



Buying from Social Enterprises a procurement guide for housing associations

Social value asks the question: 'If £1 is spent on the delivery of services, can that same £1 also be used to produce a wider benefit to the community?'

SEUK Guide to the Social Value Act





Green Light

This guide has been produced as part of the Green Light project; a collaboration between the National Housing Federation, Groundwork UK and Aspire Foundation. As well as producing new guidelines based on the Green Light research the guide draws extensively on material produced by:

CIH Cymru for the i2i Can Do Toolkits;

www.cih.org/i2i

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Green Light

Buying from Social Enterprises

a procurement guide for housing associations

1 Introduction

Social Enterprises provide more employment than big businesses, they employ people unable to get jobs in traditional work places, and they generate and keep wealth in local communities. Buying from social enterprises can help a housing association meet its commitment to its tenants and the wider community. It needn't cost any more money, but it might require a more imaginative approach to procurement. This guide, written with the legal support of Anthony Collins Solicitors, is designed to help housing associations find, and trade with, social enterprises.

The guide is quite comprehensive, but it's important not to be daunted by the scale of what you *can* do. There's nothing wrong with starting small – perhaps by piloting a particular approach – and growing experience and expertise over time. The important thing is to start.

The guide is set out in the following order:

- Why buy from social enterprises?
- An overview of the legal and policy framework
- How to make it easy to buy from social enterprises
- (For unavoidably large contracts) Social enterprise friendly tendering
- Including social value clauses in tenders
- Additional resources and model text

We hope you find this a useful resource.

In this guide we use the EU definition of social enterprise:

*“Social enterprise’ means an enterprise whose **primary objective is to achieve social impact** rather than generate profit for owners and stakeholders. It **operates in the market** through the production of goods and services in an entrepreneurial and innovative way, and **uses surpluses mainly to achieve social goals**. It is managed in an accountable and transparent way, in particular by involving workers, customers and stakeholders affected by its business activity.”*

Although housing associations are themselves social enterprises, for clarity in this guide we use the term ‘social enterprise’ to refer to social enterprises other than housing associations.

N.B. This guide provides advice in general terms only. Readers should seek legal advice before use.



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2 Why buy from social enterprises / SMEs?

“In poorer neighbourhoods (including most social housing) there is generally more money flowing out of the local economy than flowing in. That means it constantly needs topping up with public money, grants, charitable projects and so forth. By keeping more money circulating in the local economy, spending more money in those poor neighbourhoods, those communities are able to take responsibility for more and more of their own regeneration.”

(New Economics Foundation - The Money Trail)

Housing associations have limited budgets. They have a number of objectives to meet in spending them. Often these objectives are looked at in isolation: provide quality, affordable housing; improve the quality of life enjoyed by tenants; fit new bathrooms into as many existing homes as possible; improve employment opportunities for tenants, etc. Maximising social value when assessing ‘best value’ in procurement can help to make these budgets go further.

Here are some of the benefits that can be achieved by spending more money with local SMEs and social enterprises¹:

Regeneration

- Social enterprises operate in the most deprived communities: 39% of all social enterprises work in the 20% of most deprived communities in the UK compared to 13% of standard businesses.
- 82% of social enterprises reinvest their surplus locally to further their social or environmental goals.
- Spending on a local construction firm benefits the local economy nearly twice as much as spending on a non-local firm².
- Increasing re-spending in the local economy reduces the need for regeneration funding.

Creating Employment

- SMEs employ more people than large businesses and produce greater levels of job satisfaction³. Social enterprises employ even more people relative to turnover than mainstream small business.
- Social enterprises add economic value, not just social value, to their target communities in the form of jobs and local sourcing of goods and services
- 81% of social enterprises actively recruit local staff
- 56% of social enterprises proactively employ people who are disadvantaged in the labour market
- Social enterprises in the most deprived communities are the most likely to recruit those disadvantaged in the labour market

¹ All statistics from Fightback Britain – SEUK social enterprise survey 2011 unless otherwise referenced.

² The Money Trail, New Economics Foundation (2003)

³ Do SMEs create more and better jobs?, (Jan de Kok et al 2011)



Environmental Sustainability

- 88% of social enterprises seek to minimise their environmental impact. (44% of small businesses have taken no action at all.)

Equality & Diversity

- Social enterprises are run by younger people than traditional SMEs, with a high proportion of Black and Minority Ethnic directors, as well as female directors.

All these are good reasons for housing associations to prioritise buying from social enterprises, in order to maximise the real value of every pound they spend. In addition, housing associations can offer a stable source of income and additional support for a social enterprise which can dramatically increase both their viability and their social impact.

It is important that support for social enterprise and SMEs are considered jointly. When decisions are made to award contracts to local social enterprises the easiest ones to award are those that are already being delivered by local SMEs; window cleaning, catering, grounds maintenance etc. This could potentially result in a negative impact on the local economy if the withdrawal of a housing association contract causes the local business to lose staff or even close. It is vital that procuring from social enterprise is not considered in isolation, but as part of a broader 'supplier diversity' agenda which looks at the potential social value that can be added by locally owned SMEs as well as social enterprises.



3 Government Policy & Legal Framework

The legislative framework around procurement can appear quite complex. Consequently most housing associations choose to 'play it safe' rather than risk a legal challenge; contracts tend to be bundled together and award criteria take a fairly narrow view of best value. Because unit cost is easy to measure many organisations still rely too heavily on this metric when making their purchase decisions. However **it is perfectly possible to procure in a way that is 'social enterprise friendly', maximises social value, and complies with UK and EU legislation.**

Value for money is the over-riding factor that determines all public sector procurement decisions. But there is a growing understanding of how value for money is calculated, and how "the whole-life cycle requirements" can include social and economic requirements.

Furthermore the Government has a specific aim of increasing the number of Small and Medium Sized Enterprises (SMEs) supplying the public sector. This is described in the Glover Report⁴, which examined what Government could do to make it easier for SMEs to contract with Government.

3.1 Social Value Act

"Social value asks the question: 'If £1 is spent on the delivery of services, can that same £1 be used, to also produce a wider benefit to the community?'"

(SEUK Guide to the Social Value Act)

The Public Services (Social Value Act) was passed at the end of February 2012. For the first time Housing Associations are legally required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area they serve.

The act applies to all public services contracts and those public services contracts with only an element of goods or works. There is widespread approval for public bodies considering social value in all forms of contracts.

A guide for complying with the Social Value Act is available free from Social Enterprise UK.

<http://www.socialenterprise.org.uk/advice-support/resources/the-social-value-guide>

⁴ Accelerating the SME Economic Engine: through transparent, simple and strategic procurement, HM Treasury, Nov 2008



3.2 EU Procurement Framework

The Public Services (Social Value) Act sits alongside other procurement laws. The recent consolidation of EU procurement framework also makes it clear that social requirements can be fully embraced in procurement practice providing certain criteria are met. These criteria are:

- Social requirements should reflect policy adopted by the housing association
- Social requirements should be capable of being measured in terms of performance
- Social requirements drafted in the specification become part of the contract
- Social requirements should be defined in ways that do not discriminate against any bidders across the European Union

European case law has also commented on the use of social and environmental clauses. It has shown that:

- It is possible to include Targeted Recruitment and Training Requirements in contracts.
- Social requirements addressing a policy objective of the procuring organisation are allowed: they do not need to provide a financial or service benefit to the organisation – they can for example benefit the wider community.

EU Procurement legislation also allows for larger contracts to be broken up to make them more accessible for social enterprises and other SMEs.

All these points are covered in detail in later sections.



3.3 Sustainable procurement

The UK Sustainable Procurement Task Force describe sustainable procurement as “a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole-life basis in terms of generating benefits to society and the economy, whilst minimising damage to the environment”.

Buying from social enterprises is one area of sustainable procurement. The Greater London Authority Responsible Procurement Policy, for example, has seven themes⁵:

- encouraging a diverse base of suppliers
- promoting fair employment practices
- promoting workforce welfare
- addressing strategic labour needs and enabling training
- community benefits
- ethical sourcing practices; and
- promoting greater environmental sustainability

As we have seen in section 2, developing a procurement strategy that encourages buying from social enterprises should help support all these areas.

⁵ Getting value for London, Greater London Authority



4 Buying from Social Enterprises Step by Step

4.1 Barriers to buying from social enterprises

'Value for money' often gets interpreted to mean 'lowest cost', rather than maximising outcomes for the community and environment.

New Economics Foundation

Every year housing associations collectively spend £13 billion BUT:

- 69% spent less than £50,000 a year with social enterprises
- 66% have no social enterprises on a preferred suppliers list
- 80% have not modified their procurement processes to accommodate social enterprises

The main reasons why housing associations struggle to procure from social enterprises include:

- Social Enterprises frequently don't know about upcoming opportunities
- Traditional tendering processes favour large businesses who are good at tendering, not those who are good at delivering
- There is considerable misunderstanding and fear of EU regulations
- Housing associations often cannot find appropriate social enterprises
- Social enterprises often don't have the capacity to deliver
- Social enterprises often don't have the requisite policies and procedures
- Contracts are often too large for most social enterprises. The contracts often 'aggregate' similar works into one large contract or 'bundle' different works into the same contract.



4.2 Four stages to securing social enterprise suppliers

A good sustainable procurement policy and a well designed tendering process can overcome these barriers, support social enterprises into the supply chain and maximise social value. It is important to remember that the notion of social enterprise and SME friendly procurement does not imply preferential treatment. It is about ensuring equality of opportunity for all: creating a more level playing field. Making opportunities visible to underrepresented suppliers can give you a wider choice of goods and services, and therefore potentially better value. And asking all suppliers to consider and highlight their social impact ensures your decision to appoint a supplier is based on a full understanding of best value.

Social enterprise friendly procurement can be broken down into four key stages:

1. Developing strategies, plans and processes that prioritise engagement with social enterprises and SMEs
2. Implementation to ensure it's as easy as possible for social enterprises and SMEs to provide goods and services direct to the housing association
3. Working with larger contractors to ensure social enterprises are included as second-tier suppliers
4. Writing tenders and running the tendering process to maximise social impact and accessibility to social enterprises



4.3 Developing strategies and plans

The following sections take you through the process of developing a useful and useable 'Social Enterprise Engagement Plan'. This can form the foundation on which to develop your base of social enterprise suppliers.

4.3.1 Do you have the power?

Most housing associations have powers under their Constitution or Rules which allow them to undertake broad charitable works. This can include:

- The prevention or relief of poverty
- The advancement of education (including training, vocational training and life-long learning)
- The advancement of citizenship or community development
- The advancement of environmental protection or improvement
- The relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage

There may also be other, specific powers that would allow your housing association to support social enterprises and SMEs in pursuit of community development, education, prevention of poverty and economic regeneration.

4.3.2 Start with your strategies

Based on the appropriate powers your commitment to social enterprise and SME-friendly procurements should be included in your strategy documents:

- Procurement strategy
- Corporate strategy
- Community strategy

You should:

- indicate thresholds, values or types of contract where the policy will apply
- include any commitment to particular communities or particular types of firm
- include targets
- consider how your performance can be measured

(For model text see section 5.2.1)



4.3.3 Appoint a social enterprise champion

Research shows that housing associations where an individual takes a proactive role in promoting social enterprise internally are most likely to engage effectively with social enterprises externally. This person should:

- be interested in social enterprise
- be sufficiently senior
- undertake some social enterprise training (such as Social Enterprise West Midlands 'Ambassadors' programme)
- take ownership of the 'Social Enterprise Engagement Plan'

4.3.4 Develop a 'Social Enterprise Engagement Plan'

Your Social Enterprise Engagement Plan should be a 'living document' that will develop as your interaction and experience with social enterprises develops.

Contact Social Enterprise UK to find the social enterprise networks in your area. www.socialenterprise.org.uk.

Host a roundtable meeting to get input into your plan from social enterprises and SMEs themselves.

Your plan should:

- Identify specific social outcomes and outputs that you want to achieve
- Identify where you will find appropriate social enterprises and SMEs
- Identify how best to communicate with them
- Identify the markets where procuring from social enterprises and SMEs is a viable option
- Identify barriers they may face in supplying you with goods or services
- Identify ways of overcoming these barriers
- Share best practice for social enterprise and SME engagement with your supply chain
- Encourage other suppliers and contractors to utilise social enterprises and SMEs in their contracts or purchase orders as part of the terms and conditions of the tender process
- State your willingness to accept tenders from consortia of suppliers

Many of the suggested actions in section 4.4 below could be incorporated into your plan.

4.3.5 Conduct a supplier survey

As part of developing your Social Enterprise Engagement Plan you need a clear understanding of both your existing suppliers, and potential suppliers. To do this you need to carry out a supplier survey or mapping exercise.

For each existing supplier the survey should identify:



- the size and type of business (i.e. social enterprise, SME, large business etc.)
- the percentage of total procurement spent with them

For each potential supplier the survey should identify:

- the size and type of business
- potential procurement opportunities

These results should be recorded as part of your supplier database and the same information recorded against any new potential suppliers whom you find subsequently.

A local social enterprise (or social enterprise network) may be able to do some of this work in partnership with you.



4.4 Actions to help Social Enterprises supply you directly

Your Social Enterprise Engagement Plan should contain a number of specific actions to identify potential social enterprise suppliers, communicate effectively with them, and enable them to supply you directly. You may find the following actions helpful examples:

4.4.1 Develop your communication and relationships

Find out what social enterprises and SMEs operate in your area(s), and the best way to communicate with them:

There are many social enterprise directories available online but probably the most useful are:

Organisation	Website	Coverage	Usability
ClearlySo	http://www.clearlyso.com/directory.html	Over 2500 social enterprises around the UK.	Search by Keyword, Industry, Social Benefit or Company Name
SEUK	http://www.socialenterprise.org.uk/membership/members-directory	Around 700 social enterprises from around the UK	Search by Keyword, Region, or Industry
Social Firms UK	http://www.justbuy.org.uk/		Search by Keyword, Region, or Industry
Social Enterprise Mark	http://www.socialenterprisemark.org.uk/dir	Nearly 500 social enterprises around the UK	Audited. Search by Industry

- Contact Social Enterprise UK to find the social enterprise networks in your area. www.socialenterprise.org.uk
- Contact local trade networks
- Hold regular meet the buyer events
- Signal your aim of buying from more social enterprises and SMEs
- Identify where the best places to advertise new supplier opportunities might be e.g.:
 - Social enterprise newsletters
 - Local papers
 - E-tender websites
 - Mailing list
- Actively approach social enterprises and SMEs you believe could be good suppliers

It helps to let the social enterprise sector know that you are keen for social enterprises to bid for work, often called 'market signalling'. Opportunities can be published prior to being put out to tender to give smaller organisations time to prepare - stating openly that social enterprises are welcome to bid.



4.4.2 Engage in capacity building

Social enterprises are often small and may not yet have developed some of the systems and procedures you would expect to find in a supplier. To really maximise the social value in your supply chain you will almost certainly need to 'capacity build' some potential suppliers. This will vary from case to case but could involve a range of interventions from light-touch at one end of the spectrum to significant investment at the other. The level of intervention will depend upon the existing capacity of the social enterprise, and their potential value to you in terms of both social impact and as a supplier. The support you offer might include:

- Running training days for social enterprises and SMEs on what you're looking for from suppliers and how to tender for contracts
- Supporting potential suppliers to develop and adopt appropriate policies and procedures
- Encouraging and facilitating the development of consortia
- Advising about your procurement procedures
- Providing additional back office support
- Investing time, money or resources to ensure the potential supplier can deliver the quality and scale you need

All of this investment should pay dividends in providing you with a range of quality suppliers who can deliver the social and financial value you need in the way that you need it.



4.4.3 Work to reduce the size of your contracts

Most social enterprises are micro businesses with fewer than 10 employees and a median income of just £240,000. Housing associations, for a variety of reasons, are increasingly opting for smaller numbers of very large contracts. For example Affinity Sutton have just one £50million contract for all their day-to-day repairs rather than a number of smaller contractors. Most social enterprises do not operate at a scale large enough to compete for such contracts.

Many contracts can be broken down into 'small lots' which enable social enterprises and other SMEs to sell direct to your housing association. They can be broken down according to:

- Geography (e.g. by particular estates or post code areas)
- Service (e.g. separating rewiring and PAT testing)

Smaller contracts reduce the risk of taking on a new supplier, and also reduce the amount of bureaucracy involved. Contracts below threshold do not need to be advertised in the Official Journal of the European Union (OJEU). These thresholds for housing associations are currently:

- Supplies - £173,934
- Services - £173,934
- Works - £4,348,350

EU regulations allow the splitting of a large contract into smaller lots. In fact in its proposals to revise the EU procurement rules, the Commission is positively encouraging splitting large contracts into small lots specifically to improve opportunities for SMEs. For example, for all contracts over €500,000, an authority will be required to justify a decision not to divide the contract into lots.

The full EU procurement process must still be followed if the small lots are each part of a series of similar contracts, and if the value of those contracts combined is above threshold. But each lot can still be awarded to different suppliers.

There is also the possibility to use the EC Directive Small Lots provision. This means that for any one lot, below threshold, the full EU procurement rules can be waived provided in each case the total value of the contracts disregarded does not exceed 20 per cent of the total value

The current thresholds are:

SUPPLIES	SERVICES	WORKS
£69,574	£69,574	£869,670

For up to date threshold values go to www.ojec.com/Thresholds



4.4.4 Modify your demands depending on the size of the contract

Your procurement procedures should vary depending upon value, for example:

- **Less than £5,000** - Direct Purchase threshold - goods or services below this value may be sourced from wherever convenient by procurer (purchaser/buyer) without having to obtain written or verbal quotations.
- **£5,000 - £50,000** - The QUOTATION ROUTE - the procurer is required to obtain a minimum number of quotations, normally three, for goods or services.
- **More than £50,000 and less than the OJEU thresholds** - TENDER - The procurer undertakes a formal tendering process.
- **Over EU Thresholds** - TENDER - The procurer undertakes a full formal tendering process and advertises the contract in the Official Journal of the European Union.

In the same way your qualification criteria for suppliers should also vary, not expecting the same track record or levels of policy and procedures for a £10,000 contract as for a £200,000 contract. For example, requiring potential suppliers to have appropriate levels of insurance should they win the contract, rather than requiring them to have it in place already, can stop good, smaller suppliers being excluded on a technicality.

It is good practice not to use Pre-Qualification Questionnaires (PQQs) for smaller contracts. For example, in order to encourage more SMEs, the UK Government has abolished the use of PQQs for contracts under £100,000 in value.

The Government is also encouraging the use of ConstructionLine (www.constructionline.co.uk), which can also be used for EU procurements to minimise the amount of pre-qualification questionnaires that must be completed. Selwood Housing, for example, mandates all of their contractors be members of ConstructionLine rather than having an approved supplier list.



4.4.5 Include social value clauses in your contracts

It's entirely possible to incorporate social issues into procurement. There are a few key things to remember:

- EU law supports social and environmental requirements explicitly – balancing the open market with social policy is built into the Consolidated Directive which forms the basis of EU procurement law.
- the direction of case law on social issues is clear:
 - don't specify "local" as this will almost always be discriminatory;
 - having or forming a policy basis can legitimise a purchasing requirement;
 - requirements should be measurable and verifiable. A requirement that cannot be verified means bidders cannot be compared and the success of the contract cannot be monitored.
- equal treatment and transparency are paramount – social requirements should not restrict opportunities to local bidders or people, but instead focus on levelling the playing field and building capacity.
- if social requirements are relevant to the subject matter of the contract they can be taken into account during the tendering process. Otherwise they become contract conditions that can be enforced, but bidders cannot be assessed on their ability to deliver.
- "added value" is hard to measure – the more specific social requirements are, the more likely it is a social enterprise (or any bidder) can deliver.

CASE STUDY

Silva Social Enterprises parent Selwood Housing has launched a new clause in all its contracts worth more than £50k and lasting more than 6 months. The Silva Social Enterprise Clause is part of the tendering process and asks companies to pledge how they will support social enterprises and community projects as part of their work with the housing association. Their answers can score them up to 10 more points in the tendering process.

A pilot programme netted 7 work placements, an apprenticeship and over £20,000 towards community activities.

"From our experience, we have gained more from the Silva clause in real terms than they way we used to include CSR (training, apprenticeships etc) in tenders and it has been well received by suppliers. Within the Regulations we have also tailored the requirement to be equally appropriate for legal services and IT tenders so if well thought through it can yield greater benefits across different types of services."

Ian Harrington, Head of Procurement, Selwood Housing

N.B. case studies are examples of current practice and all readers should seek their own legal advice.

Including social value clauses in your contracts, including Targeted Recruitment and Training clauses (TR&T) will be covered in more detail in Section 6.



4.4.6 Communicate new policies with your staff, tenants and suppliers

While government is clear that public sector procurement should mean ‘the optimum combination of whole-life cost and quality to meet the user requirement’, in practice public sector employees feel under pressure to procure services from the lowest-cost providers. The same is often true in the housing sector too.

If social enterprise friendly procurement is to be a reality in your housing association it needs to be embedded at every level, from the Chief Exec, and the procurement team, through all staff, tenants and suppliers. If everyone shares a common understanding of best value that includes proper consideration of social value, those who are buying services should feel genuinely empowered to procure on that basis.

Staff at all levels also need to be aware of the additional efforts that are required to ensure that social enterprises and SMEs are seriously considered as suppliers.

You should aim to communicate the full Social Enterprise Engagement Plan to all those directly involved in the procurement process, not just in writing but through training sessions too. These can be run in partnership with local social enterprises to help bring the plan to life.

4.4.7 Develop an approved provider list with social enterprises

Housing Associations are sometimes reluctant to contract organisations which are not on their approved provider lists, and yet many social enterprises say the process for getting onto these lists is unclear. Over 80% of housing associations do not have a social enterprise on their approved supplier list.

- Monitor and record which suppliers are social enterprises
- Set an aspirational target for the number of social enterprises on your approved supplier list and monitor progress
- Actively recruit social enterprises on to your approved suppliers list
- Support and capacity build social enterprises to enable them to become approved suppliers



4.4.8 Measure and monitor your performance

There is truth in the phrase, 'what gets measured gets managed'. If your aim of buying more from social enterprises and SMEs is to be achieved you need to measure results at a number of levels:

- Strategy level - to ensure your housing association is meeting its targets of buying from social enterprises and SMEs.
- Plan level – to ensure that different elements of your Social Enterprise Engagement Plan are performing as you intend.
- Contract level – to ensure suppliers are delivering the social value they promise as part of their contract.

What you measure should be based upon the outcomes you want to achieve, whether this is unemployed tenants into jobs, service user satisfaction or training opportunities for young people.

There are outputs and numbers that are relatively easy to measure: numbers of social enterprises engaged, % spend with social enterprises, and so forth. There are those which are harder to measure but ultimately more important: net jobs created, overall increased spend in the local economy, unemployed tenants into sustainable employment. And there is the overall social impact of your policy which is very difficult to measure, but ultimately extremely rewarding if you can invest the time and resources in doing so. At the very least you should aim to measure and set targets for:

- Number of social enterprises on your approved suppliers list
- Number of social enterprises as suppliers
- Amount spent (or % spend) with social enterprises
- Net jobs / training opportunities created



4.5 Social Enterprises as Second Tier Suppliers

No matter how much you try to break down your contracts into smaller chunks some contracts will simply be too large for most social enterprises and SMEs to deliver. When this is the case you can still work with prime contactors to identify how social enterprises can fit into their supply chains. You can formulate policies that encourage other suppliers and contractors to utilise social enterprises in their contracts or purchase orders as part of the terms and conditions of the tender process. And you can share your experience of best practice in engaging with social enterprises.

4.5.1 Communicate your strategy to your large contractors

Sharing your strategy to increase your social impact by engaging social enterprises in your supply chain will send a strong signal about the sort of behaviour and activity you value you in your suppliers. This can be communicated effectively with existing suppliers through:

- Meetings
- Emails and letters
- Invitations to join your own staff training on social enterprise friendly procurement
- Invitations to attend your meet the buyer events

Although your existing suppliers may not contractually obliged to engage with social enterprises, if they value your custom you can still have significant influence on their behaviour.

When you negotiate new contracts there is a much greater opportunity to include social enterprises and SMEs as second tier suppliers in your supply chain, as discussed in detail in section 5.



5 Social enterprise and SME friendly tendering

Some contracts will need to go through the full tendering process. And if they are ‘above threshold’ they will need to comply with the full EU procurement rules. However there are still ways in which this can be done in a manner which makes it accessible for social enterprises and SMEs to participate in the process.

5.1 General considerations

Before engaging in the specific steps of the procurement process there are some general points that it is helpful to consider:

- Engagement prior to procurement
- Innovative risk management
- Transparency and feedback

5.1.1 Engage with social enterprises prior to procurement

Housing associations can discuss their needs with both potential bidders and service users before beginning a procurement process. This can help them select what to buy and how best to buy it. It’s a great way to learn about the capabilities and willingness of the marketplace.

Before formally starting procurement, the procurer can consult with the marketplace quite freely, being careful not to prejudice the fairness and transparency of the procurement. Procurers must be careful not to discriminate when engaging (so could not, for example, choose only to engage with social enterprises). But consulting the whole marketplace will not generally be discriminatory if consultation is genuinely open to all. You should aim to flag the opportunities for engagement to those groups who might otherwise not find out about them – including social enterprises, the rest of the third sector, and small businesses.

5.1.2 Risk management

To minimise the barriers facing social enterprises and SMEs wishing to supply your housing association it is important to be creative about how you manage risk. All too often this is done through narrow financial stipulations and operating track record, for example demanding several years’ trading history which excludes newer social enterprises. However this needn’t be the case. You can investigate alternative ways to manage risk that are proportional to the contract being delivered. These might include:

- Initially awarding low value contracts to untested suppliers before larger contracts are advertised
- Assessing potential suppliers using current financial data, business plans and cash flow forecasts rather than historic financial data
- Take references for similar work carried out
- Ask those tendering to submit a risk assessment of their ability to deliver the contract including ways to mitigate that risk



5.1.3 Transparency and feedback

It is helpful if you can give clear, practical feedback to social enterprises that make the shortlist, but are ultimately unsuccessful. If you feel they have the potential to be a good supplier can you help provide capacity building and support to give them a better chance of succeeding next time?



5.2 Social Enterprise Friendly Tendering - Step by Step

N.B. This guide provides advice in general terms only. Readers should seek legal advice before use.

The following sections are adapted directly from the i2i toolkit which has been used successfully in Wales since 2008 creating 2581 job and training opportunities in its first three years. The model text is suitable for use within EU procurement rules.

It is important that each purchaser decides if and how to include social enterprise and SME-friendly activities in their procurement through each of the following steps:

- adoption of clear policies;
- creating a budget for the activity, that could include 'supplier development' activities, facilitation and advice, monitoring and progress-chasing;
- the business case for the procurement;
- the OJEU contract notice;
- the Prequalification Questionnaire;
- the Specification and the Invitation to Tender/Negotiate/Participate in Dialogue;
- the Contract Conditions;
- the Award Process (where the social enterprise and SME-friendly activities are core requirements); and
- Contract implementation (including monitoring).



5.2.1 STEP ONE: Adopting clear policies

Requirements

- Include a commitment to social enterprise and SME-friendly procurements in your Procurement/Corporate/Community Strategy;
- Indicate thresholds values or types of contract where the policy will apply;
- Include any commitment to particular communities or types of firm.

Model Text

Training and Supply-chain Opportunities

[.....] (enter name) is committed to achieving economic, social and environmental well-being for its residents and implementing the [Community] Strategy so as to ensure a better quality of life for everyone, now and for generations to come. To achieve this it commits to the following actions to the fullest extent possible within the relevant legal and policy frameworks and the available funding:

- when selecting the strategy for each procurement, to consider what recruitment and training, equal opportunities and social enterprise and SME opportunities could be obtained from each works contract with an estimated value exceeding [£...m] and each services contract with an estimated value exceeding [£.....] ;
- to include training, equal opportunities and recruitment requirements, and social enterprise and SME opportunities in its service requirements, where it considers this appropriate;
- to include other social and environmental matters in its service requirements, where it considers this appropriate; and
- to use these requirements in all stages of the selection and contract award process, and as contract conditions.

5.2.2 STEP TWO: Developing a business case

Requirements

- What powers and policies does your housing association have that could allow the inclusion of targeted economic development or supply-chain development as a part of the subject of the contract? (*This is covered in section 4.3.1*)
- Decide if these are to be included, and if so consider how the requirements will be defined, measured and monitored;
- Undertake `market consultations` to assess the response to these requirements;
- Consider arrangements for procuring through smaller contracts that are more accessible to social enterprises and other SMEs;
- Publicise all contracts widely and creatively, for example on SME friendly tendering portals and through social enterprise networks. . Where contracts exceed EU thresholds, they can still be advertised locally, provided no extra information is given and the advert is placed no earlier than the notice in the Official Journal of the EU.



5.2.3 STEP THREE: Preparing the OJEU contract notice

Requirements

- The use of social considerations including actions to support social enterprises and SMEs must be mentioned in the Contract Notices;
- The intention to appoint a number of contractors to a Framework must be included in the Notice
- The intention to award the work through a number of `lots` must be mentioned in the Notice.

Model Text

“Under the Public Services (Social Value) Act 2012 the contracting authority must consider:

(a) how what is proposed to be procured might improve the economic, social and environmental well-being of the area where it exercises its functions, and

(b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

Accordingly, the subject matter of the contract has been scoped to take into account the priorities of the contracting authority relating to economic, social and environmental well-being. These priorities are described in the invitation to tender/negotiate/ participate in dialogue and are reflected in environmental and social characteristics in the evaluation criteria for the award of the contract.”



5.2.4 STEP FOUR: Pre-qualification questionnaire

N.B. PQQs are required when using the 'Restricted Procedure'; a two-stage process which allows housing associations to draw up a short-list of interested parties by undertaking a pre-qualification stage, prior to the issue of Invitation to Tender documents. When expecting a small number of applications housing associations may choose to use an 'Open Procedure', where the Invitation to Tender must be sent to all suppliers that express an interest in response to the Contract Notice.

Requirements

- Aim to standardise processes for contracting and procurement, making any pre-qualification minimum requirements reasonable and proportionate to the contract.
- Consider using standard PQQ templates for financial matters and past experience in order to reduce the input required from potential bidders;
- Critically examine the need for turnover thresholds and membership of trade organisations as evidence of capability: look for alternative evidence;
- Don't ask whether a potential supplier currently has an appropriate level of insurance, rather ask if they are willing to put this in place 'before starting the contract';
- Include a question to check the technical and managerial capability to deliver a social enterprise and SME-friendly approach.

Model Text

Targeted Supply-chain Opportunities

Is your company willing to work with the contracting authority on any or all of the below, and explain how you would do this?

- Identifying `additional social enterprise and SME suppliers` that you have not utilised before and that are based in and around the localities where you are working;
- Utilising social enterprise intermediaries and appropriate supply-chain listings, and working with Supplier Development Programmes;
- Nurturing and supporting these additional social enterprise and SME suppliers so that they are better able to meet your needs;
- Implementing best practice in payment and other terms in relation to your social enterprise and SME supply-chain.

How would you plan to be involved in any of these activities, or do you have any examples of how you have already been involved?



5.2.5 STEP FIVE: Producing the specification or invitation to tender

Requirements

- Detailed social enterprise and SME-friendly requirements or local economic impact requirements need to be included at this stage: both appropriate and deliverable
- Draft clauses that are unambiguous, outcome-based and provide `a level playing field` for bidders from anywhere in Europe;
- Include social value clauses that can be measured
- Refer to social enterprise intermediaries and local databases as a source of targeted social enterprises and SMEs that is available to any contractor.
- All potential bidders should be given information on current service levels and costs to avoid favouring current providers.

Model Text

The model clauses in section 8 can be used as a starting position for all procurements, including those covered by EU rules. They are drafted on the basis that the contractor will have supplied a service delivery plan or method statement to the client concerning how they will implement social enterprise and SME-friendly activities.



5.2.6 STEP SIX: Developing an award process

Requirements

- Any weighting to be given to the social enterprise and SME-friendly core requirements should be identified early and included in the OJEU Contract Notice;
- Ask bidders to complete a pro-forma method statement relating to their social enterprise and SME-friendly activity: if a core requirement the method statement can be scored and used in the award of the contract;
- If the social enterprise and SME-friendly activities are not core requirements they should not influence the award of the contract but they can be included as contract conditions.
- Where the social enterprise and SME requirements are to be scored a scoring framework should be used to ensure a robust and fair evaluation of method statements.
- All contract award criteria and sub-criteria and weightings must be published in the original contract notice.

A scoring framework:

- lists the subjects where a response from the bidder was expected, with each subject given a weighting (number of points); and
- lists the types of actions that were expected to be offered under each subject, with each action then being given a weighting – a breakdown of the points available for that ‘subject’.

Pro-forma method statements should be issued to ensure that all bidders answer the same questions and provide the same core information. This helps ensure a level playing field is put in place between bidders and reinforces the message that these are not voluntary or ‘best endeavours’ elements of the contract, but contractual requirements.

5.2.7 STEP SEVEN: Implementing contract conditions and monitoring outcomes

Requirements

- Specific contract conditions that reflect the requirements of the specification or Invitation To Tender should be developed on a case by case basis.
- Establish procedures for monitoring and progress-chasing the social enterprise and SME-friendly requirements: these will be most important in the first weeks and months of a contract.

Model Text

The model clauses in section 8 can be used as a starting position for all procurements, including those covered by EU rules. They are drafted on the basis that the contractor will have supplied a service delivery plan or method statement to the client concerning how they will implement social enterprise and SME-friendly activities.



6 How to include Social Value Clauses when tendering

Clauses relating to social issues can be built into tenders perfectly legally. In this section we will first review the general principles and then offer specific step-by-step guidance.

6.1 Key Principles

European case law has commented on the use of social and environmental clauses, and the following good practice can be drawn:

- **It is possible** to include social clauses such as Targeted Recruitment and Training requirements in public procurement provided that the drafting and the process does not disadvantage non-local bidders, for example by requiring them to have local labour market knowledge, or a local base, or use local material;
- Social requirements that address a policy objective of your organisation are allowed: they do not need to provide a financial or service benefit to the organisation – they can for example benefit the wider community;
- All requirements must be able to be measured and delivery verified.

6.2 TR&T – Targeted Recruitment and Training

One example of a social value clause is TR&T. Targeted recruitment and training is crucial to successfully tackling deprivation, particularly economic inactivity, through housing investment. Essentially it involves ensuring that numbers of `new entrant` opportunities are provided by contractors (whether they are locally based or not) with some provision for targeted recruitment (for example, from a particular area or demographic), support for supply-chain initiatives to encourage local SMEs and social enterprises, and in-service training.

The most useful tip to follow, if using TR&T as core requirements, is that this needs to be stated within the main title of what you are procuring. So, for example, if you are procuring 500 new kitchens and would like to include TR&T the title for the contract will be **‘500 new kitchens and targeted recruitment and training’**. The contract notices and the specification should also form part of the tender appraisal, even if this is given a low weighting. Conversely, if TR&T requirements are not included as a core requirement they should not form any part of the award process.

A key point to remember is that both **affordability and value for money** are best addressed through an early consideration of what TR&T requirements should be included, and how these can be designed so they fit with the resources available.

It is recommended that social value clauses such as targeted recruitment and training should be part of the core requirement of what is being purchased. As indicated above, this is a matter for the purchaser to decide on the basis of its powers and policies, but note that the core elements must be referred to in the Contract Notices and the requirements must not be drafted so that they disadvantage non-local bidders.

We use TR&T as a well developed example of how social value clauses can be included in tendering, but you may well identify alternative social outcomes that you want to include instead or as well.



6.3 Including Social Value Clauses – Step by Step

As with tenders that build social enterprises and SMEs into the supply chain it is important that each purchaser decides if and how to include social issues in their procurement through each of the following steps:

- Step 1:** adopting clear **Policies** for the activity
- Step 2:** developing the **Business Case** including creating a **Budget** for the actual procurement
- Step 3:** preparing the **OJEU Contract Notice**
- Step 4:** drawing up the **Pre-qualification Questionnaire (PQQ)**
- Step 5:** producing the **Specification**, and the **Invitation to Tender** including involving potential contractors in negotiating and participating in dialogue
- Step 6:** developing an **Award Process** (where the social issues are core requirements)
- Step 7:** Implementing the contract and applying **Contract Conditions and Monitoring**

Considerable thought needs to be given to the social value requirements, including TR&T that are included in the procurement process – **ideally at the business case stage**. The key questions in determining this should be:

- What is the minimum size (in terms of duration and value) of contract where social value and TR&T outcomes will be sought?
- What are the priority ‘community benefits’ that can be addressed through this particular commitment?
- What are the cost implications of including different community benefits, and different output targets, and how are these costs to be met?
- What community benefits can be included without putting at risk other key priorities e.g. Value for Money, quality and the timetable for completion?
- What is the best way of measuring the community benefit requirements – for both target setting and monitoring? and
- How will the client team manage monitoring information and who will undertake progress-chasing on the community benefit elements?



6.3.1 Step 1: Adopting Clear Policies

Requirements

- Social Value clauses such as TR&T need to be included in Procurement /Corporate/Community Strategy
- The policy aim should include specific reference to the locality from which beneficiaries will be drawn
- Threshold values could be changed; focus effort on the larger contracts that will maximise the community benefits from the officer time invested.
- Intentionally non-specific in the benefits and beneficiaries, as the strategy should be durable: it should be capable of lasting for a long time without amendment as priorities change.

Model Text

(enter name) is committed to achieving economic, social and environmental well-being for its residents in (enter locality or postcode area) and implementing the Community Strategy so as to ensure a better quality of life for everyone, now and for generations to come. To achieve this it commits to the following actions to the fullest extent possible within the relevant legal and policy frameworks and the available funding:

i) to consider what recruitment and training, equal opportunities and supply-chain opportunities could be obtained from each works contract with an estimated value exceeding [£...m] and each services contract with an estimated value exceeding [£.....];

ii) to include training, equal opportunities and recruitment requirements, and supply-chain opportunities in its service requirements, where it considers this appropriate;

iii) to include other social and environmental matters in its service requirements, where it considers this appropriate; and

iv) to use these requirements in all stages of the selection and contract award process, and as contract conditions.

6.3.2 Step 2: Developing a Business Case

Requirements

- Creating a budget that could cover facilitation and advice, monitoring and progress-chasing, and contributions to training costs
- Define project requirements, ensuring there is a clear and agreed understanding of the business goals
- Define contractors' requirements to meet those goals;
- Assess the extent to which the procurement could contribute to community benefit objectives to the purchaser's policies and strategies



6.3.3 Step 3: Preparing the OJEU Contract Notice

Requirements

- The use of social considerations in contract conditions must be mentioned in the OJEU Contract Notice for the contract

Model Text - OJEU Text

“Under the Public Services (Social Value) Act 2012 the contracting authority must consider:

- (a) how what is proposed to be procured might improve the economic, social and environmental well-being of the area where it exercises its functions, and
- (b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

Accordingly, the subject matter of the contract has been scoped to take into account the priorities of the contracting authority relating to economic, social and environmental well-being. These priorities are described in the invitation to tender/negotiate/ participate in dialogue and are reflected in environmental and social characteristics in the evaluation criteria for the award of the contract.”

6.3.4 Step 4: Drawing up the Pre Qualification Questionnaire

Requirements

- TR&T and social inclusion should be included in the sections that deal with technical capacity and ability

Model text - PQQ Text

Please give examples of your involvement in each of the following:

- generating employment and training opportunities for long-term unemployed people;
- providing training opportunities for young people and retaining them after the completion of training;
- promoting supply-chain opportunities to new and small enterprises;
- the development of trade skills in your existing workforce; and
- equal opportunities recruitment procedures.

1 What was your exact involvement in each of the above activities?

2 Which of the examples you have cited have been more successful, and which have been less successful, and why?”



6.3.5 Step 5: Producing the Specification/Invitation to Tender

Requirements

- Detailed requirements of the social/community benefits (ideally based on the business case) need to be included at this stage
- Determine what training and employment (or wider community benefit) requirements are appropriate and deliverable;
- Clauses need to be unambiguous and provide a 'level playing field' in the tendering process for contractors;
- Achieving this 'level playing field' may be made possible by the availability of supply-side agencies that can ensure equal access to appropriate new entrant employees, employees and small firms for contractors, wherever contractors are based.

Model text - Specification Text

Examples of possible text for inclusion in specifications are included in the 8. Further examples can be found in resource 3 of the i2i Can Do Toolkits.

While the details will vary from contract to contract there are a number of common elements that are included in 'community benefit' specifications.

These include:

- some reference to the policy or legal underpinning for the requirements;
- measurable performance indicators, relating to:
 - the required outputs, and/or
 - a recruitment process that has to be followed (e.g. for site vacancies);
 - monitoring and performance review requirements; and
 - a disclaimer to protect the client from 'claims' relating to any supply-side interventions they make.



6.3.6 Step 6: Developing an Award Process

Requirements

- ask bidders to submit a method statement with their tender setting out how they will achieve the social requirements;
- if seen as core, the method statement can be scored and used in the award.
- the weighting given to that statement needs to be agreed early on in the process
- If seen as non-core elements the method statement should not be scored.

Model text - Award Process Text

A Method Statement template is included in Section 8. Further examples can be found in resource 3 of the i2i Can Do Toolkits.

Where the social/TR&T elements are to be scored a scoring framework should be used to ensure a robust and fair evaluation.

Statements – A template Scoring Framework template can be found in resource 3 of the i2i Can Do Toolkits.

6.3.7 Step 7: Implementing Contract Conditions & Monitoring Frameworks

Requirements

Specific contract conditions can be developed on a project by project basis. In procurement processes that allow scope for negotiation (for example based on a service delivery plan or method statement), specific clauses can be incorporated into contract documentation to tie the contractor to specific targets and outcomes.

Model text - Contract Conditions Text

The model clauses in Section 8 can be used as a starting position for all procurements, including those covered by the EU rules. They are drafted on the basis that the contractor will have supplied a service delivery plan / method statement satisfactory to the employer, concerning how it will generate employment opportunities. Further examples can be found in resource 3 of the i2i Can Do Toolkits.



7 Additional Resources

There are several excellent resources that provide additional detail on many of the areas covered in this guide. The best of these for the housing sector are the i2i 'Can Do Toolkits' which have been developed by CIH Cymru with the support of the Welsh Government. These can be downloaded free from the i2i website.



www.cih.org/i2i

They include:

The Can Do Toolkit 1 - Targeted Recruitment and Training:

The Can Do Toolkit Resource 1: Introductory Guide

The Can Do Toolkit Resource 2: Comprehensive Guide

The Can Do Toolkit Resource 3: Model Material

Training on targeted recruitment and training clauses. For more information please contact wales.training@cih.org 02920765760.

The Can Do Toolkit 2 - SME friendly procurement

SME friendly procurement: Can Do Toolkit 2

Resource 2: Can Do Toolkit 2

Resource 3: Can Do Toolkit 2



There are also some excellent free publications available from Social Enterprise UK

<http://www.socialenterprise.org.uk/advice-support/resources>

These include:

The Social Value Guide

Guide to the Public Services (Social Value) Act

Working with the public sector: busting the myths

There is a useful guide to working with SMEs produced by Procurement Advice and Support Service:

http://www.bipsolutions.com/docstore/pdf/10_helpingsmes.pdf



8 Model Text & Templates

N.B. This guide provides advice in general terms only. Readers should seek legal advice before use.

The following examples of model text have been taken from SEUK and i2i publications. They were developed by Anthony Collins Solicitors LLP to comply with UK and EU procurement law.

Care should be taken to ensure that the materials are:

- compatible with the powers and policies of the procuring organisation;
- suitable to the contract;
- affordable; and
- deliverable from the available target sources/communities.

8.1 Suggested wording for OJEU Notice

To support contracting authorities with the practical implementation of the Social Value Act, here is a template that could be used for demonstrating you have taken the Act into account when placing an OJEU notice.

MODEL TEXT

Suggested wording for OJEU Notice

“Under the Public Services (Social Value) Act 2012 the contracting authority must consider:

(a) how what is proposed to be procured might improve the economic, social and environmental well-being of the area where it exercises its functions, and

(b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

Accordingly, the subject matter of the contract has been scoped to take into account the priorities of the contracting authority relating to economic, social and environmental well-being. These priorities are described in the invitation to tender/negotiate/ participate in dialogue and are reflected in environmental and social characteristics in the evaluation criteria for the award of the contract.”



8.2 Model Specification 1

Specification requiring the provision of information on supply opportunities to social enterprises and SMEs based in a designated area

MODEL TEXT

Specification requiring the provision of information on supply opportunities to social enterprises and SMEs based in a designated area

In line with its commitment to supporting social enterprises, SMEs and the local economy as set out in the [...] Strategy it is a condition relating to the delivery of the contract that the following activities be undertaken to maximise supply-chain opportunities for targeted SMEs.

...1 To work with the Regional Social Enterprise Network [contact...] or a suitable alternative organisation agreed by the client to develop a programme of activities and support so as to maximise the provision of information on subcontract and supply opportunities to social enterprises and SMEs with a [...] to [...] postcode and to maximize the number and competitiveness of bids in response to these opportunities from these social enterprises and SMEs.

...2 Within four weeks of commencement of the contract to report on the actions that have been taken to provide information and contract opportunities to social enterprises and SMEs with a [...] to [...] postcode, including a list setting out telephone and/or e-mail information for social enterprises and SMEs from the target area that have been involved in the activities in ...1.

...3 One week prior to each [monthly contract review meeting] to provide to the client a report setting out the numbers of social enterprises and SMEs with a [...] to [...] postcode that have been invited to tender / price for sub-contract and supply work, the number of these that have been awarded a contract and the total value of these contracts. This should be reported for the latest period and the contract to date.

...4 This requirement does not comprise or imply any promise on the part of the Client to provide suitable employees, subcontractors or suppliers. Any action taken by the Client to broker relationships between the Contractor and local individuals, businesses or agencies does not imply that they consider the individual, business or agency as suitable for engagement by the Contractor.

To ensure a level playing field for bidders from anywhere in Europe it is important to provide information with the tender or in an associated briefing session on the Supplier Development Service and local service providers and the contact for any available register of social enterprises and SMEs based in the target area.



8.3 Model Specification 2

Specification requiring tender / pricing opportunities to be provided to 'new suppliers' based in a target area

MODEL TEXT

Specification requiring tender / pricing opportunities to be provided to 'new suppliers' based in a target area

...social enterprise and SME-friendly Purchasing

In line with its commitment to supporting social enterprises, SMEs and the local economy as set out in the [...] Strategy it is a condition relating to the delivery of the contract that the following activities be undertaken to maximise supply-chain opportunities for targeted social enterprises and SMEs.

...1 Provide a method statement setting out the steps that will be taken to procure that [10%] of the value of the contract is delivered by 'new suppliers' based in areas with a [...] postcode, where 'new suppliers' are:

- 'enterprises with less than 20 staff that are not a part of a larger company or group' and have not previously been engaged by a contractor that is engaging sub-contractors and suppliers; or
- social enterprises or social firms that have not previously been engaged by a contractor that is engaging subcontractors and suppliers.

The method statement must include information on how the 'new suppliers' will be nurtured and supported through the work on issues like health and safety, pricing, site management, financial planning and control, documentation and accreditation.

...2 One week prior to each [monthly contract review meeting] to provide a list of the names and contact details for 'new suppliers' identified under ...1 above in the period and the contract to date, and the value of work awarded to each [or the aggregate value awarded].

...3 This requirement does not comprise or imply any promise on the part of the Client to provide suitable employees, subcontractors or suppliers. Any action taken by the Client to broker relationships between the Contractor and local individuals, businesses or agencies does not imply that they consider the individual, business or agency as suitable for engagement by the Contractor.

N.B. To ensure a level playing field for bidders from anywhere in Europe it is important to provide information with the tender or in an associated briefing session on how a bidder can access social enterprises and SMEs from the target areas e.g. through SEUK, Social firms UK, regional social enterprise networks and SME supply portals, and any available register of SMEs based in the target area.



8.4 Template – Basic TR&T Requirements:

Suitable for the procurement of a stand-alone contract

Targeted Recruitment & Training (TR&T) and Supply-chain Opportunities

draft wording suitable for use in the specifications / invitation to tender stage.

1. Introduction

In pursuance of the information provided in the OJEU Contract Notice that the Contractor is required to actively participate in the economic and social regeneration of the locality the Contractor shall deliver the TR&T and supply-chain requirements as set out below.

or

It is the Employer's intention that the delivery of the contract assists in the achievement of their policies on sustainable development/social inclusion/economic and social regeneration/equal opportunities (select as appropriate) as set out in [the relevant policy documents]. Accordingly, and in pursuance of the information provided in the OJEU Contract Notice, the Contractor is required to deliver the TR&T and supply-chain requirements as set out below.

2. The Requirements

Bidders are required to submit a Targeted Recruitment and Training Method Statement with each valid tender, using the attached pro-forma, setting out how the following outcomes will be achieved [in a way which is cost-neutral to the Employer⁶]. *[delete the latter and amend question 11 in the Method Statement if the Employer is able/willing to cover the cost of the TR&T requirements].*

2.1 New Entrant Employees

Select the requirements from the clauses below choosing those that:

- *are relevant in type and scale to the works/services to be delivered;*
- *meet the needs to the target community;*
- *can be supported by 'supply-side' agencies; and*
- *can be effectively monitored and followed-up.*

To ensure early attention to the TR&T requirements the Method Statement should normally be received with the tender. If TR&T is not part of the award procedure this must be disregarded until the award of the contract.

The text differentiates between new entrant employees that are registered with a training body as apprentices, and other new entrant employees. The former may be counted towards the new employee target for a longer period e.g. 104 week rather than (say) 26 or 52 weeks for 'other new entrant employees'. This is decided by the Employer.

2.1.1 A minimum of [] Person-weeks of employment to be provided for new entrant employees

⁶ The contractor(s) appointed will be expected to cover the cost of the requirements by accessing public sector and industry funding and by effectively managing the works so as to achieve good productivity from the new entrant employees.



recruited from a source agreed by the Employer, for each £1m in contract value where:

- a Person-week is the equivalent to one person being employed for five days either on the development site or on other sites (with the agreement of the Employer);⁷
- a new entrant employee⁸ is a school or college leaver, or an adult that has not been employed in the construction industry during the previous six months, and who is undertaking training towards a construction industry or an Employer-recognised qualification
- a new entrant employee that is registered as an apprentice can be counted towards the target for a maximum of [] weeks and a non-apprentice 'new entrant employee' can be counted for a maximum of [] weeks;

2.1.2 Reasonable efforts should be made to retain persons that have been notified to the Employer as a new entrant employee after the maximum periods listed above.

(Questions 2, 3 & 4 in the Method Statement relate)

The term new entrant employee is widely defined and this provision is intended to be the main 'requirement' that will achieve social inclusion. Through the Method Statement the contractor will set out what mix of new entrant employees they expect to recruit, by trade and whether these are apprentices or other new entrant employees. Their decision can be influenced through the provision of an information sheet on new entrant employee supply and funding (sent out with the ITT or equivalent) and through a briefing session. Further clarification can be sought post-award to better align the opportunities with the target community and the available training supply.

The target is set here as Person-weeks per £1m in contract value. This can of course be re-worked to set the target as Person-weeks per unit of housing or square metres of commercial development, where these are known and this is considered easier to measure.

2.2 Recruitment

The first of these paragraphs provides opportunities for skilled/experienced and job-ready workers. People that don't fit this description should go through a pre-recruitment programme and be 'new entrant employees'. The second paragraph should be used where Job Centre Plus request this.

Every vacancy on site, including those with subcontractors, is to be notified to agencies named by the Employer [at least three working days before recruitment from other sources], and candidates identified by these agencies are to have an equality of opportunity in the selection process.

Within 13 weeks of appointment the contractor is to provide the Employer with evidence that they have entered into a Local Employer Partnership or an equivalent agreement to recruit people who are disadvantaged in the labour market.

(Question 6 in the Method statement relates)

2.3 Unwaged work experience

The equivalent of [] [enter figure] Person-weeks per £1m in contract value is to be made available as unwaged work experience opportunities for people provided by an organisation that has undertaken appropriate pre-site preparation and a risk assessment. Some of these weeks may not be utilised.

(Question 2 in the Method Statement relates)

This provides the opportunity for students to obtain some site experience. It can also be used for unpaid work-trials or short-term paid work experience. Again, this can be re-worked to set the target as Person-weeks per unit of housing or square metres of commercial development where the latter are known and this is considered easier to

⁷ The Employer will expect transport to alternative sites to be provided where sites are not within 5 miles of the site where the new entrant employee is initially engaged.

⁸ A new entrant employee could be registered as an apprentice with an industry recognised body (who can be counted as a 'new entrant' for up to [] weeks) or a person that has a new entrant employee contract or a contract of employment or self-employment that are not apprentices (who can be counted as a 'new entrant' for up to [] weeks). (insert figures)



measure.

2.4 Workforce Training

This can be used to ensure opportunities for continued training for 'new entrant employees' and to help achieve a fully-accredited workforce. It can facilitate the work of bodies such as Construction Skills to engage with employers and maximise in-service training.

Take action to assist employees to achieve appropriate CSCS registration and NVQ Level 2 or equivalent and higher levels of qualification. Arrangements for on-site training, assessment, and recording are to be provided.

(Question 5 in the Method statement relates)

2.5 Training Plan

When requested by the new entrant employee or their training organisation, a Training Plan is to be maintained for each 'new entrant employee', using a pro-forma where this is provided. The Training Plan to be made available for inspection by the Employer and its agents at any reasonable time.

This is a provision that a training provider or new entrant employee can activate if it is needed and the plan will be used.

2.6 Skills Forums

The contractor is required to support the work of [insert the relevant industry training forum] established in the locality of the works.

2.7 Remuneration

New entrant employees and recruits must, as a minimum, be paid in accordance with industry norms and must have terms and conditions of employment that are at least equivalent to those provided to workers that have equivalent skills and experience.

Contractors are encouraged to increase the remuneration of new entrant employees in line with their experience and productivity.

This is included to ensure equal treatment between existing employees and 'new entrant employees', and to maximise retention by ensuring that new entrant employees are rewarded as their productivity increases.

2.8 Supply-chain Opportunities

2.8.1 When requested by the Employer, to participate in initiatives to identify and nurture additional supply-chain organisations based in or around the area where the development is taking place.

2.8.2 All supply-chain opportunities including those at the tender stage are to be posted on the [E.g. contract shop website] at least seven working days before invitations to submit a tender or price are issued, and reasonable consideration to be given to firms registered with [E.g. contract shop], especially those located in and around the area where the development is taking place, when issuing invitations to tender or price for contract opportunities.

The first of these paragraphs allow the Employer to introduce a specific initiative after award of the contract. The second facilitates company inter-trading. The impact of these post-award initiatives will be limited where the contractor has made a commitment to their supply-chain before award of the contract.

Since the requirements can be delivered by any contractor post-award and are not included in the contract award process their inclusion should not disadvantage any bidder.



2.9 Monitoring & Verification Information

Monitoring information should be aligned with the requirements selected under 2.1 – 2.5. Some possible requirements are set out below. The timetable for reporting is also important: the earlier and more frequent the reports, the earlier the contractor will focus on the TR&T and supply-chain requirements. However, progress-chasing and responding to monitoring information requires resources from the client side, and scarcity of this resource may determine what is asked for. The client should not request information that cannot be used or analysed.

Within 4 weeks of completion of each [4/13/26] week period [delete as required] following Implementation to provide the Employer with a Targeted Recruitment and Training Performance Statement setting out in relation to the period and the contract to date:

2.9.1 the number of weeks' employment provided to each new entrant employee, including those on sites outside of the contract where this has been necessary to provide continuity of employment and training and where this has been agreed with the Employer;

2.9.2 the number of new entrant employees retained in employment after the completion of their period as a 'new entrant employee';

2.9.3 a schedule showing for each contractor and subcontractor:

- the number of personnel starting on site in the period and cumulatively;
- the number of vacancies notified to agencies named by the Employer;
- [the number of people engaged on site in any capacity that have their main residence in one of the following postcode areas [] (enter the relevant 3 or 4 digit postcodes)] or [the postcodes of all people engaged on site in any capacity].

2.9.4 a schedule listing the firms invited to tender or price for subcontracts and supply contracts under 2.8 above and indicating which of these were successful;

2.9.5 [the total value of subcontracts and supplies contracts that have been awarded to firms with a [](enter the relevant 3 or 4 digit postcodes) post-code] or [the post codes of all subcontractors and suppliers and the value of the contracts awarded to each].

For verification purposes the following documentation will be required by the Employer using pro-forma documentation provided:

2.9.6 a new entrant employee recruitment notification signed by the new entrant employee (to permit the provision of personal data to the Employer for contract monitoring purposes);

2.9.7 a new entrant employee transfer notification where a new entrant employee is moved between sites, or between employers engaged in the development; and

2.9.8 a new entrant employee completion or termination notification

3. Contractor and Subcontractor Compliance

It is the contractor's responsibility to develop a working method that will deliver the TR&T requirements and supply-chain opportunities and related monitoring and verification data, and to obtain the full cooperation of contractors and subcontractors in delivering these requirements.

This text is included to emphasise that it is the contractor's responsibility to deliver the TR&T and supply-chain requirements through their supply-chain. It is part of their job to work out how to do this.



4. Support

The inclusion of TR&T requirements does not comprise or imply any promise on the part of the Employer or their agents to provide suitable new entrant employees or labour. Any action taken by these bodies or their agents to broker relationships between the contractor and local individuals/firms/agencies does not imply that they or their agents consider the individual/firm/agency as suitable for engagement by the contractor. All recruitment, supervision and discipline responsibilities rest with the contractor and subcontractors. Within this context the Employer will work with local agencies to help facilitate the achievement of the recruitment and training requirements.

This text is included to protect the Employer from possible claims arising from their role as an intermediary between the contractor and the supply-side (employment, training and business development agencies).

5. Targeted Recruitment & Training Method Statement

Bidders are required to submit a completed Targeted Recruitment and Training Method Statement, using the pro-forma attached, with each valid tender. [A revised TR&T Method Statement may be required prior to commencement on site and each 12 months thereafter].

or

Prior to the signing of the contract [and each twelve months thereafter] the preferred contractor will be required to complete a Targeted Recruitment and Training Method Statement, using the pro-forma attached, to the satisfaction of the Employer.

Prior to completing the Method Statement bidders are advised to obtain the Construction Training Information Sheet from []. This will give information on local training and resources. All of these will operate an appropriate equal opportunities policy.

To ensure early attention to the TR&T requirements the Method Statement should normally be received with the tender.

If TR&T is not part of the award procedure this should be disregarded until after the award of the contract. Otherwise it can be scored and given a weighting as part of the award.

Where TR&T is not an award criteria and there are concerns about demonstrating that TR&T information has been disregarded in the award stage, then the Method Statement can be required at the 'preferred bidder stage'. In this case the second of the first two paragraphs should be used.

Optional wording is provided where the method statement is to be renewed on an annual basis e.g. where the contract runs for many years.

To ensure a level playing field between bidders it is important to provide an information sheet giving details of training, job-matching and business development agencies that would be available to work with the appointed contractor to help them deliver the TR&T and supply-chain requirements. The information should include funding that could be accessed by the contractor. A briefing session with each bidder can help ensure equal access to the information and an appropriate focus on the TR&T requirements.



8.5 Template – Basic Proforma TR&T Method Statement

[Employer's name]

Pro-forma Targeted Recruitment & Training Method Statement

Title of contract

Name of Company

Contact Name

Position

Telephone number(s)

E-mail address

I confirm that this Method Statement sets out the actions that will be undertaken to ensure the achievement of the Employer's Targeted Recruitment & Training Requirements. It is recognised that delivery of these requirements will be a contract condition [and may be used in the award of the contract].

Signed (Print Name) .. Date

Ensure that information is provided in each of the following sections. This document must be submitted as part of each valid tender.

Note: Bidders are recommended to obtain information on training and job-matching resources available within the area from [] (*enter the contact details*).

/



2. Work Experience Opportunities

The total in Table 2 should at least reflect the requirements under 2.3 in template 1.

Please show in Table 2 the number of Person-weeks that will be offered as work experience opportunities. Some of these opportunities may not be utilised.

Table 2. Un-waged Work experience Opportunities

Occupation / Activity	No. Person-Weeks
Total	

The answers to questions 3-9 should demonstrate that the contractor has understood the requirements, and read the Information Sheet. The answers should satisfy good practice as interpreted by the Employer and the supply-side organisations. Innovations and added value may be included in Question 10.

3. Recruitment

What arrangements will you make to recruit apprentices and other new entrant employees from agreed sources?

4. Support for New entrant employees

What arrangements will you make to provide mentoring and support for new entrant employees and work placements to ensure maximum retention and achievement of industry accreditation?

5. Retention of New entrant employees

What steps will you take to maximise the number of new entrant employees that are retained after the completion of the time they can be counted as 'new entrant employee', and what percentage of new entrant employee starts would you hope to retain at this stage?

/



6. Training Initiatives

What training initiatives would you seek to utilise, and with which organisations, to maximise achievement of the TR&T requirements? What arrangements will be made for work-place recording and assessment?

7. Notification of Vacancies

What arrangements will you make to notify all vacancies to agencies named by the Employer and provide time for applications from these sources to be considered?

8. Contractors and subcontractors

How will you obtain the cooperation of contractors and subcontractors to ensure the delivery of the TR&T requirements?

9. Information

How will you ensure that personal information on each 'new entrant employee' can be provided to the Employer?

10. Management

Who will be responsible for the delivery of the TR&T requirements on site and/or for the company?

11. Other Information

Please provide here any additional information on how you would approach the implementation of the targeted recruitment and training requirements, including any innovative ideas.

Question 11 can be:

- *removed if no cost information is required by the Employer;*
- *used to ensure a cost-neutral approach;*
- *amended so that a net cost is shown.*

12. Costs

Please complete Table 3 in relation to the resources required to deliver the TR&T Requirements.



Table 3. Summary of Targeted Recruitment & Training Resources

Cost Item	£	Basis of calculation
Management and administration		
Training costs		
Additional site costs		
Mentoring and support activities		
Total		
Sources of Funding and other Resources		
Grants		
Existing company staff / overheads		
New entrant employee productivity		
Services from other external agencies		
Total of additional resources		
Total		Difference between Total cost and Total of additional resources. [This should be NIL] (remove bracketed text if a net cost is required)



8.6 Template – TR&T Protocol

- A non-contractual or voluntary approach

- a protocol to obtain a TR&T commitment from contractors on a voluntary basis when the contract has already been let

Template 5 includes requirements that:

- are appropriate for the type and scale of works/services being delivered;
- are required to address the needs in the target community;
- can be supported by the supply-side agencies;
- can effectively be monitored and followed-up.

One reason for introducing the requirements to existing contractors may be because it is anticipated that they may be part of future contracts when they are procured.

*For long contracts **annual method statements** can be required.*



..... (enter the Employer's name)

Targeted Recruitment and Training Protocol

The Parties to this agreement are:

The Employer

Authorised signatory

Date Print Name

..... Position

..... Tel

..... E-mail **The Contractor**

Name

Address

Authorised signatory

Date Print Name

..... Position

..... Tel

..... E-mail



1. Introduction

The Employer has established policies on sustainable development / social inclusion / economic and social regeneration / equal opportunities (select as appropriate) and wishes to obtain the support of the Contractor in the achievement of these through the delivery of the TR&T and supply-chain activities as set out below. It is recognised that the support of the Contractor is [on a voluntary basis] [an extension to the current contracts and that reasonable net costs will be payable by the Employer through the open book arrangements] (delete as appropriate).⁹

2. The Requirements

The Contractor agrees to submit within four weeks of the date of the Protocol [and each twelve months thereafter] a Targeted Recruitment and Training Method Statement, using the attached pro-forma, setting out how the outcomes in 2.1 to 2.9 will be achieved [without cost to the Employer¹⁰] [delete and amend Qu. 11 in the Method Statement if the Employer has an open book contract and is able to cover the cost of the TR&T requirements].

Prior to completing the Method Statement the Contractor will hold discussions with
(enter the name of the agency) and other supply-side organisations identified by the Employer.

2.1. New Entrant employees

[] person-weeks of employment to be provided for a new entrant employee recruited from a source agreed by the Employer, for each £1m in contract value where:

- a person-week is the equivalent to one person being employed for five days either on the development site or on other sites with the agreement of the Employer;¹¹
- a new entrant employee¹² is a school or college leaver, or an adult that has not been employed in the construction industry during the previous six months and who is undertaking training towards a construction industry or an Employer-recognised qualification;

(Questions 2, 3 & 4 in the Method Statement relate)

2.2. Recruitment

Every vacancy on site, including those with subcontractors, will be notified to agencies named by the Employer [at least three working days before recruitment from other sources], and candidates identified by these agencies will have an equality of opportunity in the selection process.

The Contractor will consider entering into a Local Employer Partnership or an equivalent agreement to recruit people who are disadvantaged in the labour market.

⁹ 'net costs' are total costs less grants and nil-cost services obtained, and after deducting the value of new entrant employee productivity.

¹⁰ The Contractor is expected to cover the cost of the training requirements to the fullest extent possible by accessing public sector and industry funding and by effectively managing the works so as to achieve good productivity from the new entrant employees.

¹¹ The Contractor will provide transport to alternative sites where these are not within 5 miles of the site where the new entrant employee is initially engaged.

¹² A new entrant employee could be registered as an apprentice with an industry recognised body (who can be counted as a 'new entrant' for up to [] weeks) or a person that has a new entrant employee contract or a contract of employment or self-employment that are not apprentices (who can be counted as a 'new entrant' for up to [] weeks). (insert figures)



(Question 6 in the Method Statement relates)

2.3. Unwaged work experience

The equivalent of [] (*enter figure*) Person-weeks per £1m in contract value will be made available as unwaged work experience opportunities. Some of these may not be utilised.

(Question 2 in the Method Statement relates)

2.4. Workforce Training

The Contractor will use reasonable endeavours to assist employees to achieve full CSCS registration and NVQ Level 2 or equivalent and higher levels of qualification. Arrangements for on-site training, assessment and recording will be provided.

(Question 5 in the Method statement relates)

2.5. Training Plan

When requested by the new entrant employee or their training organisation, a Training Plan will be maintained for each 'new entrant employee', using a pro-forma where this is provided. The Training Plan will be available for inspection by the Employer and its agents at any reasonable time.

2.6. Skills Forums

The Contractor will support the work of [insert the relevant industry training forum] established in the locality of the works.

2.7. Remuneration

New entrant employees and recruits will be paid in accordance with industry norms and have terms and conditions of employment that are at least equivalent to those provided to workers that have equivalent skills and experience.

The Contractor will use reasonable endeavours to increase the remuneration of new entrant employees in line with their experience and productivity.

2.8. Supply-chain Opportunities

When requested by the Employer, the Contractor will:

2.8.1. take reasonable steps to participate in initiatives to identify and nurture additional supply-chain organisations based in or around the area where the development is taking place;

2.8.2. include supply-chain opportunities on the [e.g. *Contract Shop*] website [www.contractshop.co.uk] at least 7 working days before invitations to submit a tender or price are issued;

2.8.3. give consideration to firms registered with [e.g. *Contract Shop*], especially those located in and around the area where the development is taking place, when issuing invitations to tender or price for contract opportunities.



2.9. Monitoring & Verification Information

Within four weeks of completion of each [4/13/26] week period (delete as required) following acceptance of the TR&T Method Statement by the Employer the Contractor will provide a Targeted Recruitment and Training Performance Statement setting out in relation to the period and the contract to date:

2.9.1. the number of weeks' employment provided to each new entrant employee, including those on sites outside of the contract where this has been necessary to provide continuity of employment and training and where this has been agreed with the Employer;

2.9.2. the number of new entrant employees retained in employment after the completion of their period as a 'new entrant employee';

2.9.3. a schedule showing for each contractor and subcontractor:

- the number of personnel starting on site in the period and cumulatively;
- the number of vacancies notified to agencies named by the Employer;
- [the number of people engaged on site in any capacity that have their main residence in one of the following postcode areas [] (enter the relevant 3 or 4 digit postcodes)] or [the postcodes of all people engaged on site in any capacity].

2.9.4. a schedule listing the firms invited to tender or price for subcontracts and supply contracts under 2.8 above and indicating which of these were successful;

2.9.5. [the total value of subcontracts and supplies contracts that have been awarded to firms with a [] (enter the relevant 3 or 4 digit postcodes) post-code] or [the post codes of all subcontractors and suppliers and the value of the contracts awarded to each].

For verification purposes the following documentation will be required by the Employer using pro-forma documentation provided:

2.9.6. a new entrant employee recruitment notification signed by the new entrant employee (to permit the provision of personal data to the Employer for contract monitoring purposes);

2.9.7. a new entrant employee transfer notification where a new entrant employee is moved between sites, or between employers engaged in the development; and

2.9.8. a new entrant employee completion or termination notification.

3. Contractor and Subcontractor Compliance

The Contractor will develop a working method that will deliver the targeted recruitment and training requirements and supply-chain opportunities and related monitoring and verification data, and obtain the full cooperation of contractors and subcontractors in delivering these requirements.



4. Support

The agreement of a Targeted Recruitment and Training Protocol does not comprise or imply any promise on the part of the Employer or their agents to provide suitable new entrant employees or labour. Any action taken by these bodies or their agents to broker relationships between the Contractor and local individuals/firms/agencies does not imply that they or their agents consider the individual/firm/agency as suitable for engagement by the Contractor. All recruitment, supervision and discipline responsibilities rest with the Contractor and subcontractors. Within this context the Employer will work with local agencies to help facilitate the achievement of the recruitment and training requirements.



..... (enter the Employer's name)

Pro-forma Targeted Recruitment & Training Method Statement

Title of contract

Name of Company

Contact Name

..... Position

..... Telephone number(s)

E-mail address

I confirm that this Method Statement sets out the actions that will be undertaken to ensure the achievement of the Employer's Targeted Recruitment & Training Requirements as agreed in the TR&T Protocol dated (enter the date)

Signed (Print Name) Date

Ensure that information is provided in each of the following sections.



2. *Work Experience Opportunities*

Show in Table 2 the number of Person-weeks that will be offered as work-experience opportunities. Some of these opportunities may not be utilised.

Table 2. Work-experience Opportunities

Occupation/Activity	No. Person-weeks
Total	

3. *Recruitment*

What arrangements will you make to recruit apprentices and other new entrant employees from agreed sources?

4. *Support for New entrant employees*

What arrangements will you make to provide mentoring and support for new entrant employees and work placements to ensure maximum retention and achievement of industry accreditation?

5. *Training Initiatives*

What training initiatives would you seek to utilise, and with which organisations, to maximise achievement of the TR&T

requirements? What arrangements will be made for work-place recording and assessment?

6. *Notification of Vacancies*

What arrangements will you make to notify all vacancies to Agencies named by the Employer and provide time for applications from these sources to be considered?



7. Supply-chain Opportunities

What steps will be taken to maximise subcontract and supply-chain opportunities for firms based in the area where the development is taking place?

8. Contractors and subcontractors

How will you obtain the cooperation of contractors and subcontractors to ensure the delivery of the TR&T requirements?

9. Information

How will you ensure that personal information on each 'new entrant employee' can be provided to the Employer?

10. Management

Who will be responsible for the delivery of the TR&T requirements on site and/or for the company?

11. Other Information

Please provide here any additional information on how you would approach the implementation of the targeted recruitment and training requirements, including any innovative ideas.

12. Costs

Please complete Table 3 in relation to the resources required to deliver the TR&T Requirements.

Question 12 can be:

- *removed if no cost information is required by the Employer e.g. because no additional payments will be made*
- *used to ensure a cost-neutral approach*
- *amended so that a net cost is shown e.g. under an open book accounting arrangement.*

