responded only to the calls published in their respective countries. To ensure meaningful cross-border cooperation, where Slovenian operators bid for calls made in the Italian territory and vice versa, the GECT GO/ EZTS GO carried out activities to map all available electronic platforms in order to identify one that would suit their needs. To do so, they took part in a pilot project 'B-Solutions', which is promoted by the European Commission's Directorate-General for Regional and Urban Policy (DG REGIO) and managed by the Association of European Border Regions (AEBR) as one of the actions proposed in the Communication "Boosting growth and cohesion in EU border regions".³⁰ This helped the contracting authority to identify the best-suited existing platform, which they now use.³¹

²⁹ <http://appalti.regione.fvg.it/>

³⁰ <https://ec.europa.eu/futurium/en/border-regions/pilot-projects>

³¹ Net4Market.com

- The legal frameworks of third sector entities/ not-for-profit organisations differ between the two countries. This has created issues, such as Slovenian not-for-profit entities not having a VAT number and thus not being able to form a consortium or a European Economic Interest Group (EEIG) with Italian operators to bid. Advancing towards a European legal framework for all social economy enterprises and organisations would be a viable solution.

Contact

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40 Using procurement in Catalonia to strengthen workers' rights in electronics supply chains

Name of procuring authority, Country: The Catalan Association of Local Authorities (L'Associació Catalana de Municipis – ACM), Spain

Product or service sector: Information Communication Technology (ICT)



image © Tom Fisk on Pexels

Introduction/procurement objective

The Catalan Association of Local Authorities (L'Associació Catalana de Municipis – ACM) comprises over 1,000 local government bodies, which represents 95% of municipalities in the region. One of its functions is to act as a central purchasing body, combining needs and providing administrative savings for its members.

In 2018, ACM became an affiliate of *Electronics Watch*, an international association to monitor human rights in ICT supply chains. ACM's social clauses, derived from reference contracts from Electronics Watch, are now being added to its members' tenders, including a recent printer framework in which 156 member municipalities are participating.

Subject matter

Multi-operator framework agreement for printers, multifunctional devices and wide format printers.

Stage of procurement phase and criteria

Contract performance conditions:

Successful bidders admitted to the Framework Agreement must ensure compliance with labour rights and safety regulations in the production chains of the factories where the goods subject to the contract are produced. For these purposes, the successful bidder must:

- Carry out due diligence so that the factories producing electronic goods comply with the provisions of the Code of Labour Standards

defined in the Electronics Watch Contract Conditions.³²

- Deliver to the contracting authority (within 30 days after the formalisation):
 - A Disclosure Form, informing the contracting Authority about the physical locations of the factories where the goods forming the subject matter of the contract are produced.
 - If applicable, the contractor must inform the contracting authority annually about audits of any of the factories where the goods forming the subject matter of the contract were produced.

Social policy objective and/or reference standard

Electronics Watch's clauses require contractors to perform due diligence to achieve supply chain transparency, collaborate with independent monitors and remedy breaches of labour rights and safety standards.

Electronics Watch's clauses are consistent with Directive 2014/24/EU on public procurement and reflect the UN Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises. The clauses contain a code of labour standards referring to domestic laws in the countries of production as well as the fundamental ILO conventions.

Verification

Verification is based on factory disclosure directly linked to the subject matter of the contract. Contractors disclose legal names and the complete physical addresses of factories that make specific product models to Electronics Watch affiliates. Electronics Watch will conduct the monitoring for ACM to investigate compliance with the set-out labour rights standards in the tender documents.

Contract value

€1,127,385.51 per year

Instrument

- Art. 18(2) (on compliance with applicable obligations in the fields of environmental, social and labour law) and Art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.

Actors

- Contracting authority: ACM and Electronics Watch as an affiliate.
- Contracted providers:
 - Basso SA
 - Gircopi SI-Sistemes D'organització SA
 - Konica Minolta Business Solutions Spain
 - Ricoh Sistemas
- Independent monitoring organisation: Electronics Watch
- Users of framework agreement: ACM member municipalities

Social impacts

- The initial disclosure request was met with a positive response from contractors. Contractors provided detailed supply chain information about specific product models and production locations used under the contract. Based on existing monitoring results for these models and locations, Electronics Watch was able to prepare a risk assessment for ACM. ACM is already planning to include the Electronics Watch contract conditions in two more framework agreements – for ICT and video recording of plenaries.
- Disclosed details from one supplier strengthened an ongoing engagement process with a printer factory in South Asia. Based on production location details, a monitoring plan has already been implemented. Monitoring is conducted by Electronics Watch's local partners – local civil society organisations with the expertise in monitoring labour rights.

³²http://electronicswatch.org/electronics-watch-contract-conditions-for-supply-contracts-v-2-0_2556796.pdf



Other benefits

- The standardised Electronics Watch process allows for easy transferability of monitoring and a follow-up model after affiliation.
- Supply chain transparency has also increased for other Electronics Watch affiliates in Europe that procure the same product models.

Lessons learned and future challenges

- It is important to inform bidders/potential contractors about the related obligations during the contract management phase to facilitate compliance.
- There is a need for the ICT industry - both resellers as well as brands and their suppliers - to further develop supply chain transparency. Currently, disclosing component-level information is still challenging for the industry; however, it is fundamental to enable supply chain transparency.
- If more public authorities ask for disclosure of production locations and processes, it will help to establish this as standard practice in the industry.

Contact

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“There is a need for the ICT industry – both resellers as well as brands and their suppliers – to further develop supply chain transparency that will become an important stepping stone to improve working conditions and living standards for workers.”

*Peter Pawlicki,
Electronics Watch*

41 Social responsibility in Computers & Laptops Framework Agreement, Finland

Name of procuring authority, Country: Hansel Ltd, Finland

Product or service sector: Information Communication Technology (ICT)

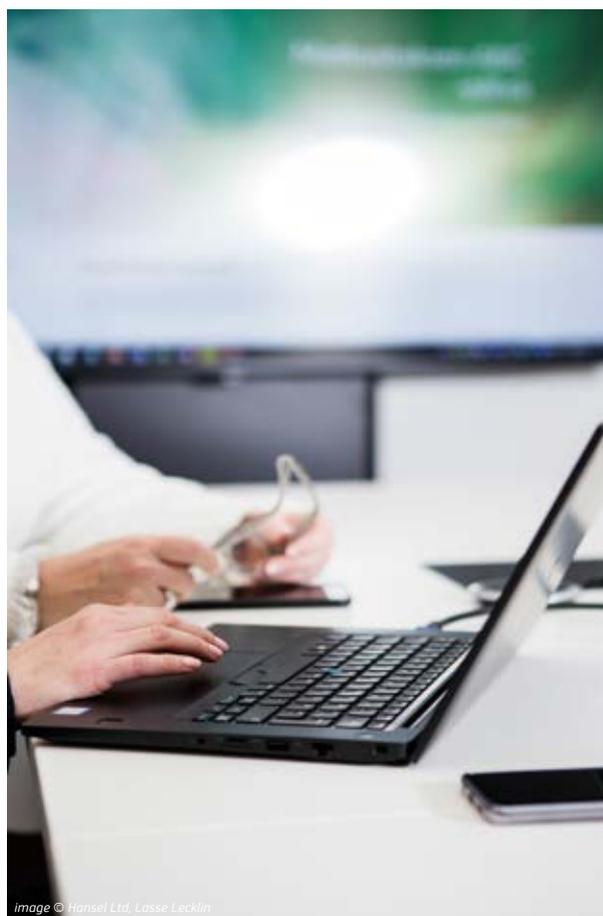


image © Hansel Ltd, Lasse Lecklin

Introduction/procurement objective

Hansel is the national-level central purchasing body in Finland. Hansel and its customers (Finnish public authorities) are committed to the promotion of socially responsible and sustainable public procurement. To this aim, ensuring that procured goods and services are manufactured in a fair and socially responsible manner is acknowledged as a priority.

Hansel has, therefore, produced a Code of Conduct for the procurement of electronic products with a focus on social responsibility. The choice to focus

on this type of purchase was based on the fact that these products are often manufactured in countries where human and labour rights are not always sufficiently enforced. The code seeks to promote and ensure decent working conditions for workers across the entire supply chain of computers and other ICT-related products. The code is to be used in all future procedures (framework agreements, contracts) launched by Hansel in this field of supplies. This approach has been mainstreamed to other products and services through a general version of the code to be applied in other types of procurement.

The code spells out the obligation of suppliers to commit to its compliance and ensure that all of the minimum requirements included in it are met within their own operations as contractors, as well as those along the supply chain.

In order to pilot the implementation of the code, Hansel launched a procedure dealing with ICT products. In parallel, other sector-specific pilots have been launched along the same lines, including a procedure for a framework agreement on office furniture. The code has been translated into English and is available for use by other contracting authorities in Finland and elsewhere.

The call was issued in 2017 and the contract was awarded in 2018.³³

Subject matter

Framework agreement for office and mobile computing equipment, including tablets, hybrid computers, laptops, all-in-one computers, desktop

³³<https://ted.europa.eu/udl?uri=TED:NOTICE:461029-2017:TEXT:EN:HTML&src=0&tabId=0>



computers, etc., as well as other ICT-related equipment, accessories and services

Stage of procurement phase and criteria

An open procedure was used, and social and environmental responsibility criteria were taken into account as award criteria with a weight of 20%:

- The award criteria related to environmental responsibility (10%) included the non-use of harmful substances (i.e. mercury, tetrabromobisphenol A, phthalates and PVC), as well as the use of recycled or biodegradable plastic in the plastic parts and packaging.
- Regarding social criteria (10%), Hansel evaluated the transparency of the supplier concerning the locations of final assembly sites and component suppliers, as well as the working conditions in the final assembly locations; the payment of a living wage and the number of working hours (at the most 48 hours per week including overtime) were to be verified by an independent third party auditing report.

These criteria proved to be challenging (see Lessons Learned section). Bidders also had to state their commitment to the terms of reference (including the Code of Conduct) in submitting the tender.

The maximum number of participating tenderers envisaged for the framework agreement was four.

Social policy objective and/or reference standard

The main objective of the code (and the procedure) is to ensure compliance with decent work standards and working conditions across the entire supply chain involved in the production of ICT products purchased by Finnish authorities.

To achieve this aim, the Code of Conduct refers to the following standards and conventions:

- UN Universal Declaration of Human Rights (1948)
- International Covenant on Civil and Political Rights (UN 1966)

- International Covenant on Economic, Social and Cultural Rights (ICESCR, UN 1966)
- UN Guiding Principles on Business and Human Rights
- OECD Guidelines for Multinational Enterprises
- The Eight Fundamental Conventions of the ILO: No. 29 on Forced Labour (1930), No. 87 on Freedom of Association and Protection of the Right to Organise (1948), No. 98 on the Right to Organise and Collective Bargaining (1949), No. 100 on Equal Remuneration (1951), No. 105 on Abolition of Forced Labour (1957), No. 111 on Discrimination (Employment and Occupation) (1958), No. 138 on Minimum Age (1973) and No. 182 on Worst Forms of Child Labour (1999)
- UN Convention on the Rights of the Child, Article 32 (1989)
- UN Convention against Corruption (2003)
- Labour protection, labour terms and working conditions legislation in force in the country of production of goods and services, including legislation on minimum wages, and the social welfare protection regulations.

As well as the:

- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its three regional Protocols.
- Any environmental protection legislation that is in force in the country of production of the goods and services.

Verification

The aim of this project is to generate concrete criteria and reliable verification mechanisms for the assessment of social responsibility in conjunction

with products to be acquired. In this regard, the code marks the reference standard for contract terms and also guides verification during the execution of the contract. In addition to applicable standards, the code also sets out other social requirements and mechanisms to deal with non-compliance and breaches. The supplier and/or its parent company will publish an annual sustainability report. Suppliers shall take relevant contractual measures to implement the Code of Conduct in their own operations, as well as along the supply chain.

One of the key aspects of the code is linked to the sharing of results on the social responsibility audits and corrective actions undertaken, including through the dissemination of summary versions of auditing reports. The purpose of disseminating such information is, on the one hand, to increase knowledge on social responsibility requirements in (global) supply chains and, on the other hand, to avoid overlaps and multiple auditing to compliant operators by different contracting authorities.

Contract value

The estimated value of the framework agreement is €180 million. The initial term is for two years, extendable up to a maximum of four years.

Instrument

- Art. 18(2) (on mandatory social clauses), Art. 71 (on subcontracting) and Art. 67 (on contract award criteria) of Directive 2014/24/EU.

Actors

- Central purchasing body: Hansel Ltd
- Main partner: Finnwatch
- Suppliers
- Verifiers/auditors
- Employees and their representatives (trade unions)
- Civil society organisations working on development.

Partnership was at the core of the code and the design of the ICT contract. Hansel initiated the

project in partnership with Finnwatch, an NGO working on the promotion of global corporate responsibility to ensure decent labour standards in public procurement.

Finnwatch provided Hansel with expert assistance in the preparation and monitoring of social responsibility-related criteria for the various stages of a procurement process. The dissemination of this initiative among contracting authorities at all government levels as a good practice has been supported by the Trade Union Solidarity Centre of Finland (SASK), and KEPA (the umbrella organisation for Finnish civil society organisations working on development cooperation).

Social impacts

- The suppliers and contracting authorities have become more aware of social responsibility issues as a result of this effort. A report of the pilot project, aimed at sharing knowledge on social responsibility across supply chains, was also published online by *Finnwatch* (in Finnish). Key elements from the report were that dialogue and communication with potential suppliers were essential to promote a mutual understanding of the implications of contract requirements in terms of execution, auditing, etc. Also, in order to raise requirements beyond minimum standards, verification efforts should be stepped up during the execution phase. Most Finnish suppliers lack the capacity to monitor standards in global supply chains directly and rely on social responsibility units of parent companies. Therefore, contracting authorities need to translate key documents into English to ensure that requirements can be understood in global units.
- Such requirements have a positive impact at production level, from assembly factories to further up the supply chain, if an increasing number of contracting authorities set such standards in their procedures.

Other benefits

- Sharing auditing reports with other contracting



authorities can save resources and decrease the administrative burden to both tenderers and authorities.

Lessons learned and future challenges

- A key element for the success of the Code of Conduct was to conduct a thorough preliminary market consultation with the potential suppliers. The market consultation was started several months before the planned publishing date of the procurement notice and provided key information on relevant standards and realistic requirements.
- It proved difficult to verify social responsibility criteria during the procurement procedure. When auditing reports were attached to the tender, these did not necessarily prove the actual criterion (i.e. working hours). On the other hand, auditing is not usually carried out on production facilities situated in the EU, for example. As these are already subject to stricter EU rules, auditing efforts are concentrated on more problematic areas where they become more relevant.
- The same products are manufactured in several assembly factories. In this case, it is difficult to conduct auditing in practice. (e.g. Which production sites should be chosen? How is overall compliance guaranteed?)
- Local suppliers or resellers do not always get satisfactory responses from their global suppliers to questions from the contracting authority.
- It can be challenging for contracting authorities to ensure compliance with labour and social standards, especially in global supply chains. Initiatives such as the Code of Conduct are key to show concrete approaches to do so. An open and transparent dissemination of such resources is crucial to promote increased uptake by other contracting authorities.
- It would be very useful if other procurement authorities in the EU would use similar contract terms to the Code of Conduct in their procurement contracts. This would discourage access to public procurement markets by non-compliant operators and promote upward convergence on human and labour rights across

global supply chains.

- Sharing information on audit reports of suppliers with other procurement authorities across the EU would be efficient and useful, especially in markets where suppliers operate in different procurement markets, such as ICT suppliers.

Contact

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"Hansel has a long journey behind it in developing sustainable procurement. Based on feedback from our stakeholders, they expect us to strongly focus on social responsibility in our public procurement, even though it can be challenging to measure and verify. This project aimed to deliver reliable criteria and verification mechanisms to ensure social responsibility aspects in public procurement."

*Kalle Hietaranta,
Head of Unit, Category Management*

42 Two-step approach in socially responsible public procurement of ICT-hardware

Name of procuring authority, Country: BMZ Federal Ministry for Economic Cooperation and Development, Germany

Product or service sector: Information Communication Technology (ICT)



image © BerckenGroep on Pixabay

Introduction/procurement objective

The Federal Ministry for Economic Cooperation and Development decided to pursue a two-step approach for this pilot tender for the main subject (computers and monitors) as well as peripheral equipment (keypad and pc-mice), which included a combination of binding minimum criteria (technical specifications) and advanced criteria (a social bidder concept, rewarded in the award criteria). This was based on prior market research on human rights and labour law issues in the ICT supply chain, and on what the market offers (and is able to prove) in this respect.

Accordingly, in its tender, the Federal Ministry for Economic Cooperation and Development called for social criteria as binding technical specifications for the first tier of the supply chain (final assembly) for

computers and monitors. This was combined with high requirements for the quality of verification (either labels or an equivalent test report from an independent third party or external audit proof). The social criteria included both the ILO core conventions as well as further social criteria (occupational health and safety, minimum wage and social security, hours of work). Additionally, the award criteria assigned marks for a “bidder concept” on socially responsible measures in the further supply chain stages of the products, from the second tier of the supply chain down to the extraction of raw materials (and additionally for the first tier of the peripheral equipment). The request for this bidder concept was structured by the public authority through leading questions concerning the knowledge of the supply chain of the subject matter, a corresponding risk analysis, preventative measures and verification.



The tender shows that for products with a complex supply chain the request for social criteria and effective verification is possible, even when these criteria go beyond what is required by labels.

Subject matter

Supply of sustainable workplace computers and monitors and peripheral equipment (keypad and pc-mice), taking into account human rights and labour standards in the supply chain (manufacturing and extraction of minerals) of the goods to be supplied.

Stage of procurement phase and criteria

Technical specifications:

For the main subject of the tender (computers and monitors), the call for tender asks the bidders to fulfil mandatory criteria for the first tier of the supply chain:

1. Compliance with ILO Core Labour Conventions:
 - Prohibition of forced labour and debt bondage (ILO conventions 29 and 105)
 - Non-discrimination (ILO conventions 100 and 111)
 - Prohibition of exploitative child labour and the employment of children under 15 years of age (ILO Conventions 138 and 182)
 - Freedom of association and the right to collective bargaining (ILO Conventions 87 and 98)
2. Compliance with other labour and social standards:
 - Occupational health and safety (ILO Conventions 155 and 170)
 - Minimum wage and social benefits (ILO Conventions 131 and 102)
 - No excessive working hours (ILO Convention 1)

Award criteria:

Additionally, bidders are requested to submit a document entitled 'bidder concept' to prove further product related compliance with the following:

- For the first tier for peripheral equipment (keypad and pc-mouse), with the same criteria

as mentioned above in section 1 i.e. ILO Conventions;

- For the second and further tiers of the supply chain, both for the main subject of the tender (computers and monitors) and for the peripheral equipment, the tenderer is requested to submit, together with the offer, a description of all the measures they have taken to demonstrate compliance with ILO Core Labour Conventions (as listed above in section 1), compliance with other labour and social standards (as listed above in section 2); and
- Avoidance of the use of conflict minerals in the goods to be supplied, in compliance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.
- For the bidder concept, the total number of points that can be achieved is 25,000. For peripheral equipment (i.e. keypad and pc-mouse, for tier 1), the tenderer shall demonstrate compliance with the above mentioned ILO and other standards (2,000 points).
- While for the main subject matter of the contract (computers and monitors) and peripheral equipment (keypad and pc-mice), additional points are given for the bidder concept related to compliance with social standards in further tiers of the supply chain (23,000 points - from tier 2):
- Knowledge of the supply chain – maximum 4,000 points
- Risk analysis on working conditions – maximum 4,000 points
- Corrective and preventative measures – maximum 5,000 points
- Control measures, such as social audits – maximum 5,000 points
- Grievance mechanism – maximum 5,000 points.
- The measures presented in the bidder concept will become part of the contract. The more effective and far-reaching the efforts for social sustainability are, the higher the rating of the quality.

See table below.

KG	K	Type	Designation	Reference to the specifications	Length of the answer	Weighting score	Minimum score	maximum attainable score	Points awarded	Points x weight	Met/ Not Met
KG 1			Workstation PC			0	0	15.000		0	fulfilled
KG 2			Monitors			1000	0	10.000		0	fulfilled
KG 3			Sustainability and social justice			1000	0	25.000		0	fulfilled
	3.1	B	Standards in the first stage of the supply chain for peripheral devices (key question 1)		M	100		2000		0	
	3.2	B	Knowledge of the supply chain (key questions 2.1 and 2.2)		M	100		4000		0	
	3.3	B	Risk analysis on working conditions (key questions 3.1 and 3.2)		M	100		4000		0	
	3.4	B	Corrective and preventive measures (key question 4.1)		M	100		5000		0	
	3.5	B	Control measures (key question 4.2)		M	100		5000		0	
	3.6	B	Complaints office and complaint management (leading question 4.3)		M	100		5000		0	
						1000	0	37.500		0	fulfilled

Social policy objective and/or reference standard

- The procuring authority contributes to the respect for labour and social standards and incentivises “frontrunners”.
- The procuring authority promotes awareness raising concerning the supply chain knowledge and encourages the implementation of ambitious measures to combat labour exploitation, child exploitation, conflict raw materials, and health and safety.
- For products with a complex supply chain, the combination of minimum criteria as binding criteria (in this context, for those supply chain tiers, where a large part of the market already adheres to some social standards) and advanced criteria as award criteria (in this context, for frontrunners amongst the bidders) aims to incentivise companies to adhere to international corporate responsibility standards.

Verification

The tenderer shall demonstrate compliance with the above mentioned ILO and other core labour standards by any of the following:

- A label, for example a TCO Certified label or equivalent
- An equivalent inspection report issued by

an independent third party (product-specific examination of the manufacturing conditions on the basis of the required labour and social standards)

- Membership of the manufacturer in the Electronic Industry Citizenship Coalition (EICC), including the submission of all current audit reports (related to the goods to be delivered) from an independent third party in accordance with the ‘EICC Validated Audit Programme Quality Requirements’

Contract value

€1.8 million

Instrument

- Art. 18(2), 43 and 67 of Directive 2014/24/EU
- Transposed by German public procurement law (especially VgV and GWB).

Actors

- Contracting authority: BMZ Federal Ministry for Economic Cooperation and Development, Germany
- Tenderers
- External consultant for social criteria



Social impacts

- The procuring authority was aware that in 2016 effective verification of compliance with labour and social standards and other concerns could not yet be provided by a broad range of bidders for the entire supply chain, but at least for the first tier of the supply chain. Furthermore, some ICT companies go further than this and comply with social standards beyond the first tier and even concerning the minerals in their product. By using a combination of mandatory minimum standards (technical specifications), but also further standards as award criteria, they require a minimum standard of social compliance, but also incentivise and support companies which go beyond this.

Other benefits

- The transferability potential for all public authorities: the binding technical specifications (combined with the high requirements for the quality of verification) can and should be used by every public authority as a basic requirement, irrespective of the contract volume and the resources of the public authority. For the additional award criteria, a minimum level of human resources of the public authority is necessary due to the need to evaluate the bidder concepts.
- The transferability potential to all ICT product groups (also those for which labels including social criteria do not exist): the tender opens up different kinds of effective verification, suitable for a wider range of ICT products.

Lessons learned and future challenges

- Positive reaction of bidders: almost all bidders complied with the minimum standards.
- Combination of different verification methods is positive (labels and other effective means of verification; simple bidder declarations were not accepted in this case).
- Positive incentive for companies to improve their approach concerning human rights beyond the first tier of the supply chain.

- Suggestions for further improvements in order to improve the bidders' understanding of the requirements: use a clear layout (subheadings, boxes, footnotes, font); pre-market consultations to explain and ensure a better understanding of the requirements for companies; make a clear separation between the first stage of the supply chain (mandatory criteria) and the other stages of the supply chain (award criteria).
- Where appropriate include a checklist or a form for tenderers indicating which documents and evidence have been attached.
- Suggestions for further improvement in order to improve the quality of the bidder concepts: stricter requirements, such as an explicit indication that points are awarded for concrete answers to the guiding questions only. Use of market dialogue, and up-to-date market research is always helpful in preparation of a tender.

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"This tender not only requires a minimum standard of social compliance, but also incentivises and supports companies which go beyond this."

Annelie Evermann,
 external consultant for social criteria

43 Digital Inclusion - Implementing Accessibility Criteria in Web Design

Name of procuring authority, Country: National Agency for Education, Finland

Product or service sector: Web design



Image © Craig Garner on Unsplash

Introduction/procurement objective

The Finnish National Agency for Education is responsible for early childhood education and care, pre-primary, basic, general and vocational upper secondary education as well as for adult education and training. It also manages much of the internationalisation of studies in Finland, for example student and teacher exchange programmes. The Agency needed to renew three websites, and wished to do so in a way that supported the goals and tasks of a modern education agency and provided a good user experience.

A contract was awarded in 2018 for web design and development of online services. In order to ensure the accessibility of these services to all users, the Board of Education specified that they must meet the accessibility requirements of EN 301 549 or equivalent.

Subject matter

Implementation of a website management and publishing system, user interface design, web design, implementation and further development of online services, and maintenance.

Stage of procurement phase and criteria

The procurement did not aim for a turnkey system. Instead, it focused on procuring resources for agile development. All staff (a User Interface (UI) designer, two developers and a Service Designer) were required to have at least one year of experience in applying the Web Content Accessibility Guidelines (WCAG 2.0). The UI Designer and Service Designer were also expected to have experience in Lean UX Design and other user-centred design. In the execution plan, the supplier was required to describe how it would guarantee a user-centred



approach and which technologies it would use to ensure accessibility.

An open procedure was used, and 60% of the available marks were assigned to quality criteria, including accessibility, while 40% were assigned to cost. The *OJEU contract notice* made direct reference to EN 301 549. A total of five bids were received, all of which were able to offer experts with sufficient experience in applying WCAG 2.0. The contract was awarded to *Wunder Finland Oy*, an SME which had previous experience in applying accessibility criteria in the design of educational websites for the University of Turku.

Social policy objective and/or reference standard

Web accessibility is an inclusive practice that allows everybody, in particular persons with disabilities or some form of visual impairment, to perceive, understand, navigate, and interact with the online environment. The *Web Accessibility Directive*³⁴ requires public sector bodies to take the necessary measures to make their websites and mobile applications perceivable, operable, understandable and robust. *EN 301 549* is the European standard for technology accessibility in the public sector. Published in 2014, the standard addresses a wide range of disabilities and specifies the functional accessibility requirements applicable to ICT products and services, together with a description of the test procedures and evaluation methodology for each accessibility requirement in a form that is suitable for use in public procurement within Europe. Under the Directive, the following *EN 301 549* compliance timeline applies:

- Any new public website created on or after 23 September 2019 must comply;
- All public websites (including existing sites) must comply by 23 September 2020;
- All mobile apps in the public sector must comply by 23 June 2021.

While the standard is specific to the public sector, it references the Web Content Accessibility Guidelines (WCAG) and so incorporates broader industry standards. The European Standard on Design for All

(*EN 17161*) complements EN 301 549 by describing the processes required to meet accessibility standards. At an international level, the *Global Initiative for Inclusive ICT* has developed tools and guidance for procurement of accessible ICT.

Contract value

The contract for renewal of three websites had a total value of €372,800.

Instrument

- Art. 42 (on technical specifications) and Art. 67 (on contract award criteria) of Directive 2014/24/EU.
- Under the Web Accessibility Directive, all public websites must comply with EN 301 549 or equivalent by 23 September 2020. The Directive also requires public bodies to publish an Accessibility Statement on their websites which includes a link to a feedback mechanism for users to report failures to meet the minimum accessibility requirements. Monitoring and reporting will be undertaken at the national level from December 2021.

Actors

- Contracting authority: Finnish National Agency for Education
- Contracted service provider: Wunder Finland Oy
- Users were taken into account by cooperating with the digitalisation support team of the Finnish State Treasury to implement a customer insight phase. Three customer workshops followed by interviews provided the base for the first *design sprint*. The affected users of the renewed websites are expected to have improved accessibility as a result.

Social impacts

- Ensuring that users with disabilities can access

³⁴Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies

public sector websites is vital for the delivery of public services and information to all citizens. By 2020, one fifth of the EU population is expected to have some form of disability,³⁵ so ensuring universal accessibility is more important than ever. Integrating accessibility requirements in the project from the beginning meant that there was no need for drastic changes in design, and any future decisions regarding site design and possible new features will also be informed by accessibility considerations.

Other benefits

- While EN 301 549 specifically targets accessibility for disabled users, it also improves overall user-friendliness and clarity for other users, including older people and those who spend less time online.

Lessons learned and future challenges

- The Agency originally aimed to procure the web design service via Hansel (Finland's central procurement body for the public administration). However, this did not lead to any tenders which met the Agency's specific competence requirements. So, the Agency decided to organise its own procurement, with positive results (five tenders, all meeting the competence requirements).
- The most important observation for future procurements was that the quality requirements correlated strongly with the company's competence development policies as described in their execution plan. The Agency is very likely to use similar criteria for future procurements of high-quality services.

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³⁵ Source: European Commission, *DG for Employment, Social Affairs and Inclusion*



44 Application of ILO Conventions in Czech Textiles Tender

Name of procuring authority, Country: Ministry of Labour and Social Affairs, Czech Republic

Product or service sector: Textiles



image © MabelAmber on Pixabay

Introduction/procurement objective

The Czech Ministry of Labour and Social Affairs (MoLSA) wishes to be one of the supporters and front-runners of socially responsible public procurement (SRPP) in the Czech Republic by acting as a game changer, organising dozens of events and creating methodologies and a support structure for those who are willing to drive their organisations towards sustainability. MoLSA also tries to bring the core stakeholders to the table to support the further development of SRPP.

Subject matter

Textiles (especially underwear), for further distribution by charities to people in need. This purchase is financially supported by the European Commission's Fund for European Aid to the Most Deprived (FEAD).

Stage of procurement phase and criteria

To prevent violations of labour and social rights in the process of manufacturing of textiles, MoLSA required bidders to have a system that guarantees that labour rights protected under the core ILO Conventions (child labour, forced labour, etc.) have not been violated during the manufacturing of the purchased goods. At this stage, MoLSA only focused on the conditions in the actual textile manufacturing processes, not on the production of raw materials.

Social policy objective and/or reference standard

In 2015, MoLSA developed its own socially responsible public procurement strategy, which it uses to guide tender development. The strategy sets basic principles for the Ministry and focuses on environmental and social impacts of procurement. The contracting authority recognises its potential to influence the market and wishes to improve the sustainability impact of its purchases. The

first strategy (adopted in 2015) led to internal development of new procedures within the organisation, which has allowed MoLSA to spend over €20 million in a more sustainable way. With its purchases, MoLSA wishes to minimise its adverse environmental impacts (focus on waste reduction, ethical sourcing of wood, etc.), to eradicate human rights violations in its supply chains, to support the abilities of SMEs and social enterprises to serve public institutions, and to support reintegration of disadvantaged people into society.

Over time the approach has developed into more strategic thinking about purchasing power. Recently the strategy has been updated and focuses more on the development of SRPP within subordinate organisations (Employment Office, Social Security). Monitoring and assessment of the effects of SRPP of the whole organisation is one of the goals for the future.

Verification

Bidders could demonstrate compliance with this requirement through membership of the Fair Wear Foundation (FWF) or another system for controlling working conditions along their supply chain. When an organisation joins FWF, it expresses a commitment to implementing the eight FWF labour standards in their supply chain:

- Employment is freely chosen
- There is no discrimination in employment
- No exploitation of child labour
- Freedom of association and the right to collective bargaining
- Payment of a living wage
- No excessive working hours
- Safe and healthy working conditions
- Legally binding employment relationship

Bidders also had to identify the manufacturer, the brand and the place of manufacturing of each type of product. This is to allow the procurer to have some level of visibility and control over working conditions in the supply chain.

Contract value

The contract value was €550,000 in total

Instrument

- Art. 58 and Annex XII, and art. 18.2 of Directive 2014/24/EU.

Actors

- Contracting authority: The Ministry of Labour and Social Affairs (MoLSA)
- Employees working for MoLSA's suppliers

Social impacts

- The risk of a violation of labour and social standards during the production of the textiles was decreased by using social requirements as special conditions for participation.
- The supply chain became more transparent.

Other benefits

- The winning bidder employs people with criminal records, who gain the chance to develop working skills and references that will support their reintegration into society.
- According to information submitted by winning bidders, the production does not need to be outsourced to countries whose labour systems the buyer cannot verify.
- Focusing on socially responsible conditions of production of the goods you buy may help to create a level playing field for competition of economic operators. The contracting authority does not need to "buy cheap at other people's expense".

Lessons learned and future challenges

- If required by the contracting authority, the textile industry is able to guarantee compliance with labour rights during production to a certain extent.
- Simple demands for supply chain transparency may lead to unexpected benefits such as the reintegration of criminal offenders into society which go beyond contract requirements.



- Monitoring of conditions during the performance of the contract remains a challenge.
- Monitoring of conditions in the production of raw materials (such as cotton) is still to be developed.
- Following its own strategy, MoLSA continues to identify further suitable tenders to test the possibilities. In addition, it shows the actual cases to other procurers in order to teach and motivate them to become sustainable procurers as well. It also strives to develop internal procedures to manage the contracts, to monitor and evaluate the outcomes of the contracts and to assess the value of the contract.
- The transparency of global supply chains requires cooperation. The additional cost and effort for this cooperation is justifiable if it allows the buyer to be confident in the quality of conditions for the whole supply chain of the purchased products.
- There may be no simple solutions in SRPP; it requires time, effort and critical thinking. However, it brings multiple benefits, such as better organisation of the procurement process, better understanding of the buyer's needs and quality of the product, good conscience for the purchases, fair working conditions and price, a focus on feedback, and a creative approach to an otherwise administrative process. It is worth it to take the first step and learn as you go.

Contact

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“Being a public institution responsible for the area of labour laws, we simply should not accept to buy inexpensive textiles manufactured under indecent working conditions. It would basically mean buying cheap at the expense of the poorest workers. Since there are risks of bad working conditions in the apparel industry (documented for example, by the ILO), it was only natural for us to start finding solutions to mitigate those risks within the supply chain.”

*Leona Gergelova-Steigrova,
Head of Procurement Unit, Ministry of Labour and Social
Affairs, Czech Republic*

45 Ghent's approach to procuring socially responsible workwear

Name of procuring authority, Country: Municipality of Ghent, Belgium

Product or service sector: Textiles



Introduction/procurement objective

In 2014, the City of Ghent updated its procurement policy in order to fully integrate sustainability in their procurement. As a part of that effort, the social goals include encouraging employment from disadvantaged groups, fostering local economic growth and integrating international standards and fair trade principles. Following this, in 2016 the City teamed up with the Association of Flemish Cities and Municipalities (VVSG) to apply these goals to the procurement of workwear.

Ghent was the first Fair Trade City in Belgium and

the first Fair Trade Capital in Europe and is actively promoting buyer and supplier awareness on the topic of fair fashion.

Subject matter

The contract started in the first half of 2018. Ghent undertook the procurement in three phases:

- Analysis of prior public tenders, looking for best practices for incorporating sustainability in specifications for workwear in the Flanders region and beyond.
- An extensive market study conducted by Ghent and VVSG assessed the readiness of the market, transparency of supply chains and the potential of labels in the sector, and collected supplier viewpoints on sustainable demand and the use of social clauses in public procurement. Through this study Ghent realised that the market was not ready to deliver the level of environmental and social impact required.
- Creation of a Toolbox for Socially Responsible Work Wear³⁶ for suppliers and procurers that provides them with the guidance to improve over the course of the contract. The City divided the framework agreement into five lots that required varying degrees of social and environmental performance, with the toolbox defining each level of performance. The toolbox also includes the evidence bidders had to submit and details the journey towards more responsible workwear, which suppliers commit to through contract clauses.

In the first phase of the procedure bidders had the obligation to:

³⁶<http://platforma-dev.eu/wp-content/uploads/2018/06/Toolbox-VVSG-EN.pdf>



1. Sign the 'socially responsible supply chain management' code of conduct.
2. Complete the 'socially responsible supply chain management' questionnaire. The questionnaire was about general information regarding the company, transparency in the supply chain and social risks in the supply chain. The answers from this questionnaire were not assessed, but served as a baseline measurement or self-evaluation, to form the basis for dialogue between the supplier and the City of Ghent.
3. Provide a list of vehicles with which deliveries will be made (emission standard at least Euro V or better).

Nine suppliers applied. Five of them complied with the above obligations and therefore were admitted to the second phase. The technical specifications were then sent to these five selected candidates. This was the second phase of the procedure. The award criteria were different depending on the lot, but in general assessed the price, quality (test results from a lab and samples) and end-of-life durability for clothing. The minimum required quality was described in the technical criteria. The quality award criteria rewarded suppliers who offered quality of a higher standard than the one required in the technical criteria. The city of Ghent received five offers and in the end each lot was assigned to a different supplier.

Social policy objective and/or reference standard

The main objective was to integrate guarantees regarding international labour conventions and to increase transparency throughout the whole textile supply chain. Ghent demands from its suppliers, on the one hand, respect for minimum international labour standards and human rights and the payment of living wages, and, on the other hand, the continuous improvement of the social conditions in the supply chains of the purchased products. The contractor (and subcontractors involved in the production of the products purchased by the City of Ghent) had to commit during the selection phase to transparency and continuous improvement of the working conditions in the supply chain during the entire duration of the contract for all the products.

This improvement process concerns:

- Respecting and actively applying the general 'Corporate Social Responsibility' (CSR) and 'socially responsible chain management' principles as laid down in the code of conduct. The principles of the code of conduct are based on international standards of the International Labour Organisation (ILO) and are in line with the main international standards such as ISO 26000, GRI, ETI, FLA, Fair Wear Foundation, BSCI, SA 8000 and similar.
- Annually reporting on the social risks in the chain. This must take place based on an externally verified risk report. Risk reports drafted by sustainability auditors (Ecovadis or equivalent) allow companies to assess the environmental and social performance of their global suppliers.
- Taking corrective actions to respect the principles of 'Corporate Social Responsibility' (CSR) and 'socially responsible chain management'.

Verification

- Supplier performance is verified by third parties such as Ecovadis or equivalent.
- Follow-up meetings with suppliers take place on a regular basis.
- Various reports on the performance of the five suppliers have been drafted by specialised auditors already.
- Ghent is working in partnership with its suppliers to deliver on the improvements.

Contract value

The contract has an estimated value of €1.2 million over a period of four years.

Instrument

- Art. 46 on division of contracts into lots of Directive 2014/24/EU.

Actors

- Contracting authority: City of Ghent
- Contracted providers:

- Alsico, for sustainable workwear
- Bel-Confect, for standard workwear
- Stemico, for linen and baby bibs
- Tric, for work shoes
- Fabory, for gloves and other personal protection equipment
- The Association of Flemish Cities and Municipalities (VVSG)
- Sustainability auditors

Social impacts

- Since the beginning of the preparation phase of the contract, the suppliers have become more aware of their responsibility in achieving this goal.
- One supplier became a member of the Fair Wear Foundation, others are gathering information to make their chains more transparent, and others are already fully transparent and socially responsible and are now working with third party verification systems.

Other benefits

- The workwear (vests, trousers, T-shirts) is made of organic and fair trade cotton and recycled polyester when possible.
- The workwear has to be delivered in a CO₂-efficient manner.
- At the end of the life of the clothes, they will be recycled into insulation material and garden benches.

Lessons learned and future challenges

- Workwear suppliers were willing to cooperate to continuously improve working conditions in the supply chain. Suppliers need to be engaged, stimulated and supported to do so.
- Contract clauses are only one part of the solution; in order to be successful, dialogue and partnership with the suppliers is essential. This should start before the tender is launched and continue during the performance of a contract.
- In the past, this type of procurement was usually awarded in one lot. Splitting the procurement into lots proved to be helpful to support a healthy competition and to identify the most

appropriate candidate for each lot.

- Ghent works together with its suppliers to achieve the objectives during the course of the framework. It is a learning process in which the City and its suppliers try to help each other.
- Sufficient time and resources and political will are critical success factors for a buyer-supplier collaboration to achieve real impacts.
- As a public buyer, some technical knowledge in the field of textiles is needed. For example, in Ghent the responsible agent completed a training course to find out more about how the quality of textiles is analysed (tensile strength, pilling, shrinkage).
- Where possible, the public buyer should opt for a procedure that allows negotiations. An open public procedure is very strict and if, for example, one sample is missing, there is a risk of having to stop the procedure and to completely restart it.
- Once the new contracts were awarded, it was a priority to ensure that everything was organised practically: adjusting the ordering systems, organising start-up meetings with and informing the end users, ensuring the clothing was available to fit before ordering it, making agreements about deliveries with the suppliers, laundries.
- Future challenges include taking the necessary time for follow-up meetings and third party reports, paying attention to the supply chains that are not yet fully transparent and applying corrective actions where necessary.

Contact

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"We are very proud and grateful that we were able through our public procurement to encourage the market to change in a sustainable way, and that we can share our experience with other purchasing authorities through our toolbox for socially sustainable workwear."

Aline de Cokere,
Municipality of Ghent



46 Simplifying the verification of compliance with ILO core labour standards in the textile sector

Name of procuring authority, Country: City of Bonn, Germany

Product or service sector: Textiles



Introduction/procurement objective

The City of Bonn is committed to ensuring that public contracts are only awarded to companies who ensure that the goods procured have been obtained or manufactured in compliance with the minimum standards laid down in the ILO's core labour standards.

In the textile sector, several ethical labels or multi-stakeholder initiatives exist (such as the Fair Wear Foundation or Ethical Trading Initiative), which can help to verify either total or partial compliance with the core labour standards. However, knowing which labels or what equivalent evidence is needed to verify each specific standard is not always straightforward.

To overcome this, the City of Bonn, in collaboration with the NGO FEMNET, has developed an easy to

use Social Criteria Questionnaire, which allows bidders to easily verify each criterion through labels, membership of an initiative, or alternative evidence such as social audits or management audits by independent third parties.

The Social Criteria Questionnaire was first piloted in 2016 in a tender for uniforms for green space maintenance employees that were manufactured in socially responsible working conditions. The Questionnaire development was informed by market analysis, which helped Bonn to define appropriate evidence for each required social standard, as well as to allocate lots according to the evidenced market availability of ethically manufactured clothing.

In 2018, a second call for tender was published, this time also including lots on leather goods. The aim was to procure robust workwear, while strengthening those providers who are already

committed to producing products in a socially acceptable way.

Subject matter

Service and protective clothing including leather goods

Stage of procurement phase and criteria

In the 2018 procurement of workwear, the award criteria were weighted as follows:

- Price (40%)
- Use value (30%) – equal points were available for quality, workmanship and equipment. Points were awarded by a review panel made up of users, health and safety officers, and the Staff Council (an elected body representing staff interests, commonly present in German organisations)
- Social criteria (30%) – scored according to the ‘Social Criteria Questionnaire’ (described under ‘Verification’).

Offers had to be accompanied by the Social Criteria Questionnaire, which included nine questions per product to be procured. The questions relate to the manufacturing conditions at the final production stage (that is, the production site where the procured product was finalised).

The Social Criteria Questionnaire clearly indicates acceptable forms of verification (i.e. relevant third-party textile seals, certificates or memberships). Some forms of verification can be used to provide a positive answer to all of the below questions (and thus score a maximum 29 points). Other forms of verification only positively answer some of the below questions, and score points accordingly. The number of points available per question was weighted according to their respective social impact (points available for each shown below in brackets):

1. Do you, as a dealer or brand, identify risks and their impact on compliance with the ILO standards at the final production stage for the specific product being procured? (2 points)

2. Do you, as a dealer or brand, have a written commitment to respect the above social standards at the final production stage for the specific product being procured, which also includes possible sub-contractors? (1 point)
3. Do you, as a dealer or brand, support the announcement in the local language of a Code of Conduct (i.e. a collection of policies and regulations that the company imposes upon itself) at the final production stage for the specific product being procured, which also includes possible sub-contractors? (3 points)
4. Do you, as a dealer or brand, have knowledge of the production site in which the product, which is being procured in the specific order, was produced as a final product? (3 points)
5. Do you, as a dealer or brand, audit compliance with the above social standards through independent social audits at the final production stage for the specific product being procured? (3 points)
6. Do you, as a dealer or brand, support compliance with the above social standards at the final production stage in the contract by conducting periodic and independent reviews of your management system or branded company (regarding their impact on compliance with the social standards)? (5 points)
7. Is the identification of possible risks by you or the brand with regard to compliance with the aforementioned social standards at the final production stage in the specific order facilitated by implementing an anonymous complaint hotline? (3 points)
8. If the determination of possible risks is made by you or the brand, is compliance with the abovementioned social standards at the final production stage determined by an independent, non-factory, on-the-spot contact person? (5 points)
9. Do you, as a dealer or brand, support the producers by providing training on socially responsible production conditions for the management and employees of the production plant at the final production stage? (4 points)



Social policy objective and/or reference standard

Through this procurement, Bonn aims to improve conditions in the textile supply chain, by ensuring that textiles manufactured for this contract are produced in conditions which meet the ILO Core Conventions:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)
- Right to Organise and Collective Bargaining Convention, 1949 (No.98)
- Forced Labour Convention, 1930 (No.29) (and its 2014 Protocol)
- Abolition of Forced Labour Convention, 1957 (No.105)
- Minimum Age Convention, 1973 (No.138)
- Worst Forms of Child Labour Convention, 1999 (No.182)
- Equal Remuneration Convention, 1951 (No.100)
- Discrimination (Employment and Occupation) Convention, 1958 (No.111)

Verification

The Social Criteria Questionnaire indicates which evidence is necessary for each question. But to save time and resources, Bonn also made it possible to answer multiple questions at once, by making it clear which labels or initiatives answer which questions (thus verifying compliance with the core ILO standards). This is done in four steps, or sections:

- **Section 1:** Country of manufacture. If the goods are not manufactured in the DAC List of Developing Countries and Territories – listed as an annex – (as determined by the “Made in” product designation), all questions are deemed to be fulfilled, and 29 points are awarded.
- **Section 2:** If section 1 does not apply, sufficient verification of all the ILO standards can be assured through:
 - Proof of membership of the Fair Wear Foundation (FWF)
 - Proof of membership of the Fair Labour Association (FLA)
 - Proof of seal, certificate or membership which is equivalent to FWF or FLA

- If any of the above apply, all questions are deemed to be fulfilled, and 29 points are awarded.
- **Section 3:** If section 2 does not apply, groups of questions can be fulfilled with the following:
 - Proof of the International Association of Natural Textiles IVN certified seal > Questions 2, 3 and 7 are deemed to be fulfilled by the criteria of the standard. Seven points awarded.
 - Proof of the Social Accountability International Standard 8000 (SA 8000) > Questions 2, 3, 4, 5 and 7 are deemed to be fulfilled by the criteria of the standard. 13 points are awarded.
 - Proof of the Fairtrade Textile Standard seal (FTT) > Questions 1, 2, 3, 4, 5, 7, 8 and 9 are deemed to be met by the criteria of the standard. 24 points are awarded.
 - Proof of membership in the Business Social Compliance Initiative (BSCI) > Questions 2, 3, 5, 7 and 9 are deemed to be fulfilled by the criteria of the standard. 14 points are awarded.
 - Proof of the Sustainable Textile Production Certificate (STeP) > Questions 1, 2, 4, 5, 6 and 7 are deemed to be fulfilled by the criteria of the standard. 14 points are awarded.
 - Proof of membership in the Ethical Trading Initiative (ETI) > Questions 1, 2, 3, 6, 7, 8 and 9 are deemed to be fulfilled by the criteria of the standard. 23 points are awarded.
 - Proof of an equivalent seal, certificate or membership fulfilling individual questions in the questionnaire. Points are awarded depending on the number of questions which can be verified.
- **Section 4:** If section 3 does not apply, filling out each question in the questionnaire is also possible, provided these can be verified according to the respective ‘alternative references’ listed in the questionnaire.

If no evidence in the form of seals, certificates or memberships (or equivalent) is available, or if the questionnaire is filled out without appropriate verification (as listed within the questionnaire), zero points are awarded.

Contract value

€121,116.03 (two year contract)

Instrument

- Art. 18.2 (on compliance with applicable obligations in the fields of environmental, social and labour law) and art. 67 (on contract award criteria) of Directive 2014/24/EU
- Collective Agreements and Public Procurement Law of Germany

Actors

- Contracting authority: City of Bonn
- Contracted supplier
- Verification support: FEMNET

Social impacts

By verifying compliance with the ILO core standards, it is possible to ensure that goods being procured are produced in settings where the following basic workers' rights are upheld:³⁷

- Freedom of association and the effective recognition of the right to collective bargaining;
- The elimination of all forms of forced or compulsory labour;
- The effective abolition of child labour;
- The elimination of discrimination in respect of employment and occupation.

Other benefits

- Bonn received 11 offers, which is an improvement on their previous tender, and is a good result for a specialised market.
- Bonn has simplified the process of verifying ILO compliance by increasing the transparency for bidders and procurers of labels and initiatives.
- This approach is highly replicable by other procurers of textiles. A similar approach could also be developed for other sectors.

Lessons learned and future challenges

- The weighting of the social criteria was increased between the pilot and the re-tendering of the contract, from 15% to 30% of the total assessment criteria. This means that bidders are still able to win the contract, even if they are not the cheapest offer.
- Dialogue with bidders was an important step for making sure that the questionnaire was understood, as well as allowing bidders to ask questions about the general procurement procedure.

Contact

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³⁷ This approach may be justified under the equal treatment principle, which requires that comparable situations are not treated differently, and different situations are not treated in the same way, unless such treatment is objectively justified. In this case, the different risk profile regarding violation of core labour rights which applies in developed and developing countries is considered to justify their different treatment in the questionnaire.



47 Concession for collection of second-hand clothes and textile waste management in Madrid: Reserved lot for work integration social enterprises

Name of procuring authority, Country: Municipality of Madrid, Spain

Product or service sector: Collection of second-hand clothes and textile waste management

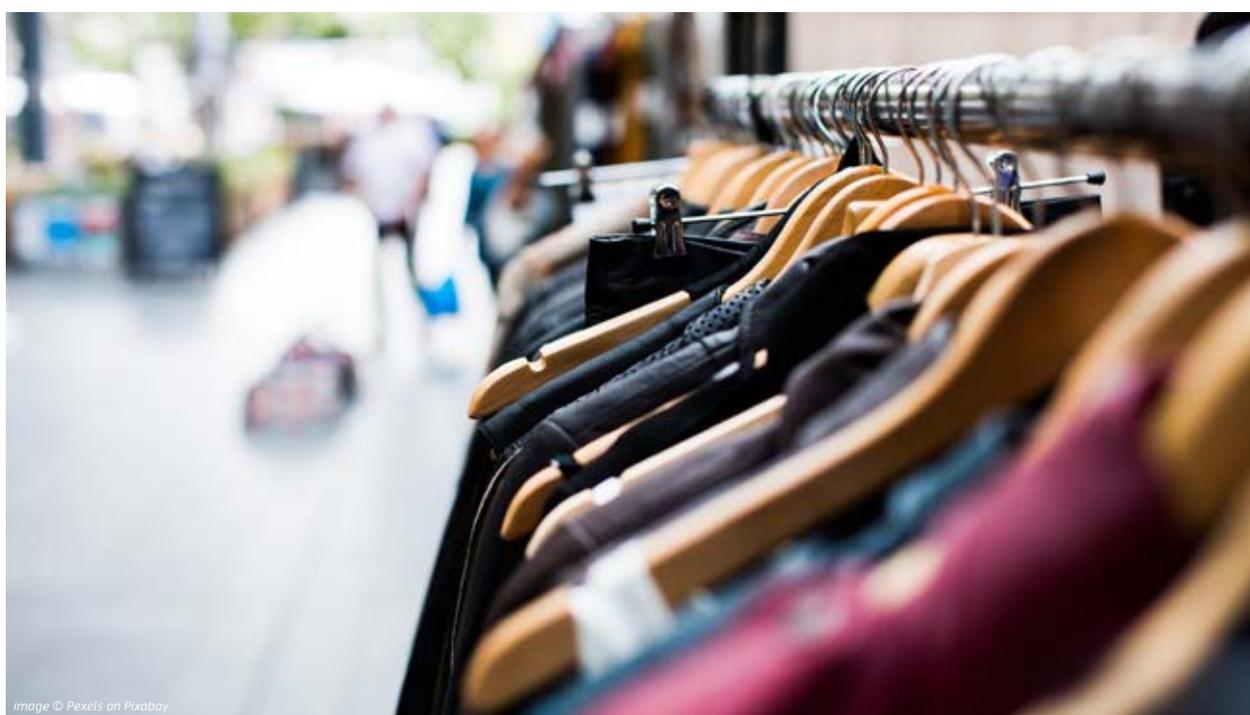


Image © Pexels on Pixabay

Introduction/procurement objective

The Municipality of Madrid aims to promote a sustainable and integrated approach towards waste collection and management. This includes the promotion of increased employment opportunities for people that are far from labour markets and at risk of social exclusion. Acknowledging the role of work integration social enterprises (WISEs) as levers for employment among such groups of people, the municipality launched a procedure for the award of a concession contract divided into lots for the collection of second-hand clothes and textile waste management. The contract foresees the placement of 1,150 containers throughout the city of Madrid. One of the lots was reserved for work integration social enterprises (WISEs).

Subject matter

Collection and management of second-hand clothes and textile waste.

Stage of procurement phase and criteria

The procurement procedure is underpinned by the provision in Spanish law regarding reserved contracts (Law 9/2017, disposición adicional 4a) incorporating art. 24 of Directive 2014/23/EU and art. 20 of Directive 2014/24/EU. A reservation was applied to one of the three lots of the contract, with competition restricted to WISEs, which had to provide proof of being registered as such and declare the validity of their status.

Pre-procurement: Before the publication of the

tender, WISEs had the chance to work together with the contracting authority in order to determine capacity, discuss the option to divide the contract into lots, the levies to be applied for the placement of containers on public space, etc. Consultations were open to all WISEs interested in the contract. In this regard, the municipality reached out to local umbrella organisations that disseminated the information among their members. Such thorough pre-procurement work resulted in an increase in market intelligence on the third sector in the City of Madrid and promoted a better understanding of their situation amongst contracting authorities.

The concession is divided into three lots each of which covering different districts of the city (lot 1: 366 containers; lot 2: 419 containers; lot 3: 365 containers). Lot 3, which covers the Southern districts, is reserved for work integration social enterprises because of the socioeconomic characteristics of the area with a lower than average income level. Also, access to the necessary infrastructure for second hand collection and management by the supplier was easier due to the availability of industrial land at prices that are lower than the city average.

The procedure also includes social considerations as conditions for the performance of the contract:

- The obligation to comply with applicable work and social regulations, including criteria on accessibility and universal design, and compliance with the UN Convention on the Rights of Persons with Disabilities.
- A guarantee that the largest possible share of textiles and fabric can be reused.
- A requirement to provide all relevant documents on the workers employed to the contracting authority.
- A requirement that all dissemination materials associated with the performance of the service are gender-neutral.

Social policy objective and/or reference standard

- Provide opportunities for employment to persons that are far from labour markets and at risk of social exclusion

- Promote access to public procurement markets by social economy operators
- Ensure decent work standards for people employed in sheltered workshops, sheltered employment programmes and work inclusion social enterprises

Verification

The persons employed for the performance of the reserved lot are referred by the public social services of the City of Madrid. To be eligible, candidates must hold a certificate issued by a public social service that states their situation of exclusion. The target groups eligible are diverse, ranging from long-term unemployed persons, migrants, ethnic minorities, single mothers at risk of poverty or victims of violence against women.

In order to promote social inclusion objectives as well as the sustainability of placements, the beneficiaries of the work inclusion programme follow a personalised integration pathway. Together with their employment contracts, employees sign an individual integration agreement with a job counsellor that establishes the specific actions that they commit to undertake in order to improve their employability. Emphasis is placed on work-related actions, including basic qualifications, such as a driver or forklift license, language skills, and soft skills, and also on social inclusion aspects, such as housing, leisure, health and other forms of support to the individual and his or her household.

On-the-job coaching assists workers to develop job-specific skills, as well as punctuality, hygiene, communications and interaction with other employees.

Contract value

The total contract value was €5,472,852.50. The value of lot 3 was €232,687.50. As this is a concession, the value of the contract has been expressed as the amount paid by tenderers to the contracting authority. By setting a lower price for lot 3 (€75 per container), the contracting authority intended to compensate the higher costs borne by the WISE due to its specific nature.



Instrument

- Art. 24 of Directive 2014/23/EU (allowing reservations to be applied for concessions)
- The procedure is framed within the Strategy of Waste Prevention and Management put in place by the city of Madrid for the period of 2018-2022. One of the objectives of the strategy is to act as a lever for employment, including amongst people at risk of social exclusion.

Actors

- Contracting authority: Municipality of Madrid
- Contracted suppliers: Recumadrid and Solidanza
- Beneficiaries: Employed persons

Social impacts

- As a result of this contract, six new full-time jobs have been created for people with low employability. Employees are in some cases residents in the city districts where the collection of clothes is performed, therefore promoting social cohesion in the area. As a result of being employed, beneficiaries from the work inclusion programme are not recipients of unemployment or social welfare funds and contribute as taxpayers to the community.
- Participants in the work inclusion programme also benefit from the accompanying services aimed at ensuring their work and social inclusion, such as training, health care, and housing support.
- Opportunities for work inclusion will expand at the beginning of 2020, when four more full-time jobs will be created.

Lessons learned and future challenges

- The pre-market consultation phase was key to making the contracting authority aware of the capacity of WISEs in order to adapt the characteristics of the procedure to enable their access to public procurement markets.
- Partnerships as a lever for increased participation of smaller operators: The winning tenderer was a consortium formed by two WISEs,

Recumadrid and Solidanza, with an interest on the subject matter and a common background in the professional integration of disadvantaged persons. The organisations joined together in order to meet the necessary technical and economic requirements of the contract.

- Awareness raising: The benefits of this contract are both social and environmental, as the contractors work for the promotion of reuse of household goods and textiles. The contract has been used by the contractor to raise awareness on alternative consumption options such as second-hand clothes shops, environmental advocacy or waste management chains.
- The main challenge lies in fully acknowledging the professional work carried out by WISEs. Public authorities should further support social economy enterprises and the circular economy with new tenders for the collection of second-hand clothes and textile waste management in the form of full reserved contracts (not only lots).

Contact

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“The inclusion of social clauses in public procurement releases the full potential of public action on the economy, promotes coherence in public policies and makes public purchasing more ethical, sustainable and responsible.”

*Cristina Salvador,
Director of RECUMADRID*

48 Procurement of workwear aimed at increasing employment in Sweden

Name of procuring authority, Country: Procurement Center, Falun-Borlänge Region, Sweden (Upphandlingscenter Falun Borlänge regionen, UHC)

Product or service sector: Textiles



image © Mimzy on Pixabay

Introduction/procurement objective

UHC is a regional purchasing body that procures for seven different municipalities in Dalarna County. UHC has been working with socially responsible public procurement since 2016. UHC has several objectives related to social sustainability, one of which is that at least 30% of all procurements annually shall increase the possibilities of employment and/or internships for persons far away from the labour market.

UHC also focuses on living wages in their procurements, which is defined as the minimum income necessary for a worker to meet their basic needs, related to the performance of the contract. The purpose of this is to make the industry aware that public procurement should be used to promote fair trade and fair working conditions.

Subject matter

Procurement of workwear for personnel in home care services, social housing and pre-schools in six municipalities in Dalarna County: Borlänge, Falun, Säter, Gagnef, Hedemora and Ludvika.

Stage of procurement phase and criteria

UHC uses three conditions for performance of contracts relating to increased employment:

- The supplier shall participate in a dialogue with UHC about how they can work better with social considerations. The purpose is to raise suppliers' awareness about social considerations.
- The supplier shall look into the possibilities of offering employment or vocational internships to individuals far from the labour market (such



as long-term unemployed people or people with disabilities).

- The supplier shall offer employment or a vocational internship of three to six months for at least one individual who is currently unemployed.

In the procurement of workwear, the supplier needed to offer at least one individual far from the labour market a vocational internship for three to six months relating to the subject matter of the contract. Eligible individuals are those with special difficulties to enter or become established in the labour market, such as long-term unemployed people or people with disabilities. As an alternative, the supplier can offer a person (as defined above) the right to occupational training for 3 to 6 months according to the guidelines of the Swedish Public Employment Service or the municipality.

The goal is that internships progress to employment, though this is not a requirement. Employment of persons on this basis may not mean that another person already employed by the supplier will be replaced. The following contract condition relating to fair trade/living wage is applied:

UHC strives to increase the proportion of products produced under conditions where the employees who work to produce the goods receive a living wage. A living wage means compensation that covers a person's basic needs. The supplier is expected to have a positive attitude to developing products and procedures that fulfil this. The goal is that 1 to 5 products (at least 1) within the framework agreement are produced by a supplier or subcontractor who pays their employees salaries in line with the country's living wage. The fact that the product was produced under fair conditions can be proved, for example, by a fair trade marking.

Social policy objective and/or reference standard

- UHC has a common procurement policy for the municipalities involved in the Procurement Centre with a strong focus on social procurement. In this procurement of workwear, UHC wanted to ensure living wage and employment opportunities.

UHC takes specific demands relating to social responsibility from the six municipalities into consideration. The focus is on requirements relating to the performance of the contract.

Verification

UHC continuously follows suppliers' work on social considerations. Once agreements are concluded, UHC reviews them together with the purchaser from the municipalities, the responsible purchaser at UHC and the supplier. In the procurement of workwear, staff from the six municipalities' public employment services were also involved as experts in matching employees with the supplier. Municipalities must ensure that internships have insurance, therefore the supplier and the municipalities make an internship agreement. The municipalities regularly follow-up with the supplier on internship and employment.

Contract value

Framework agreement for four years with an estimated total value of €795,000.

Instrument

- Art. 70 on conditions on performance of contracts of Directive 2014/24/EU.
- Chapter 17, Section 1 of the Swedish Act on Public Procurement (2016: 1145), called LOU.

Actors

- Contracting authority: Upphandlingscenter Falun-Borlänge Region (UHC)
- The municipalities involved in this framework agreement: Borlänge, Falun, Säter, Gagnef, Hedemora and Ludvika
- Contracted suppliers: Fristads and Procurator
- Social clause integration support: Public employment services

Social impacts

The purpose of UHC's use of social clauses is primarily to get unemployed persons into the labour market, to promote fair working conditions, and to

develop long-term solutions for social sustainability. UHC has identified several impacts relating to increased employment:

- Reduced exclusion
- Mental health and security
- Increased competence
- Cost-efficiency

Lessons learned and future challenges

- Contracting bodies should keep in mind that social responsibility requirements should benefit all parties involved.
- An early dialogue with all relevant actors is necessary before the introduction of cutting-edge social requirements for public contracts.
- A key future challenge will be collaborating with organisations who can match people to specific contracts. In the beginning, UHC did not cooperate with the local employment services. As procurers, they do not have the skills and access to be able to match the right person for each job, while the local labour market administrations do.

Contact

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"It is necessary that social responsibility requirements should benefit all parties involved. An early dialogue with all relevant actors is therefore necessary before the introduction of cutting-edge social requirements for public contracts."

Maria Fridholm,
Public procurer, Upphandlingscenter



49 Employment clauses in transportation services in Warsaw

Name of procuring authority, Country: Urban Transport Authority of the City of Warsaw, Poland

Product or service sector: Transport



Image © Leszek Peczyński, ZTM

Introduction/procurement objective

The City of Warsaw has been working with both reserved contracts (reserved for organisations employing a minimum of 30% of people from groups threatened by social marginalisation) and employment clauses (employment under a contract for unemployed persons, people with disabilities and adolescents) relating to the performance of the contract. The most common social clause is to require employment under an employment contract.

Subject matter

Regular transport services performed as part of local public transport on bus lines supervised by ZTM (the Public Transport Authority in Warsaw).

Stage of procurement phase and criteria

The procurement was an open tender. The City of Warsaw included a requirement in relation to the performance of the contract. The winning contractor had to offer employment to 120 persons that were currently unemployed and were far from the labour market. They were offered jobs as drivers and dispatchers on full-time contracts. The contractor was also required to present employment contracts to the City of Warsaw in order to verify employment.

Social policy objective and/or reference standard

The City had two objectives in focus:

- increasing employment for unemployed persons, people with disabilities and young people
- raising awareness of the possibilities to increase employment with public contracts.

Verification

After starting to provide the service, the City had contact with the contractor in order to verify the employment of drivers and dispatchers and receive a register of employees with information on the number of employment contracts. The operator sends a scan of the employment contract (with anonymised data due to GDPR requirements). In addition, the city verifies the number of employment contracts during visits to operators' bus depots.

Contract value

The contract was signed in February 2016 and the total value of the contract is €130 million for a duration of seven years, from 2016 to 2023.

Instrument

- Art. 70 on conditions for performance of contracts of Directive 2014/24/EU.
- Order 1243/2015 of the Mayor of the Capital City of Warsaw, which introduces mandatory application of social clauses in contracts above €30,000 in the following categories:
 - Catering and catering services
 - Care services
 - Cleaning and home care service
 - Winter and summer cleaning of streets and pavements
 - Maintenance of green areas
 - Construction works

The Order also recommends the use of social clauses in public procurement procedures for contracts with a value of less than €30,000, and for contracts with a value above €30,000 in categories other than the mandatory ones. The application of social clauses in different public procurements from 1 October 2015 to 31 March 2019 has led to their use in 444 contracts with an overall value of nearly €1 billion.

Actors

- Contracting authority: Urban Transport Authority of the City of Warsaw
- Supplier: Mobilis SP

Social impacts

- Between the years 2016-2023, the overall awareness of opportunities for employment under public contracts has increased. Most importantly, overall employment has and will continue to increase. In this contract, full-time employment will be offered to 120 people far from the labour market.
- Since it is mandatory to use employment clauses, the City of Warsaw has seen a lot of benefits relating to the increase of employment for those far from the labour market. More than 16,500 people have been involved in the performance of contracts covered by social clauses on the basis of employment contracts

Lessons learned and future challenges

- Previous contractors employed drivers and dispatchers in employment contracts, but not to the same extent as when specific requirements in the contracts are used. Since the employee clause is mandatory and has positive social impacts, the next procurement by the Transport Authority is likely to be very similar. However, the current contract runs until 2023, and future circumstances are difficult to predict.

Contact

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50 Reserved contract for waste management in Rzgów, Poland

Name of procuring authority, Country: Municipality of Rzgów, Poland

Product or service sector: Waste management



Image © Lidia Maj-Pyzdrowska

Introduction/procurement objective

On 23 November 2017, the Municipality of Rzgów announced a tender for the collection and management (recovery or disposal) of municipal waste from property owners in Rzgów, as well as the provision of bin bags to households. A reserved tender procedure was used to award the contract, valued below the EU threshold, in order to create employment opportunities for people distant from the labour market. The tender included environmental requirements for the management of municipal waste - for example, stipulated levels of recycling, preparation for reuse and recovery by other methods and reducing the weight of biodegradable municipal waste transferred to storage - in line with the waste management plan for the region. In addition, the tender included social aspects, such as a requirement that the contractor employ people from marginalised groups.

Komunalka Rzgów, a local social cooperative, was the winning bidder. The cooperative currently employs eleven people, including long-term unemployed and people with disabilities. The main activity of the cooperative is the collection of mixed and separated waste from residents of Rzgów.

Subject matter

Collection and management of municipal waste and provision of bin bags through a reserved contract for social enterprises.

Stage of procurement phase and criteria

The tender for municipal waste collection and management was reserved for contractors who fulfilled the following conditions:

- They have the status of a sheltered workplace or

their activity includes the social and professional integration of persons who are members of socially marginalised groups; and

- At least 50% of the employees are members of socially marginalised groups as per Art. 22 (2) of the Polish Code for Public Procurement.

Socially marginalised groups are understood as:

- Disabled persons within the meaning of the Act of 27 August 1997;
- Unemployed persons within the meaning of the Act of 20 April 2004;
- Persons deprived of liberty or released from prisons experiencing difficulties with integration into society, referred to in the Act of 6 June 1997;
- Persons with mental disorders within the meaning of the Act of 19 August 1994;
- Homeless persons within the meaning of the Act of 12 March 2004;
- Persons granted by the Republic of Poland a refugee status or subsidiary protection referred to in the Act of 13 June 2003;
- Persons up to 30 years of age and persons over 50 years of age, with a job-seeker status and unemployed;
- Persons belonging to disadvantaged minorities, within the meaning of the Act of 6 January 2005.

Social policy objective and/or reference standard

Integrating people from marginalised groups into the labour market, as well as improved recycling, reuse and recovery of municipal waste as provided by the Regional Waste Management Plan 2022.

Verification

The contractor was required to submit a document to the Municipality confirming their status as a sheltered workplace or a declaration confirming that their activity includes the social and professional integration of persons who are members of socially marginalised groups and that at least 50% of the employees performing the work that is the subject of the contract are members of socially marginalised groups. The contractor provided a list

of persons (without name and surname) who meet the above mentioned criteria.

Contract value

The total contract value was 378,000 złoty PLN (equivalent to €89,559.45) for a period of six months.

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU.
- “Economic Plan for Waste Management for the Region of Wielkopolska 2016-2022”.

Actors

- Contracting authority: Municipality of Rzgów Konińska, Wielkopolska, Poland
- Contracted service provider: Komunalka Rzgów Cooperative
- Beneficiaries: Employees of the contracted cooperative from socially marginalised groups

Social impacts

- Through involvement in public procurement, the social cooperative Komunalka Rzgów is strengthened, helping to ensure the sustainability of their programmes and projects.
- For the execution of this contract, the cooperative hired three people who were members of a socially marginalised group.

Other benefits

- The replication or transferability of this good practice is possible to other organisations and other sectors.
- The Municipality advises others looking to replicate this practice to make use of reserved contracts as it helps to achieve social policy objectives through procuring works or services.
- The environmental aspects of the tender, such as improved recycling, reuse and recovery of municipal waste, are also aligned with the city’s Waste Management Plan.



Lessons learned and future challenges

- The use of a reserved tender for social enterprises employing marginalised groups for municipal waste management was considered by the contracting authority to be successful because the social cooperative smoothly carried out the works set out in the contract and offered employment to the groups targeted by the Municipality, thus achieving the public procurement twofold objective. The Municipality has since repeated this practice with other tenders concerning waste management.
- In the future, the Municipality aims to make use of these types of contracts more often and in other sectors.
- A potential next step would be for the Municipality's strategy for social inclusion to include the use of socially responsible public procurement, as a means to achieve the social objectives set therein.

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51 Partnership between the City of Lille and GECCO, a Social Enterprise, for the production of biodiesel from used food oils

Name of procuring authority, Country: Municipality of Lille, France

Product or service sector: Local transport



Image © GECCO/Municipality of Lille

Introduction/procurement objective

In January 2017, the Municipality of Lille concluded a contract with GECCO, a social enterprise operating in Lille and the region of Hauts-de-France. The contract was awarded for research and development services (R&D) with a value below the EU threshold. It focuses on developing biodiesel for public vehicles from waste oils and testing the possibility to create a viable alternative to the consumption of standard fuel.

GECCO is a social enterprise specialised in the collection and recovery of catering waste. It employs ten people with a large competence spectrum, including plant workers, drivers, engineers, commercials, PhDs, project managers and managers. As part of this partnership, GECCO

and the City of Lille are collaborating to optimise fuel distribution and vehicle maintenance, in collaboration with car manufacturers.

This partnership aims to develop a circular economy in the territory by transforming frying oil waste into fuel for the use of public vehicles. The City of Lille has received the biofuel produced by GECCO and used it in several test vehicles.

Subject matter

Research and development partnership between a Municipality and a social enterprise to promote the development of an innovative product in the field of biofuels for the use of public vehicles.



Stage of procurement phase and criteria

The partnership between the Municipality and GECCO was established through a negotiated procedure without notice and is divided in two phases:

- **Phase 1:** During this phase the City of Lille operated three vehicles - a coach, a sweeper and a washer - run on biofuel made from used frying oils. Technical monitoring of the vehicles, engines and atmospheric emissions was carried out. For each type of vehicle, standard diesel and GNR test vehicles were used to test their adaptation to biofuel. This phase lasted for 18 months. All three vehicles are currently running on the new variety of fuel produced by GECCO (B30).
- **Phase 2:** In 2020, the experimental use of biofuel will be scaled up to around twenty vehicles (final number to be defined). This phase will be combined with a technical, economic, social and environmental study to validate the deployment of the concept.

At the end of the experimentation developed within this partnership, the contracting authority will assess the feasibility of using waste oil fuel at larger scale, and set up procurement procedures accordingly.

Social policy objective and/or reference standard

For the City of Lille, this approach is part of the City's policy on:

- development of alternative and renewable energies;
- promotion of innovation and a scientific research laboratory;
- development of a circular economy sector which values waste through a short chain and has an impact on the community in the form of local jobs, green jobs linked to social inclusion and the integration of people far from the labour market, and
- raise awareness among food producers and the general public of alternative and renewable

energies. In this regard, GECCO has also put in place several collection points for frying oil across the territory, which is then reused as fuel for the municipal fleet of vehicles. (through the parallel development by GECCO of voluntary drop-off points for frying oil in the territory, then reused once transformed in the ongoing experiment on a fleet of professional vehicles).

Contract value

The total contract value is €5,600 at the present stage (phase 1 completed).

Instrument

- Art. 14 of Directive 2014/24/EU dealing with research and development services and establishing criteria for exemption of these from public procurement.
- In French legislation, Art. 30-II of Decree 2016-360 of 26th March on Public Procurement underpins negotiated procedures without notice for "products manufactured solely for the purpose of research, experimentation, study or development, with no profitability objective or amortization of research and development costs".

Actors

- Contracting authority: Municipality of Lille
- Contracted supplier: Social enterprise GECCO
- Partners: the project is supported by the European LIFE Programme, the Hauts-de-France Region, the European Metropole of Lille, the Communauté de Communes Pévèle Carembault and McCain Food Europe. GECCO has also received support on eco-innovation through the BIOHEC-LIFE project and its partners (University of Lille, NEOECO, Pour la Solidarité-PLS and RREUSE).

Social impacts

- Creation of jobs and professional integration:
 - Three permanent jobs have been created since the project began, and six other jobs are

expected by the end of phase 2. Two of the new employees were formerly in professional integration enterprises.

- Since its creation in 2007, GECCO has employed 23 people. Before their recruitment, 43% of these were unemployed, 13% were in professional integration enterprises, and 17% were trainee students.
- GECCO has delegated a part of its used cooking oil collection to two social and professional integration enterprises. Twelve people worked on this activity in 2019, 50% of them found a job.
- An SROI (Social Return on Investment) evaluation has been made on the project: results show that for each euro invested in the project, €1.40 of social impact returns to the territory
- Sensibilisation of the general public (adults, teenagers and children) to waste valorisation, zero-waste approaches, and climate change mitigation. This is supported through communication actions and workshops.

Other benefits

The other positive impacts of this experiment from the point of view of the City of Lille are:

- environmental: the new biofuel reduces the impact on the environment (greenhouse gas emissions, consumption of non-renewable energy, emission of fine particles) compared to fossil diesel fuels: -95% CO₂, -65 % particles emissions, 100 % renewable.
- innovative: by using this innovative and eco-designed process, local authorities act as levers for innovative ecosystems allowing operators to test and validate their initiatives.

Lessons learned and future challenges

- The challenge for GECCO is to further develop this innovation as a source for green jobs. This will be done by increasing the collection of frying oils, promoting this new model of transformation and distribution of biodiesel to other professional fleets and multiply its impact through new partnerships.

- Transferability at European level has also been examined and initial contacts have been established in some EU countries.

Contact

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- Communication: Alicia BACHELET, Project Manager, alicia.bachelet@gecco.fr

"The City of Lille has been the first collectivity to commit itself in Gecco's project that aims to produce biodiesel with used cooking oils with an innovative process and distribute this biofuel to local public fleets. This innovation partnership, one of the first in France, has allowed the validation of GECCO's biofuel value chain. Lille is thus exemplary in its use of a local and renewable energy obtained from wastes and paved the way to other collectivities."

Michel Millares,
CEO, GECCO



52 Pilot projects for social employment in Finland

Name of procuring authority, Country: The City of Vantaa and the City of Helsinki, Finland

Product or service sector: Various



Introduction/procurement objective

In the framework of the European Social Fund (ESF), Finland and Sweden started a transnational project as a joint initiative aimed at linking public procurement and employment of disadvantaged people. The project, called SIEPP (Social Innovation and Employment through Public Procurement), started in 2017 and is still ongoing. SIEPP aims to tackle the rising unemployment figures in Sweden and Finland, and is a follow-up of a successful previous project that ran from 2014 to 2017.

Connecting public procurement and employment is a crucial issue, and by doing this it is possible to create pathways to the open labour market for individuals who have difficulties accessing it by themselves. The project makes it possible for partners with different levels of experience to exchange expertise and to learn from each other. Moreover, the project fosters international exchange of good practices between EU countries to ensure a common approach.

The project aims to create the following:

- Opportunities for work placements, apprenticeships and internships for people normally far from the open labour market.
- Acquiring experience and information regarding innovative processes of labour market access and application of employment criteria, including new partnerships with private enterprises and specialised actors for tackling recruitment challenges, such as the Finnish Institute of Health and Welfare.
- Statistical data which is comparable and reusable to gain solid knowledge on the matter.
- Development of a certificate for socially responsible suppliers.
- Strategic analysis of the labour market and of the local employment situation.

Pilot procurements for the employment of disadvantaged people have been launched in the Finnish cities of Vantaa and Helsinki. Moreover,

the Finnish and Swedish partners have made study visits to Warsaw, Paris, Glasgow, Rotterdam and Barcelona as first-hand experience on social integration in public procurement. The visits have contributed to the collection of best practices by the local administrations. The Finnish partners have focused their attention on the implementation of sustainable public procurement and of a sound verification mechanism.

Subject matter

Pilot procurements include 24-hour housing service for elderly people

Stage of procurement phase and criteria

Innovative pilot procurements were carried out in the cities of Helsinki (ten pilots) and Vantaa (six pilots). The pilots established special employment criteria and incorporated them in small procurements, with contract values of around €10,000 each. The procurements cover different bidding procedures and contracts in Helsinki and Vantaa. The main aim of this process is to test smaller procurements as pilots for scaling up the methodology to larger contracts in the future. Overall, these procurements are expected to lead to at least 100 employment opportunities in Helsinki and 30 in Vantaa via direct action and indirect benefits. For example, one of the pilots relates to a 24-hour housing service for elderly people. The service provider is required to employ one unemployed person for nine months for every 20 housing service places purchased (20 places bought = 1 person, 40 places = 2, and so on). The employment focus is on young unemployed people (under 25 years old, with more than 6 months of unemployment) and long-term unemployed people (who have received over 300 days of unemployment benefits). The goal is full-time employment for these persons.

Social policy objective and/or reference standard

The main objective of the project is to increase the employment opportunities for individuals far from the labour market, such as migrants, long-term unemployed, NEETs, persons over 50 years

of age and persons with disabilities. In particular, the category of NEET is increasing dramatically in Finland, accounting for 20% of the total young population. Long-term unemployment is growing especially quickly in big cities such as Helsinki and Vantaa and in age groups below 40 years; moreover, asylum seekers and immigrants face difficulties in accessing the labour market.

Verification

The employment condition is an absolute requirement under the contract. If not achieved, a penalty of €9,000 is to be paid by the service provider.

Contract value

€160,000

Instrument

- Art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.

Actors

- Contracting authorities: Municipalities of Helsinki and Vantaa
- Transnational learning partner: The National Agency for Public Procurement in Sweden
- Beneficiaries: Persons far from the labour market who were employed or given apprenticeships through the pilot procurements

Social impacts

- As a direct result of the project, there have been work placements, apprenticeships and internship placements for people far from the labour market. The experience so far indicates that public procurement can be an effective and straightforward measure for enhancing employment. If used correctly and planned well, it holds significant potential for creating job opportunities.
- In some cases, long term unemployed people were employed on a trial basis as part of the project and have since been hired as full-time employees.



- Interviews and surveys with 20 companies involved in the project showed a positive or neutral attitude towards the method; no negative attitude was registered.
- In Helsinki four out of five citizens think that using employment clauses in public procurement is a good thing, insisting that the city and the enterprises it contracts should carry their responsibility by doing so.

Other benefits

In addition to the pilot procurements, the project aims to disseminate knowledge, transnational learning (with Sweden) and sharing of best practices. Important elements of the SIEPP have included transnational workshops, study visits and mutual learning possibilities along the way. Study trips on public procurement and employment were conducted in Poland, the Netherlands, France, the UK and Spain, in addition to Finland and Sweden. Workshops were held in partnering countries and the collaboration on the subject was constant over the duration of the project. SIEPP is expected to end in March 2020. Collaboration between Finnish and Swedish parties has been solid, and a lot of transnational learnings were collected from other European countries. Moreover, as a result:

- Collaboration in the pilot cities of Helsinki and Vantaa between their respective procurement departments, municipal employment services, and governmental employment local services has been strengthened.
- Opportunities have been created for companies to demonstrate corporate social responsibility.

Lessons learned and future challenges

- There have been improvements to the social clauses during the project, such as lengthening the employment contract period from six months to nine months minimum. The contracts have been tailored to suit both the employer and the employee (e.g. full-time or part-time, what kind of employment, detailed tasks description). The project's results are in part due to continuous evaluation and improvement based on the

project experiences: learning by doing and modifying accordingly.

- The next steps are to extend the use of employment or social clauses in public procurements in Finland by further implementation in Helsinki, Vantaa and the network of stakeholders. For instance, the 2020 procurement budget guidelines for the whole city of Helsinki now state that the employment clause must be considered in all public procurements over €200,000.
- However, the project has highlighted that every country and Municipality has different processes of procuring and inserting social clauses. There is no one-size-fits-all approach. Moreover, it has stressed the need to improve the verification phase both quantitatively and qualitatively.
- On the other hand, the problems and bottlenecks to applying social clauses in public contracts may also be similar everywhere. An operational model for employment through public procurement was already created in a preceding ESF project. This framework is also used in SIEPP pilot cities.
- The Ministry of Economic Affairs and Employment in Finland will launch an accelerator programme on employment through public procurement in spring 2020. The programme is partly based on the pilot experiences and recommendations of SIEPP. The use of social clauses in public procurement has also been endorsed by the Finnish Prime Minister's Government Programme.

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"The experience so far indicates that public procurement can be an effective and straightforward measure for enhancing employment. In Helsinki, four out of five citizens think that using employment clauses in public procurement is a good thing, insisting that the city and the enterprises it contracts should carry their responsibility by doing so."

Veera LAURILA,
 dep. Project Manager, Finnish Institute for Health and Welfare

53 “Social innovation and employment through public procurement” ESF transnational project

Name of procuring authority, Country: The National Agency for Public Procurement, Sweden

Product or service sector: Various

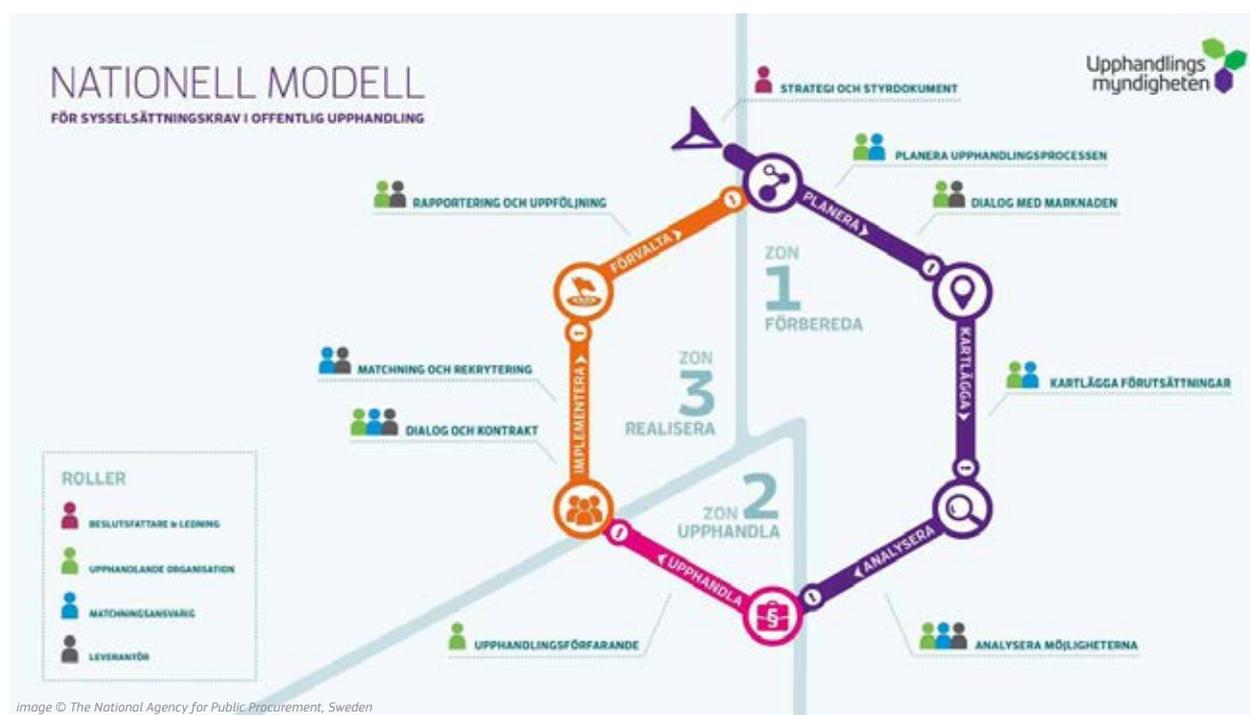


image © The National Agency for Public Procurement, Sweden

Introduction/procurement objective

The project aimed to increase the use of employment clauses in public procurement as a tool for job creation.

In June 2016, the Swedish Government adopted the National Public Procurement Strategy. This strategy promotes the strategic use of public procurement as an instrument to tackle societal challenges, including the creation of employment opportunities for all. The Swedish National Agency for Public Procurement has had a prominent role in its implementation.

It identified European Social Fund (ESF) transnational cooperation as an opportunity to develop a national model on how to use employment clauses in tendering procedures. “Social Innovation and Employment Through Public Procurement” was an

ESF transnational project between Swedish and Finnish organisations. For more information on the Finnish experience in the ESF project, see case 52 ([p.180](#)).

The purpose of this ESF project, which started in January 2017 and lasted 34 months, was to strengthen the knowledge and experiences of the participating organisations to better take into account social employment criteria in public procurement procedures, through seven thematic transnational workshops to develop mutual learning on issues that are closely linked to the successful implementation of social employment criteria:

- Current situation and exchange of best practices and challenges;
- Innovative ways to apply employment criteria, social impact bonds model and use of bonuses;
- Recruitment process and labour market analysis;

- Support measures for specific target groups (e.g. migrants);
- Statistics and economic impact evaluation;
- Communications and impact making, and
- The role of social enterprises and acknowledgment of responsible suppliers.

In addition, transnational partners have made study visits to other cities that have more experience in this field: Warsaw, Paris, Glasgow, Rotterdam and Barcelona.

On the basis of this project, Sweden has developed a *national model* and method for using the employment clauses as criteria in public procurement. This model describes how to use procurement as a strategic instrument to create employment for people who are far from the labour market. It covers all stages in the procurement process: the preparatory stage, the procurement stage and the post procurement stage.

It includes many interesting aspects, for example, promoting gender equality or encouraging social enterprise participation in procurement through reserved contracts. As part of the model, the Swedish National Agency for Public Procurement has also developed *a tool that helps calculate the socio-economic benefits* for the actors involved: the employee, the public sector, the private sector/ company and the total socio-economic benefit for the country.

Stage of procurement phase and criteria

The project intends to improve the capacity of contracting authorities to use social employment criteria as award criteria or in contract performance clauses, as well as to monitor the results and eventually to collect statistics to evaluate the procurement procedures during the post-procurement phase.

Social policy objective and/or reference standard

- Increasing employment opportunities for people far from the labour market (in Sweden, especially for migrants who have arrived less

than three years ago);

- Enhancing familiarity with employment clauses among state authorities and municipalities;
- Increasing the use of employment clauses and criteria in procurement procedures by contracting authorities.

Verification

It is up to the contracting authority to establish a verification mechanism.

Contract value

Amount of the ESF project: approximately €1 million (for 34 months). The national strategy developed therein applies to all procurements by public authorities in Sweden, whose annual value is about 706 billion SEK (about 67 billion euros).

Instrument

- Art. 67 (on contract award criteria) and Art. 70 (conditions for performance of contracts) of Directive 2014/24/EU.
- The Swedish National Public Procurement Strategy (2016).

Actors

Partners in Sweden:

- Swedish Public Employment Service
- City of Gothenburg
- City of Stockholm
- City of Botkyrka
- City of Helsingborg
- Swedish Transport Administration

Partners in Finland:

- The National Institute for Health and Welfare
- City of Helsinki
- City of Vantaa

Social impacts

The project has developed a tool that helps to calculate the socio-economic benefits for the actors involved: the employed individual, the public sector,

the private sector/company, the state and the total socio-economic benefit for the country.

This tool can be used in two ways:

- To calculate the estimated effects of setting employment requirements in procurement even before the procurement is done, and
- To follow up on the effects of a procurement with employment clauses once completed.

In an example case in which a newly arrived migrant gets a job with employment support for 12 months, the calculated benefit for the society amounts to over SEK 200,000. If 100 new migrants under approximately the same conditions gain employment through public procurement, the economic impact for society in one year would be over SEK 20 million.

In addition, the project supports significant qualitative social impacts:

- The fact that an individual goes from unemployed to employed often results in notable personal benefits, such as improved health or increased sense of belonging.
- It also has a positive effect on the individual's likelihood of getting a job in the future due to having gained more work experience.
- This type of effects, although not measured by the tool, should be taken into account when deciding on employment requirements because there are positive effects beyond just the economic benefits.

Excluding the City of Stockholm, the remaining partners have given fixed-term employment to over 1,260 people (based on reported figures, in which statistics from 2019 are missing in some cases). The City of Stockholm estimated that the hundreds of completed procurements have generated thousands of jobs. It is not possible to give more precise figures due to the lack of a unified system to collect and aggregate statistics on social requirements and employment requirements in procurement in Sweden.

Other benefits

Most important achievements by December 2019:

- The development of a national model of strategic procurement in Sweden: this consists of guidelines describing the steps needed to develop strategic procurement and identifying which stakeholders have to be involved; templates and checklists for public authorities; and legal advice for contracting authorities.
- Creation of a network for exchange and dissemination on socially responsible public procurement, both at national and international levels, in the EU and with the United Nations, through the informal contacts created during the project.
- Broad consultations on the national level and different sectors in Sweden: employment departments and services, trade unions and the private sector.
- The development of a web-based tool to calculate the socio-economic benefits of employment clauses.
- The development of support material about how to promote work-integration social enterprises participation in public procurement through the implementation of reserved contracts for those far from the labour market.
- The project created an online platform called 'knowledge bank', where all the shared knowledge such as employment clauses, good examples, experience from other EU countries from study visits, success factors and Q&A and educational material can be found.
- The project also created educational materials that can be used in individual organisations or together with other organisations.
- The approach developed through the project is planned to be further implemented at the national level and in different regions.

Lessons learned and future challenges

- Cooperation between the public and the private sector is essential to tackle social and societal problems.
- The public sector should recognise that the



expertise of social enterprises and civil society organisations is also essential.

- An important condition for success is the existence of political will to promote employment clauses in procurement. The Swedish project benefited from the support of the government and top management of the National Agency for Public Procurement.
- There is a need for further dissemination and communication throughout the country to relevant target groups even after the project.
- There is a need for a central IT system to monitor, follow-up and collect data about impacts at the national level.
- There is a need for more resources for the procuring authorities to support this work in the form of facilitators and coordinators throughout the country.
- The transnational approach, study visits within the EU and cooperation with Finland enabled Swedish national authorities and stakeholders to gain knowledge that helped to create the national model and knowledge bank.
- It is also important to have a responsible organisation to facilitate the matching process between the private sector and jobseekers.
- The idea of co-creating a national model with different actors involved from different areas of the country is a successful method whereby the support materials are created together with the actual users, revealing what works and what doesn't work on the ground.
- This project can be replicated in other Member States, taking into account differences in legislative frameworks and governing structures. For example, unlike France, where legislation often regulates working conditions and can be included as requirements in calls for tenders, in Sweden it is important to ensure respect for collective agreements while designing tendering procedures. Consequently, consultations with social partners, particularly trade unions, are a crucial part of the procurement process.

EXAMPLE OF THE MUNICIPALITY OF HELSINGBORG *(one of the project partners)*

The City of Helsingborg consists of different procurement units, which keep track of the buying needs of the City. In the preparation of a new procurement, the procurement unit turns to the labour market department (the matching unit) to ask for their opinion on whether the employment clauses are suitable. The labour market department has its office at the procurement unit. It provides an opinion based on the assessed needs of the labour market. The final decision is made by the procurement unit.

The City of Helsingborg works almost exclusively with a dialogue clause. This means that the supplier has an obligation to talk with the labour market department about their possibilities of supporting people outside the labour market in their process of gaining employment.

The dialogue clause is short and uncomplicated: "The supplier shall cooperate with the Labour Market Administration in order to integrate people into the labour market by, for example, offering internships, recruiting from the labour market administration's target groups or in other ways taking social responsibility. The supplier shall participate in the meetings suggested by the City. In consultation between the parties, an agreement is made on how the result of the collaboration should be reported and in what way social responsibility should be taken on an ongoing basis during the agreement period."

What the dialogue clause promotes is a “soft” dialogue between the contracting authority and the contractor. It does not prescribe a specific number of disadvantaged people to be employed. Through this dialogue, the supplier understands better what the contracting authority wants to achieve and the contracting authority knows better what the contractor can offer. They finally sign an agreement specifying how many disadvantaged people will be employed and from which target group.

For more information see Appendix *“You are a community builder”*, where brief and concrete information on various collaboration options is described. During the tender implementation period, suppliers are welcomed to ask questions about this matter through the procurement IT-system.

The Municipality of Helsingborg has been working with the employment clauses since 2015, with a wide range of different suppliers from different branches: building contractors, cleaning services, garden companies, restaurants and cafes, architectural consultants, floor suppliers, nursing homes, etc. The state of play for November 2019 is that there are employment clauses in 105 individual agreements with the City of Helsingborg from 33 procurement procedures. Since the start in 2015, approximately 320 persons have gained employment or a traineeship by suppliers with employment clauses in their agreements. The Municipality estimates around a third of those are a direct consequence of the employment clause. The Municipality also sees the employment clause as a way to build stronger relations with the supplier.

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“Cooperation between the public and the private sector is essential to tackle social and societal problems by using public procurement, in this way you double the effects of the tax payers’ money. For example, if you have to construct a new school building, you get the school anyway, and you get someone into employment. If you are not doing this as a manager of tax payer money, one has to ask him or herself, why not?”

Patrick Amofah,
Project Manager, Swedish National Agency for Public Procurement



54 The Greater London Authority's Responsible Procurement Strategy

Name of procuring authority, Country: The Greater London Authority Group, UK

Product or service sector: Public transport, policing, fire safety, textiles, economic development and strategic policy lead for the City of London.



Introduction/procurement objective

For the Greater London Authority (GLA), responsible procurement means pioneering socially, environmentally and economically sustainable procurement to achieve a better quality of life and greater value for money. It involves developing partnerships to help more people into work and improve employment conditions. It also means opening up access to contract opportunities for diverse businesses and voluntary and community sector organisations, encouraging best practice among suppliers and promoting greater environmental awareness.

Across the GLA, the combined annual procurement spending is over £11 billion. Given the scale of the activities, GLA has the potential to drive improvement and innovation, and to deliver social

and economic value. Its Responsible Procurement (RP) Policy helps to ensure decisions taken by members of the GLA on the purchase of goods, works or services are aligned to their commitments and support themes such as enhancing social value, equality and diversity and embedding fair employment practices.

Social policy objective and/or reference standard

The strategy was revised in July 2017 to ensure that GLA's procurement activities meet all relevant national legislative requirements, including the Modern Slavery Act 2015, the Social Value Act 2012 and the Equality Act 2010.

It is also aligned to the Transport Infrastructure Skills Strategy published by the Department for Transport (DfT). In addition to the UK legislation,

reference is made below to tendering processes for supply contracts which embed requirements such as the use of apprenticeships, as supported by Articles 67 and 70 of EU Directive 2014/24.

Social themes included in the RP Strategy in 2018/19 include enabling skills, training and employment opportunities for service providers in London, as well as actions to improve working conditions in the supply chain for workers' uniforms.

Enabling skills, training and employment opportunities

In 2018-2019, 548 supply chain apprenticeships began - over 50% of which were for BAME persons (black, Asian and minority ethnic backgrounds).

When suppliers are invited to tender, they are asked to outline how they plan to incorporate at least one Strategic Labour Needs and Training (SLNT) output for every £1m, £2m or £3m spent, depending on contract type. By embedding this requirement into relevant supplier contracts, GLA creates more skills and employment opportunities.

SLNT outputs are:

- one apprenticeship
- one job position for an unemployed person
- 20 days of industry placement positions or try-out-days
- 20 days of school engagement activities
- 10 days of social mobility placements

In each contract, apprenticeships must make up at least half of the SLNT outputs so that every project welcomes new workers to the industry.

Ethical sourcing practices for textile purchases

TfL is one body of the GLA. TfL is committed to ensuring the people who make its employee uniforms are treated fairly. It includes clear requirements around safeguarding human rights and working conditions in relevant contracts and has set new levels of excellence for supply chain due diligence in public procurement.

Uniforms are manufactured in Bangladesh and China. Every year factories are contractually required (Terms and Conditions) to undergo an independent, third-party social audit against the nine principles of the Ethical Trading Initiative (ETI) Base Code (<https://www.ethicaltrade.org/eti-base-code>). Following this, action plans are agreed upon to address any areas of non-compliance. Through the Sedex online platform, audit results can be viewed and plans can be tracked.

Verification

TfL recognises the limitations of social audits in addressing the root causes of non-compliance. Therefore, the uniforms contract also requires the supplier to carry out further activity at the manufacturing sites. Staff have, for example, undertaken training on workers' rights, health and safety and Bangladesh labour laws, including how and when to use complaint letters for raising grievances. One factory is partnering with a local university to host interns, with a view to helping them qualify as technicians and designers. This builds the capacity of vulnerable workers, while helping them to better understand their rights in the workplace.

TfL has liaised with the Fairtrade Foundation to make sure the cotton used in its uniforms is sourced from certified producers, meaning both farmers and workers get a fair deal. TfL has replicated this approach to the ethical procurement of uniforms in its recent workwear contract.

A 2018 report by the International Corporate Accountability Roundtable and the Corporate Responsibility Coalition found that "in comparison to the central government departments featured in this report, TfL's procurement practice is significantly more socially responsible and advanced."

Actors

- Contracting authority: The Greater London Authority (GLA) which is a member of the GLA Group. The following organisations form the Group:



- Transport for London (TfL)
- London Fire Commissioner (LFC)
- Mayor's Office for Policing and Crime (MOPAC)
- London Legacy Development Corporation (LLDC)
- Old Oak and Park Royal Development Corporation (OPDC)
- Beneficiaries:
 - Unemployed/Jobseekers, BAME persons

Social impacts

- TfL's industry-leading Supplier Skills Team (SST) has helped create more than 5,500 apprenticeships and 5,300 jobs for unemployed Londoners, including more than 100 ex-offenders.
- The SST was set up to tackle industry skills shortages in partnership with contractors. It helps them employ the right people to deliver TfL's projects and services, create opportunities that address under-representation and, ultimately, contribute to economic regeneration. The SST is involved at every stage of the procurement process. It implements and evaluates contract requirements, supports suppliers from the beginning to the end of their contract and works with suppliers on a voluntary basis to maximise the skills and employment opportunities that arise while working on contracts.
- The SST can connect contractors to charities and employability partners that help to establish work initiatives. Each SST programme has full external funding and participants receive support before, during and afterwards. This reduces the risk of candidates dropping out.
- The SST's efforts are bridging the gap between the pool of potential candidates for technical apprenticeships and the qualifications, experience and behaviours required.

Other benefits

- Thanks to the replication of this approach, more job seekers will be trained and supported.
- Over 200 staff members have received Responsible Procurement training.
- TfL's approach of embedding SLNT requirements

into relevant supplier contracts has been rolled out across the GLA to the other functional bodies.

Lessons learned and future challenges

- Several factors have been instrumental to the SST's achievements: senior-level support, a clear mandate through the Responsible Procurement Policy and a network of partners that share the same thinking.
- The next challenge for the TfL is to work towards all new supply chain apprentices being reflective of London's diversity. They are working to develop an assurance process for socially responsible procurement practices in their supply chain in order to verify and reward compliant suppliers. TfL will continue to encourage the replication and dissemination of its best practice in other public authorities.

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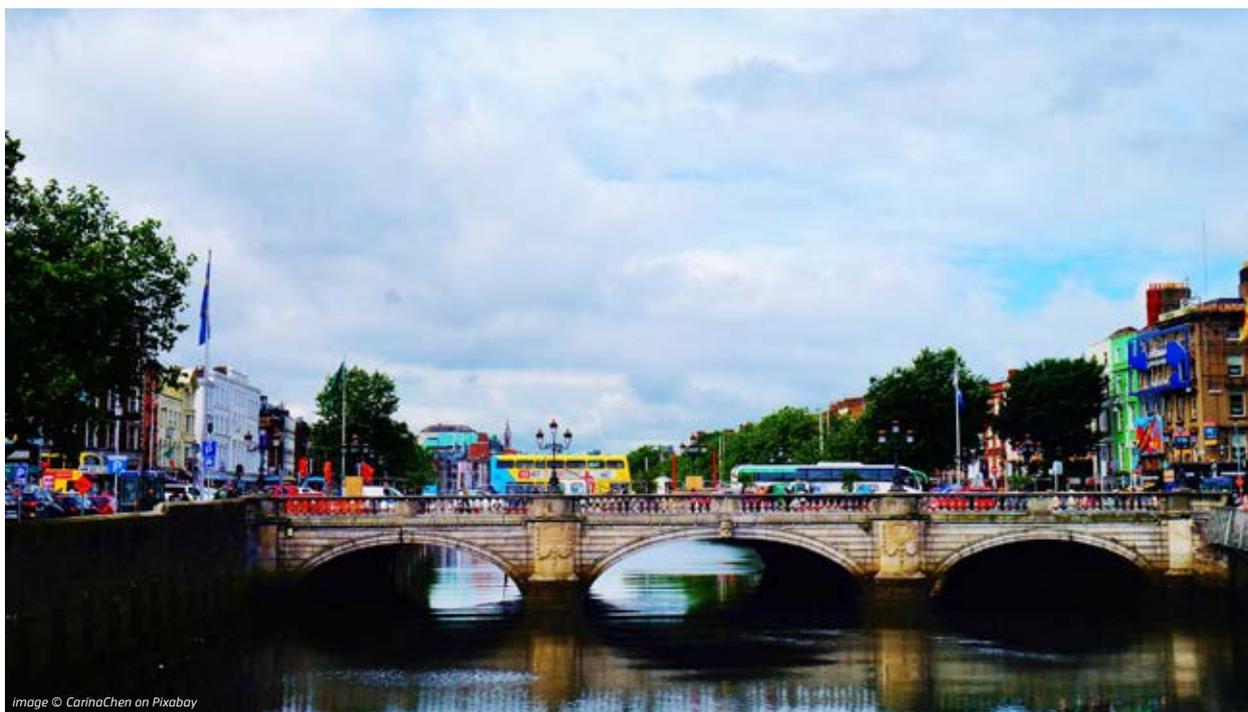
"The GLA Group recognises procurement as a strategic leadership tool to drive positive change across the GLA group and our supply chain. In the current economic and social climate, responsible procurement can deliver positive and long-lasting change not only in London, but globally through our supply chain."

*Matt Galvin,
Interim Head of GLA Group Responsible Procurement Team*

55 Building Social Inclusion and Employment into Construction and Security Contracts

Name of procuring authority, Country: Dublin City Council, Ireland

Product or service sector: Construction (Development Agreements) and Security Services



Introduction/procurement objective

Dublin City Council (DCC) has a long-term strategy to fully integrate social and employment related considerations into its procurement procedures. The Council wishes to provide employment opportunities for the social integration of disadvantaged persons and members of vulnerable groups. DCC had some experience in using employment clauses in previous contracts. Aiming to increase the social impact of its procurement, DCC took a new approach for two contracts which reached preferred bidder stage in 2019.

Subject matter

Contract 1 – Construction of mixed tenure residential development

Contract 1 relates to the redevelopment of a site in Dublin's north inner city as a mixed tenure

residential scheme to include social, affordable purchase and open market units. The competitive dialogue procedure was used with a series of dialogue meetings to refine the legal, technical and financial aspects of the project.

Contract 2 – Single party framework for provision of security services

Contract 2 relates to the provision of security services including closed circuit television (CCTV) and alarm monitoring, manned security, call-out, key-holding and some event security. The restricted procedure was used to establish a single-operator framework agreement for a period of up to four years.

Stage of procurement phase and criteria

Contract 1 included a new social employment clause, which requires the successful bidder to



ensure that:

- 10% of the Person Weeks worked under the contract are carried out by individuals who have been registered on a national unemployment register for a continuous period of at least twelve months immediately prior to their employment;
- 5% of the Person Weeks worked under the contract are carried out by individuals who are employed under a registered scheme of apprenticeship or an equivalent national training or educational work placement arrangement;
- Individuals employed under the above clauses may progress into full-time jobs and apprenticeships, dependent on the availability of appropriate skills;
- It works with educational provider partners to identify training opportunities/up-skilling programmes in relation to employment opportunities arising from the project, and coordinates their delivery by educational partners for the local community.

For Contract 2, the following award criterion relating to social inclusion (“Social Inclusion Proposal for the Contract”) was applied:

- “In order to support Dublin City Council’s policy of proactively promoting social inclusion and employment, tenderers must set out a programme of sustainable employment (inclusive of all the appropriate mentoring and training) and give details of how it will be implemented and what resources will be allocated over the life of the contract.”
- The criterion had a weighting of 20%. The maximum score was 2,000 and the minimum score required was 1,200.

Social policy objective and/or reference standard

Ireland does not have a national policy on including social aspects in tenders, so it is up to individual contracting authorities to develop and implement approaches. In 2019 Ireland adopted a new National Social Enterprise Policy, which sets out a number of actions to increase the participation of social enterprises in public procurement. A Social

Considerations Advisory Group has also been established within the central Office for Government Procurement (OGP).

Verification

For Contract 1, the following monitoring system will be put in place:

- The Developer will nominate an employment coordinator to oversee the implementation of the social employment requirements by the Developer and Construction Contractor;
- The Construction Contractor will appoint a liaison officer who will liaise with the employment coordinator to promote and achieve the social employment objectives;
- The liaison officer will provide quarterly forecasts and reports on social employment and inform the employment coordinator and DCC of apprenticeship opportunities;
- Regular meetings will be held between the employment coordinator and liaison officer, and with DCC. Social employment will form a standing agenda item;
- The Construction Contractor is required to provide monthly reports, including timesheets, to demonstrate compliance with the social employment clauses.

For Contract 2, bidders were able to submit a range of proposals and appropriate evidence of their ability to implement these. For example, evidence of ability to train long-term unemployed people to undertake security work, and how the company planned to increase such employment as staff retire or move jobs, was submitted.

Contract value

The estimated value of Contract 1 is €125.5 million. The estimated value of Contract 2 is €11 million.

Instrument

- Art. 67 (on contract award criteria) and Art. 70 (on conditions for performance of contracts) of Directive 2014/24/EU.

Actors

- Contract 1 contracting authority: Housing Land Initiative (HLI) Project Team within DCC.
- Contract 2 contracting authority: collaborative approach between DCC and Greenville Procurement Partners Limited (partner).

Social impacts

The award of both contracts was delayed for reasons unrelated to the social criteria described above. DCC hopes to be in a position to award these contracts soon and to begin seeing the impact of these new approaches.

Alan Nangle, DCC's Senior Executive Officer for procurement, says "We take our role in social procurement very seriously and recognised that how we were approaching it could be improved. We needed to ensure that where employment was concerned, the individuals at a minimum would have a skillset that would benefit them in retaining their position with the company or that would benefit them in seeking work elsewhere."

Other benefits

- Contract 1: A social employment clause has now also been included in the Development Agreement (DA) for another major contract for the construction of mixed tenure residential development. The DA has been shared with other Local Authorities carrying out similar projects.
- Contract 2: Having received a derogation from using the OGP's National Framework for Security Services based on the inclusion of a social employment clause, Dublin City Council has shared their findings and experience with the OGP and other local authorities.

Lessons learned and future challenges

Dublin City Council has learned that not all contracts are appropriate for the inclusion of social clauses as these may not be deliverable by the marketplace. It recommends that contracting authorities consult with the marketplace through

Requests for Information (RFIs) and consider how the implementation of social clauses will be monitored.

In the future, Dublin City Council will seek to develop social procurement practices for supply contracts, as well as works and services.

Contact

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"We take our role in social procurement very seriously and recognised that how we were approaching it could be improved. We needed to ensure that where employment was concerned, the individuals at a minimum would have a skillset that would benefit them in retaining their position with the company or that would benefit them in seeking work elsewhere."

*Alan Nangle,
Senior Executive Officer for procurement, Dublin City Council*



56 Creation of job opportunities to prevent long-term unemployment in local markets through public procurement

Name of procuring authority, Country: City of Dortmund, Germany

Product or service sector: Construction, public service sectors, such as facility management, security, transportation, etc.



image © gerolt on Pixabay

Introduction/procurement objective

The City of Dortmund launched a project (2017-2019) to tackle the problem of long-term unemployment and create employment opportunities for long-term unemployed people through:

- A publicly supported labour market (creation of easy/low-skilled jobs in fields that are relevant in the urban-social context); and
- Public procurement and the creation of new, low-skill jobs in the regular labour market in enterprises in the city of Dortmund.

The project included the identification of new service sectors in which to launch tender procedures suitable to include employment clauses for the long-term

unemployed. The City of Dortmund established a “Service Centre for Local Employment”, to provide specific advice to potential bidders on possibilities to integrate the long-term unemployed in public contracts.

There are a total of 31,250 unemployed people in Dortmund, including 24,326 long-term unemployed people (as of December 2019).

Stage of procurement phase and criteria

Pre-procurement stage

The implementation usually starts in the pre-procurement phase through contract preparations. In addition to developing transparent tender

documents, it is also necessary to specifically inform local and regional craft, industrial and trade associations about the procurement procedures. The overall goal is to increase potential bidders' awareness concerning social aspects.

The communication process to reach out to potential bidders starts with the pre-procurement phase and continues during the procurement phase and afterwards.

Contract performance conditions

The procurement phase includes contract performance clauses related to employment, which is a novelty in Germany. The contractor is given specific instructions on how to practically integrate the target group of long-term unemployed people. The contract value is fixed in the procurement documents, so there is no need to evaluate offers on the basis of different prices. The fact that the employment clauses are part of the contractual terms and conditions puts all companies on an equal footing and ensures that the principle of equal treatment is respected. It is not necessary to evaluate bidders with regard to their commitment to the long-term unemployed, since all companies must equally promote the integration of the long-term unemployed into the labour market.

Social policy objective and/or reference standard

The social objective is threefold:

- Providing effective and inclusive social services taking into account the specific needs of the users;
- Increasing social awareness and engagement of bidders;
- Improving social inclusion and quality of life standards for the target group.

Verification

During the contract execution, there are several stages of verification such as:

- Monthly checks based on a “four-eyes” principle,

meaning that two people are independently checking whether the contractor is fulfilling the contract clauses. The aim is to prevent abuse and corruption.

- Permanent support for the target group and the contractors from external teams that are specialised in the social care sector (one social worker provides assistance for 30 long-term unemployed people).
- Regular checks and support of the contractors through the “Service Centre for Local Employment” team.

Project value

The project (2017-2019) was financed by the Nordrhein-Westfalen region, the City of Dortmund and the local Jobcentre. The total budget was €5.8 million. Within the project, the City of Dortmund signed contracts with suppliers of services and construction works, in which Dortmund guaranteed a 100% salary subsidy (around €24,000) for the employment of a long-term unemployed person for one year, which was an integral part of the contract conditions, and included in the fixed price of the contract.

The wages of the long-term unemployed are now mostly covered by a subsidy from the Jobcentre on the basis of a new law (in German “Teilhabechancengesetz”) which came to force on the 1st January 2019. The aim of the law is to provide comprehensive support to employable people entitled to benefits for their reintegration into the labour market. As a result, the City of Dortmund now guarantees its contractual partners at least 70% of the salary for a long-term unemployed (LTU) person for one year. The contractor will pay a maximum of 30% of the salary of the LTU person.

In 2020 the budget of the City of Dortmund will amount to €114,500 to cover salary subsidies in procurement procedures. For the years 2021 to 2029, the annual budget devoted to this will be €208,500. It is foreseen that from 55 to 60 LTU people will be employed every year in this way.



Instrument

- Art. 70 on conditions for performance of contracts of Directive 2014/24/EU.
- Resolution of the City Council of Dortmund from 6th April 2017 (no. 07209-17).

Actors

- Contracting authority: City of Dortmund
- Social clause integration support: the social welfare office (“Sozialamt”), the employment agency (“Jobcenter”), and business agency Dortmund (“Wirtschaftsförderung Dortmund”)
- Contracted service providers

Social impacts

- Preventing long-term unemployment: in the past two years, 160 long-term unemployed people have been placed into employment as a result of the involvement in procurement procedures.
- Establishing a chance for the target group to participate in social life.
- Raising awareness of the barriers and the social problems of long-term unemployment among the actors involved.
- Resetting the established generational cycle of long-term unemployed to prevent long-term unemployment in future generations of the affected families.
- Change the acquisition of social benefits into a real payment opportunity to increase the self-confidence of the long-term unemployed by offering them a salary instead of a social benefit.
- Decreasing the funds needed for social support in the long term.

Other benefits

- A specific service was set up by the Municipality to advise potential bidders on how to integrate long-term unemployed people through procurement procedures (“Service Centre Local Employment”).

Lessons learned and future challenges

- The practical experience shows many opportunities of the approach. In the future, the City of Dortmund plans to increase support for bidders and potential contractors to provide jobs for long-term unemployed people in companies. In addition, further social funding approaches will be provided to increase the number of potential participants.

Contact

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“The Service Centre for Local Employment is extremely important because it helps long-term unemployed people who normally have few opportunities on the labour market. The opportunities and prospects offered by the Service Centre, as well as the social support, promote integration in the labour market, which would hardly be possible otherwise. Due to the newly introduced law (“Teilhabechancengesetz”) since 2020, opportunities for the long-term unemployed are now being created on a permanent basis and at a nationwide level. The project has been taken up from the municipal level and is now being implemented nationwide.”

Aiko Wickmann,
Procurement Centre, City of Dortmund

57 One-stop shop for social clause integration at La Rochelle

Name of procuring authority, Country: La Rochelle, France

Product or service sector: Works, cleaning, textiles, and, on a pilot basis, food



image © Communauté d'Agglomération de La Rochelle

Introduction/procurement objective

For several years, the Department for Employment and Higher Education within the Greater La Rochelle Area (Communauté d'Agglomération de La Rochelle - CDA) has joined forces with the Municipality of La Rochelle, the social housing provider Atlantic Aménagement and the Public Housing Office of Greater La Rochelle to improve the application of social clauses in local public procurement procedures.

In 2016, these four public entities created a one-stop shop ("guichet unique") for the systematic implementation of social clauses into all their relevant contracts (works, cleaning, textiles and, on a pilot basis, food).

The CDA acts as the main partner and facilitator, helping buyers of the consortium to integrate

social criteria and clauses in their tenders, assisting suppliers to fulfil them correctly, and monitoring implementation. Each partner has financially supported the one-stop shop since 2017, when its activities formally began. The partnership agreement comprises a mission, operating procedures and steering and monitoring bodies.

Subject matter

The relevant tenders relate mainly to maintenance of green spaces, cleaning services and workwear textiles. In addition, a pilot project is currently being carried out for the purchase of food products.

Stage of procurement phase and criteria

The mission of the one-stop shop is to systematically review public procurement documents of the associated entities with the objective of inserting



and refining social clauses. The clauses mainly concern the employment of socially disadvantaged people through the inclusion of specific “social insertion time” (in French, “Heures d’insertion”, or hours of work carried out by persons in need of social assistance) as social performance clauses in public contracts.

The role of the facilitator in the procurement process can be subdivided into eight stages:

1. Approve social clauses in the programme for future public procurements.
2. Identify appropriate lots for the social clauses and calculate the amount of “social insertion time” eligible for the performance of the contract.
3. Assist in the drafting of relevant clauses in the procurement. The one-stop shop supports the contracting authorities and the bidders, ensuring an open, neutral and transparent process.
4. Inform relevant enterprises and invite them to tender. The support to bidders is limited to administrative and bureaucratic assistance and information and is available to all interested bidders.
5. Participate in the kick-off meeting for the relevant procurement, providing relevant information about social clauses.
6. Assist the enterprises in their application procedure relative to the social clauses and the inclusion of insertion times under the contract.
7. Follow and monitor the application of the required “social insertion hours”.
8. Make the quantitative and qualitative assessment of the action undertaken.

Social policy objective and/or reference standard

Through its work, the CDA aims at linking and facilitating the work of the public authorities and of tendering enterprises in applying and performing social clauses in their contracts. The social clauses implemented foster reduced unemployment rates, especially for disadvantaged groups. The clauses are included in tenders for service and supply contracts, intellectual services and structures for the integration of people through economic activities. The target group of eligible people is

defined by the French labour code, as of in the guidelines set by the Ministry of the Economy on the insertion of social clauses in public procurement procedures. The main aim is to promote social clauses, involve more actors and ensure a balanced and fair competition.

Recruitment is direct or made available to people in the national employment services by means of subcontracting or co-contracting.

Verification

The one-stop shop staff regularly monitors the performance of the work and the application of the so-called “social insertion hours” by doing on-site visits and regular checks by its administrative staff. The staff of the CDA carries out regular on-site visits to the winning enterprise to check for effective implementation of the measures agreed in the contract. The CDA also carries out regular checks on the administrative material.

Instrument

- Art. 70 on conditions for performance of contracts of Directive 24/14/EU.
- Art. 5213-13 on sheltered workshops and Art. 5132-4 on firms for disabled and disadvantaged persons of the French labour code.

Actors

- Contracting Authority: the CDA consortium, which includes:
 - Municipality of La Rochelle
 - Greater La Rochelle - administrative unit to which 28 local municipalities of the region Nouvelle-Aquitaine have delegated selected policy competences
 - The social housing provider Atlantic Aménagement
 - The Public Housing Office of the Greater La Rochelle
 - Port Atlantique La Rochelle, which joined as the fifth partner in 2018
- Other entities affected by the work of the CDA

are:

- Local employment services
- Social enterprises supported to bid for public contracts and their employees

Social impacts

In 2018, the one-stop shop delivered 64,326 “social insertion hours”, which is equivalent to 40 full-time employment contracts, during the performance of various public contracts of the partner contracting authorities. The success of the initiative can be marked by the fact that the amount of hours in 2018 shows a 70% increase with respect to 2017.

For example, in 2018, 205 people (long-term job seekers, RSA beneficiaries, etc.) worked in the context of service contracts for cleaning; of those, 25% of the participants were under 26 years old. 34 construction, renovation and social services contracts have included social clauses, with 228 lots and 104 companies applying “social insertion hours”. Most of the employment contracts (90%) awarded as a result of these procurements included “social insertion hours”.

Other benefits

To increase public awareness of social aspects and the engagement of enterprises and workers, the one-stop shop has developed five awards:

- Award for the best career development (for workers)
- Award for work-study performance (in French, “Prix de l’Alternance”) (for workers)
- Award for social engagement (for enterprises)
- Award for the most sustainable job (for enterprises)
- A special award for the social activities undertaken (for enterprises)

The second award ceremony took place in 2018 on the occasion of the second Stakeholder Meeting of the French Chamber of Social and Solidarity Economy devoted to social clauses in public procurement.

The initiative has also attracted international attention: at the Global Social Economy Forum in Bilbao in 2018, the one-stop shop was presented to 1,700 participants.

Lessons learned and future challenges

- In 2018, the Atlantic Port Authority of La Rochelle joined the partnership. As a result, its procurements will also enshrine social clauses monitored by the one-stop shop.
- To increase its engagement at the local level, the next step of the one-stop shop will be to create a yearly directory of the local stakeholders (“Annuaire des acteurs locaux”). The first draft was published in 2018. The next step for the one-stop shop will be to have social clauses integrated in more procurement sectors.

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58 Network of facilitators supporting the employment of disadvantaged persons through public procurement in the Grand-Est region (France)

Name of procuring authority, Country: Conseil Régional Grand-Est, France

Product or service sector: Various



Image © Maison de l'Emploi du Grand Nancy

Introduction/procurement objective

Facilitators are key actors in the implementation of socially responsible public procurement in the French Region of Grand-Est. Acting as go-betweens, facilitators match the social ambition of contracting authorities with the possibilities offered by operators that take part in public procurement markets.

The implementation of socially responsible public procurement by contracting authorities within the region takes different forms. However, together with the promotion of reserved contracts and division into lots, the use of employment clauses as conditions for the performance of contracts is used as a key instrument to promote the work inclusion of people that are far from labour markets. To support

this aim, facilitators play a crucial role in mobilising and accompanying the different actors that can contribute to the successful implementation of such employment clauses thanks to their ties with disadvantaged groups. These actors include social economy enterprises, employment services (maisons d'emploi), social services (Plans Locaux pour l'Insertion et l'Emploi) or NGOs, among others.

At present, the network of facilitators in Grand-Est consists of over 30 staff members that work across the region in close cooperation and dialogue with contracting authorities (regional council, municipalities, etc.) and the above-mentioned organisations. The network of facilitators is financed by the regional authority, municipalities and other public authorities and services within the region.

Stage of procurement phase and criteria

Facilitators have different functions that span across the full procurement cycle. In particular, facilitators contribute to shaping public procurement in a more social manner.

Long-term planning and shaping of procedures

- The work between contracting authorities and facilitators is underpinned by a long-term planning of employment opportunities for disadvantaged persons through public procurement and the needs of contracting authorities. Facilitators visit contracting authorities in the region on a regular basis and discuss public procurement plans for the future (usually over the next one to two years). This long-term perspective enables facilitators to map upcoming opportunities, identify specific needs (i.e. sectors, types of occupations, tasks, training needs, number of hours), and source the market accordingly.
- Thanks to their knowledge and close connection with the reality on the ground, facilitators can also contribute to shaping contracting procedures while they are still being designed. For example, facilitators provide key information on eligible groups, services that can be subject to employment clauses and reasonable workloads (calculation of hour volumes).

Anticipation

- A long-term view is also applied in the relationship between facilitators, social economy enterprises and other actors involved in inclusive employment. This helps to anticipate skills demands and training needs that will ensure successful compliance with employment clauses and promote synergies between actors accordingly (i.e. employment services and training providers).
- Facilitators also identify capacity needs. Facilitators are best placed to identify operators with potential to access public procurement markets, either as tenderers or as organisations/services referring employees, but lacking

knowledge or capacity to do so. To address these gaps, contracting authorities provide training that is tailor-made to the needs and actors identified by facilitators. The training has an eminently hands-on approach and aims at supporting potential tenderers to 'read' calls properly and respond to requirements effectively. Such training can also deal with post-procurement, showing unsuccessful bidders how to avoid repeating mistakes made in the past.

Accompaniment

- Facilitators accompany economic operators and contracting authorities across the full procurement cycle. The connection and dialogue between contracting authorities, facilitators and operators is continuous. It covers the identification of potential tenderers, support in drafting proposals and may extend up to the contract monitoring phase, mediating between the two parties and supporting the good performance of the operator if issues arise during the performance of the contract.

Whereas the role of facilitators is core to the mobilisation of socially-minded actors, contracting authorities have taken complementary actions with a similar aim. In this regard, contracting authorities organise speed-dating style networking events across the region aimed at increasing mutual knowledge between them and social economy enterprises. These events, called ESSpresso, are aimed at the promotion of access to public procurement markets by social economy operators. Thanks to the knowledge acquired, the sessions tend to trigger sourcing activity by contracting authorities. The information is also fed back to facilitators, who incorporate it into their pool of knowledge.

Social policy objective and/or reference standard

- Provide opportunities for sustainable employment to persons that are far from labour markets and are at risk of social exclusion.
- Promote access to public procurement markets by social economy operators.



- Broaden the space for socially responsible public procurement by ensuring broadening interactions and understanding between contracting authorities, potential tenderers and other relevant stakeholders, such as public services and civil society organisations.
- Increase the range of services, tasks and employee profiles that can benefit from employment clauses.

Instrument

- Art. 20 on reserved contracts and Art. 40 on preliminary market consultations.
- Public contracting authorities in France procuring over €100 million per year, such as the Grand-Est regional authority, are obliged to adopt and publish a strategy to promote socially responsible and green public procurement, the so-called SPASER (Schéma de promotion des achats publics socialement et écologiquement responsables). This obligation is a result of the French laws 2014-856 on the social and solidarity economy (art. 13) and 2015-992 on energy transition for green growth (art. 76). The SPASER in Grand-Est has set the promotion of socially responsible public procurement as a priority and views the network of facilitators as core to achieving this aim.

Actors

- Overall reference for SRPP among contracting authorities within region: Grand-Est Regional Council
- Contracting authorities within the region (Regional Council itself, Municipalities, public services, etc.)
- Facilitators, acting as go-betweens between contracting authorities, economic operators and stakeholders in order to enable the implementation of socially responsible public procurement
- Social economy enterprises
- All other actors linked with the promotion of work inclusion among people that are far from labour markets
- People far from labour markets

Social impacts

- The network of facilitators and the overall strategy to promote socially responsible public procurement in the region has promoted the inclusion of people that are far from labour markets into employment. As a result of these actions, the range of tasks and services performed under such provisions has expanded considerably, from the typical services, such as gardening, construction and other forms of manual work, to intellectual ones, in part as a result of the large pool of qualified young people at risk of exclusion. The increase of possibilities has changed the mindset of contracting authorities and their ideas of what is feasible with SRPP.
- Mainstreaming employment clauses has made employers look for different profiles of employees for the performance of public contracts. Facilitators have been key to match this growing demand for inclusive employment with the supply available in Work Integration Social Enterprises (WISEs), employment and social services or NGOs operating in the region.
- The long-term planning of public procurement is key to align such needs with training and upskilling actions within the region. If there is a clear idea of long-term skill needs to perform contracts, upskilling actions and objectives can be set up accordingly. As a result, this triggers synergies between different actors and stakeholders and allows investing in training actions with a long-term perspective.
- The overall planning of public procurement also favours the mutualisation of work inclusion opportunities, when employees can work in different contracts and have stable work inclusion pathways as a result.
- Facilitators have been key to developing partnerships between social economy enterprises and mainstream businesses. On the one hand, such partnerships help social economy enterprises access public procurement markets. On the other hand, they can also help mainstream businesses to implement social considerations contained in procedures.

Lessons learned and future challenges

- It is crucial that the Regional Authority and facilitators update their relationship with social economy enterprises and their umbrella organisations regularly. This is key to being aware of and understanding the rise of new actors, business models and possibilities for public procurement markets. In turn, it is also key to understanding how suppliers experience social considerations and if adjustments are needed. This is part of facilitators' daily work, but a more systematic approach would be needed.
- A crucial element of facilitators' regular interactions with all relevant parties has to do with the exploration of new activities, services and tasks where employment clauses would be applicable. In this regard, it is imperative that contracting authorities can act as a lever for the development of social economy activities beyond the more traditional sector.

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"Responsible public procurement is a good way to support the activity of local actors in the social economy and, as a result, jobs and economic development within territories."

*Hervé Formell,
Head of Socially Responsible Public Procurement, RTES / Conseil
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59 Developing social inclusion clauses in the public procurement markets of Grand Paris Sud Est Avenir (France)

Name of procuring authority, Country: Grand Paris Sud Est Avenir (GPSEA) –Établissement Public Territorial de la Métropole du Grand Paris, France

Product or service sector: Various

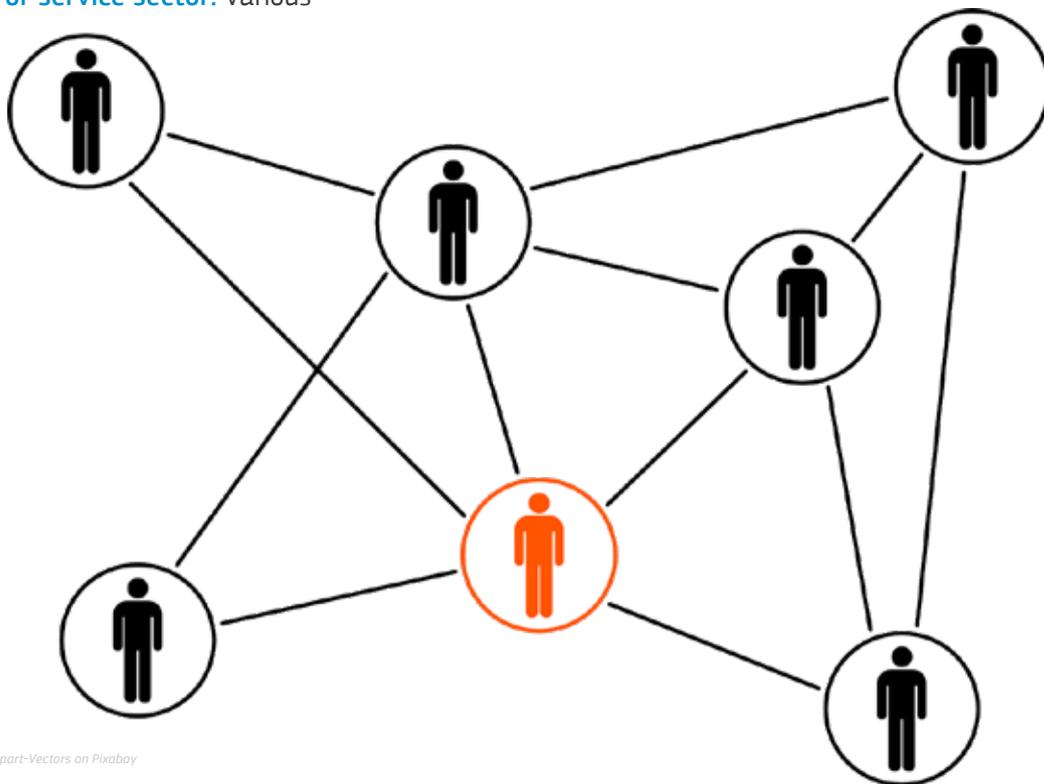


image © OpenClipart-Vectors on Pixabay

Introduction/procurement objective

Grand Paris Sud Est Avenir has had a public procurement strategy since the end of 2017, aimed at planning contracting procedures at every phase in order to identify, monitor and measure concrete opportunities to achieve social, environmental and financial impacts from public purchasing. The strategy is based on five main objectives:

- Efficiency of public spending, by means of procurement procedures based not only on legal compliance, but also on an economic approach based on life-cycle costs.
- Social inclusion, through the inclusion of social considerations, social criteria or reserved contracts.
- Reduced environmental impact, underpinned by increased focus on quality of products and materials and greater attention to production processes that integrate environmental criteria in public markets.
- Promote increased access to public procurement markets by micro, small and medium enterprises, through simplified procedures at the tendering stage.
- Increased support towards innovation underpinned by public authorities' leadership in the promotion and development of innovations that respond to societal and territorial needs.

Public procurement is a lever for the implementation of public policies, especially regarding social

inclusion. Acknowledging this, the GPSEA decided to mobilise the different options made available by the new legislation on public procurement to promote access to employment for all people in the metropolitan area, in particular by those that are far away from labour markets.

To this aim, the GPSEA works in close partnership with its facilitator of social clauses, Association Pôle Compétence Initiative (P.C.I. 94), to mainstream social provisions with a focus on employment across contracting procedures.

The GPSEA initiated the strategic approach to socially responsible public procurement with the elaboration of an Action Plan on Public Procurement that lists all the procedures to be launched over a given year. This list is shared with the facilitator, who seeks to match procurement needs with the social and work inclusion needs that it has identified in the territory.

The role of the facilitator is key in identifying target groups for inclusion, skills and competences available and assessing the potential of public procurement to respond to these thanks to their better grasp of social needs on the ground. As a result, the space for socially responsible public procurement is wider than if the contracting authority sought to implement social considerations by itself.

Subject matter

For example, this approach has been used by the GPSEA to address the procurement of games and toys across the network of media and toy libraries in the region.

Stage of procurement phase and criteria

This procedure was launched in June 2018 and published online at AchatPublic.com. The contract was divided into four lots, one of which was reserved for economic operators employing persons with disabilities (Établissement et service d'aide par le travail, ESAT) or people in disadvantaged situations (structures d'insertion par l'activité économique,

SIAE). Before this, the facilitator had conducted some pre-procurement work to explore potential candidates among social economy operators.

The contract was awarded to Rejoué, a not-for-profit organisation that runs a work inclusion social enterprise (WISE). Rejoué has successfully implemented a unique approach to work integration for people that are far from labour markets in Ile-de-France, based on individualised pathways towards sustainable employment for different groups at risk of social exclusion. Rejoué has employed 212 people since 2012. Its activity is based on the collection, cleaning, repairing and sale of second-hand toys. In addition to its social objectives, Rejoué also contributes to environmental sustainability by reducing waste and promoting reuse.

Social policy objective and/or reference standard

- Encourage the integration of people that are far from employment through a reserved contract for WISEs to address employment gaps in the territory.
- Promote increased access to public procurement by actors dealing with specific disadvantaged groups.

Contract value

The maximum value of the toys contract (four lots) is 164,000 Euros over four years. The reserved lot has a value of €12,000 over four years.

The approximate value of all contracts launched by GPSEA containing social clauses is €2 million per year.

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU.
- This provision is enshrined in French legislation as Art. L2113 of the Public Procurement Code, which establishes 50% as the minimum percentage of disabled or disadvantaged workers).

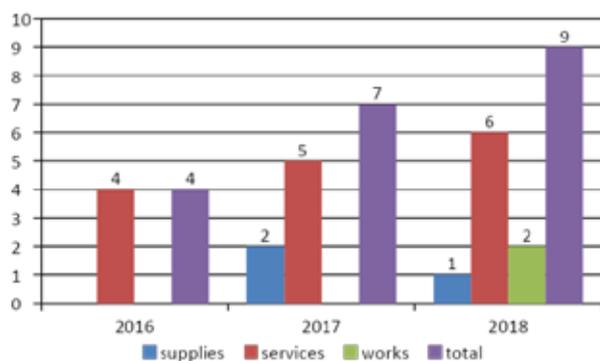


Actors

- Contracting authority: Grand Paris Sud Est Avenir.
- The Pôle Compétence Initiative 94 association as facilitator, acting as a go-between between the contracting authority, economic operators and stakeholders, to enable the implementation of socially responsible public procurement and, in particular, the integration of disadvantaged persons in the execution of contracts.
- Work Integration Social Enterprises employing different target groups, such as persons with disabilities (ESAT) or other disadvantaged groups (SIAE).
- Mainstream businesses, which are in close contact with facilitators in order to ensure the implementation of employment clauses when included in procedures, referring employees and monitoring an adequate execution of contracts.

Social impacts

- Between 2016 and 2018, public procurement procedures including social clauses aimed at the promotion of employment opportunities for all people doubled in GPSEA. Such an increase proves the growing success of contracting authorities in using public procurement as a tool to address social and work inclusion needs in the metropolitan area of Grand Paris.
- The below graph shows the number of contracts issued with social clauses (i.e. conditions for performance, selection criteria, reserved contracts or others)



Source: GPSEA

- GPSEA is committed to developing its full potential through ambitious projects dealing with transport and mobility infrastructures (such as Téléval, Tégéval, Altival), business infrastructures (such as Ballastièrre Nord, Duvauchelle Est in Créteil - establishment of the Maison du Handball) or public works of Grand Paris Express (for example, ligne sud 15).
- Projects such as these represent a wide range of opportunities for public procurement to leverage new or unused skills and profiles in employment clauses and socially responsible public procurement at large (e.g. high skilled/ intellectual activities, administrative services, maintenance services, construction and renovation or maintenance of public buildings and monuments).

Lessons learned and future challenges

- The approach developed by the GPSEA is applicable to all regional and territorial public authorities. Contracting authorities should underpin their ambition to implement socially responsible public procurement in long-term planning of procedures. Anticipation will enable contracting authorities to assess better opportunities and feasibility of social considerations in each procedure. Anticipation is key for the organisation of sourcing activities, which are crucial to understand the potential of specific sectors (social economy operators, WISEs) and integrate social considerations accordingly.
- To this aim, facilitators represent a key instrument to support the matching of contracting and social inclusion needs, including through assistance to draft requirements of procedures.
- In the long term, it will be key to expand the range of target groups that benefit from social consideration (and employment clauses in particular), for example, towards the service sector.

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"I advise contracting authorities to remain on the lookout for progress in the WISEs sector by taking part in networking events and thematic sessions on social clauses."

*Latifa Mazza,
Manager - Integration Clauses Sector Competence Cluster
Initiatives, Grand Paris Sud Est Avenir*

"Anticipation is the key for success in a strategy of socially responsible public procurement."

*Aurore Caro,
Head of Project Procurement, Grand Paris Sud Est Avenir*



60 A protocol for Socially Responsible Public Procurement in Girona underpinned by political support and partnership between stakeholders

Name of procuring authority, Country: Municipality of Girona, Spain

Product or service sector: Policy- gardening, cleaning, waste collection, and others depending on each contract.



image © Roberto Heredia

Introduction/procurement objective

The Protocol for Socially Responsible Public Procurement in the Municipality of Girona was passed on 13 October 2014 with the objective to promote reserved contracts and social considerations, particularly employment clauses, in contracting procedures launched by the local authority. The Protocol's provisions were adapted over five years and formally integrated the new social provisions included in the Spanish law transposing of Directive 2014/24/EU on Public Procurement. The Protocol is available [here](#) (in Catalan).

In all cases, the aim is to enable increased access to employment by long-term unemployed persons and people belonging to other disadvantaged groups, such as women that have been victims of

sexual or domestic violence, young people coming from sheltered living settings, people experiencing poverty and people at risk of social exclusion due to in-work poverty and other forms of precariousness. The Protocol sets out the type of contracts that will be reserved for sheltered workshops, work inclusion social enterprises (WISEs) and other types of social economy operators that aim at the professional and social inclusion of people with different forms of disadvantage. The Protocol also establishes an earmarking of at least 4% of overall local spending on goods and services for reserved contracts. This amount shall not be below €1,740,000 per year in every case. The Protocol also establishes that in service contracts valued over €65,000 per year the awarded tenderer is required to allocate at least 5% of employment needs for the execution of the contract to people that are far from labour markets

or facing other forms of disadvantage.³⁸ Local employment and social services work in partnership with suppliers to refer workers and assess jointly their suitability for each contract in question. The same approach is followed for all forms of public procurement. Therefore, the Protocol also applies to works contracts and concessions of a value equal or above €250,000. To monitor the implementation of the Protocol and its progress, the Municipality has set up a Committee on Socially Responsible Public Procurement with representatives from local authorities (cross-party), the social economy, business organisations, trade unions and procurement practitioners.

Stage of procurement phase and criteria

The Protocol implements socially responsible public procurement through the following pillars:

- **Reserved contracts:** contracts subject to reservation deal with a broad range of activities and include, among others, maintenance services, postal services, cleaning and laundry services, catering, waste collection and transport, graphic arts and other forms of support services for the local administration.
- **Performance conditions:** usually in the form of employment clauses (applicable to target groups detailed above).
- **Award criteria:** larger shares (i.e. beyond the required 5%) of employees that are far from labour markets will be weighted between 5% to 10% in award criteria.
- **Decent work standards:** in addition to the mandatory social clauses linked to the observance of applicable labour standards and work conditions, the Protocol has emphasised compliance with decent work standards and collective agreements in specific sectors where risks of non-compliance are higher. In this regard, the Protocol had a key role in addressing issues in homecare service provision and reinforced control of 'social solvency' of contractors in this sector through stepped-up monitoring and inspection of performance.

All contracting procedures shall seek to include

any form of the above social clauses. However, contracting authorities may decide against this if the nature of a contract does not make it possible to do so. In these cases, tendering documents shall include a justification on the reasons why.

Social policy objective and/or reference standard

Through the above mentioned requirements, the Municipality of Girona aims to:

- Increase access to employment for people that are far from labour markets and are at risk of social exclusion.
- Create an enabling environment for employment and working conditions that make it possible for all people to make their social and labour rights effective.
- Increase access to public procurement by social economy enterprises.

Contract value

Through reserved contracts, €10,700,707 was awarded to six sheltered workshops and two work integration social enterprises over five years.

Instrument

- Art. 18(2) on mandatory social clause, Art. 20 on reserved contracts, Art. 67 on contract award criteria and Art. 70 on contract performance conditions linked to employment or other social clauses of Directive 2014/24/EU.

Actors

- **Contracting authority:** The Municipality of Girona, in a coordinated approach among its

³⁸ Eligible groups are listed in the Protocol (art. 6) and include: a) minimum income recipients; b) persons with disabilities; c) women that have been victims of sexual or domestic violence; d) young persons between 18 and 30 years of age who have been under child protection; e) offenders with a legal entitlement to work and ex-offenders during the first 12 months upon release; f) people with substance abuse issues or other forms of dependence that are currently under treatment; g) people who are not eligible for minimum income and are at risk of social exclusion; h) people older than 45 years of age who have been unemployed for at least 2 years.



different departments and services, such as public procurement, local employment and social services.

- Social partners, social economy operators and civil society organisations, as tenderers.
- Employees, including people that are far from labour markets and belong to different disadvantaged groups.
- The Committee on Socially Responsible Public Procurement, which holds meetings on a regular basis and monitors, evaluates and proposes new actions in the field.

Social impacts

- From 2014 to 2019, 75 people at risk of social exclusion and/or far from labour markets have been employed in the execution of reserved contracts launched following the Protocol requirements.

Other benefits

- Building upon the positive experience of the Municipality, work is currently underway for the creation of a Protocol and committee of socially responsible public procurement in the province of Girona.
- The municipal Committee is presently exploring the possibility to increase the share of earmarked resources from 4% to 7%.

Lessons learned and future challenges

- The Committee has been key to promoting a mutual understanding of the challenges associated with public procurement for the different types of actors. It has increased knowledge on new opportunities for the implementation of socially responsible public procurement (services, target groups), created solutions to recurring issues (for example, engaging business organisations in addressing non-compliance with employment clauses), etc.
- Awareness raising and capacity building among practitioners is key in order to fully understand the potential of social economy operators to engage in public procurement and deliver on

its social objectives. A crucial element of such communication is the presentation of social impacts made by reserved contracts and other forms of socially responsible public procurement.

- Partnership between social economy operators: since 2008, Caritas Girona has worked in cooperation with other organisations and together established Grupo Èxit, an alliance of social economy enterprises aimed at creating synergies towards increased opportunities for work inclusion among people with severe disabilities and people at risk of social exclusion in the city of Girona and its surrounding area.
- In 2012, six new organisations joined the Group, which at present operates jointly in the open market. The Group works with public authorities and services (such as the Regional Employment Service and Prison Services and Social Services), employers (including the Chamber of Commerce), and also schools. In addition, it is represented at an institutional level as part of the local Committee on socially responsible public procurement, the local agencies for economic development, training, etc.
- A major benefit of this partnership is the creation of consortia among WISEs for the implementation of reserved contracts in particular. This is key to overcoming the atomization of social economy enterprises and enables their participation in full contracts rather than just lots.

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"The Protocol works as a sound reference framework for socially responsible public procurement in Girona. Its monitoring Committee, which includes social partners, civil society and political authorities is key to assess progress in the field. Also, coordinated work among different public bodies, in particular contracting authorities and local employment and social services, is crucial."

Anna Güell,
Secretary General, Associació Clúster Èxit Girona

61 Memorandum of Understanding for the social and professional integration of disabled or disadvantaged persons through reserved contracts

Name of procuring authority, Country: Brescia, Italy

Product or service sector: Social services



image © Massimo Olivari

Introduction/procurement objective

The Memorandum of Understanding (MoU) was signed on 11 March 2019 by the province and Municipality of Brescia, Brescia Municipality Association, the National Professional Association “GB Vinghenzi” Municipal and Provincial Secretaries, and Confcooperative Brescia. It is a tool for public-private cooperation and for awarding reserved contracts pursuant to Article 20 of Directive 2014/24/EU and to Art. 112 of the Italian Legislative Decree n. 50/2016.

The aim is to provide more job opportunities to disabled or disadvantaged persons and weaker segments of the labour market through the involvement of type B social cooperatives in public procurement. The joint working group made up of signatories of the MoU, which include the province and Municipality of Brescia, Brescia Municipality Association, the National Professional Association “GB Vinghenzi” Municipal and Provincial Secretaries, and Confcooperative Brescia, developed a series of tools for the management of reserved contracts for type B social cooperatives. The MoU is deemed important because of its collaborative approach. Brescia has a history of collaborative approaches; in fact, the first social solidarity cooperative and the first Italian consortium of social cooperatives were both established in Brescia, in 1963 and 1983, respectively. This tradition over the years has contributed to a local system of active labour policies aimed at work integration of disadvantaged groups. It has also led to the growth of the entrepreneurial dimension of type B social cooperatives. Data from 2017 shows that there are an estimated 110 cooperatives in the Brescian territory employing around 1,365 people.

Stage of procurement and criteria

This MoU affects the procurement stage. Public procurement contracts are awarded to social cooperatives (and their consortia) with these characteristics: experience in working with persons with disabilities or disadvantaged persons, these persons represent at least 30% of employees in their organisational structure, holistic approach to integration (i.e. on-the-job support, trainings, access to relevant services, monitoring of impact, etc.). The MoU also contains instruments that encourage the



involvement of the private sector by leveraging not only the solutions provided for by legislation, but also effective public-private partnerships. The provisions of the MoU and its tools apply equally to contracts and concessions, both above and below the EU thresholds. In this sense, the MoU does not refer to specific types of contracts and activities, leaving full power to the Administrations to establish in which sectors and for which thresholds to apply it.

Social policy objective and/or reference standard

The MoU promotes the use of reserved contracts for operators such as type B social cooperatives. Reserved contracts target those social cooperatives which include disadvantaged persons (at least 30% of employees). The MoU also promotes the inclusion of award criteria of a social nature, such as employment, and the use of social clauses in the conditions for the execution of contracts.

Verification

The Working Group, made up of signatories of the MoU, is tasked with promoting and monitoring the activities as well as elaborating proposals and specific procedures.

Contract value

Varies depending on the contract.

Instrument

- Art. 20 on reserved contracts of Directive 2014/24/EU.
- Art. 112 of the Italian Legislative Decree n. 50/2016.

Actors

- Contracting authority: Province of Brescia, Municipality of Brescia
- Other members of the working group:
 - The Brescia Municipality Association
 - National Professional Association “GB Vighenzi” Municipal and Provincial Secretaries
 - Confcooperative Brescia

Social impacts

- Since the signing of the MoU in 2019, contracting authorities have awarded an estimated 30 reserved contracts with a total value of €15 million. This has included public contracts for the custody and maintenance services of public cemeteries and public green areas.
- People with disabilities or disadvantaged people are included in the labour market through reserved contracts. These individuals are also supported in other areas of their lives - including receiving professional guidance, skills development, and support with social services and in cases of emergency.
- Through involvement in public procurement, social cooperative business models are strengthened, helping to ensure the sustainability of their programmes and projects.
- The promotion of local territorial development is strengthened through the cooperation, mobilisation of resources and expertise of different entities, including public institutions and civil society (namely social cooperatives).

Other benefits

- The collaborative approach adopted in the drafting of the text of the MoU strengthens cooperation and partnership between the public sector and the social economy.
- The comprehensive nature of the MoU is part of a strategy in which the inclusion of disadvantaged persons is systematic and has a long-term vision.

Lessons learned and future challenges

The MoU has been in place for less than a year, but some results are already apparent. The model has been proposed as a guideline to follow for other provinces. Furthermore, the public authorities in the Brescian region have been using a variety of tools provided by the MoU, in accordance with their needs.

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62 Sodankylä and Kittilä Municipalities Joint Strategy for Responsible Public Procurement

Name of procuring authority, Country: Sodankylä and Kittilä Municipalities, Finland

Product or service sector: Various



image © Nina Willman

Introduction/procurement objective

The Municipalities of Sodankylä and Kittilä are located in the region of Lapland, which is the biggest region in Finland, covering 30% of the country's area, however only 3% of the population lives there. For this, Lapland is recognised as a sparsely populated region, with a population density of 1.5 persons per square kilometre. The region faces demographic challenges with emigration and an ageing population, furthermore the geographical particularities of the region translate to distance from European and national markets. To counter these challenges, social innovation is leveraged

to create innovative approaches to solve societal challenges, particularly by mobilising public procurement to boost inclusive socioeconomic development and stimulate competitiveness as well as employment for the region's development and growth.

Lapland is also one of the regions that are part of the *Smart Specialisation Platform on social economy*. The aim of the partnership is to stimulate cross-border operations for mutuals and cooperatives to enable them to use the full potential of the internal market, including public procurement, in order to expand social economy activities, through interregional collaboration activities. The partnership intends to deal with several challenges related to S3 (smart specialisation) and social economy such as, how to:

- Develop social economy clusters;
- Create European value chains of social economy enterprises belonging to different regions in Europe;
- Improve the cooperation between enterprises and other territorial actors, especially those who have technological and innovative competences.

When the procurement legislation changed in Finland as a result of EU Directive 2014/24/EU, the opportunity to align public procurement with sustainable development was seized by the Municipalities of Kittilä and Sodankylä. A new public procurement approach was developed for the Municipalities in the framework of the ERDF-funded project 'Sustainable procurement as enhancer of vitality' which was implemented from 2016 to 2018 by Kideve Kittilä Development together with the Municipality of Sodankylä. This project was used to help develop a new public procurement strategy (available [here](#) in Finnish) and two public procurement guides per municipality, one on under-



threshold contracts (available [here](#) for Kittilä and [here](#) for Sodankylä) and the other for above-threshold contracts³⁹ (available [here](#) for Kittilä and [here](#) for Sodankylä). The municipalities' policies and practices aim to contribute to the development of a low-carbon economy, regional development, and improved opportunities for SMEs to participate in public procurement. It is interesting to note that there are only two organisations in Lapland that hold the Finnish Social Enterprise Mark.⁴⁰

The two neighbouring municipalities joined forces in this initiative, both because of similarities between the two and to reflect on solutions together.

The under-threshold contract guide provides information beyond what is mentioned in Finnish national law on public procurement, based on Directive 2014/24/EU. It encourages municipalities to use electronic procurement platforms (such as *Cloudia* or any other similar service) for procurement over €10,200/20,000 (depending on the nature of procurement) to ensure an open and transparent procurement procedure which is duly advertised and accessible online including to SMEs. This measure can also help to promote access to public procurement to social enterprises, which are usually SMEs, including from other regions.

In the guides, contracting authorities are strongly encouraged to carry out the public procurement process in an open and participative manner where all actors are included. The municipalities have also been facilitating training both for the contracting authorities and for economic operators, to understand the new public procurement system as well as bidding on electronic platforms.

Verification

There is an annual open exchange, however there is no direct follow-up of contracts because of a lack of resources, both technical and human, for these small municipalities to do so. The Municipality of Kittilä is considering using a system to monitor all contracts (in addition to the electronic tendering system). Ideally there would be a person in the Municipality in charge of meeting the tenderers

to monitor and report on awarded contracts compliance.

Volume of procurement

Data from 2016 state the volumes of procurement for the municipality of Kittilä were €23.08 million and for the municipality of Sodankylä €34.04 million. This represents roughly 40% of the yearly budget.

Instrument

The two guides focus on the following instruments, as a way to enhance responsible public procurement:

- *Pre-market consultations (Art. 40 of the Directive):*

The guides explain how to carry out a preliminary market consultation or how contracting authorities can carry out research, also by attending events. The guides explain that the purpose of the information request is to identify the companies, products and/or services, price levels and potential willingness to compete in the market. The information generated by the request for information is intended to ensure that the actual call for tenders produces as clear and comparable offers as possible. It is advisable to send a request for information to as many potential providers as possible in order to ensure equal treatment of prospective providers. The request for information may therefore be published on the advertising channel www.hankintailmoitukset.fi or on the municipality's webpages or a newspaper advertisement or such. The request for information must clearly state that it is a preliminary inquiry, but not yet an invitation to tender.

- *Encouragement to focus on quality, social and environmental criteria in award criteria (Art. 67 of the Directive):*

³⁹ The national threshold in Finland is €60,000

⁴⁰ More information available here: <https://www.oecd.org/cfe/lead/The-Finnish-Social-Enterprise-Finland.pdf>

The use of quality criteria, social and environmental considerations in award criteria is encouraged; their use was also discussed in one of the workshops the Municipalities organised to illustrate the strategy.

- *Annual planning and advertising:*

Advance communication of procurements to providers and potential bidders is strongly encouraged, for instance the guide mentions events such as information events framed as “procurement evenings” outside of the tender period. They stress that particularly major contracts should be reported in time to allow operators to prepare for bidding, or possibly to bid as a group. For local businesses, even tenders below the threshold are often of considerable size, so communicating about them in due time is recommended. Furthermore, in 2018, a model was piloted in which the procurement of each unit was presented to the Board in the Annual Plan. The annual plan allows for the correct scheduling and resourcing of competitive tendering. The Budget Implementation Plan also provides for a year’s tendering process.

- *Division into lots (Art 46 of the Directive):*

To increase SMEs’ participation in public procurement procedures, the Municipalities identified the use of division into lots as a useful tool to ensure access to large contracts.

Actors

- Contracting authority: Municipalities of Sodankylä and Kittilä
- Tenderers
- Public Procurement Agent (covering all municipalities and available also to economic operators in Lapland)

Social impacts

- For public procurement related to the provision of social services and healthcare, we can observe a positive paradigm shift thanks to the guides, whereby the contracting authorities focus on the users’ needs, also through consultations

with users.

- Although official data is lacking, there is a perceived increased participation by SMEs to public procurement in the region.

Other benefits

- The good practice is transferable (despite country contexts varying), the guides have been replicated in other municipalities in Lapland already.
- Thanks to Kittilä’s webpage (available [here](#) in Finnish) with practical guidelines for decision makers, contracting authorities and entrepreneurs, these guides are also being used in the South-East of Finland and are available to be used in the whole of Finland.

Lessons learned and future challenges

- In order to ensure the efficiency of actions taken by contracting authorities in the context of sustainable public procurement it is advised to include all stakeholders in this work.
- It is important to invest time to change mentality and way of working, as building trust takes time. For instance, SMEs can be sceptical because the procurement process was not always open in the past. Organising many events to talk about this and explaining new procedures in detail helps convincing both economic operators and contracting authorities of the added-value.
- Organisations or people like the Public Procurement Agent (funded through the ERDF as a regional consultant) really help municipalities without many resources to have support in socially responsible public procurement procedures. In this case, free advice is available which makes it easier to experiment with different tools offered by the Directive.
- The level of awareness must always be kept high. Municipalities can have staff turnover, so the practices need to be constantly reinforced and kept at the top of the agenda.
- Electronic tendering systems are very useful but not all Municipalities have updated their guidelines. Some do it, some do not, and some Municipalities only use them for EU procedures and not local ones, which can be a challenge.



- Events with the participation of local entrepreneurs, decision makers, and contracting authorities are useful to equip stakeholders with the tools and information on the new strategy for public procurement, so that they understand how to utilise it.

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63 National Public Procurement Act for labour inclusion of people with disabilities in Bulgaria

Name of procuring authority, Country: Bulgarian National Government, Bulgaria

Product or service sector: Various

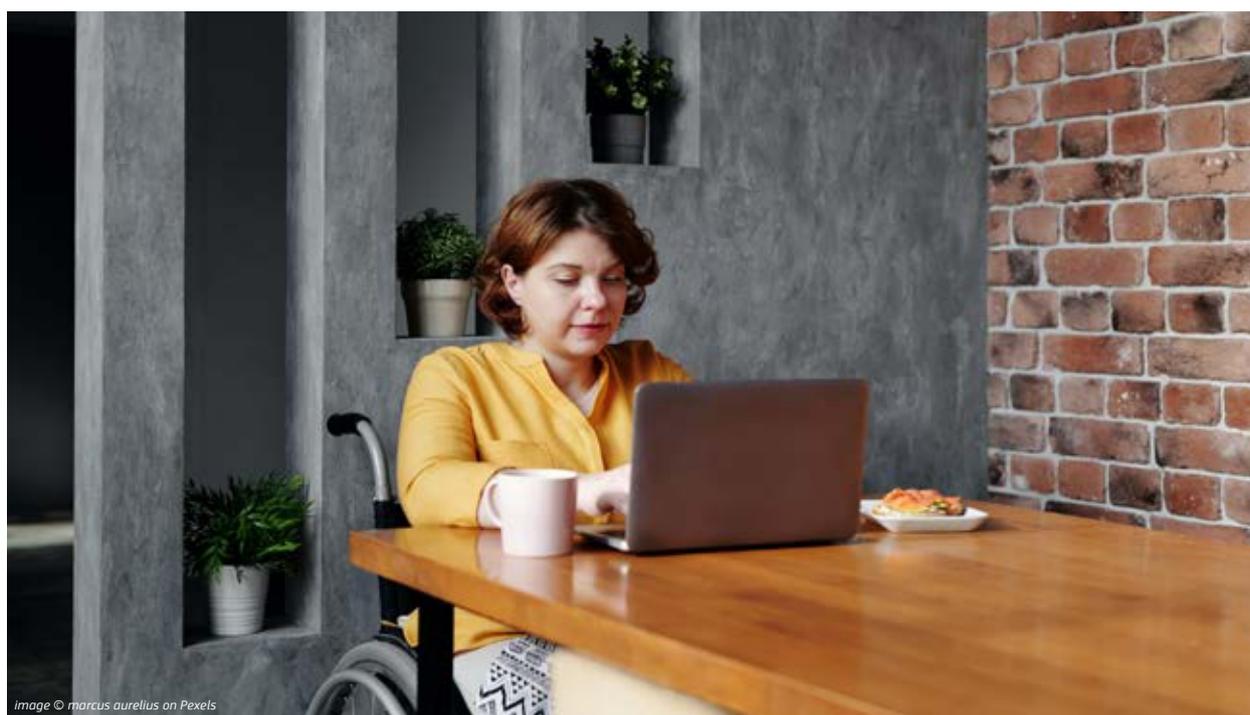


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Introduction/procurement objective

Bulgaria adopted a national policy promoting and supporting social economy enterprises for people with disabilities. In 2016, as part of this policy, the national government adopted legislation supporting enterprises working with disabled persons in public procurement. The provision, enshrined in Art. 12 of the Bulgarian Public Procurement Act, was developed in line with the EU Directive 2014/24/EC, with particular reference to Art. 20 on reserved contracts. The procurement legislation defines a list of more than 100 goods and services to be awarded to specialised enterprises, cooperatives or economic entities whose main objective is the social and professional integration of persons with disabilities or disadvantaged people. The list may be updated if necessary and a National Register for specialised enterprises and cooperatives has been established. The reservation also applies to

enterprises meeting equivalent terms under the law of another EU Member State.

Stage of procurement phase and criteria

The list of goods and services has been developed using a participatory approach by an interdepartmental working group including experts from the Bulgarian Government and national representative organisations of people with disabilities. The final list encompasses 103 products and 14 service sectors in the following categories:

- Product categories: apparel and workwear; polyethene products; garbage bags; shutters, brochures and paper products; reflective vests; kitchen utensils; cleaners; air and gas filters; containers
- Service categories: printing and digital services; laundry services



Since the law went into effect, several public procurements in Bulgaria have applied the new provision. For example, the City of Gabrovo published a tender on 13 August 2019 for the purchase of brochures and paper products with a total contract value of €20,250. Of the four enterprises that submitted a tender, three of them were listed in the national register for specialised enterprises and cooperatives of and for people with disabilities, and thus had preference for awarding the contract.

Another example is the tender for the production and delivery of workwear and specialised clothing, issued by the STOLICHEN AVTOTRANSPORT LTD, the public transport company of Sofia, in 2018. The total value of the contract was €205,128. In this case, all bidders were registered specialised enterprises in line with the national provision

Social policy objective and/or reference standard

The objective of the list of products and services is to foster a favourable and inclusive environment for specialised enterprises at the national level. This initiative stems from the idea that the public sector, through public procurement, can act as a lever for increased business opportunities for social economy enterprises across the country and thus promote more opportunities for employment for persons with disabilities.

The list was developed under the national law for people with disabilities, which requires the State and Local Authorities to support the employment of people with disabilities by creating the appropriate economic incentives and financial relief, including opportunities for implementation of social initiatives. Those measures should foster productivity and competitiveness, increase the employability of people with disabilities in specialised work environments and improve their vocational training and employment, overcoming financial and economic constraints.

According to the new Bulgarian procurement legislation, economic operators may have preference in the awarding of reserved public contracts, provided that at least 30% of their staff

is disabled. Competent authorities need to check compliance with Art. 20 of Directive 2014/14/EU for tenders valued above the threshold.

Verification

Compliance is verified through regular checks in the Public Register of specialised enterprises and cooperatives of and for persons with disabilities. In each specific procurement, a responsible officer from the national government checks the conformity of the product delivered and the performance of the contract in accordance with the social and technical provisions set in the procurement documents.

Instrument

- Art. 20 on reserved contracts of Directive 2014/14/EU.
- Art. 12 of the Bulgarian Public Procurement Act.

Actors

- Contracting authority: the Bulgarian national government
- Policy maker: Bulgarian Agency of Persons with Disabilities
- Central Purchasing Bodies and related regional agencies
- Bulgarian Ministry of Labour and Social Policies, involved in the realisation of the list of products and service sectors eligible for reserved contracts for social economy enterprises
- Bulgarian Municipalities, committed to unlocking the employment opportunities for persons with disabilities made available by the national policy. To this end, they ensure that products and services included in the list are procured as reserved contracts.

Social impacts

- The policy of social inclusion for people with disabilities has provided for consistent results in Bulgaria. As of February 2020, related procurements have contracted 233 enterprises or cooperatives with persons with disabilities, accounting for more than 2,500 employees and

workers, of which at least 30% are disabled (as per the statutory requirement for being listed in the national register).

- As a result of the national policy, enterprises and cooperatives working with people with disabilities have increased in quantity, and the quality of the products and services they deliver has improved. By improving conditions for social enterprises, more disabled people are also able to find employment.

Lessons learned and future challenges

- The social policy implemented in Bulgaria relies heavily on public verification concerning the validity of enterprises listed in the specialised register. Regular updates of the list of goods and services are vital.
- Concerning the first point, a major challenge was to develop a sound verification mechanism for the enterprises before registering them as well as their ongoing monitoring. These checks will continue in the future, and the vigour and methods of verification will be strengthened.
- Moreover, due to the novelty of the process, specialised enterprises are still in a learning phase. As a result, sometimes the quality of the final product is not as expected. This could also be due to the fact that the specific products or services listed must reflect the capacities and abilities of the corresponding registered specialised enterprises.

Contact

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“As of February 2020, in Bulgaria, related procurements have contracted 233 enterprises or cooperatives with persons with disabilities, accounting for more than 2,500 employees and workers.”

*Todor Popov,
Legal Advisor, Municipality of Gabrovo*



64 Valladolid's Strategy to boost socially efficient public procurement: strategic, honest and sustainable

Name of procuring authority, Country: Municipality of Valladolid, Spain

Product or service sector: All (policy)

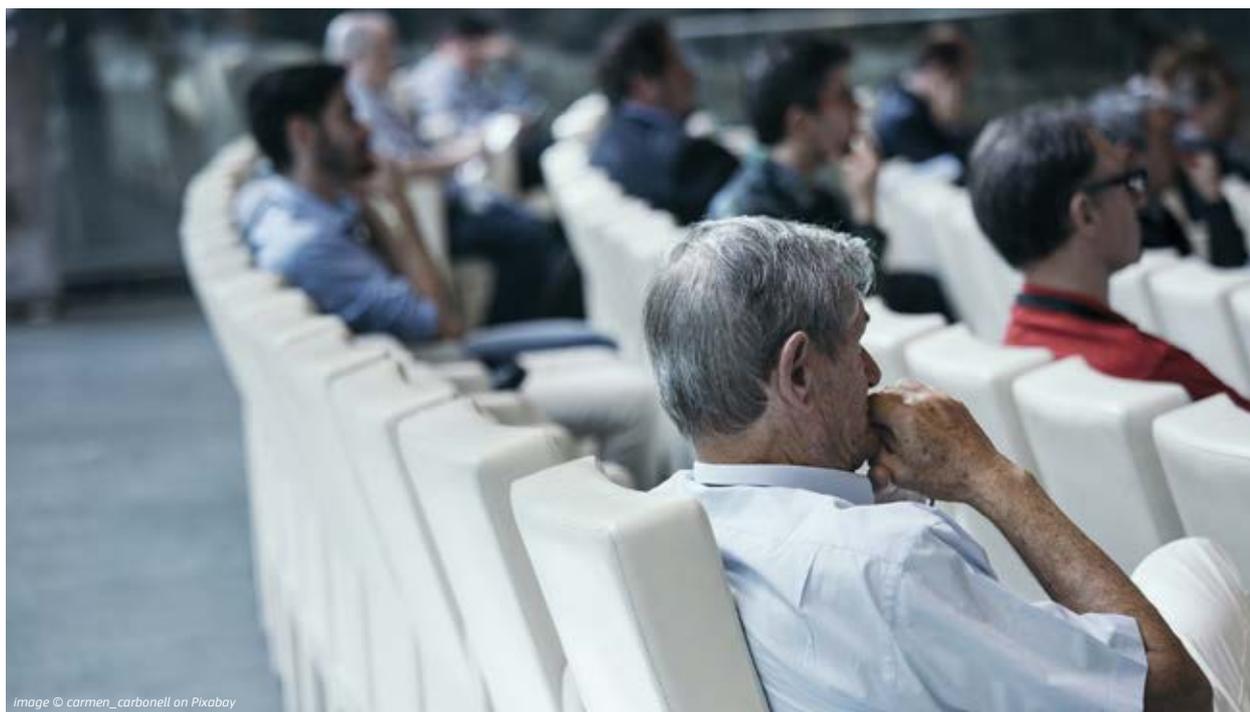


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Introduction/procurement objective

The main objective of the strategy 'Instruction 1/2018, on the promotion of socially responsible public procurement - strategic, honest and sustainable - in the Municipality of Valladolid and local public entities'⁴¹ is to design a new public procurement system that is "more efficient, transparent and honest". The strategy is aimed at preventing corruption, strengthening transparency through more publicity for calls for tenders, prompt decisions and guarantees of equal treatment for all bidders. The strategy also aims to use existing resources for public procurement to implement EU and national public policies on social and environmental affairs, economic development, and the promotion of innovation and small and medium-sized enterprises (SMEs).

SMEs generate 61.3% of value added and close

to 72% of total employment in Spain⁴², and a significant portion of SMEs are social economy enterprises and organisations. Acknowledging this economic landscape, as well as the value added by social economy entities, both in terms of social innovation and in inclusion of marginalised groups, the Municipality of Valladolid sought to reinforce access to public procurement markets by SMEs and to strengthen labour and social protection.

Social policy objective and/or reference standard

The Valladolid Strategy has the general objective of simplifying procedures and making more strategic

⁴¹ <https://www.valladolid.es/es/ayuntamiento/normativa/instruccion-1-2018-impulsar-contratacion-socialmente-eficaz-ficheros/475710-INSTRUCCIONContrataci%C3%B3n%20eficiente%20y%20estrat%C3%A9gica.docx.pdf>

⁴² European Commission, Single Business Act factsheet. Spain 2019.

use of public procurement rules to promote access to public procurement markets by SMEs and social economy enterprises, as well as to ensure socially and environmentally sustainable public procurement.

All public procurement contracts aim to achieve the following objectives, and calls for tenders will include at least two social objectives to be operationalised through the social clauses mentioned above:

- To promote the integration into employment of persons in a situation (or at risk) of social exclusion and of persons with special difficulties in accessing employment, especially persons with disabilities;
- To eliminate gender inequalities, paying particular attention to wage parity, work-life balance and LGBTI persons and the elimination of sexist measures in aesthetic dress codes;
- To combat unemployment among groups with greater difficulty in accessing the labour market, especially women, young people, persons over 45, and the long-term unemployed;
- To ensure respect for basic labour rights throughout the production chain, fair trade and greater transparency and traceability of the entire supply chain.

1. *Measures aimed at social inclusion and upholding social standards:*

- For every service or supply procured, it must be guaranteed that manufacturers and/or providers comply with the core ILO labour and social standards. Concrete measures to achieve these standards, as well as universal accessibility are taken into account in the design of every contract. In order to support the labour integration of individuals from disadvantaged or discriminated groups, award criteria and performance conditions will be included in contracts. All bidders presenting an offer will need to submit a 'Responsibility Affidavit' (a document where they outline how they comply with the core ILO conventions) as well as provide proof of relevant social labels (as per Art. 47 of the strategy).

- The strategy foresees social objectives to be included in the object of the contract, where these objectives can be achieved in parallel to executing the contract and are compatible with the subject matter of the contract. The municipal authorities shall carry out a study, prior to the publication of the call for tender, to analyse which social aspects must be taken into consideration.
- The evaluation of social considerations will preferably be done through a mathematical system. In cases where this is not feasible, the bidder will have to present a Social Plan for the execution of the contract. This plan should contain concrete proposals on:
 - New recruitments of individuals from groups with difficulties to access the labour market. This should not imply the layoff or reduction of work time of other employees part of the enterprise. Women victims of gender-based violence and LGTBI community will be especially taken into account, under the category "groups with difficulties to access the labour market".
 - A programme for the job stability of the employees that will materially execute the contract.
 - Concrete measures to ensure work security and health and safety standards during the execution of the contract. Concrete measures for the training of the employees involved in the execution of the contract (skills), a work equality plan ensuring the same working conditions for men, women and persons with different sexual identities as well as a work-life balance plan.
 - In case of subcontracting, sheltered workshops, social enterprises or other social economy enterprises such as cooperatives, but also the self-employed and SMEs in general should be prioritised.

These concrete proposals included in the Social Plan will be considered as essential contractual obligations. The non-compliance with these proposals implies sanctions or the cease of the contract.



2. Measures aimed at incentivising participation of SMEs, including the social economy:

- In order to prepare SMEs to bid for tenders, the municipality publishes an annual plan on its public procurement needs. This is then shared with business stakeholders. To this end, the Municipality also offers targeted training and capacity building for local SMEs on how to bid for tenders electronically and how to prepare for a tender call, particularly for online tendering.
- The time period for bidders to present their offers is extended to five days more than foreseen by the Spanish Public Procurement Law (9/2017). The number of application documents and their length are reduced in the tender calls so that it is easier for SMEs to participate, particularly taking into account SMEs with small capacity to bid for contracts.
- Preliminary market consultations with experts and economic operators are foreseen by the strategy in order to meet the needs and objectives the municipality intends to achieve through its public procurement and assess the readiness of the market (especially for SMEs to participate in the procurement process).
- To facilitate access to contracts by SMEs, the strategy foresees the use of division into lots, based on functional, geographical and/or economic criteria (Art. 33 of the Strategy). The municipality takes division into lots as a general rule of its public procurement procedures, exceptions will be limited to a minimum. Furthermore, the municipality will preferentially invite SMEs to participate in tenders below the threshold that are not publicised.
- In its annual planning, the Municipality designates 8-10% of the public procurement contracts to be reserved for work integration enterprises and sheltered workshops (Art. 46 of the strategy). This percentage does not include reserved contracts for social, cultural and health services delivered by social economy enterprises and organisations. Contracts below the EU threshold awarded with a negotiated procedure without prior publication shall also be reserved for SMEs, especially for social economy enterprises and enterprises created through

the Municipality's programmes (Art. 39 of the strategy).

- The Municipality guarantees that contractors will receive the payment 30 days after the issue of the invoice. Furthermore the public authority will take all needed actions to ensure that the subcontractors are paid by the contractor in due time. This measure is in consideration of the fact that many SMEs, especially those in the social economy, usually don't have significant liquid capital, so receiving payments reliably and quickly after being contracted helps them not go under.

Verification

- A contract manager is appointed to supervise the execution of the functional requirements, the quality, price and duration of the works or services established in each contract. The contract manager can issue precise instructions and carry out inspections of the operational activities, which are to be documented and reported to the contracting authority and the supervisory body.
- The social aspects included in tender documents or proposed by the tenderer will be subject to verification by the municipal official in charge of the contract. Any party can file a complaint if the contracted operator fails to fulfil their social obligations (Art. 60 of the strategy).

Instrument

- Art. 18(2), 20, 40, 43, 46, 67, 70 and 77 of Directive 2014/24/EU

Contract value

The value of contracts under the strategy value will depend on the specific goods and services being tendered. As a general indication, the total expenditure of the Municipality in 2019 was €74,383,477.69.

Actors

- Contracting authority and creator of the strategy: The Municipality of Valladolid

- The following actors supported the development of the strategy:
 - Various relevant levels of the Government of Spain
 - The Spanish Confederation of Social Economy Enterprises (CEPES), who advised on measures to promote participation of SMEs
 - International and national NGOs
 - Public Procurement Observatories
 - Foundations
 - Public enterprises
 - Associations of local authorities

Social impacts

- Between 8 and 10% of all contracts are reserved both to sheltered workshops, which in Spain are obliged to employ minimum 70% of people with disabilities, and to work integration enterprises which in the region of Castilla y León for which at least 30% of people in a situation or at risk of social exclusion.

Other benefits

- This strategy has made it possible for Valladolid to double the national average for the total number of contracts awarded to SMEs; in fact, SMEs won 75% of all awarded contracts in 2016 and 79% in 2017. In 2019, the number of contracted SMEs went up to 81% of all awarded bidders, which represented 51% of the municipality's procurement budget.

Lessons learned and future challenges

The following points were key to ensuring the success of Valladolid's public procurement strategy:

- The planning, preparation of the call for tender and subsequent verification of its execution have proven to be the most important aspects for a successful socially responsible and sustainable public procurement. This requires, however, sufficient investment of time and human resources.
- In order to ensure that the criteria and obligations have been met by the supplier, every contract

is followed up by a strong verification scheme. Furthermore, penalisation of incompleteness of works/services (including non-compliance with social and environmental criteria) must be substantial and well-enforced.

- Professionalisation for both the contracting authorities and the operators is essential, especially to ensure SME participation in public procurement procedures.
- Using a procurement documents model that is open-access and reusable can save time and make the Municipality's public procurement procedures (including the social and environmental criteria applied) coherent; such models can also better prepare the SME bidders for what is expected of them when answering a call for tenders.
- Of all the measures in the strategy, the most effective in involving SMEs in public contracts has been the division into lots of public procurement contracts, where not more than a third of the lots can be awarded to the same enterprise. However, this measure is also tricky to implement because there is a resistance on behalf of contracting authorities and technical teams when it comes to changing the working method as this generally requires a disruption of the routine, more work, more monitoring and much more coordination (for dividing contracts into lots).

Contact

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"If public procurement was used strategically and honestly, it would achieve greater social efficiency through public funds, as well as direct impacts on social and environmental policies by actively promoting SMEs and encouraging innovation. And all this, without investing more money than what was already going to be spent on that supply of works, goods and services. In other words, it is not about spending more, but spending better."

José Manuel Martínez Fernández,
Deputy General Secretary of Valladolid City Council



65 A framework for social value procurement in Vancouver

Name of procuring authority, Country: City of Vancouver, Canada

Product or service sector: Various



Introduction/procurement objective

The City of Vancouver became one of the first cities in Canada to commit to social value procurement in 2015 with the adoption of the Healthy City Strategy and Action Plan (2015-2018). The action plan included a commitment to:

- “Encourage the development and/or enhancement of social value procurement frameworks among the Leadership Table members”; and
- “Create a formal social value procurement framework to guide the City of Vancouver’s procurement practices.”

In April 2019, the City Council, together with the City’s executive leadership, endorsed the Social Value Procurement Framework. The purpose of the framework was to provide direction for social

procurement and community benefit agreements, including principles, parameters on scope and size of initiatives, metrics and targets. The framework integrates social value into city spending, “while contributing to broader outcomes related to city strategies, goals and priorities”. This will be achieved by procurement guidelines aimed at expanding supply chain diversity while improving economic independence and capacity with employment access and rights.

Stage of procurement and criteria

The Framework describes several different approaches to integrate social value in procurement:

- Building capacity and encouraging social/diverse businesses to bid for contracts;
- Applying evaluation (award) criteria which target social value;

- Applying contract clauses based on market consultations which ensure improved and fair employment practices.

To expand its supply chain diversity, the City uses approaches such as thorough assessments of vendors' availability and capacity to determine opportunities for social/diverse businesses and to learn about its social/diverse vendor base. A business is considered social/diverse if it has a recognised certification and/or is owned or operated by traditionally marginalised groups, such as women, indigenous persons, people with disabilities, or LGBTQ+. When an opportunity is identified, the City will seek to ensure that these businesses are aware of it and can participate in procurements.

By 2023 the goal is to award 50% of the number of contracts, as well as 50% of the value of contracts to social/diverse businesses in service categories such as professional services, consultants, HR, facility maintenance, trades, repairs and technical experts/advisors.

Another important aspect of the social value policy framework is the measures taken to improve local economic independence and capacity for citizens with the help of employment access and labour rights. This includes guidelines to promote purchasing of services that are:

- Ethical - e.g. in terms of labour standards, fair trade, employee health and safety.
- Promote workforce diversity through participation of underemployed, unemployed and under-represented groups of people.
- Promote economic well-being through decent working conditions, employee development and benefits.

Social policy objective and/or reference standard

The objectives of social value procurement in Vancouver are to:

- Advance community health and well-being
- Increase and improve economic opportunities for social and diverse businesses

- Improve economic independence and capacity for underemployed, unemployed and under-represented populations

Instrument

The Social Value Procurement Framework was endorsed by the City Council and the City's executive leadership in April 2019, with the following implications:

- Organisation-wide governance in accordance with and commitment to the social value objectives, with embedded ownership and integration into the public procurement process
- Understanding its importance and alignment as a tool to support long-term social priorities of the city and the achievement of total value including outcomes of sustainability, resilience, equity and reconciliation
- Realising varying levels of social value can be achieved in different ways and on different timelines depending on the procurement

Social impacts

Social value procurement is seen as a long-term investment for the future, in striving for a more equitable and inclusive community and economy through socially-responsible public purchasing. The outcome will be tracked by departments that monitor equity, poverty reduction, homelessness, etc. However, these impacts aren't expected to be immediately evident.

The framework was endorsed in April 2019 and by December 2019 had been applied to over a third of public procurements valued over CDN \$ 75,000 (€51,600), and the following social impacts have been observed:

- One experience thus far was from a procurement of landscaping services where five social/diverse businesses were invited to tender. Of those invited to tender, three social/diverse businesses responded and one social enterprise won the contract with a quote below budget.
- Another experience comes from a procurement



of temporary staffing agency services. Since these types of agencies have few internal employees, the only way to increase under-represented populations in the workforce is for the agencies to ensure they are looking for them and placing them. During the market consultation, the City informed the vendors that they should put more effort into sourcing and attracting candidates from underrepresented groups. The tender documents included a standardised question about where and how the bidder sourced their workforce, in an effort to collect information and also create awareness. The procurement also had a social value award criterion. The vendors received points for their social value approach (business, sourcing, equity) which would contribute to up to 15% of their overall score. Multiple vendors were appointed and three out of four were considered social/diverse based on the ownership/control/certification of their business and/or workforce practices. During the contract performance, they will all be expected to report on these practices

Other benefits

- The social value procurement framework is broad in nature and allows for options to find the right fit for the specific procurement. Questions are always asked about social and diversity issues, and the city can decide to give greater weight to social criteria when it makes sense. This flexible approach makes it possible to find social value in different procurement categories or put in extra effort on social aspects of a procurement when there are opportunities for significant impacts.
- With adaptation, the framework can be transferred to other purchasing organisations. This framework has also been considered in other organisations in Canada, for example, in local municipalities and universities, public sector organisations across the Greater Toronto metropolis, and Canadian Provincial and Federal governments.

Lessons learned and future challenges

Lessons learned:

- The City of Vancouver invested in finding out what was already being done before deciding what should be done regarding socially responsible procurement. This allowed them to find out that many of their vendors were already social/diverse and could win and perform contracts without being more expensive.
- A good starting point with this type of framework is to engage in 'match making'. Start with a few service areas and try to engage with the specific market. For example, janitorial and landscaping services can be a good fit for social enterprises.

Future challenges:

- Increasing the weighting/points for social value in procurements may result in more definitive impacts related to inclusion of such criteria.
- There is low hanging fruit in small purchases and contracts that are typically good options for social/diverse businesses. However, departments are familiar with their existing businesses/suppliers and tend to re-engage with them, which can limit the opportunities to bring in new social/diverse enterprises that work with underrepresented, underemployed or unemployed groups.

Contact

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"Our social value procurement framework is broad in nature and makes it possible to find social value in different procurement categories or put in extra effort on social aspects of a procurement when there are opportunities for significant impacts."

*Kim Buksa,
 Sustainable & Ethical Procurement Manager, Supply Chain Management, City of Vancouver*

66 Wageningen's Social Return on Investment Policy

Name of procuring authority, Country: City of Wageningen, the Netherlands

Product or service sector: Various



Introduction/procurement objective

The City of Wageningen introduced a procurement policy under which the administration is obliged to include Social Return on Investment (SROI) on every tender with an expected value above €50,000. A fixed percentage (5%) of the agreed contract price of each procurement above €50,000 is used to employ registered unemployed persons or people far from labour markets.

There are various ways in which social return in the Netherlands can be incorporated into public procurement. Options include setting special terms and conditions of performance, the inclusion of award criteria, or the reservation of a contract

with sheltered employment companies. For other example, see the cases in this collection from Haarlem ([p. 229](#)) or Rotterdam ([p. 134](#)).

Subject matter

Social Return is an important aspect of the procurement policy of the Municipality of Wageningen. The Municipality strives to achieve concrete social outcomes through the award of contracts to market participants. In this context, Social Return means that the Municipality sets contractual social considerations to tenderers. These conditions are in the field of job opportunities for job seekers.

Stage of procurement phase and criteria

Providers are requested to describe the options they have with regard to the implementation of Social Return on Investment. The assessment of the award criteria is done by the account manager of the Corporate Department of the Municipality. After contracting, the account manager is the point of contact for the implementation of Social Return on Investment.

Social policy objective and/or reference standard

Three different options are available for including Social Return in a tender, of which the tenderer should choose one:

- **Contract requirement:** A fixed percentage (5%) of the agreed contract sum of an assignment is used to hire unemployed persons or people who are far from the labour market. The implementation of the requirement can be agreed upon in a plan after the assignment between the entrepreneur and the Municipality.
- **Contract requirement in combination with an**



award criterion: A fixed percentage (5%) of the agreed contract sum is used to hire unemployed persons or people who are far from the labour market and is included in the tender as an award criterion.

- *Request for ideas:* Tenderers are requested to make a proposal for the way in which social return is implemented. This proposal does not have to be included as an award criterion, but is, after assignment, worked out in more detail in collaboration with the Municipality

Verification

The City includes the option of imposing a fine in the contract. Every year the progress regarding the implementation of SROI is reviewed. If the tenderer's contribution is not met, the City is entitled to charge the tenderer 5% of the contract value for the services provided (in 2019, this mechanism was used once). The City will use this amount to design initiatives that directly contribute to the development or use of instruments to support job seekers or people who are far from the labour market in their search for work.

The designated account manager is responsible for the verification of the SROI commitments.

Instrument

- Art. 70 on conditions for performance of contracts of Directive 2014/24/EU.

Actors

- Contracting authority: The Municipality of Wageningen
- Beneficiaries: Job seekers (especially people far from labour markets)

Social impacts

- The Municipality of Wageningen has set itself the goal of supporting as many residents as possible to participate in the labour market.
- The Purchasing and Tendering policy wants to

contribute to this goal by applying the Social Return on Investment Policy, and in this way creating opportunities for people that are disadvantaged in the labour market.

- The Municipality has obliged itself to apply SROI aspects to all tenders. Regardless of whether the assignment relates to services, deliveries or works.

Other benefits

- Reduction of social welfare payments: SROI increases the chances for long-term unemployed people of getting a paid job. They will then not be in need of social benefits.

Lessons learned and future challenges

- Put Social Return on Investment on the agenda when you are organising a market consultation.
- The contracting authority should ask for a plan of action for SROI and if possible work together with the contractor on the plan;
- Involve colleagues responsible for the implementation and verification of the Social Return on Investment procurement policy at an early stage;
- To include Social Return on Investment on every tender with an expected contract value above €50,000 is a rather low hurdle (5% of €50,000 is just €2,500). It might be better to keep the tender limit of €221,000 (the amount above which you must tender in Europe until 2020), so that placements for job seekers resulting from the SROI are more stable. The duration of the placement depends, among other things, on the contract value.

Contact

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67 Haarlem's approach to Social Return on Investment

Name of procuring authority, Country: City of Haarlem, the Netherlands

Product or service sector: All sectors that involve the use of labour (tenders for services and works)



Introduction/procurement objective

Haarlem is a pioneer in applying the 'Social Return on Investment' concept in tenders, encouraging suppliers to create social value. Since 1995, the City of Haarlem has been using Corporate Social Responsibility/Social Return on Investment in their procurements as a special condition relating to the performance of a contract. This is a proven method for the creation of job opportunities for people with poor job prospects.

There are various ways in which Social Return in the Netherlands can be incorporated into public procurement. Options include setting special terms and conditions of performance, the inclusion of award criteria, or the reservation of a contract with sheltered employment companies. For other example, see the cases in this collection from Wageningen ([p. 227](#)) or Rotterdam ([p. 134](#)).

Subject matter

Increasing labour force participation and employment among jobseekers and people with disabilities.

Stage of procurement phase and criteria

During the procurement process, bidders have to agree to a special contract performance condition to contribute an amount equal to 5% of the contract value to increase labour participation by supporting people far from the labour market. The value can be provided through employment, internships or other activities carried out on the specific contract. The value of the required social return on investment (SROI) is proportionate to the object and scope of the contract: 5% SROI is applied in tenders for services or work. For supply contracts with a low labour value component, a lower SROI percentage is used.



Social policy objective and/or reference standard

The initiative aligns with the following policy goals:

- Contribute to achieve a more inclusive labour market
 - More residents work and perform according to their ability
 - Increasing labour market participation of unemployed residents
 - Reduce early school dropout
 - Connecting education and the labour market
- By bringing people back into the labour market further social objectives can be achieved
 - Improve local living environment and social cohesion
 - Strengthen self-reliance of jobseekers
 - Prevent and control debt problems and loneliness
 - Supporting social enterprises and (local) entrepreneurship

Verification

- Calculate SROI value = contract value * SROI % in this case 5%
- Calculate achieved SROI value using standard category values. The standard category values refer to the activities which a contractor can do to meet the SROI condition. There are three main kinds of activities: a) jobs or internships for people who haven't been in a stable employment condition; b) involvement of Social Enterprises in delivery of the contract, and c) other CSR activities linked to the specific contract.

Contract value

SROI is used for all contracts valued at or above €200,000. The corresponding percentage of the contract value dedicated to SROI, 5%, would represent a value greater than or equal to €10,000.

Instrument

- Art. 70 on conditions for performance of contracts of Directive 2014/24/EU.

- Under a City Council regulation⁴³, Haarlem applies SROI to all tenders for services or work with an expected value equal to or higher than €200,000.

Actors

- Contracting authority: City of Haarlem
- Beneficiaries: Unemployed/Jobseekers, people with disabilities

Social impacts

- Raising labour participation rate: SROI increases job prospects for the target groups. Annually hundreds of long-term unemployed people and people with disabilities are getting involved in the labour process by starting a job or internship.
- Corporate social responsibility: SROI encourages the market to get involved and take part in achieving social objectives.

Other benefits

- Reduction of social welfare payments: SROI increases the chances for long-term unemployed people of getting a paid job. They will then not be in need of unemployment benefits.

Lessons learned and future challenges

The following parameters have been key to the success of the initiative:

- For a successful implementation of the SROI policy, it is very important to get all stakeholders on board. It begins with gaining their support, especially of the decision makers and the market. Political backing ensures continuity of SROI in the City's procurement.
- Market dialogue and mutual interests: the task will be done by the market getting involved in offering job opportunities for the target group. It is important to keep in touch and talk about possibilities, difficulties and their needs.

⁴³ <https://haarlem.pleio.nl/file/download/48093642>

- Practical, flexible, simple and clear rules and regulations make SROI easier for contractors to comply with and facilitate more straightforward enforcement.

The future challenge is to cooperate with the (semi) public contracting authorities in the region, such as other Municipalities and other public service organisations.

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"Three years ago when we got confronted with the SROI demand, I thought it will bring us difficulties. We did it to maintain a good relation with the Municipality. Now, I can say that we gained a bunch of good employees. And I get a fulfilling feeling when I look at the improvement that we brought into their lives."

Supplier to the Municipality of Haarlem



68 Promotion of equal opportunities and work-life balance through public procurement

Name of procuring authority, Country: City of Vienna, Austria

Product or service sector: Various



Introduction/procurement objective

The City of Vienna has over 25 years of experience in supporting and promoting women and girls in order to combat the existing inequalities. The municipal Department for Women's Affairs opened in 1992 and, since then, a network of gender experts and projects across different departments have been developed. However, in 2020, gender equality at all levels of society is still not self-evident. Differences in income between women and men remain, as well as the unfair share of unpaid and paid work. The gender pay gap⁴⁴ with regard to full-time work in Vienna was at 14.5% in 2019.

The City of Vienna awards many contracts, from procurement of office materials to research contracts. Due to the size of the municipal administration, the financial volume of these contracts is considerable. Applying gender mainstreaming and promotion of women in procurement ensures that the spending also contributes to the equality of women and men in private businesses.

Therefore, the City of Vienna established a working

group in 2010 to examine how the promotion of gender equality can be tied to public procurement. Several pilot schemes were then carried out in an increasing number of fields. In the beginning, the involved municipal departments were the EU Strategy and Economic Development Department and the Procurement Department.

Subject matter

The City of Vienna developed guidelines for enterprises and instruments helping them to assess the state of the art of equal opportunities within the enterprise and to implement measures. In addition, civil servants (all interested persons, procurers in particular) receive specific training, checklists etc.

Stage of procurement and criteria

Participating municipal departments must adhere to the following principles:

⁴⁴Percentage of men's earnings and represents the difference between the average gross hourly earnings of female and male employees (European Institute for Gender Equality).

- For service contracts, tenderers must commit in their offers to the implementation of measures for the promotion of women and furnish proof thereof within a given timeframe. These contract performance conditions currently apply to all service contracts with a minimum duration of six months and an estimated value of at least €50,000 that are awarded to businesses with more than 20 employees. With this measure, the City of Vienna purposely addresses larger and longer-term service contracts. At this level, organisational changes can actually be implemented by private businesses. This requirement has no bearing on the assessment and ranking of the offers, however it is a condition for a contract from the City. The implementation of women's promotion measures is only verified once the contract is being performed.
- Promotion of women and gender aspects must be considered in needs assessment, procurement planning, and specification of services. Employees working in procurement must consider these aspects in advance. For example, if a study is to be commissioned, the service description in the invitation to tender can be formulated in such a way that the different needs and perspectives of women and men are considered.
- Women's promotion and gender aspects can be taken into account when formulating award criteria to determine the most economically advantageous tender. For example, proof that those responsible for carrying out the contract have special training in the field of gender mainstreaming and promotion of women.

Should a civil servant need further support, they can attend training courses organised by the Executive Group on Personnel and Internal Auditing of the City of Vienna.

Social policy objective and/or reference standard

- Gender mainstreaming and promotion of women through procurement;
- Equality of women and men in private businesses.

Verification

In the tender phase, tenderers have to submit a declaration of commitment in which they commit to implement selected measures chosen from the following catalogue of measures:

- Group A: promotion of women in recruitment
- Group B: promotion of women in qualification
- Group C: reconciliation of professional and private life
- Group D: structural measures (such as implementation of a qualified women's promotion plan, measures to deal with sexual harassment, appointment of women's representatives, further training on equality).

Tenderers commit to implement the chosen measures by halfway through the contract period and submit written evidence of their implementation. If it is not possible to implement the selected measures in full within the deadlines, tenderers have to state the reasons. A breach of the obligation to implement the selected measures can lead to the indication of a "serious defect" in the Contractors Register of Austria.

In the event of failure to provide proof of full implementation of the measures selected by the performance deadline, a penalty applies of up to 1 percent of the contract amount, with a cap of €10,000. Random checks are also carried out by the City of Vienna Internal Audit Group and the City of Vienna Court of Audit.

Instrument

- The use of social award criteria and contract performance clauses, which may include gender considerations, is authorised under Article 67 and Article 70 of Directive 2014/24/EU.
- Guidelines developed by the City of Vienna: the formal obligations which companies have to sign and the catalogue of gender mainstreaming measures they can choose from are available at: <https://www.wien.gv.at/wirtschaft/gewerbe/pdf/verpflichtungserklaerung-vergabe-frauenfoerderung.pdf>



Actors

The project was enlarged in 2012 and 2015. As of December 2019, the following municipal departments are participating in the project by adhering to the above-mentioned principles:

- Department for European Affairs
- Department for Procurement
- Department for Information Technology
- Department for Public Lighting
- Department for Women's Affairs
- Department for Urban Development and Planning
- Department for Architecture and Urban Design
- Department for Environment Protection
- Department for Economic Affairs, Labour and Statistics

The following departments accompany the implementation of the project in the partner departments:

- Executive Group for Organisation, Safety and Security (MD-OS), Section for Gender Mainstreaming
- Department for Women's Affairs
- Department for Trade Law, Protection of Data Privacy and Civil Status

Social impacts

The project has an important impact on gender equality in society as it ensures measures for the promotion of women and gender equality in workplaces and the labour market. Contracted companies are an important partner when it comes to gender equality in Vienna. The project has an impact on:

- Gender equality in the labour market;
- Promotion of women in leading positions;
- Closing the gender pay gap;
- Ensuring that women and men have equal access to municipal services.

The project has been a model for other cities in Austria and on an international level (e.g. Organization for Security and Co-operation in Europe - OSCE).

Other benefits

Facts and figures:

- The most common measures used are offering flexible working hours and increasing the number of women in leading positions.
- Legally, there has been only one complaint to date, which was not successful.
- All companies respected the agreement, so not a single penalty had to be imposed within the eight years that the programme has run, even though the possibility of a penalty is agreed on in the project.

Lessons learned and future challenges

- The project has been a huge success. This is mainly due to the fact that sufficient support was provided for companies right from the beginning. For example, workshops were held, a manual for equality analyses and ideas for taking action was provided, and there is also the possibility for individual advice by telephone. The same goes for supporting those public servants responsible for contracting: regular training is offered and a gender checklist was developed in a participatory process by gender experts, together with representatives of the concerned municipal departments.
- A crucial factor was also to involve a highly renowned law scholar for checking the regulations. This was a valuable support whenever discussions came up.
- It proved very helpful to create a collaborative working group to set up the project. Gender experts, legal departments and representatives of various municipal services have been working together right from the start.
- A project like this could not have been started and managed without wholehearted political support.

Contact

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69 Dialogue to achieve sustainability in the procurement processes of Bremen

Name of procuring authority, Country: Free Hanseatic City of Bremen, Germany

Product or service sector: This methodology has been used on several different products/services, including textiles, protective workwear, toys, sports equipment, safety shoes and gloves, and cleaning services (policy)



image © Free Hanseatic City of Bremen

Introduction/procurement objective

The city of Bremen has about 570,000 inhabitants. As a Hanseatic city, Bremen has benefited from national and international trade since 1260. Today, this identity is the motivation for Bremen to shape trade in a fair and sustainable way so that all parties involved can benefit from it. Since 2009, the Free Hanseatic City of Bremen (FHB) has pursued the goal of making public procurement ecologically and socially responsible. A first milestone in this process was the successful bid to become the Fair Trade Capital of Germany in 2011, which involved numerous players from civil society, politics, science, business and administration. Since then, they have continued to contribute to the promotion and consolidation of Fair Trade in the community. The establishment of a competence centre for socially responsible public procurement in 2016 also

helped to promote the consistent implementation of sustainability aspects in the City's tendering procedures. In recent years, the focus has been particularly on the product groups of protective workwear, toys, sports equipment, promotional items and catering equipment (coffee, tea, cacao, cane sugar).

Both before and during the tendering processes for these products, bidder dialogues, user workshops and bidder workshops are held in the Strategic Purchasing Department of the Bremen Purchasing and Awarding Centre (EVZ), which is responsible for tendering processes for the centralised public procurements of FHB.

Stage of procurement phase and criteria

- *Bidder dialogues* serve to inform and sensitise



potential bidders and the demand side (procurement officers) regarding the integration of social and ecological criteria in an upcoming tender. When planning to tender for a new product group, intensive research (such as a survey of local suppliers) is carried out to find possible manufacturers. Bremen has no automatic procedure to publicise the dialogue events online, though sometimes events are announced on the websites of NGOs such as Engagement Global and “Südwind”. For EU-wide tenders, there are clear rules which have to be followed so that sufficient time is allowed to submit bids and for bidders to ask questions.

- Manufacturers and, if applicable, suppliers are invited to the events and receive a report afterwards. The results of bidder workshops are incorporated into the tender documents.
- In these dialogues, NGOs are involved and make important contributions. The course of the event will typically include presentations, followed by questions and discussions of the topics. The type and scope of the procurement requirements are described, as well as qualitative and socio-ecological requirements. NGOs present the problems which need to be improved in the production and the supply chain of the product or service in question from their point of view. As a result, the companies should be able to get a first impression of the demand, its requirements and the approach to improve the social-ecological requirements in production and the supply chain. The dialogue also addresses the question of the ability or willingness of companies to meet social-ecological requirements and to participate in the corresponding awarding procedures. It is important to raise the awareness of the demand carriers within the municipality about the use of social and ecological criteria.
- *User workshops* inform the main procurement officers as well as the EVZ about the existing products of potential bidders and raises end users' / users organisations' and companies' awareness about human rights and ecological aspects of procurement. In the course of the event, several companies present their products and their characteristics (qualitative, but also

social and ecological) to a small group of buyers and suppliers, who rotate so that all participants can get to know all the products.

- During a *bidders' workshop*, the awarding authority, potential bidders and individual key consumers work together with NGOs to improve the service description and contractual conditions, which, by this time, the awarding authority has already pre-formulated. The workshop serves to bring transparency into the tendering process and to take into account the needs and questions of all stakeholders. In the course of the process, the prepared texts are explained and discussed under legal supervision.

The competence centre for socially responsible public procurement introduced the use of dialogue formats in the pre-procurement phase in FHB in 2016. Since then, various dialogues have taken place, including (but not limited to):

- *Product group: textiles/workwear*
 - Manufacturer dialogue for uniforms
 - User workshops on workwear (*Workshops for users who examined the exhibited workwear from six sustainable manufacturers and wrote down their requirements and comments in a questionnaire. The strategic purchaser then used this questionnaire to finalise the tender documents.*)
 - Bidders' workshop on workwear
- *Product group: toys*
 - Bidders' dialogue on toys (*Dialogue to raise awareness of consumers, especially kindergarten teachers from day-care centres, about the working conditions in the toy industry and the tendering practice of the FHB, as well as to establish initial contact with potential bidders.*)

Social policy objective and/or reference standard

The intention of the dialogue events and workshops is to create the basis for systematically expanding the range of product groups within central framework agreements that meet the high requirements of socially and ecologically sustainable procurement.

The Core Labour Standards Regulation (“Kernarbeitsnormenverordnung”) of the FHB defines these requirements, which were updated in May 2019. The regulation contains a list of products that must be procured in such a way that they comply with the ILO Core Labour Standards. This is particularly important for “sensitive products”, which are known to often be produced under poor working conditions.

The list of sensitive products includes the following groups:

- Textile products
- Agricultural products from the Global South (e.g. tea, coffee, cacao and others)
- Cut flowers from the Global South
- Toys and sports balls
- Wooden products
- Information and communication technology (ICT) products
- Leather goods and tanning products

Verification

The dialogue formats are events for which potential bidders or consumers/demand carriers of the Municipality do not need any verification. This is used as a low-threshold possibility of engaging stakeholders who might otherwise not participate in socially or ecologically responsible procurement processes. Specific requirements applied in tenders are subject to verification.

Contract value

As several different tenders have been executed with these dialogue formats, no specific contract value can be given.

Instrument

- Art. 40 on preliminary market consultations of Directive 2014/24/EU.
- Within the law of the federal state of Bremen, procurement is regulated through the Law on Tariff Compliance and Public Procurement (“Tariftreue- und Vergabegesetz”).

- The Core Labour Standards Regulation (“Kernarbeitsnormenverordnung”) and the Administrative Regulation for Procurement of the Free Hanseatic City of Bremen (“Verwaltungsvorschrift für die Beschaffung der Freien Hansestadt Bremen”).

Actors

The Senator for Finance, the Senate Chancellery and Immobilien Bremen jointly develop and expand the sustainable and fair procurement in Bremen.

- The Senator for Finance is responsible for the area of public procurement (including sustainable public procurement) and commissions the public company Immobilien Bremen as a service provider for central purchasing and the implementation of public procurement procedures. The competence centre for socially responsible public procurement is located directly at Immobilien Bremen.
- The Senate Chancellery is responsible for the promotion of fair trade in Bremen and maintains partnerships with Bremen’s partner cities in the Global South.
- The target groups of the dialogue formats described here are the Bremen municipal departments, all other institutions of the FHB (rural and urban municipalities) and potential bidders.
- Additional target groups are partners within the framework of public-private purchasing syndicates as well as grant recipients who are allowed to participate in central Bremen procurements.

Social impacts

- Experience with these dialogues thus far has proven to enable procurers, consumers and bidders to better understand socially responsible products and the integration of social criteria in the procurement process. Furthermore, it contributes to overcoming suppliers’ reluctance to participate in tenders with social criteria.
- Internally, a social benefit has been enabling demand-side agencies to become better



acquainted with the advantages offered by framework agreements from the central procurement agency of the Municipality, because they simplify the ordering process and allow for a purchase decision in favour of socially responsible products.

Other benefits

- The people involved in procurement act as decisive multipliers within the Municipality. The dialogue formats strengthen and expand this multiplier effect by developing skills and providing information to the procurement officers and municipal employees.
- Central framework agreements for all product groups and services are made available to the decentralised users within the municipality for simple call-off. In this way, the demand carriers within the Municipality will be sustainably directed to products that comply with the criteria of socially responsible procurement or fair trade.
- The corresponding products can be ordered electronically with little effort.

Lessons learned and future challenges

- The dialogue formats prove successful in creating greater understanding of the need for socially and ecologically responsible procurement by demand carriers, as well as potential bidders.
- Reluctance to participate in tenders with social and environmental criteria is reduced, because questions and uncertainties between suppliers and the contracting authority can be addressed directly.
- Challenges do arise, especially when a product group has not yet received much focus in terms of sustainable production (e.g. toys or, to an even greater extent, sports equipment), as the understanding of procurers' sustainable production needs, as well as the availability of market actors that can provide such products, is low.
- Additionally, the financial and human resources needed to conduct the dialogue formats pose a continual challenge, as they occur on top of the standard tendering process-costs.

Contact

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70 Ensuring fair working conditions

Name of procuring authority, Country: Copenhagen, Denmark

Product or service sector: Cleaning, construction, food/catering services, healthcare, transport, daycare, roads and maintenance

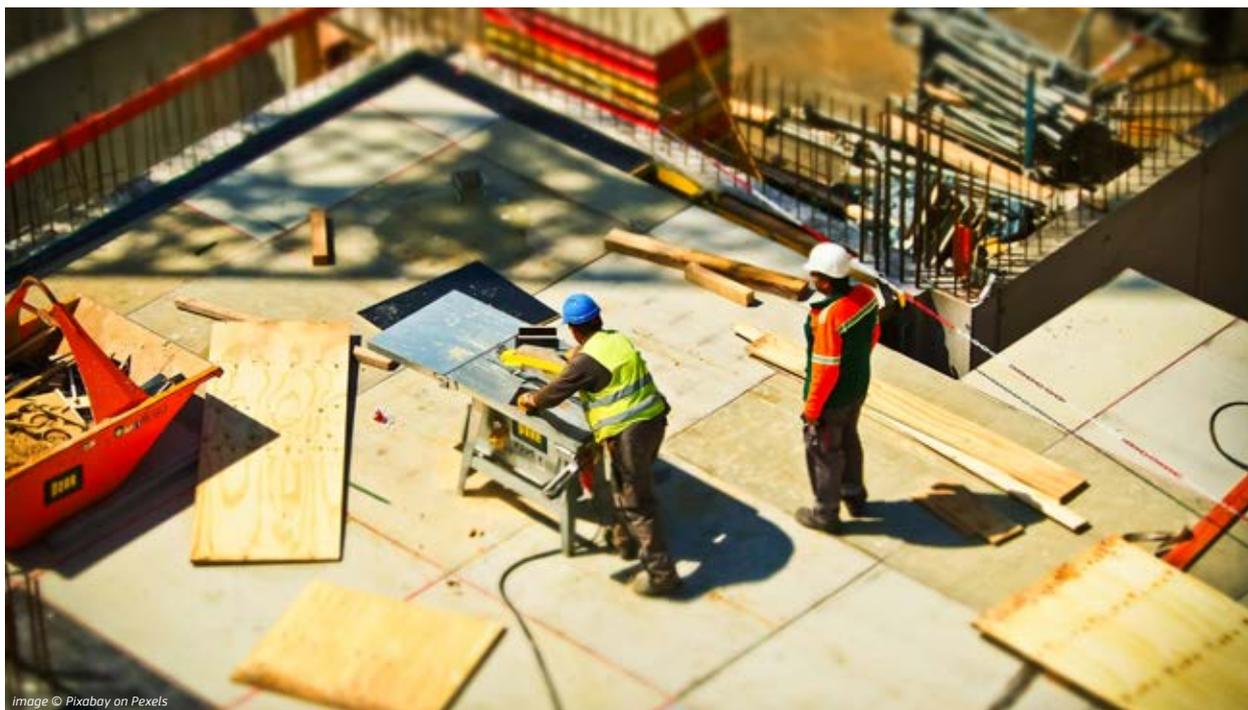


image © Pixabay on Pexels

Introduction/procurement objective

The City of Copenhagen's "Copenhagen against social dumping" initiative has taken action against social dumping by including labour clauses in contracts to ensure fair working conditions for all employees working for the City's contractors and subcontractors.

It aims to ensure fair competition and working conditions for everyone who works on the City's contracts, through the use of contract performance conditions. An internal task force has been set up to ensure that contractors and subcontractors comply with the labour clause and offer their employees fair wages and working conditions.

Social policy objective and/or reference standard

Fair pay and working conditions form part of the contract with the City of Copenhagen by way

of a labour clause. Some contracts also include education and employment clauses, which require suppliers to educate trainees and apprentices or employ unemployed persons for an assignment respectively.

The City of Copenhagen works against social dumping to ensure:

- Fair pay and working conditions for every employee working on an assignment for the City;
- A level playing field for every company bidding on assignments;
- More traineeships and apprenticeships for young people.

Verification

- Copenhagen has established a task force consisting of nine people (CSR experts hired by the City of Copenhagen) to monitor compliance



with the labour clauses by all its suppliers.

- The task force prioritises regular on-site inspections and is entitled to visit all types of workplaces at all times. The pay and working conditions of suppliers operating in the construction, cleaning and transport sectors are monitored closely.
- Around 600 compliance checks are carried out each year. About one third are on-site inspections while the rest are investigations into the conditions of specific employees based on documentation of pay, working hours, pension, tax, etc.
- The task force has a risk-based approach to its inspections, focusing their primary efforts in fields and employments where the risk of foul play is considered highest. In case of violations, a dialogue will be started with the employer, and the City of Copenhagen is entitled to withhold remuneration. If no improvement is observed, the employer must pay a penalty and, ultimately, the City has the right to cancel the contract.

Contract value

This initiative applies to all service and construction contracts and in cases where the City pays out grants or subsidies to projects or institutions.

Instrument

- Art. 70 (on contract performance clauses) and Art. 71 (on subcontracting) of Directive 2014/24/EU.
- Directive 91/76/EC as amended by Directive (EU) 2018/957 on the Posting of Workers.
- The relevant rates of pay are set out in binding collective agreements between the city and respective trade unions.

Actors

- Contracting authority: City of Copenhagen
- Employees of Copenhagen's contractors and subcontractors
- Copenhagen's social dumping task force
- Trade unions negotiating collective agreements

Social impacts

- *Better pay and work conditions:* Employees of the City of Copenhagen's contractors and subcontractors are entitled to pay and working conditions in accordance with the relevant collective agreement and the Posting of Workers Directive including pay, rest hours and overtime compensation. Their rights to holiday pay and insurance in accordance with Danish labour law are also ensured.
- *Better monitoring tools:* A pilot project has been started by the City of Copenhagen in which workers have to register themselves using an ID card when they access and leave the work site. This system makes it easier for the City's task force to target contracts and employers where the risk of social dumping is increased by providing information on the number of workers employed, location in the supply chain, work type, employment form, working hours, etc. The purpose is to give the task force a better overview of who is performing work on the projects of the City of Copenhagen, and to give the Municipality's main suppliers a tool to better manage their subcontractors in all parts of the supply chain.
- *Targeted enforcement:* Throughout 2018, the task force has learned that most violations of the work clause occur with subcontractors down the chain. The main contractor often does not have an overview of which companies are present at the sites, which makes it difficult for them to ensure compliance with the working clause further down the supply chain. This picture is true even for companies that focus on decent pay and working conditions and have introduced various forms of self-control. Control efforts are currently based on a risk model, so the task force focuses the control work where they assess that there is the greatest risk of violations. This is done to ensure that as many cases of social dumping are discovered as possible and to ensure that, as far as possible, compliant contractors' work is not disturbed for no reason. The risk-based model has been prepared by the task force team and is continuously updated. The model takes into

account a number of factors such as company type, employment conditions, type of work performed, past violations of the companies concerned, etc. The new, risk-based control efforts mean that the task force largely visits the workplaces where tasks are performed for the Municipality - especially large construction sites. Physical presence on site provides insight into the construction process and knowledge of the companies, both the main contractor and the changing subcontractors. This also means that the contractor's employees know the task force and are aware of the municipality's efforts against social dumping.

- **Prevention:** In addition to the control effort itself, the task force is increasing its focus on preventative work by strengthening dialogue with the city's businesses, among other things. In the past year, the task force has held four informational meetings for companies that want to hear more about their efforts against social dumping and the demands made by the municipality. The response team has also given talks to the companies that have wanted to better equip their construction managers to handle the clause requirements and be ready for control.

At the same time, it is expected that the task force's presence on work sites during controls will have a preventive effect in the long term, as the team is visible in the workplace and distributes materials targeted at the companies and employees on their inspection visits.

Other benefits

- Experience shows that labour clauses have dual effects: they help to ensure fair pay and working conditions for all employees performing work on public contracts and they help to highlight, within the organisation, the importance of social responsibility in public contracts. However, labour clauses cannot stand alone; they must be supplemented by inspections and compliance checks, preferably by an internal team within the organisation. Labour clauses combined with regular inspections can have a positive

effect and help create fair competition among suppliers.

- The City of Copenhagen would like to contribute to more learning and internships for young people. Therefore, the City requires its suppliers and grant recipients to employ and train students and apprentices when possible.

Lessons learned and future challenges

- A visit-based approach implemented by in-house agents proved to be more effective than outsourcing the monitoring of the working conditions.
- A risk-based approach is preferable, in which the document checks are carried out only when it is assessed that there is a risk of non-compliance with the labour clause.
- Most of the breaches happen down the supply chain with subcontractors and sub-subcontractors.
- When a breach of the labour clause is suspected, it is crucial to collect information on the identity of the workers employed on the site and their exact working hours.

Contact

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"In the City of Copenhagen we use labour clauses in our contracts to ensure fair pay and working conditions for all employees working for the City's suppliers and sub-suppliers. However, the clauses alone are not enough. We follow up with on-site inspections and audits when we suspect underpayment. This is a crucial element in our work. In our experience, for labour clauses to have a real effect we need an inspection setup to ensure compliance."

*David Salomonsen,
Head of the CSR Unit in the City of Copenhagen*



71 Strategy for Socially Responsible Public Procurement at Pamplona City Council

Name of procuring authority, Country: Municipality of Pamplona, Spain

Product or service sector: Policy - all products and all services



Introduction/procurement objective

On 16 April 2019, the Municipality of Pamplona approved an “Instruction on Strategic and Socially Responsible Public Procurement”, which was accompanied by a guide that put social clauses, verification mechanisms and impact measurement tools at the heart of procurement practice (the Guide is available [here](#) in Spanish). This approach is to be followed in all contracting procedures launched by the Municipality and reflects that the local authority is committed to mainstreaming social and environmental criteria in its public procurement activity.

The new orientation towards public procurement in Pamplona aims to maximise the return of public money to people and make clear impacts in terms of social inclusion, redistribution, equality and sustainability. Furthermore, it seeks to combine

effectiveness and efficiency with the promotion of social aims in public purchasing activity. In this regard, each contracting procedure dealing with works, services or supplies will pursue or explore the integration of objectives such as the promotion of gender equality, decent and quality jobs, employment opportunities for people that are far from labour markets⁴⁵ or the participation of persons with disabilities in employment and society. Public procurement will also seek the increased participation of micro, small and medium enterprises and social economy operators, as well

⁴⁵Eligible groups are persons with disabilities, persons employed in work integration social enterprises, sheltered workshops and groups included as target groups in national law, such as young people, especially those with lower skill levels, women, long-term unemployed persons, people older than 45 years, migrants, people at risk of social exclusion (Art. 30 of Real Decreto Legislativo 3/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley de Empleo).

as promote the circular economy, corporate social responsibility, and increased levels of social and territorial cohesion.

Social policy objective and/or reference standard

The contracting authority has a central role in fulfilling the legal mandate to promote socially responsible public procurement across all procedures and lead on its implementation in daily procurement practice. This will be carried out through a detailed assessment of the potential for social clauses in each procedure and its specifications.

This approach is legally underpinned by the possibilities offered by regional legislation on Public Procurement, which is consistent with the national law transposing Directive 2014/24/EU. To this aim, the instruction aims to promote the following measures:

Reinforced pre-procurement:

- Planning of contracting procedures to be launched throughout the year will be mandatory.
- Preliminary market consultations may be carried out to increase knowledge of potential suppliers and available solutions.
- The subject matter of the contract may be defined by social and environmental criteria.

Ensure decent employment:

- Employment needs linked to each contract shall be assessed and established, including through:
 - Estimation of staff needs for the execution of each contract, including their qualification and costs in accordance with applicable collective agreements.
 - Clear indication of the wage costs and working conditions of employees from previous contracts who are to be absorbed by the new contractor (in accordance with Directive 2001/23/EC on the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses).
 - Providing for direct payment to subcontractors

and ensuring that payments to contractors are subject to the payment of salaries to employees.

Simplification and enabling access to public procurement by smaller operators

- Minimise the administrative burden and obstacles to participation by micro, small and medium enterprises and local businesses. This will be carried out through:
 - At the tendering phase, a self-declaration form or European single procurement document (ESPD) will be required from each tenderer to prove their capacity and solvency to perform the contract.
 - Targeted selection criteria simplifying technical, financial or professional requirements.
- Procedures will facilitate the submission of joint tenders. Tenderers will be able to prove their financial solvency through the resources owned by other enterprises.
- The minimum annual turnover required to demonstrate financial solvency shall not exceed the total estimated value of the contract unless duly justified by the risks associated with works, services or supplies contracted in each case.
- Procedures will, as far as possible, reduce or eliminate provisional financial guarantees to take part in the tendering phase. The final guarantee will be established by the contracting authority in accordance with the specificity of each contract, but will, in every case, be below 4% of its value. In the case of reserved contracts, as a general principle, no provisional or final guarantee will be required unless it is justified by the risks associated with the subject matter of the contract.
- Contracts will be divided into lots by default. The participation or awarding of lots will be limited for each operator. Some lots will be reserved for social economy enterprises.

Verification

Compliance with the social criteria included in each procedure is ensured through the following:



- Every social clause included in each contract will be accompanied by a verification provision. The verifier will determine the type of evidence and tendering stage upon which compliance with the social clause must be proven. Contracts shall spell out in every case the obligation of tenderers to prove their compliance with social requirements. Social considerations will always qualify as mandatory contractual provisions.
- Breaches of social clauses will entail serious penalties, and might lead to the termination of contracts or the inability to take part in future procedures. Staff designated by the contracting authority will be responsible for verifying compliance with social clauses, flagging lack of compliance and initiating sanctioning actions when needed. Contracts will not be finalised until compliance with social clauses enshrined in them has been accomplished in line with the agreed terms and verified.

Contract value

The Municipality of Pamplona devotes about €80 million every year to public procurement.

Instrument

- Art. 40 on preliminary market consultation; Art. 18(2) on mandatory social clause; Art. 71 on subcontracting; Art. 58 on selection criteria including 58(3) on turnover; Art. 59 on a European Single Procurement Document; Art. 63 on reliance on the capacity of other entities; Art. 46 on division of contract into lots; Art. 20 and 77 on reserved contracts; Art. 70 on contract performance conditions and Art. 73 on termination of contracts.
- The instruction (local regulation) issued by the Municipality of Pamplona, with which compliance is mandatory, steps up and fully develops the social potential within regional and national public procurement legislation.

Actors

- Contracting authority: Municipality of Pamplona
- Tenderers: Businesses, social economy

enterprises, civil society organisations

Social impacts

- The Municipality of Pamplona aims to be the first public administration in Spain to verify and measure the social impact of its public procurement activity. To do so, every social clause included in procedures will be accompanied by a verification measure that proves compliance and an indicator to measure its effectiveness and result.
- In this way, the Municipality will be able to assess in a systematic manner the results and benefits reaped from socially responsible public procurement practices. Measured impacts may include, for example, the number of persons with disabilities or women experiencing gender-based violence that are employed, compliance with labour standards, increase in permanent contracts, value of contracts or subcontracts going to social economy operators and work integration social enterprises, gender equality measures applied and the number of people benefitting from them, or the value of fair trade or locally produced products purchased.
- Due to the limited time of application of the instruction so far, reporting on social impacts is still under development.

Other benefits

- This initiative can be easily transferred and applied by other public authorities.

Lessons learned and future challenges

- Political will and support for such an initiative is key. However, transversal support across the board (municipal departments and staff) is equally needed. As such, training sessions for practitioners have been organised on both the strategy and the guide.
- The main challenge ahead lies in the effective monitoring of the implementation of socially responsible public procurement through the instruction. To this aim, it is crucial to integrate socially responsible public procurement goals

as part of the strategic objectives for the Municipality, such as the 2030 Strategy for Pamplona.

Contact

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"In Pamplona we are convinced that public procurement can and should be used as a tool to achieve social and environmental objectives, beyond the purchase of goods and services. Buying in a responsible manner with public money is a responsibility of public authorities."

*José Costero,
Deputy General Secretary of Valladolid City Council Director,
Strategic Office. Ayuntamiento de Pamplona*



TABLE OF RELEVANT SOCIAL PROVISIONS

Directive 2014/24/EU	Explanation (relevance to SRPP)	Cases Citing Provision
Art. 18(2) <i>Mandatory social clause</i>	Measures must be taken to ensure compliance with applicable national, EU and international social and labour law and collective agreements in the performance of public contracts.	(5) Czech Television; (8) European Commission; (20) Madrid; (25) Romania; (26) Tuscany; (30) Tampere; (40) Catalonia; (41) Hansel; (42) BMZ Germany; (44) Czech MoLSA; (46) Bonn; (60) Girona; (64) Valladolid, and (71) Pamplona.
Art. 20 <i>Reserved contracts</i>	Contracts may be reserved for sheltered workshops/ employment programmes employing at least 30% disabled or disadvantaged workers.	(1) Catalonia; (7) Wrocław; (18) Vendée; (21) Corfu; (22) Belgium; (26) Tuscany; (27) Toledo; (28) Salamanca; (31) Oslo; (47) Madrid; (50) Rzgów; (58) Conseil Régional Grand-Est; (59) Grand Paris Sud Est Avenir; (60) Girona; (63) Bulgaria; (64) Valladolid, and (71) Pamplona.
Art. 40 <i>Preliminary market consultations</i>	Preliminary market consultations may be held with economic operators and independent experts.	(1) Catalonia; (2) Helsingborg; (5) Czech Television; (25) Romania; (31) Oslo; (32) Koto SIB; (58) Conseil Régional Grand-Est; (62) Sodankylä and Kittilä; (64) Valladolid; (69) Bremen and (71) Pamplona.
Art. 42 <i>Accessibility in technical specifications</i>	In all procurement which is intended for use by people, technical specifications must take into account accessibility criteria for persons with disabilities or design for all users.	(25) Romania; (30) Tampere, and (43) Finnish Education Agency.
Art. 43 <i>Labels</i>	Social labels may be required in technical specifications, award criteria or contract performance clauses provided these meet certain transparency and objectivity standards, and equivalent labels are also accepted.	(11) Berlin; (19) Oslo; (20) Madrid; (24) Emilia-Romagna; (42) BMZ Germany and (64) Valladolid.
Art. 46 <i>Division into lots</i>	Contracts may be divided into lots, and if a decision is taken not to do so, an explanation must be provided in the procurement documents or report.	(1) Catalonia; (5) Czech Television; (12) Ille et Vilaine; (15) Strasbourg; (21) Corfu; (26) Tuscany; (45) Ghent; (62) Sodankylä and Kittilä; (64) Valladolid and (71) Pamplona.
Art. 56(1) <i>Principles of awarding contracts</i>	Contracting authorities may decide not to award a contract to the most economically advantageous tender if the tender does not comply with the applicable obligations under Art. 18(2).	

<p>Art. 57(4) <i>Grounds for exclusion</i></p>	<p>Bidders may be excluded where the contracting authority can demonstrate by any appropriate means a violation of applicable obligations under Art. 18(2).</p>	<p>(16) Skien; (25) Romania; (34) Brescia, and (60) Girona.</p>
<p>Art. 58/Annex XII <i>Supply chain management</i></p>	<p>Bidders may be asked to indicate the supply chain management measures which they will be able to apply within the contract.</p>	<p>(44) Czech MoLSA and (71) Pamplona.</p>
<p>Art. 67 <i>Contract award criteria</i></p>	<p>Contract award criteria may relate to social characteristics or trading conditions provided these are linked to the subject-matter of the contract, advertised in advance, do not confer an unrestricted freedom of choice on the contracting authority, ensure the possibility of effective competition, and can be effectively verified.</p>	<p>(1) Catalonia; (3) Budapest; (4) Aarhus; (5) Czech Television; (6) Ballerup; (9) Malta; (10) Olympic Games; (19) Oslo; (25) Romania; (28) Salamanca; (31) Oslo; (35) Gdynia; (38) Rotterdam; (41) Hansel; (42) BMZ Germany; (53) Sweden; (54) London; (55) Dublin; (60) Girona; (62) Sodankylä and Kittilä; (64) Valladolid and (68) Vienna.</p>
<p>Art. 70 <i>Contract performance conditions</i></p>	<p>Contract performance conditions may include social or employment-related considerations provided that these are linked to the subject-matter of the contract and advertised in advance.</p>	<p>(2) Helsingborg; (4) Aarhus; (5) Czech Television; (6) Ballerup; (8) European Commission; (12) Ille et Vilaine; (14) Castilla y León; (16) Skien; (17) Grangegorman; (19) Oslo; (25) Romania; (35) Gdynia; (48) Falun-Borlänge; (49) Warsaw; (52) Vantaa and Helsinki; (53) Sweden; (54) London; (55) Dublin; (56) Dortmund; (57) La Rochelle; (60) Girona; (64) Valladolid; (66) Wageningen; (67) Haarlem; (68) Vienna; (70) Copenhagen, and (71) Pamplona.</p>
<p>Art. 71(1) and 71(6) <i>Subcontracting</i></p>	<p>Obligations under Art. 18(2) may be enforced against subcontractors; joint liability for these obligations may be applied with main contractor; contracting authority may require replacement of a subcontractor who does not comply.</p>	<p>(41) Hansel; (70) Copenhagen, and (71) Pamplona.</p>
<p>Art. 74-77 <i>Light regime for social and other specific services</i></p>	<p>Contracting authorities may apply more flexible procedures for certain social, health, educational, cultural and other services provided that the principles of equal treatment and transparency are observed; certain contracts may be reserved for social enterprises/public service mutuals.</p>	<p>(18) Vendée; (31) Oslo; (34) Brescia; (36) Riga; (37) Lithuania; (39) Italy/Slovenia and (64) Valladolid.</p>

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