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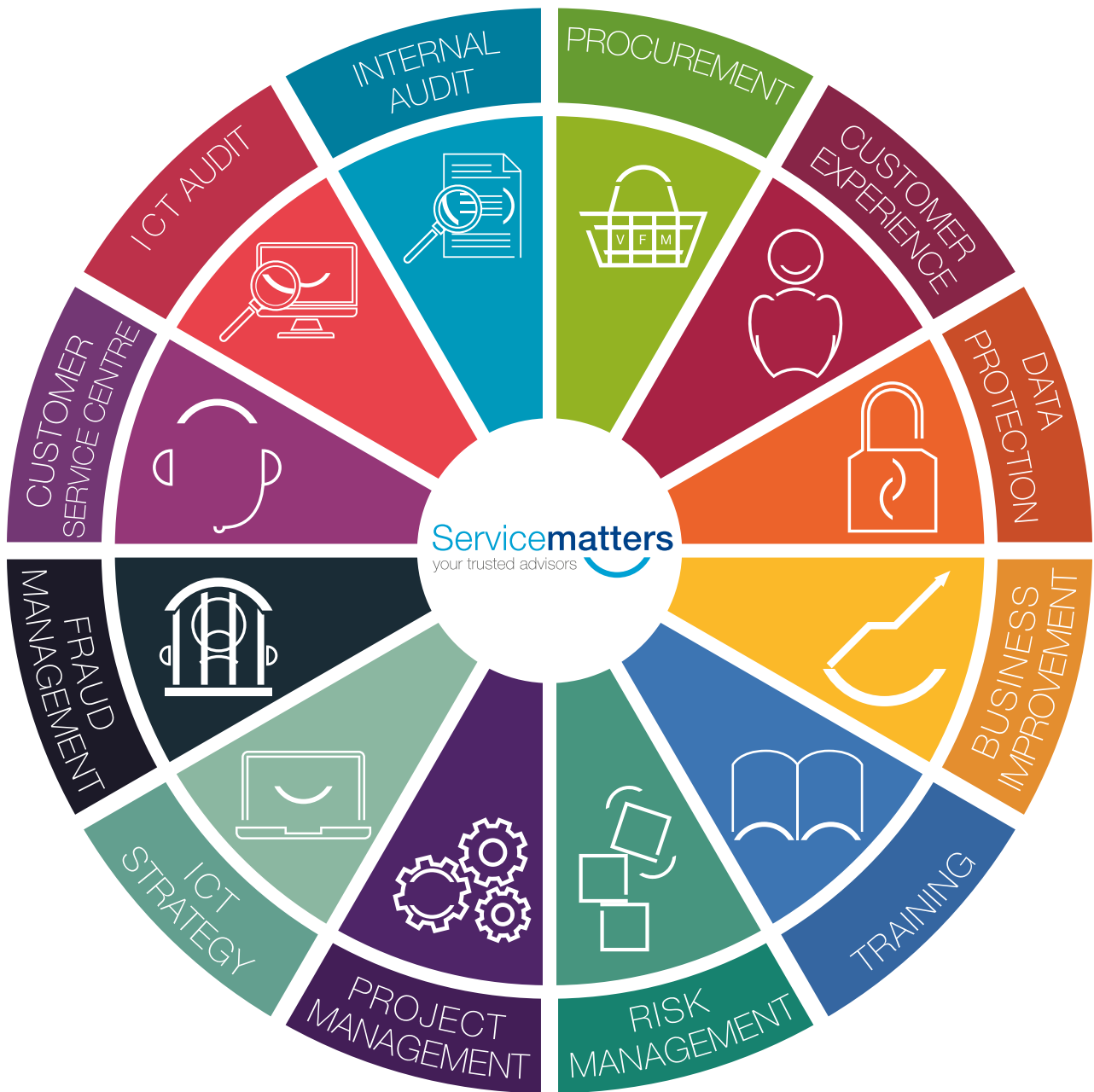


building
communities

... beyond the bottom line

A practical guide to achieving
social value through public
sector procurement.





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Introduction

CONTEXT

This guide has been produced as part of a wider project involving Wates Group, PwC, Chartered Institute of Housing, and Social Enterprise UK. The aim of the overall project is to further raise the profile of the capacity to deliver Social Value through procurement activity and to provide organisations with a toolkit to assist them in doing so.

This guide looks specifically at the practical steps to be taken through the procurement cycle (and around it) that can assist in delivery. Other parts of the toolkit include:

- Communities Count: the Four Steps to Unlocking Social Value produced by SEUK, CIH, Orbit Group, PwC and Wates;
- Public Services (Social Value) Act 2012 – A Brief Guide to the Social Value Act produced by SEUK and the CIH;
- Proportionality Standards: Social Value produced by SEUK and PwC;
- Communities Count: Unlocking Social Value produced by Wates

We know that when we talk about Value for Money, we're looking further than the intrinsic value of the product. The days when we simply looked at what it cost and how long it would last are long gone. Procurement activity is already recognised as an opportunity to leverage “added value”. That “added value” is increasingly looked at in terms of “social value”.

However, from the Communities Count report which was the first stage of this project, it is clear that what is meant by social value is frequently being viewed in quite narrow terms (primarily focussed on employment); also that many organisations are unclear on how and when they can support the agenda through their purchasing activity, limiting themselves to what the Act requires.

This Guide aims to provide practical ideas for dealing with these issues. It assumes compliance with the Public Contracts Regulations (and their eagerly awaited successor legislation) as a fundamental parameter, but also looks at those contracts below the EU thresholds which are often thought to be too small to be able to deliver any additional social value.

WHY SOCIAL VALUE?

We need to be clear about **what** we are interested in delivering social value. It is not, generally speaking, because the Social Value Act states that we must. It is because, by definition, improving communities is ‘the day job’.

The Act itself only requires that public sector purchasers consider social value when designing their procurement activity, and only in respect of services (not goods or works) and only for ‘above threshold’ contracts.

Most stakeholders would recognise that this is a truly limited requirement. This guide is a challenge to take the intent much further than that and to include the consideration in all contracts of all types and whatever size, with a view to significantly increasing the proportion of activity which does actually deliver.

It accepts that not all contracts will.

Working in the sector ourselves we are very familiar with the challenges and barriers faced by procurers. It is hoped that this Guide will help shape thinking in ways to overcome them.

STRUCTURE OF THE GUIDE

The guidance is structured to follow the Procurement Cycle looking at the barriers and opportunities at each stage.

Although focussed on purchasing activity, it is crucial that organisations generally (and arguably procurement departments in particular) recognise that purchasers do not operate in a vacuum. We

can assist in driving the agenda, but we cannot – nor would we want – to force it upon a reluctant or disengaged stakeholder group.

Social Value has to be embedded into the purchasing objectives across the whole organisation with “buy-in” from the Board down.

The key areas covered are

- Before you start: defining your social value
- Pre-procurement: general market engagement
- Specification and Contract Design: designing-in value
- Designing the process: encouraging smaller bidders
- Evaluation criteria: asking the right questions
- Mobilisation
- Contract Management
- Third Parties – useful links

WHAT SOCIAL VALUE?

If asked if they aim to provide Social Value via their procurement exercises, virtually everyone will say YES, but ask “WHAT Social Value?” and the hesitation sets it...

Everyone has a vague (often personal) idea of what is meant by social value, but at organisational level it isn't often clearly spelt out that this is what we (the organisation) mean by it - so that is where we are going to start, before we even think about procurement, let's think about 'social value' generally...



What Are You Trying To Buy? Defining “Your” Social Value

Why ‘the what and the why’ matter

Every procurer knows that the biggest difficulty in any sourcing exercise is defining what, exactly, it is we are trying to buy and why.

This applies to Social Value as much as it does to whatever else it is that the individual tender or purchasing activity is about.

So before you even think about how you are going to approach embedding social value into your procurement strategy, take a step outside of purchasing and look at the organisation in total and set about “defining the what and the why”.

Narrowing the focus to a few key areas will enable more concerted effort to be brought to bear, and will ultimately deliver more value. The benefits of doing so are:

- A strategic approach can be taken to embedding the Social Value priorities into the purchasing approach at all levels;
- Pre-market engagement can elicit what is already being done - if the aim is to extract more value, don't treat as added value, something that will be done anyway;
- Procurers will know what to include in tender

documentation, giving guidance to bidders will enable them to better focus their offers;

- Bidders will have clear sight of expectations;
- Frameworks and forums can be created that enable suppliers to work together to increase the gains for everyone.

How to specify Social Value

Unsurprisingly, how you go about specifying what your organisation means by Social Value will be determined in practice by the size, complexity and geographical spread of your operation.

In principle, however, it is relatively simple:

- look at the community or communities in which you operate;
- look at the people who live there now and are likely to (or likely to want to) live there in the future;
- determine what the key priorities are in terms of improving the economic, environmental and social well-being of the area and the people who live and work there.

STEP 1: LOOK AT YOUR COMMUNITIES and THEIR PEOPLE

The first step is to be sure you really know your communities.

At its most complicated, this will involve investment in a full-scale ‘customer-segmentation’ exercise to understand the current customer profile, demographic and other evident impacts upon it and how it may change in the short, medium and longer term.

For large-scale, geographically dispersed organisations, this will almost certainly involve employing professional researchers and analysts to amass and interpret the data. It will also probably lead to different priorities in different areas. That in itself is one of the key reasons for needing to do it.

Not only is it true that ‘one size does not fit all’ organisations – but equally, ‘one size does not necessarily fit all’ parts of a single organisation.

For small compact organisations it might be as simple as organising a few customer focus group meetings, talking to local agencies and having staff walk around your estates – involve staff who don't normally engage in these activities; they might bring a different perspective to

that of the local manager who knows the ground well.

Other organisations will naturally sit somewhere along the spectrum between the two.

STEP 2: AGREE KEY PRIORITIES

Having carried out the analysis, you should have a list of things that (if you could do them, or enable them to be done) will improve the areas and the lives of people who live there – now and in the future.

We urge you to remember that ‘in the future’ – social value is closely tied to sustainability and one of the key tenets of sustainability is ‘not compromising the ability of future generations to satisfy their needs’.

Real social value isn’t about crisis management; it is about long term solutions.

Let’s call the list derived from the analysis ‘the wish-list’. We will come back to this.

Given that many reading this guide will operate in some of the most challenged and deprived areas of the country it will be no surprise that your wish-list is likely to be beyond your means to fix.

You will have to prioritise.

It is easy to suggest that this simply requires a cost/benefit analysis.

The problem with that approach is that many organisations (for obvious reasons) are stuck in an annual-budget-mind-set, which favours a short-term approach which is not appropriate for deriving truly sustainable social value.

A different approach with a longer term view might be appropriate.

Contrary to the normal procurement advice of ‘cut your coat to suit your cloth’ (i.e. be limited by what you can afford) this is an occasion to ‘think big’.

Remember that what you are trying to achieve here is not limited by your own resources. This is about working with everyone else around you.

So, at this point: drop the ‘cost’ side of your cost-benefit analysis.

Think purely in terms of what would have the biggest impact in terms of improving the economic, environmental and social well-being of this community.

We will ‘get real’ later. Remember at this point we’re just sorting out the priorities.

Ensure that representatives of all parts of the business and customer and other stakeholder groups are involved in these discussions.

It is not the role of this guide to suggest what the outcomes of any specific investigation might be, but evidence to date suggests that a number of key areas are likely to emerge.

KEY AREAS

- Employment: long-term unemployed; youth unemployment;
- Use of local businesses, particularly small businesses and Social Enterprises
- Environmental improvements
- Training and Employability
- Digital Inclusion
- Financial Inclusion
- Health and Well-being
- Social integration
- Community cohesion
- Volunteering
- Crime and ASB reduction
- Youth activities

Some of these may be common across all stock areas; others may be limited to defined localities.

STEP 3: WRITE THE STRATEGY and THE POLICY

Having agreed your 'biggest impact' list – it then needs to be written into your Social Value policy and into your Procurement Strategy.

These two key documents must be absolutely in alignment **and both** need to be signed off at the highest level.

If you do not have either a Social Value Policy or a Procurement Strategy, it is strongly recommended that you treat the gap(s) as your first priority.

You do not need to put anything on hold while you get to work on this – you can continue delivering social value by default, or working on existing focussed programmes in the meantime.

It makes no sense to interrupt any programme that is delivering 'something' while you work out whether it is the priority something.

Unless what you are doing to date does not even appear on your wish-list, it is ok to continue doing it, while the background work is in train to re-focus for the future.

DO NOT, however, underestimate the value of the strategy and policy documents.

DO NOT, think of them as just pieces of paper.

DO UNDERSTAND that a strategy and a policy are very public statements of intent. They are there to help the organisation clarify its own thinking; they set the agenda for the people who work within and with the organisation and above all they are a standard against which the organisation (externally) and its people (internally) can be held to account.

Neither document needs to be particularly complicated – indeed the simpler the better.

For those not used to writing them, a speedy internet search will bring up any number of suitable documents to act as your base template. Just be sure to fully adapt your template to your own particular circumstances and, naturally, ensure you are not breaching any intellectual property restrictions in the process.

The other 'caution' sign on policy and/or strategy drafting is to ensure you talk to all parts of your business in the early stages, to ensure that you are not setting up conflicts with other agreed priorities. Agree the principles with each department before progressing to the detail.

Cross-discipline support is crucial for the success of any company policy. It is doubly-so for anything involving procurement, as so much of the activity is devolved to local level.

Having got the policies and strategies written:

- Publicise them;
- Train people in how to comply with them;
- More than that: teach them to understand why this matters, what you're trying to achieve, make it part of the day-job, part of the company ethos and values; and
- Sanction non-compliance: signal you're serious.

No policy or strategy is worth the screen it's written on until it becomes part of the culture of the organisation.

When you send your procurement team or your asset managers or your individual purchasers out to talk to potential suppliers, they need to know exactly what 'else' they are trying to buy.

They will be clear on the product, works or service – they need to be equally clear on the 'added social value' part of the specification.

And they need to know that the whole organisation is in agreement that this is valuable, that it is a strategic objective, and the fact that there may be a cost to it is taken into account.

STEP 4: GETTING REAL

Up to this point we have set aside the 'cost' issue. Don't panic!

This does get picked up through the Procurement process. The tender activity will identify what makes sense in the context of the purchase and what is affordable.

STEP 5: DON'T FORGET YOUR WISH-LIST

Having established your 'key priorities' – remember that is all they are: key and priority.

In other words, they are not the sum total of all that would be valuable.

Some contracts will not be able to deliver in those areas. That **does not** mean that you should discount those areas entirely from your social value agenda.

It **does** mean that you will spend less time, effort and money on trying to leverage them, **but** in each and every case you should revisit the original wish-list and consider if any non-priority desirables can be helped through this route.

Defining your Value KEY POINTS

- ✓ **Do** understand the needs of the communities in which you operate.
- ✓ **Do** analyse the needs and define potential mechanisms to address them.
- ✓ **Do** agree key priorities.
- × **Do Not** limit your thinking along simple short-term cost/benefit lines. Think big and think long-term.
- × **Do Not** ignore non-priority desirables – these may be capable of being addressed where key issues are too far outside scope
- ✓ **Do** ensure that you have both a Social Value Policy and a Procurement Strategy and that they are aligned.
- ✓ **Do** embed 'social value thinking' across the whole organisation.

Market Engagement: Pre-Tender Activity

Timing Is Everything

It is a standing joke in some quarters that “Procurement want 18 months to deliver a tender.”

It is understandable that in some quarters this notion is, genuinely, funny.

Many of us will remember when, if we tendered at all, it was on the basis of a select list of (say) 6 firms, all of whom we knew, the lowest price would get the job and it would take a month.

That was when we naïvely thought that the European Directives didn't apply to us, and before we'd fully grown into the understanding that lowest price and best value are rarely the same thing.

The world has moved on and procurement has 'grown up'.

We now know that above certain threshold values we have to abide by OJEU procedures.

We now fully agree that there is more to value than price.

We appreciate that these two things lengthen the tender process.

“But still! 18 months? Come on!”

Or words to that effect.

It is a fair comment. You can run an EU-compliant process very much quicker than that. In many cases you will need to do so.

In many other cases, there is no real reason why you shouldn't.

However the procurement professional that originally made that request for 18 months stands by it.

It is a timescale that becomes increasingly important if you truly want to build Social Value into your purchasing activity.

The point is: 18 months isn't the time needed to run the tender. It is the time needed to

- fully understand the requirements of the commissioning department;



- the time needed to fully understand the current (and near-future) capability of the supply market; plus
- the time needed to investigate social value potential (in priority- and non-priority areas);
- to design both the competition and the resultant contract in the way best-suited to deliver on all fronts.

It is, in short, the time needed to properly ‘engage’ with the market.

Reality Check

We said earlier that we would ‘get real’ during the process.

This is the first ‘reality check point’.

Let’s take a look at the drivers for rapid-run procurement and barriers to more controlled, longer-span processes.

Checkpoint 1: Argument 1

The argument: the contract has to be in place for the 1st April.

Challenge back: why?

Analysis: there are two usual responses: either “because that’s when the current contract ends” or “because we’ve told the Board it will be”.

Neither of these is a good enough reason to rush a procurement exercise if rushing it will get you a less than satisfactory result.

Controlled purchasing should enable you to know well in advance of a contract termination date (or review date where extensions are permissible), that you need to be going back to the market.

If your processes are not controlled so that you do not start looking at renewals until the existing contract has been extended to within an inch of its rationality, you still have options.

Consider your current position:

- If the incumbent is providing a good and apparently cost-effective service, extend again, but with a finite procurement-defined end-date. This will, strictly speaking, be non-compliant with EU requirements but provided it is not used cynically and there is genuine and prompt progress towards a fully compliant tender, the risks may be mitigated.

- If the incumbent is providing either a poor or apparently costly service, consider putting in a short term (2-year) solution whilst working out your longer term strategy. Public-sector Frameworks are ideally suited to such short-term call-offs.

New spend is rarely business-critical. It can happen, but most new spend is business-improvement which, while it absolutely does need to be time-lined, does not need to be on compressed timescales.

If your project is what procurement call ‘new spend’

i.e. this is not a replacement contract for something already in place, then the simple, practical advice is do not make any promises to the Board before you have considered your market-knowledge-base and procurement options, barriers and potential.

It is a common understanding that without a fixed and committed timeline, nothing will get done.

It is an equally common misunderstanding that the timeline in question must be (often ridiculously) short. Generally: at the outset of the procurement activity the deadline for the new contract go-live is rarely an absolute.

Consider this:

- Contract start dates are rarely absolute – they can often be moved by extending existing contracts, putting in place interim arrangements, or simply delaying the start of a new programme.
- Having the ‘lead-in’ time for procurement (especially where buyers are outside of the commissioning departments, but even when they’re not) depends upon having detailed and up-to-date contract registers – if you don’t have full visibility of all of your current contracts, treat this as a priority need.

Checkpoint 1: Argument 2

The argument: we don't bring Procurement in early because they'll tell us that the EU Regulations don't allow us to talk to individual suppliers.

Challenge back: this is a myth.

Analysis: the Regulations have never prevented pre-procurement market engagement.

Whether you choose to call this 'market-research', 'market-warming', 'pre-tender-engagement' or whatever else, there has never been anything in the Directives or the UK regulations which prohibits buyers from talking to potential suppliers early.

You can talk to anyone you want to at any time **outside of** a specific procurement activity.

When does 'procurement activity' start?

It is arguable that it might start with the publication of a Prior Information Notice (PIN). However, as the whole point of these notices is to warm the market, there is a counter-argument that might apply.

In practical terms, few organisations make use of PINs as their benefit is unproven. The issue of a Contract Notice is an absolute break-point, beyond which communication with potential bidders is strictly controlled.

The equivalent point in a sub-threshold tender should be treated in the same vein. Before advertisement, however, buyers are free to investigate the market to their hearts' content. And should be doing so! The 2014 EU Directive on Procurement makes this explicit.

Consider this:

- Early engagement with the incumbent supplier (who already knows their contract expiry date) enables both contract manager and procurer to look at the social value derived from the current contract and how close a match that is to (a) the key priorities and (b) the secondary wish-list.
- Early engagement will enable procurers to talk to local suppliers, encourage them to apply, and understand any barriers to application.
- Potential for supplier development ahead of formal processes e.g. bid-readiness in terms of understanding e-procurement systems, understanding the requirement, understanding the added/ social value links.

NOTE: these kinds of events are generally designed to support SMEs but experience suggests that some larger firms might also benefit from attendance.

- Potential to understand what key players in the market are already doing in terms of social value – consider how well this matches with your objectives.

If the general CSR activity in your supply market is already geared in a particular direction, consider the following:

- If this is what they all do anyway, can you leverage it further by asking for more of the same (i.e. above their normal commitment)?

OR

- If they will do this anyway, should you be asking for something else?

PRACTICAL STEPS FOR EARLY ENGAGEMENT

Issue a Prior Information Notice (PIN)

Prior Information Notices do have the advantage of saving you some time later in the process. They also advertise the engagement to the widest possible audience.

The disadvantage is that the very purpose of the engagement might mean that you don't have sufficient information available to be able to complete the Notice.

Before you issue your PIN, be sure you understand exactly what it is you are hoping to achieve. Are you looking to refine your specification? To stimulate interest? Better understand the supply market? Test your budget?

To get real value from the exercise, invite specific responses.

Outsourced Procurement Services

- Market warming exercise
- Responses required to four key questions
 - Sense-check and gap-analysis of the outline specification
 - Suggested pricing structure
 - Suggested contract term
 - Staffing structure for delivery

Missed opportunity: no reference made as to how social value could be incorporated into the project.

Host an Event

Supplier events are a very good way to interact with potential bidders.

General ‘meet the buyer’ days have their place, but more useful are focussed events around specific procurement proposals – provided always that they are held early enough.

BEWARE: if you are hosting such an event as part of your procurement process i.e. after publication of the Contract Notice or very closely ahead of the advert, then you must have detailed records of any information provided at the event and a mechanism for providing this information to any other potential bidder who wasn’t there.

Think about what you want to get out of the event.

Ideally this should be a two-way conversation.

Use the event as an opportunity to

- Explain your procurement process – and the reasons for it (many smaller suppliers may not know about the public procurement rules – they may never have heard of OJEU much less know how to access it or filter searches).

- If you’re using an electronic tendering system – demonstrate it. Explain any technical requirements and run through your FAQ sheet.

- If you don’t have a FAQ sheet for your tender system – why not?

- If you’re not using an electronic system – why not?

- Explain what good responses look like, and more importantly what poor ones tend to be like.

But remember this isn’t purely about you giving them information. This is also about you learning to better understand your (in Social Value terms) local marketplace.

- Learn about the suppliers.

- Look at who has attended and who has not. Why might that be?

Is it predominantly small local firms who perceive that they are being cut out by the 'big boys'?

- How valid is that perception?
- How do you feel about it?
- What (if anything) do you want to do about it?

Is it predominantly "the big boys"?

- What does this say about the ability of smaller local firms (or their perception of their ability) to win this tender?
- What (if anything) do you want to do about that?
- How well do they understand the sector? Who else are they working for?
- What do they understand by social value – remember they might call it something else (community involvement, CSR, charity commitment, volunteering...) – and what are they already doing? How well does that align with either your key priorities OR your non-priority wish-list.

Above all, remember why you are doing this. In pure procurement terms the purpose of any pre-tender activity is two-fold:

(1) to warm up the market, get it ready for your tender activity, let them start thinking about how they can win it, if they're interested; but also

(2) to inform your design of the specification and the tender process to enable you to get the best-match solution for your need.

In social value terms it should also be about understanding what additional benefits can be derived through the contract.

It can also be of social value in its own right, by improving the capability of local providers.

Grounds Maintenance Contract: East Anglia

- a half-day session
- three presentations
 - Procurement Director on finding opportunities, e-tendering, timescales and tender process
 - Head of Estate Services on specification, customer involvement, and social value
 - Consultant on 'winning the bid'
- Open Q & A session: info provided to all firms at PQQ stage.

Lesson learned: the event was held close to the office rather than close to the point of delivery, resulting in relatively low turn-out (12 firms) – but one of the SME attendees ultimately won one of the Lots.

Missed opportunity: the session was focussed on delivering information to potential bidders, rather than exploring whether they could inform the tender process.

Pure Old-fashioned Market Research

The ‘meet the buyer’ type event is very much a two-way street. There are other occasions when it is clear that the in-house knowledge of what you’re trying to buy is – let’s be brutal – non-existent.

This is where pure market research comes into play. Market research involves:

- Talking to other customers, who do they use, what are the benefits, what are the pitfalls?
- Talking to suppliers, what can they offer now, what is in the development pipeline?

Generally this kind of research is focussed on designing the specification and understanding the budget requirements. It is a simple matter of adding in a few supplementary questions to find out what kind of social value these suppliers are offering or already delivering.

Don’t assume that because it is, for example, a back-office service there is no value to be leveraged. Large corporations will have their own programmes, some of which may align to your priorities. A small provider may be engaged in one modest very local project.

Don’t assume that because suppliers say they are delivering social value that they are providing as much value as they believe they are. Talk to the customers again.

How efficiently is it delivered? Is the benefit measured? How much cost has it added?

Don’t assume that because they have an existing programme, the supplier won’t be interested in other ideas. Use the opportunity to sound them out about your key priorities.

It helps to know whether anyone in the market will be amenable to your plan before you embed it so tightly into the procurement process that there is no going back.

Don’t Forget the Customer

While you’re doing all of this pre-tender supply-market engagement don’t forget the customer. Your demand side also has valuable advice to be tapped into.

There’s a risk of focussing on the burden of formal “Section 20” consultation that can overshadow the benefits of more informal and wider resident consultation. Whilst you’re talking to suppliers about what the market can provide, you should also be confirming (or challenging) what it is your residents actually want. This is particularly true of customer-facing deliverables – but don’t assume that they don’t have views on what you do in the back-office. They might well do so.

Pre-tender Activity KEY POINTS

- **Do** give yourself time to understand the market
- **Consider** interim arrangements to buy time to fully analyse the potential to deliver social value through the contract
- **Consider** formal market warming exercises
- × **Do Not** use supplier events purely to give them information – learn about them
- **Do** explore what is already being delivered by suppliers and how well that fits with your priorities.
- **Do** be willing to ask for ‘more’ or ‘different’

SPECIFICATION and CONTRACT DESIGN: Designing in Value

“START WITH THE END IN MIND”

As Stephen Covey’s maxim underlines, it helps to know what you are trying to achieve and design your documents accordingly.

One of the tenets of the Procurement Directives, Regulations and case law that worries purchasers is the notion that any Social Value criteria must ‘go to the subject of the contract’.

In order to be able to demonstrate this: be specific that part of the purpose of the contract is to deliver social value to your communities. Be explicit. If your Social Value aims are set out as core requirements of the specification and the contract documents, they can then be referred to in the Contract Notice as contract requirements. It follows then that proposals to deliver them become valid evaluation criteria.

We will look at evaluation in the next chapter. First we must consider how we make the Social Value an integral part of the contract.

Project Titles to embed Social Value

“Unified Communications”
might become

“Unified Communications and Digital Inclusion”
to signal a requirement to provide training or low-cost ICT access to disadvantaged groups

“Grounds Maintenance”
might become

“Grounds Maintenance and Environmental Regeneration”
to signal a requirement to support improvements to local nature reserves

“Internal Refurbishments”
might become

“Internal Refurbishments and Targeted Training”
to signal a requirement for specific numbers of apprenticeships or other related training schemes.

“Gas Servicing”
might become

“Gas Servicing and Energy Efficiency Advice and Training”
to signal a requirement for energy advice sessions for residents

WHAT'S IN A NAME?

To truly embed the notion of the required Social Value in the contract start with the project title.

The inclusion of the social value requirement in the project title is the first step in ensuring that it is seen as a core element of the contract.

Not only does this focus the mind of the supplier on ensuring their capability to deliver it, it enables the purchaser to attach significant weight to that section of the proposals when evaluating submissions.

If the market research and pre-tender engagement has suggested that this approach will be unduly off-putting to bidders, inclusion of the requirements

as non-core elements of the contract is an alternative approach.

This would mean not specifically including the social value in the title of the project, but would still need the requirements described in the contract documents. Some advice indicates that non-core elements should not be included in evaluations. We would argue that such elements can be scored as part of the evaluation, but their weighting would need to be much less than that for the core elements, such that they are not determining factors, but are used to differentiate bids which are otherwise very close.

Where the early research indicates that the particular supply market is still alien to 'added value' and 'social value'

concepts (there are still some dinosaurs out there), a voluntary approach is the final option.

In this instance general references to intentions and future developments may be all that is required. This should not form any part of the evaluation criteria.

SPECIFICATION and CONTRACT

As with all elements of specification the requirements for Social Value must be clear, unambiguous, and capable of being delivered.

Of course if you can't build it in at 'naming' stage, don't give up, there are many more opportunities down the line... read on.



Costs

It must also be possible for the supplier to cost them.

It may be that the Social Value is being sought by way of 'added value' (i.e. free at point of delivery) from the supplier, or equally it may be that the provision is something which the purchaser may look to part-fund from its own resources.

Either way, it is naïve to assume that there is no cost involved somewhere in the supply chain. The supplier will have to cover the costs involved either through general overheads, enhanced rates on line items or a reduced profit margin.

An inability to fully identify the costs involved is likely to lead suppliers to build in a risk element to whichever of those mechanisms is used.

In the first two cases (overheads or rates) this will result in higher prices for the purchaser.

In the third it may result in an under-commitment to the social value agenda (not delivering as much as could have been supportable) or over-commitment which could undermine the financial stability of the supplier.

Consider this: unless you know the hidden cost of the Social Value supply, how can you know that it is value for money?

- Is the supplier delivering something which you could do more cost-effectively yourself? In which case, would a cash donation be preferable?
- Are there public subsidies or other grants available that the supplier can access? Or that you can access and they cannot?

Appropriateness

It should go without saying, but do give due thought to how appropriate the contract is as a vehicle for the particular piece of social value you have in mind.

Seeking to use your gas contractor to clear that eye-sore piece of open public space probably isn't a good match. Some mis-matching is less obviously absurd however.

Short-term contracts do not lend themselves particularly well to apprenticeships or employment opportunities, since they are unlikely to be able to offer long-term stability to the participants. They may however be helpful for graduate or under-graduate placements, which tend to be short-term in any event. Don't assume that it is only the under-educated who struggle to find work.

Document Wording

Generally

It is beyond the scope of this guide to provide text templates. Contracts may have been successfully tendered and operated with wording which is not strictly compliant with the regulations but which has gone unchallenged. However the absence of a challenge to date is never a fail-safe guarantee of future supplier attitudes. **Procurers must seek their own legal advice in respect of any wording they propose to include in their contract documents.**

Some template wording is available on the CIH website <http://www.cih.org/i2i/publications> as part of the Can Do Toolkit. This was originally produced in 2008 and is currently being updated.

The original toolkit was aimed specifically at Welsh housing associations and focuses largely on the construction and maintenance industries but the principles are applicable across the board and the template wording can be adapted to suit.

Beware: all wording must be checked to ensure that it is in accordance with the European procurement principles of:

- Non-discrimination
- Equal Treatment
- Transparency
- Mutual recognition
- Proportionality

Anything which requires specific local knowledge or pre-tender local presence would clearly be discriminatory and must be avoided.

The case law on the inclusion of social and environmental considerations indicates that they can be included even where they address a policy objective without providing an economic benefit. However, they must be capable of verification and measurement.

Similarly they must be proportionate to the contract. They cannot be extrapolated to the general business conduct of the bidders. As always any scored criteria and their weightings must be disclosed at the outset and not adjusted at any point during the process.

Specific Examples

There is still a tendency to ask what the supplier can offer rather than writing specific requirements into contract documentation.

As with every other aspect of the specification, the approach should be to find out what's available, then specify what (from those options) you want. Or to decide you want something else entirely and challenge the market to deliver it.

Labour and Training

Local Labour: repairs contracts

Contract Term: The Service Provider shall:

- 1) procure that as a minimum the workforce employed upon the Contract in each Contract Area will include 1 'local resident' which expression shall mean a person having an address or willing to have an address within the Contract Areas or in the immediately adjoining 'Local Authority' Areas who is a resident of "the Association".
- 2) use their best endeavours to ensure that 'Local Residents' shall be employed on terms and conditions and at rates of pay no less favourable than the terms and conditions, including grievance and disciplinary procedures, applying to other persons carrying out duties similar to the relevant 'Local Residents' employed by the Service Provider whether on this Contract or elsewhere in its undertaking.

Food for thought:

- Why "best endeavours" in that second clause? Doesn't it provide a loophole for employing residents on poorer term and conditions?
- Does the use of the word 'workforce' imply site trades? Does that limit the potential opportunity by excluding office functions?

Apprenticeships: repairs contracts

Contract Term: The Service Provider shall:

- 1) make their best endeavours that as a minimum the workforce will include 4 Local Residents or one per £1,000,000 (million) of contract turnover, whichever number is the greater employed upon this Contract as a 'Trainee/apprentice'.
- 2) ensure that 'Trainees/apprentices' who are undertaking a programme of training to a national vocational qualification or any other programme of training approved by "the Association" shall be paid at not less than the current nationally agreed JIB wage for apprentices or trainees in a particular trade or failing which the national minimum wage applicable for the age of the 'Trainee/apprentice' if no such nationally agreed JIB wage exist for the 'Trainee/apprentice' trade.

Missed opportunities:

- This limits the training and apprenticeships to site trades – why not include office and/or professional roles?
- Most contractors have significant apprenticeship programmes anyway – does this clause ensure that these are 'additional' or merely narrow the recruitment pool?
- What happens at the end of the apprenticeship?

It is no surprise that the examples indicate a bias towards site-based trades. These are the areas where most focus has been to date.

Purchasers and their stakeholders should look to the areas they serve to determine whether that is the local need. Some areas may have high numbers of unemployed graduates for instance – can your contract support a management or professional trainee? What about school-leavers or those with disabilities – can your contract support trainee schedulers or purchasers or surveyors or finance staff? We should not make the assumption that the need is restricted to the unskilled and/or uneducated.

People may struggle to find work for all manner of reasons.

Rates of Pay

It is still not clear whether it is (legally) acceptable to insist that staff to be employed on your contract are paid the local “Living Wage”.

On open book contracts there is no reason however why it cannot require reporting on average rates

of pay and management information regarding percentage of those employed who are in receipt of less than the current “Living Wage” as a first step mechanism to getting clarity on the financial impact of ensuring that such percentages are reduced or agreeing voluntary targets in this area.

Supporting the Supply Chain

Whilst we are focussing on our direct contracts, we need also to remember the exponential impact that our contractors, suppliers and service providers have through their supply chains.

Those supply chains are likely to include SMEs who may have limited bargaining power. Consider simple support measures such as requiring fair payment policies for all subcontracts.

Think about the environmental impact of components or processes – consider whether you want to specify absolutes on environmental certification – or embed processes that enable a joint ‘working towards’ approach.

Any such policies or protocols clearly need to be supported by requirements for management reporting or rights of audit or supply chain survey in order to ensure that commitments are met.



Fair Payment Policy

Fair and transparent payment practices are an essential underpinning to achieving successful partnership working on all projects. In working with each other in good faith and in a spirit of mutual trust and respect, the parties agree that they will meet the 'Fair Payment' commitments set out below:

- Companies have the right to receive correct full payment as and when due. Deliberate late payment or unjustifiable withholding of payment is ethically not acceptable.
- 'Fair Payment' will apply equally between the Client and the Contractor and throughout the supply chain.
- The process will be transparent in order that members of the supply chain have certainty of how much and when they will be paid.
- The correct payment will represent the work properly carried out, or products supplied, in accordance with the contract and rates.
- Any client arrangements for retention will be replicated on the same contract terms throughout the supply chain. Any withholding of payment due to defects or non-delivery will be proportionate and demonstrably justified in line with arrangements made at the time of contract.
- To ensure effective and equitable cash flow for all those involved, all contracts will provide for regular payments and have payment periods not exceeding 30 days.
- In order to avoid payment delays, the client and all supply chain members will agree payment procedures at the outset of their contracts. Payment will be through electronic BACS transfer and will apply throughout the supply chain.

Specification and Contract KEY POINTS

- **Be explicit:** include the social value delivery as a key objective of the contract and signal it in the contract title
- **Sense-check the match:** is it the right contract to deliver the ends in mind – consider scope, length of contract, point of delivery
- **Specify** your Social Value output requirements in detail – be sure they are deliverable and can be measured
- **Remember** local labour doesn't necessarily mean manual labour
- **Influence** the supply chain impacts
- **Measure outputs** - Ensure you are getting what you are paying for.

Designing the Tender Process: Encouraging Smaller Bidders

Acknowledge the Restraints

As we said at the outset, compliance with the EU regulatory regime is a “given”. There are a number of restraints on what you can and cannot do.

The restrictions are not considered in detail here as the guide has been written after the issue of the 2014 Directive on Procurement but prior to final clarity on the UK Regulations which are still under consultation.

In simple terms though, there are, and will remain a limited number of available processes, and those processes are strictly governed by minimum timescales.

Despite the availability of other options for dynamic purchasing systems, competitive dialogue, negotiation etc the fact remains that the vast majority of public sector procurement will be carried out via the “open” and “restricted” procedure routes, so it makes sense to understand how we can work effectively with these processes to help deliver our social value aspirations.

“...with these processes” We deliberately say “with” not “within” because this isn’t about what you can do “whilst trying to stay compliant” it is about how you use the process itself to help.

The focus of this section is specifically about encouraging smaller firms to bid, rather than any of the other Social Value agenda items. The reasons for this are:

- SMEs tend to be local – thus supporting the local employment agenda.
- A thriving local business environment may help regenerate run-down areas through simple needs for office, manufacturing or other space and the knock-on effect in terms of local spend by staff and the business itself.
- Environmental impacts: smaller firms often have lower carbon footprints, not least because the travel distances involved in their operations are often less.
- Social Enterprises may have more supportive employment terms which help those who might otherwise struggle to find jobs.

These are obviously generalisations but should not be ignored.

The other reason for focussing this section on the SME issue, is that the tender process itself should not have any impact on what you want, need and are

capable of achieving through a properly designed and controlled specification and contract.

In other words, the SME / Social Enterprise agenda is the single area in which the very structure of the tender and tender process can have a significant impact.

It’s generally held that the impact is entirely negative, but it doesn’t have to be that way.

A Word of Warning

For all their benefits, we have to be honest that there is nothing intrinsically perfect about an SME.

No organisation should choose to appoint an SME or a Social Enterprise purely and simply because it is one.

The contract still has to deliver its primary objectives. Thus the SME or Social Enterprise must be capable of performing at the required standard.

So let's look at some ways we can start to turn it around.

- Creative use of Lots
- Appropriate PQQs
- Appropriate ITTs

Use of Lots

Whilst not explicit in the current Regulations (2006 as amended) it is clear from the formatting of the OJEU Contract Notice that buyers can restrict how many Lots individual firms may bid for. By extension it should be possible to restrict how many they can actually win.

The 2014 Directive makes it clear that Lots are to be used much more extensively, specifically

to facilitate bidding by smaller companies, who may not be capable of supplying the entire requirement.

Division of a requirement into Lots will not simply of its own accord ensure that the small firm has a chance of winning a contract.

In a true most economically advantageous tender (MEAT) scenario it may simply result in the same, large supplier winning all of the Lots.

More thought has to be given to the Lot structure to determine whether it is capable of delivering what you are looking for.

Two possible options are to either restrict the number of Lots that can be bid for, or to restrict the number which can be won. Bear in mind that if the aim of the exercise is to encourage small firms to bid, then some of the Lots must be more attractive to small firms than they are to large ones.

Restricting the bids

Care must be taken to ensure that this is not done in any way that is discriminatory. The simplest method is to leave a full and free choice to suppliers as to which Lots they opt to bid for, but prohibit some combinations.



Example:
Housing Association Refurbishment Contract

The HA wanted to encourage small local suppliers. To simply not award to large firms would be discriminatory and non-compliant. The Lots were

designed therefore to permit some of the work to be more suitable for larger firms and some more attractive to smaller firms.

There were 9 Lots, broken down by area and by value.

Lot Number	Volume	Estimated No. of Properties		Geographical Area
		Min	Max	
1	High	2060	3020	All
2	Medium	240	400	A
3	Medium	240	400	A
4	Medium	240	400	B
5	Medium	240	400	C
6	Low	120	200	A
7	Low	120	200	A
8	Low	120	200	B
9	Low	120	200	C

Information given to bidders was:

The Lots have been designed to appeal to a range of contractors. Contractors may only bid for specific Lots or combinations of Lots as follows:

- Lot 1 only; OR
- Any one or a maximum of 2 from Lots 2 to 5; OR
- Lot 6 only; OR
- Lot 7 only; OR
- Lot 8 only; OR
- Lot 9 only

To clarify Contractors bidding for LOT 1 cannot bid for any other LOTS; Contractors bidding for LOTS 2 to 5 can bid for any one of them; or any two, but cannot bid for any other LOTS. Contractors bidding for LOT 6 cannot bid for any other LOTS... and so on.

The rationale was that larger firms would want the higher value Lot (Lot 1) thus leaving the lower value options available for smaller firms. This is not considered discriminatory, since the large companies are equally free to bid for one of the lower value combinations instead.

Restricting the Award

If the alternative approach is taken, allowing all suppliers to bid for all Lots, but restricting how many can be won, care must be taken to ensure that a fair and transparent process is designed and communicated to suppliers **at the outset** as to what will happen in the event of a single bidder being the top scorer in more than the permissible number of Lots. Options would be:

- The bidder could be allowed a free choice of preferred Lot (or Lots up to the maximum allowed) – this might have the advantage of encouraging best offers in all Lots, without the bidder playing a risk-assessment game and loading one Lot to off-set another.

Once the Awards to the top scorer have been awarded, they are treated as having withdrawn from the remaining Lots and the next-highest scorer is awarded. With a large number of Lots this process may need to be repeated.

- The purchaser to determine on MEAT basis which of the Lots will be awarded. For this to be non-discriminatory and transparent, the best way to do this would be by a similar process to that outlined in 3.1 above : Best Overall Value – determined by comparison of not all permutations but only those that assume the top scorer is involved in the maximum number of Lots

EXAMPLE: Suppose there are two Lots, but a restriction on being awarded only one of them.

Supplier A comes top in both.
Supplier B comes second in Lot 1
Supplier C comes second in Lot 2

The process would be to compare the overall quality/cost score of
Supplier A Lot 1, Supplier C Lot 2
with
Supplier B Lot 1, Supplier A Lot 2

Whichever method is to be used must be very clear in the Tender Documentation – and referred to in the Contract Notice.

“Small Lots” Exemption

All of the above discussion on Lots relates to main process decisions.

Consideration also needs to be given to the “Small Lots” facility, which enables a very small amount of the overall requirement to be taken out of process altogether.

Subject to the “Small Lots” thresholds of

- £66,672 for goods and services, and
- £833,400 for works

OR (in each case) 20% of the total value of the contract requirement, whichever is the lesser; a portion of the requirement can be disaggregated and treated entirely separately.

The very low values involved in small lots make them ideally suited for encouraging start-up businesses, or for programmes which may be aimed at supporting very small firms ready to take the next step, but needing to be able to demonstrate commercial capability.

They are also potentially suitable for companies or social enterprises with ‘supported employment’ objectives aimed at those with disabilities or other needs who do not require a ‘protected workshop’ environment but do (possibly on a temporary basis) need higher-than-average levels of support.

Getting the Word Out

If your aim is to encourage small and/or local firms, think about your advertising strategy.

Maybe your target audience has never even heard of OJEU, much less know why it’s important to them and how to filter the thousands of adverts a day.

As soon as your Contract Notice has been published, make sure you hit the local avenues as well: your own websites and publications, local papers, tender portals, word-of-mouth and direct mails all have a part to play.

TED (Tenders Electronic Daily) is available to every supplier in Europe, but relatively few of them will have it on their daily to-do list.

Prequalification Questionnaires (PQQs)

Standard PQQs

The received wisdom is that by standardising the PQQ across the public sector we can reduce the time and effort required by all firms to complete applications.

The authors are yet to be convinced by this approach on a number of grounds.

- It is difficult to get the balance right when agreeing the standard.

– we have seen examples that run to over 50 pages (which admittedly might reduce to, say, 35, once the options were applied) – we feel this is excessive;

- likewise we have seen 2-3 page versions which are mere tick-box exercises and do not give sufficient information upon which to differentiate suppliers.

- Once a 'standard form' is agreed, there is the risk that purchasing officers will be driven by the form and reduce the thought going in to designing a project-appropriate question-set, with the potential for increasingly asking irrelevant questions.

- There is a risk that suppliers will copy and paste responses (even more than they do already!) so that even if the questionnaire is specific the responses are not.

- Is 'reducing the effort' necessarily a good thing? Clearly we do not want to make life difficult for suppliers, but if PQQs become over-simplistic it can be tempting for potential bidders – and we would argue particularly the

smaller and inexperienced ones – to submit for contracts without giving sufficient thought as to whether they are the right ones to be trying to win. The unintended consequence of making bidding 'too easy' might actually be to increase the wasted effort on the part of both suppliers and those having to evaluate responses.

Bespoke PQQs

Designing the PQQ around the requirement may be a better approach.

Of course, some questions will be common across many requirements - these will be reused (and therefore questionnaires will have a natural level of standardisation anyway). Beyond that however, clear thought should be given to:

- How many questions do you really need to ask to get the information you are seeking?
- Are you really going to read their Policy and Procedure manual? Or are you more interested in how they ensure it's implemented?
- Financial standing – obviously a firm collapsing during a contract is never a good thing – but not all insolvencies carry the same impact risk. Can you reduce the financial standing investigations in some Lots – or even eliminate it altogether if the Lot has been designed specifically for small firms? Think about what the practical impact would be in the worst case scenario.
- What's in a Certificate? Think about any accreditations or certifications you request and how much value they have? And what if they don't have them? Only legally-required certificates such as Gas or Asbestos, should be mandatory – allow suppliers to demonstrate good systems even if they don't wish to incur the costs of certification.
- How clear is the question? Use 'supplier help' boxes to ensure bidders know why you're asking, what risks or abilities you are looking at.
- Likewise – be sure **you** know why you're asking. If you can't obviously relate it to the contract at hand, maybe you don't need it?
- The more questions you ask, the less impact the response to any one of them can possibly have.

Reducing the PQQ burden

Equality and Diversity: number of questions reduced from 37 to 2.

Full copies of accounts only required for clarification where summary information indicates potential risk.

Mandatory exclusions – a series of individual tick boxes reduced to one single certification.

Certificates which require audit and inspection to maintain, accepted as 'automatic' passes on the relevant section – but allowing for alternative approaches to making the grade.

'Supplier Help' boxes to explain the purpose of the question and areas expected to be covered.

Reference Sites and Customer References

If seeking references or proposing reference site visits:

- be aware that smaller firms will have fewer examples to give;
- if they are an incumbent supplier, allow references from contract managers within your own firm – you might be their biggest client;
- developing SMEs may be looking to take on a bigger contract than they've handled before, consider questions around whether there is any evidence via current performance that they are or are not capable of stepping up.

Response Formats

The move to e-tendering is likely to drive more consistent response formats. Even where this is not yet fully implemented, consider how many separate documents you really need. Apart from this making life easier for your evaluators, reducing the number of attachments required can significantly reduce the costs of bidding.

Be clear that 'fancy marketing material' is not required. Concise but detailed responses should be the order of the day.

Restrict diagrams and pictures to those areas where they really help the explanation. Flow charts are helpful; generic pictures of happy-smiley people generally don't add anything.

Invitation to Tender (ITT)

The issues identified under PQQs apply equally at tender stage.

The main message is Keep It Simple.

Don't ask for any information unless it clearly helps you to differentiate one offer from another.

Give specific thought to pricing mechanisms. A complex pricing structure may deter smaller firms from bidding as they struggle to see how it works in practice.

Also, such mechanisms may require particular resources to manage in practice which are less likely to be present in small companies.

Before using any complicated or innovative price matrix, be sure to think through the potential implications from both sides of the equation.

Where Lots are being used on a restricted basis (i.e. not assessing the overall MEAT impact, but doing so at Lot level) then consider whether it is appropriate to price the smaller Lots on a different basis e.g. using a per-property mechanism for high volume, high value Lots, but a schedule of rates for low volume, low value ones.

Open Tenders

The whole two-stage process of the Restricted Procedure can be off-putting for small firms. The length of time it takes is particularly impacting on smaller volume order books which have a greater need for certainty around future work (less scope for 'swings and roundabouts' flexibility).

Depending on the nature of the project and the local market, it might be worth considering an Open Procedure (which could have benefits for the buying organisation as well as the suppliers).

Perceived benefits from the small supplier perspective:

- they will know the outcome more quickly;
- “at least we get a chance to price” – one disincentive of the two-stage process is that the whole PQQ aspect means that a certain amount of effort is required before even being allowed to price;
- The open process removes any duplication which might be embedded in a two stage process which can have a tendency to look at ‘how do you do XYZ generally’ at PQQ stage and then follow it up with ‘so how are you going to do XYZ on this contract’. It’s poor practice but it does happen.

Potential Disincentive:

- As the Open Tender has to cover off the PQQ - type risk elements as well as provide a firm offer, it will take longer and more effort than a PQQ whilst possibly still being one of a very large pool.

Process Design KEY POINTS

- **Use Lots** constructively – simply creating them isn’t sufficient
- **Tailor your PQQ** – consider variants within it if some Lots are designed for smaller bidders
- **Reduce the number of questions** – only ask for what you really need
- **Price complexity** – is it necessary, is it helpful?
- **Consider ‘open procedure’**



Evaluation Criteria: Asking The Right Questions

...AND KNOWING THE RIGHT ANSWERS

The skill in both setting PQQ / ITT questions and evaluating responses is in knowing what 'good' looks like, and being able to ask a question that will produce an answer demonstrating 'how good' an individual supplier / supplier's offer is.

This comes back to knowing what you ultimately want to achieve.

The agreed specification has to be the starting point for any question-setting and this is equally true of your Social Value questions.

Having established your aims:

- your PQQ questions need to establish whether prospective bidders can provide evidence of understanding those aims and of being able to meet them;
- your ITT questions need to elicit a detailed proposal for doing so.

Use of Model Answers

Model answers can be helpful but they should be used with care. They can be more helpful in focussing the framing of the question than they are as a template for scoring the response.

The problem with using model answers for evaluation purposes is that they do not credit innovation.

Having said that, we need to know the 'right' answer – often we might not. A prospective bidder may have a truly innovative method for achieving our ends, which if we're using a model, will not be allowed for. Worse: their innovation may eliminate the requirement for some of the elements in our tick-sheet, and so reduce their score rather than enhancing it.

PREQUALIFICATION QUESTIONS

Some areas of Social Value will be much easier to frame PQQ questions for than others. The familiarity with apprenticeships and training schemes means that good open questions are easy to derive. Areas where you have less experience may be trickier.

Remember the objective of the question: you want the supplier to demonstrate that they understand your specification and have the capability to deliver it.

In simple terms then the question format for training schemes could be replicated for any particular outcome being sought. The danger is that prospective bidders may not have direct experience of delivering your precise requirement but have in place systems which will quickly facilitate it.

Care is needed therefore not to limit the field unnecessarily. Keep questions as open as possible.

Employment and Training

Question: Please give examples of your involvement in: generating employment and training for the following targeted groups: long-term unemployed, young people (including school-leavers, young unemployed and/or student graduates), people with disabilities, and other groups as identified on previous projects.

Supplier Help: Your response should include the nature of the programme, funding, methods employed (including any involvement by clients and/or third parties), numbers involved and specific outcomes including qualifications, retention rates, follow-up work to measure improved employability etc. Any lessons learned would also strengthen responses.

Might translate in a different arena to:

Digital Inclusion

Question: Please give examples of your involvement in promoting or supporting digital inclusion in areas where you work. If you have not been involved in community projects of this type, please provide evidence of similar projects with transferable skills or methods.

Supplier Help: Your response should include the nature of the programme, funding, methods employed (including any involvement by clients and/or third parties), numbers involved and specific outcomes. Any lessons learned would also strengthen responses.



TENDER QUESTIONS

The same basic principles apply: focus on your specification, keep the questions open, allow for innovation.

However, as with all other areas of the bid, the Social Value question needs to generate very specific proposals to deliver the Value required.

Either through the wording of the question or through ‘supplier help’ bidders should be prompted to provide:

- a method statement for delivery (including a project plan if timing is important);
- a statement of funding which should link to any grants being accessed, any match-funding which you are proposing to supply, any percentage of profit being allocated, general overheads;
- any dependencies such as the involvement of third parties, changing needs over the life of the contract;
- the projected outcomes, including any potential for projects to become self-sustaining;
- evidence that these outcomes are specifically generated by this contract and not part of pre-existing programmes OR where there are links to pre-existing programmes, evidence of the extra value being generated through this project;

- potential for links with pre-existing projects potentially for neighbouring organisations which may enhance outcomes;
- proposals for target setting, measuring and reporting outcomes.

A QUESTION OF WEIGHT

You will recall that under Specification we discussed the need to raise the profile of Social Value by making a fundamental contract objective.

This needs to be reflected in the criteria weighting.

If the Social Value objectives are genuinely a core element of delivering the weight attached to the criterion in both the Prequalification and Tender questionnaires needs to be significant.

If the questions only account for 25% of the marks in a section which itself only attracts 10% of the overall score – then three things are clear:

- it isn't a high priority for the buying organisation
- suppliers will not spend too much time working up proposals
- the proposals themselves will have no real impact on the supplier selection.

REMEMBER THE RULES

It may be worth a quick reminder when setting your questions: you do still have to work within the rules. Questions must comply with the principles of:

- Non-discrimination
- Equal Treatment
- Transparency
- Mutual recognition
- Proportionality

Supply Chain:

Tender Question: The Client is committed to the use of local suppliers for its materials and the use of a minimum amount of sub-contracting in order to improve delivery of the service. To minimise travel for materials the Service Provider should demonstrate the relationships they have with suppliers within the principal areas of the contract.

Risk: this is clearly discriminatory and breaches the EU principles.

Mitigation: Allow for additional wording: where such relationships do not already exist the Service Provider should detail how they will be established.

Evaluation Criteria KEY POINTS

- Focus – ensure the criteria relate directly to the specification
- Allow for innovation – don't narrow the options by rigid scoring
- Give due weight to the Social Value element of the bid
- Help the bidder – use open questions and give guidance on what you're looking for
- Think contract – design tender questions to produce responses that are easily contractualised
- Remember the rules – don't discriminate



Mobilisation

FROM PROCUREMENT TO MANAGEMENT

One of the high-risk points for many contracts is the hand-over from the procurement team to the contract management team.

Those ‘teams’ are deliberately written in lower-case, because whilst in large organisations they will be fully separated departments, in many smaller ones they will be subsets of the same team. It is usually the case though that the people running the contracts on a day-to-day basis are not the same as those who were responsible for setting it up in the first place.

The mobilisation phase is crucial to all aspects of a successful contract. This is no less true for the Social Value elements of it.

The pre-contract meeting and mobilisation phases must be used to good effect to ensure that the Social Value requirements remain high on the agenda.

WHO TO INVOLVE

Particularly in cases where an on-going requirement is transferring from one supplier to another, there will be a high number of practicalities absorbing the main focus of the contract managers.

Consider setting up a sub-group to look purely at the Social Value commitments. Reporting in to the main mobilisation team this ‘group’ should:

- Comprise any ‘experts’ from both sides whose specialisms reflect the nature of Social Value involved – don’t limit the group to the ‘contract management’ department – those with closer links to your communities will be vital;
- Confirm the contractual commitments – ensure everyone understands what has been promised and how it will be delivered;
- Project plan / project manage the implementation of the method statement;
- Confirm / agree the reporting structures and timetables;
- Deal with any administration related to accessing grants or setting up links with third parties;
- Explore potential for links with your other suppliers and their other clients.
- Consider the outgoing supplier– are there any projects in train which need to be transferred, any lessons to be shared?

There is nothing unusual about good mobilisation as it relates to Social Value (as compared to other aspects of the contract). It is a simple matter of good project management. The danger from the Social Value agenda is that it risks being de-prioritised.

It will not just happen – someone has to make it happen. It helps if that someone isn’t distracted by setting up the financial accounting structures, managing the TUPE transfers and ensuring all other relevant stakeholders are involved.

Even if a sub-group is not possible – ensure that named individuals have responsibility for the Social Value implementation.

Mobilisation KEY POINT

- Focus – ensure the right people have time to ensure the Social Value gets embedded right from the outset

Contract Management

WHAT DO WE MEAN BY CONTRACT MANAGEMENT?

...And where does 'Social Value' come into it?

If you've been following the story so far, you'll realise that extracting Social Value through procurement activity only works if you embed it into the contract, from conception onwards.

For this section we are going to assume that you have worked with all of the previously suggested ideas and produced, tendered and entered into a contract with your Social Value objectives embedded within it as a fundamental requirement of contract delivery.

So as the Procurers are leaving the building... what happens next...?

The contract managers take over. 'Contract Management' covers all of the systems, processes, activity and actions that go into making a contract work.

A 'contract' is not the bundle of documents that sits in the vault and is brought out when it all goes wrong.

A real, effective contract is a bundle of inter-linked processes and conversations between the Customer (us) and the carefully selected Supplier that ensure it all goes right.

It is a relationship.

Included in that relationship bundle are:

- **Roles and responsibilities** – knowing who does what.
- **Understanding the specification** – knowing what you're buying and they've agreed to provide.
- **Understanding the contract** – knowing what you need to do and what they've agreed to do - understanding what the next steps are when that doesn't happen.
- **Supplier Relationship Management** – getting the tone right, maintaining professionalism, capturing win-wins.
- **Supplier Performance Management** – measuring outputs, managing risks, capturing and rewarding gains.
- **Contract Administration** – the day to day running of the contract.
- **Strategic Change Management** – dealing with major impacts on the contract.
- **Managing the exit from the contract** – expiry, break and termination – moving from one contract to another without having a lapse in service.

Space prohibits detailed advice on the general requirements of good contract management – it is also assumed that

organisations already have a decent grasp of these – in principle, even there are still gaps in practice.

The question then is: how does managing the Social Value aspects of the contract differ from managing the technical specification compliance, or the valuation framework?

The short and unsurprising answer is: it doesn't.

The problem – if there is one – arises because the Social Value delivery is in some ways semi-detached from the technical delivery.

It is not quite a 'background' or 'supporting' activity such as Health and Safety management or Cost Control, which while fundamental to the contract can often be managed on a good contract by simple monitoring and intervention at risk-events. At the same time, it is often beyond the day-job circle of interest of the primary contract manager. The arguments for ensuring this isn't the case are obvious. But let's be realistic. Much as we support the idea that Social Value should be part of the day-job, it isn't yet – so additional or specialist support is almost certainly going to be necessary to keep it in the sight-line.

As we know, even the best suppliers won't see the need to input resource into any aspect of a contract that doesn't seem to be a big issue for the buyer. Anything that is not actively managed will get overlooked.

So make it a big issue. Focus their (and your) minds on it. Remember that sub-group we recommended at Mobilisation? Keep some of them (at least) involved for the duration. At the very least ensure that each contract has a 'Social Value Champion'. This may be some-one involved in the day-to-day contract management or contract administration, or (if your organisation is large enough to support such people) a specialist in the particular area of Social Value delivery. Or maybe just some-one from a relevant department:

- You might not have an Employability Advisor on staff, but could someone from your HR team take an interest?
- Can't afford a Digital Inclusion Manager? Can one of your ICT tech support team spare some time?
- No-one taking the lead on Financial Inclusion? Is there anyone in your finance team or housing management teams part way through qualification for whom involvement might support their studies and give them real insight material for exam questions?
- Could it be a work-place project for a student or graduate?

If this approach is taken, then one immediate red flag is: yes, but these people don't know anything about contract management!

That may be a gross and misguided assumption, but let's assume it to be the case and set out some guidelines in each of the key areas highlighted above (as they specifically apply to your Social Value clauses):

- Roles and Responsibilities
- Understanding the specification
- Understanding the contract
- Supplier Relationship Management
- Supplier Performance Management
- Contract Administration
- Strategic Change Management
- Managing the exit from the contract

As we've said before the advice is deliberately generic. A guide of this type cannot cover all eventualities.

Instead we will focus on principles.

ROLES and RESPONSIBILITIES

We need to be clear that the 'Social Value Champion' for the contract is a co-ordinating role.

Unless you have chosen to give them specific authority under the contract, which we would not advise, their role should be to work with the supplier, stakeholders and third parties to co-ordinate the agreed programme, monitor progress and report successes, failures, challenges, blocks and opportunities to the Contract Manager / Contract Administrator.

It must be very clear that this person or group does not have the authority to issue Contract Variations.

Granting authority to issue variation or change orders could lead to conflicts of instruction and / or cost escalation. This would be very damaging to the overall relationship.

The Role and Responsibilities of the Social Value Champion are easy to define – but don't forget that alongside that, the other people involved in the contract management, especially the CM / CA have a duty to keep this person or group in the loop in terms of the progress on the contract generally.

They really mustn't be left to operate in isolation. Particularly in cases where Social Value is being delivered under an 'added value' heading rather than as a core component, it will not be helpful for an enthusiastic Social Value Champion to be pushing hard against a supplier who has an unexpected cash flow problem – particularly if your organisation has (inadvertently) contributed to it.

UNDERSTANDING THE SPECIFICATION

In the best of worlds your Social Value Champions or Implementers will have been involved from the outset and will know exactly what has been specified because they had a hand in writing it.

Sadly, we do not live in the best of worlds and the likelihood is that at some point they may inherit a specification.

In these circumstances it is vital that the procurement team or the contract administrator / contract manager assist them in becoming familiar with the document as soon as they become involved in managing the Social Value delivery elements of the contract.

They need to fully understand what is in the contract and what is not, before engaging in any dialogue with the supplier as to whether or not they are complying.

Ensure that they have a working copy of the full contract – not just the relevant clauses. They may need to know what the options are in the event of failure to deliver, either to use as leverage, or simply in order to make sensible recommendations back to the CA / CM.

UNDERSTANDING THE CONTRACT

Irrespective of whether responsibility for the Social Value aspects have been assigned to nominated 'experts' or remain with the general CM / CA, everyone involved must:

- Understand that general nature of the contract
- Understand key terms including expiry date, potential for extensions and the

circumstances in which they may come into play (or equally, may be denied) - this can impact on the timetable for the social value programme.

For example, do you want apprenticeships starting in the final few months of a contract? What will happen to apprentices or resident employees after the expiry of the contract? What happens if an environmental improvement project has been delayed and won't be completed by the expiry of the contract? If there is any grant-funding involved, is it transferable?

- Understand the prominence of the Social Value within the contract - is it a core component or is it an 'added value' aspect? This will determine the amount of leverage that can be brought to ensure compliance or the remedies available in the event of non-delivery.
- If there are service credits in the contract, do they apply equally to non-delivery Social Value requirements?
- If the commitment is in cash - do you have the right to deduct it from payments due or does it need to be invoiced?
- Understand the precise terms of delivery of the Social Value - in particular what was promised in the tender submission? Has that been properly incorporated into the formal contract? What are the dependencies, what are the reciprocal duties of the Client?

Understanding contract terms is not always easy - so those involved in drafting the contract must be available to help train those operating it.

Supplier Relationship Management

A core aspect of managing contracts involves managing the relationships with the people involved.

The people involved in the Social Value aspects may be expected to be easier to deal with than those who, for instance, have their eye on the more commercial aspects of the relationship. They have (one hopes) been selected for their interest in forwarding the joint aims of improving your communities and the opportunities for the people who live there.

None-the-less they will have their own internal stakeholders, who will have control of budgets etc. The people running the programmes may not have total autonomy, any more than those in your own organisation. It is worth investing time in understanding the constraints under which the programme / project and the people running it are operating.

Getting to know people not only helps to stop problems becoming crises, it also generates a willingness to share information, drive innovation etc.

If you have invested in Social Value Champions

(either specialists or ad hoc secondments) ensure that they speak to each other so that conversations happen between suppliers as well as between suppliers and yourself. Could training programmes be run jointly? Is there scope for those coming out of one supplier's training to be directed to another supplier's recruitment needs.

Remember also that the relationship on the Social Value front may be very different from the one operating on the technical delivery side of things.

Good internal communication is essential to ensure that consistent approaches are taken.

Again it is important to remember whether the Social Value delivery is core to the contract or an 'added value' commitment – or indeed an entirely voluntary partnership arrangement.

As with all relationships a balance has to be struck between working constructively together and remembering that this is a commercial operation with all that implies.

Supplier Performance Management

The usual rules regarding performance management should apply to the Social Value delivery:

- Only 'measure to manage' and only 'manage what matters ~ don't collect data purely for the sake of it;

- Ensure that performance measures are clear to understand and easy to administer;
- Limit the number of measures that you use;
- Ensure that they focus on outputs not inputs:
 - appointing a large number of apprentices is only marginally helpful if few of them qualify or few obtain employment upon completion of the apprenticeship;
 - a major environmental improvement scheme is of limited impact if it doesn't have a self-sustainable future management plan;
- For long-term contracts ensure that there is flexibility to change the measures (not just the targets) over the life of the contract;
- Ensure targets are realistic;
- Be commercial, but not punitive, in your approach to measurement – remember that these are contractual commitments;

Where the aim of the exercise is to fully embed the Social Value delivery into the contract, the performance measures should be an integral part of the performance management framework.

Contract Administration

Contract Administration is about getting the basics right. This should go without saying, but it is surprising how many contractual relationships are put at risk because of poor administration.

- Keep good records, especially of decisions made at meetings – these are not only crucial in the event of disputes, they are helpful when there are changes of personnel.
- Any properly drafted contract will have a change control procedure – this should apply to the social value delivery in exactly the same way that it does to other aspects of the contract.
- Ensure reporting is timely – a tendency to report late often implies that all is not well with the matter being reported on. People are always happy to share good news.

Strategic Change Management

The other extreme from the day-to-day running of the contract is when there needs to be a seismic shift.

It can be the result of conscious decision-making by the Board (either ours or the Supplier's) or it can come about as the result of developments in the external environment.

Drivers for change include:

- Organisational restructures, mergers, demergers – either in your or in the supplier's organisation
- Developments in technology
- Changes in legislation, new regulations
- Major changes in the economic environment which might affect the financial viability of the contract or service provision

The key thing that makes it a strategic change is the scale of the impact. Minor changes can usually be managed within the contract terms. Major changes generally cannot.

It is unlikely that the driver for the change will come directly from the Social Value element – unless there is a sudden change in 'need' in the area concerned – but the impact on the Social Value programme will need to be carefully considered along with all other contract provisions.

The main types of strategic change in contracts are:

- Increase / Decrease in scope – the size, scale and value of the contract becomes much bigger or much smaller. Whilst this might seem like an easy one to cope with in that it would be within your control at least so far as timing is concerned, it can potentially (through the requirements of the EU regulations) require you to

re-tender a procurement much earlier than envisaged under the contract and with limited lead-in time. It also creates the risk that either you do not fully capture the potential value under a larger contract, or that, under a smaller one, the agreed value delivery becomes unviable.

- **The contracting party becomes unclear** – changes in ownership or restructures might mean that the party to the contract no longer exists as a legal entity.
- **The rationale for the contract disappears** – from your perspective this could happen if for instance new business practices meant that a particular piece of software and support for it were no longer needed. From the supplier's point of view it could be because (for economic or other reasons) they decide to pull out of a particular service provision.

Any of these scenarios could result in a contract terminating early and with very little notice.

The Contract risk map should cover 'early termination' risks – be sure that these cover the Social Value programme risks as well. Examples would include:

- Personnel involved in training, employment or other support programmes
- Grant implications: inability to claim for resources already expended, requirement to refund grant claimed where programmes cannot complete.

- Partially completed 'physical' projects (works or environmental improvements)

Managing the exit from the contract

Contracts end in one of three ways: completion, expiry or termination. The key difference in our current context is the likely length of prior notice and the potential for relationship difficulties towards the end in the case of termination.

Other than any emergency measures needed in the event of unexpected termination, the processes from the Social Value programme perspective will not really be impacted by the reason for the contract closure.

As we'd expect, the key is good planning and good communication to ensure that the Social Value delivery is:

- Completed, or arrangements are made for its transfer (either in house, or to a replacement provider, or a third party) where it is a definitive project; or
- Wound down, for on-going programmes – taking into account the potential risks identified in the previous paragraph.

Business as usual?

Little, if anything, in this section will strike most readers as ‘anything new’. It is all normal contract management good practice. We include it, however, being conscious that many aspects of Social Value programmes will sit at least partially outside of the day-to-day running of the contract and possibly within the remit of personnel who are not familiar with contract management.

It is important that they are brought fully into the operational team for the contract. Not only will that ensure good social outcomes on the current commitment, it will enhance their understanding and skill-set which ought to make for improved input into the next procurement exercise.

Contract Management KEY POINTS

- **Focus** – have an officer or team with specific responsibility for co-ordinating the management of the Social Value programme
- **Train staff** new to contract management to understand the contract
- **Be aware** that relationships on the Social Value side may differ from those on the technical delivery side
- **Measure and manage** both relationships and performance
- **Plan** for the contract end date



The Role Of Third Parties

You are not alone

There is a danger in organisations getting so over-excited about our capacity to deliver Social Value through our purchasing activity that we might forget that we're not alone in this.

We need to remember that the wheel works and we don't need to reinvent it.

Our activity has to be as much one of bringing the right people together as it is about directing investment.

This guide is, by definition, about working with our suppliers – but we need to remember that there are many other parties out there who can be brought into the mix.

Our procurement operations should be as much about enabling as about directly achieving.

Sticking to the remit of not duplicating anything already around, we are simply using this section to signpost some of the organisations and publications which may help in delivering your objectives.

Useful Links:

Cabinet Office:

www.gov.uk/government/publications/social-value-act-information-and-resources

Chartered Institute of Housing

www.cih.org/

Chartered Institute of Procurement & Supply:

www.cips.org/

Collaborate:

www.collaboratei.com/

“Communities Count” – the Four Steps to Unlocking Social Value procued by SEUK, CIH, Orbit Group, PWC and Wates

www.servicematters.uk.com/our-resources/communities-count-4-steps-to-unlocking-social-value-download-the-report/

“Public Services (Social Value) Act 2012 – A Brief Guide to the Social Value Act” produced by SEUK and the CIH

www.socialenterprise.org.uk/news/new-guide-the-public-services-social-value-act

PwC:

pwc.blogs.com/publicsectormatters

Social Enterprise UK :

www.socialenterprise.org.uk/

or search for your local Social Enterprise organisation

Social Value Hub:

socialvaluehub.org.uk/

The “Can Do” toolkit:

www.cih.org/i2i/candotoolkit

The Social Value Act:

www.legislation.gov.uk/ukpga/2012/3/enacted

Wates:

www.wates.co.uk/thought-leadership

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