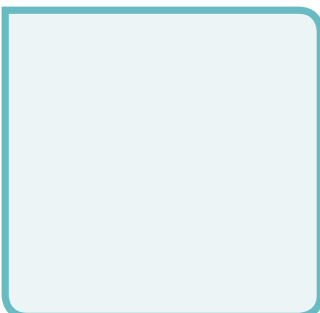
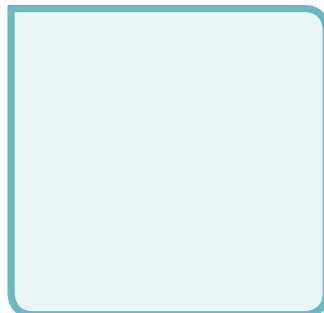
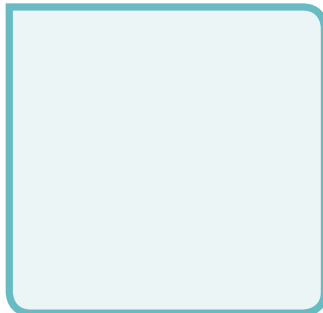


Tackling worklessness

Targeting Jobs and Training through the Procurement Process



Why Use Procurement?

“With an annual expenditure of over £150 billion, public procurement has an important role to play in . . . tackling social issues” (Buy and Make a Difference. Office of Government Commerce. 2008)

Local authorities should aim to maximise the extent to which their procurement generate jobs and training opportunities.

However, this tends to compete with potentially conflicting objectives like cost reductions, quality and timely delivery.

These have traditionally taken precedence, partly because of an unduly conservative interpretation of European procurement rules and case law. But it also reflects a local authority culture derived from a more restrictive era, as defined by the Local Government Act 1988.

Overcoming resistance to linking local employment and training benefits with procurement is the main barrier. This ‘How to Guide’ provides economic development and employability practitioners with information to enable them to champion this activity.

The UK government and the European Commission are encouraging public agencies to use procurement to achieve social policy goals. This is reflected in the publication of UK Guidance.

Social Issues in Purchasing http://www.ogc.gov.uk/delivering_policy_aims_through_public_procurement_social_issues.asp

Promoting Skills Through Public Procurement, 2009, OGC and Department for Innovation, Universities and Skills http://www.ogc.gov.uk/key_policy_principles_and_supporting_guidance_promoting_skills_through_public_procurement_.asp

Collaborative Procurement http://www.ogc.gov.uk/delivering_value_for_money.asp

Nevertheless, there is a need to proceed with care to accommodate the EU and UK legal and policy frameworks. The aim is to get the best fit with the purchaser’s other objectives, and to introduce the requirements into different forms of contract.

Training and employment outcomes have most frequently been included in construction-related contracts. This is because it can represent significant investment in areas with high levels of social exclusion. Without intervention, the structure of the industry can work against local employment.

The same method would also be valid for other locally-delivered services.

In construction a range of procurement strategies may result in different forms of contracts. This may include:

- one-off contracts

- framework contracts –where a panel of companies is selected and each may get some work
- Private Finance Initiative (PFI) contracts that may last for 25 years
- development agreements linked to land sales.

Employment and training requirements have been used in all types of contract – but each may call for a different approach and raise specific issues.

Case Study – Glasgow Housing Association

Glasgow Housing Association (GHA) was formed from the largest housing stock transfer in Britain.

It is spending about £200 million a year on achieving the ‘decent homes standard’ through framework contracts.

From its inception, GHA has had a strong Neighborhood Renewal strategy. This has provided the policy basis for including targeted recruitment and training as a core requirement of contractors:

- Reference to the requirements was included in the contract notice.
- Questions on relevant experience were included in the pre-qualification questionnaires (PQs).
- Requirements were included in the invitation to tender.
- A training method statement was scored as part of each tender evaluation.

From January 2006 to September 2009, GHA’s contractors have recruited more than 630 new entrant trainees – mostly apprentices – and provided nearly 29,000 weeks employment.

This represents 11 per cent of the total person-weeks used compared with a 10 per cent overall target. It is being achieved at no cost to the housing investment budget.

EU and UK legal frameworks

European Union Treaties and European Commission Procurement Directives are incorporated into UK Public Contract Regulations and require all public bodies and Housing Associations to give equal access to contract opportunities for bidders from across Europe.¹ Where the anticipated cost is above approximately £3.5m for works and £140,000 for goods and services, the EU sets out procedures for the advertising of opportunities, the selection of bidders and the award of the contract.

A useful ‘laypersons’ guide to the requirements can be found in the CAN DO Toolkit (Resource 2) – www.whq.org.uk/i2i (go to i2i resources).

¹ There are a few ‘Part B’ services that this does not apply to, which include social services provisions.

European case law on the extent to which a public body can include employment and training requirements in their procurement mostly relates to situations where these were seen as 'added value' – that is, secondary considerations – rather than part of the subject of the contracts – core requirements.

As local authorities have broad powers to promote community wellbeing under the Local Government Act 2000, they can include training and job outcomes as core requirements – for example, buying 'highways maintenance and skills development'.

By referring to these requirements, an authority can take bidders' offers on these into account in the award of the contract. Secondary considerations can be included as contract conditions, but must not be used in the tender evaluation and award.

Under European case law, the inclusion of employment and training requirements could disadvantage non-local bidders. This is because they may have no local workforce or knowledge of local labour markets.

It is important to avoid 'local referencing', that is only specifying targets that can be met from anywhere in Europe – for example, recruiting trainees – and instead specifying a source of beneficiaries – for example, a college, job centre or agency – that will ensure equal access to bidders from anywhere in Europe.

Providing information to bidders on the resources and services of the named source is important in creating a level playing field at the tender stage.

Relevant policy allows local authorities to include employment and training benefits as core requirements of the contract. This may be found in the council's corporate plan, procurement strategy, community strategy, sustainable development policy – that may refer to 'sharing the benefits with all' – or the local area agreement (LAA). As opportunities arise to modify these policies, more explicit wording should be included.

Local authorities in England also need to have a 'best value' rationale for including work and skills requirements in their procurement. They need to comply with Section 17 – non-commercial considerations – of the Local Government Act 1988, as amended by Statutory Instrument 909/2001. The amendments were made differently in Wales and Scotland.

'Best value' is defined as 'continuous improvement in the way functions are exercised' – Local Government Act 1999 Section 3[1]. So the rationale could be the achievement of a range of local authority policy objectives – see above – or specifically the expansion of skills in the labour market.

Illustration 1: Extract from the Contract Notice – in the 'Official Journal of the European Union' – for Park Primary School, Wirral Council

II.1.5) Short description of the contract or purchase(s)

The project involves the construction of a new primary school. Under this project the contractor is required to participate actively in the economic and social regeneration of the locality of and surrounding the place of delivery for the project. Accordingly contract performance conditions may relate in particular to social and environmental considerations.

Best value and affordability

Local authorities have a duty to achieve 'best value' from their procurement and other public bodies have a duty to achieve 'value for money' (vfm).

Both best value and vfm are judged against the core requirements of the contract. If work and skills requirements are included then they should be part of the best value and or vfm consideration. Achieving the purchaser's policy objectives is sufficient value: the work and skills requirements do not need to show a financial benefit to the authority.

However, a procurement team will assume that including such requirements will add cost to a contract. Demonstrating how these costs can be minimised is critical in obtaining their cooperation.

This can be achieved by setting requirements that match the 'supply-side resources' available in the target area – for example, via colleges and training providers, Jobcentre Plus, European funding programmes and industry training bodies.

Purchasers will need assurance that these resources will be available, and bidders will need information that will help them in pricing the tender.

Some purchasers may be willing to accept some additional cost as part of the tender, but will be looking to see how this can be minimised.

Illustration 2: Cost Table from Inverclyde Council Schools Contract

Summary of Targeted Recruitment & Training Resources

Cost Item	£	Basis of calculation
Management and administration		
Training costs		
Additional site costs		
Mentoring and support activities		
Total cost		
Sources of Funding and other Resources		
Industry training funds		
Existing company staff/overheads		
Corporate social responsibility resources		
Trainee productivity		
Services from other external agencies		
Total of additional resources		
Net Cost		

Measuring and monitoring targets

Procurement supports the promotion of employment and training.

Some additional benefits – in terms of a multiplier effect on the local economy – will be obtained by targeting the opportunities at local people. Greater benefit can be derived if the beneficiaries are people who face significant barriers to work. It is important to pursue this ‘social inclusion’ rationale, especially in times of higher unemployment.

Economic development officers should identify appropriate employment and training targets on a contract-by-contract basis.

They should take into account:

- local data on unemployment and inactivity
- adopted policies and the priorities of the LAA
- the resources available for training and job-matching
- the type of opportunities that can be obtained from the contract.

Avoid the temptation to set too many requirements. It is better to focus resources and effort.

Illustration 3: Extract from the bid stage Draft Protocol on Prosperity and Employability – Leicester Local Education Partnership – delivering Building Schools for the Future

Collective Partnership Targets

Each construction and life-cycle maintenance project shall make a contribution to the achievement of the following:

- *10% of the person-weeks required to deliver the works to be provided by employed-status new entrant trainees recruited from an agency agreed by the Council;*
- *every vacancy on site, including those with subcontractors, is to be notified to agencies named by the Council at least 2 working days before being filled from other sources;*
- *the equivalent of 1.5% of the person-weeks required to deliver the works are to be made available as unwaged work experience opportunities.*

In occupations where high labour turnover is the norm, it may be better to use person-weeks of employment as the measure.

The person-weeks may be achieved by employing a few people for a longer period, or a larger number of people for a shorter period.

The person-week targets may be mixed with job numbers for example, six new entrant trainees to obtain a total of 312 person-weeks employment.

It is essential to define in plain English what the terms mean because they are not standardised or obvious.

Under EU procurement frameworks, any contract requirements should be measurable so that the purchaser and or procurer can verify their delivery. In relation to employment and training outcomes, useful measures may be:

- the number of vacancies notified to named agencies and the number of people recruited from these agencies
- the number of people enrolled on industry-recognised training courses and the numbers of qualifications obtained
- the number of new entrant trainees – that is from socially-excluded groups recruited from named agencies.

The 'named agency' is a way of securing benefits for a target population. These will be maximised where the agency undertakes outreach and pre-recruitment work with this community and provides mentoring and personal support during the transition into work.

Remember, it is easier to monitor absolute targets – for example, 1,000 trainee person-weeks – than formulaic targets – for example, 10 per cent of all person-weeks.

Illustration 4: Definition from Brent Council's South Kilburn Partnership Specification

A 'new trainee' is a person that is leaving an educational establishment (e.g. school, college or university) or a training provider, or a non-employed person that is seeking employment that includes on-site training and assessment or offsite training or a mix of these, or a person that was recruited as a new entrant trainee and is seeking a new position through the named Agency in order to complete their training. These may be apprentices or other trainees. An 'apprentice' is a person registered as an apprentice with an industry recognised body and can be counted as a 'new trainee' for up to 104 weeks. Other 'new trainees' can be counted for up to 52 weeks.

Taking a strategic approach

Using procurement to achieve employment and training outcomes requires a long-term strategy. It is not a quick fix. Sometimes there is a significant delay between the start of the procurement process and the availability of opportunities.

The ideal is to build the case for including social requirements into procurement. This can be achieved by identifying the policy basis, identifying the training and job-matching resources, and the staff to help purchasers and suppliers define, deliver and monitor the work and skills requirements.

Lead member and director-level support may then be needed to get commitment from the authority's procurement staff.

However, where the procurement could provide opportunities for many years ahead it may be necessary to get the requirements into the procurement process and then put together the required resources and information.

The earlier employment and training requirements are introduced the better. This requires good contacts with the procurement officers and allows:

- affordability issues to be discussed
- the rules on advertising and bidder selection to be followed
- the appropriate tender requirements to be drafted.

However, even when the requirements are in the contract, it will be essential to work with the supplier to help with delivery.

The effort they put in will invariably reflect the effort the client and the supply-side organisations put in.

Illustration 5: Extract from West Northamptonshire Development Corporation Board Report 2008

Construction Futures will help West Northamptonshire Development Corporation (WNDC) and its partners achieve what has been a long standing objective for many public bodies, but one that is rarely achieved – significant social and economic added-value for local communities (in terms of skill levels, employment and household income) through construction training and procurement programmes linked to development activity.

Top tips

- Institutional resistance to including employment and training outcomes in local procurement is the main obstacle to overcome.
- Develop a long-term strategic approach, but be prepared to intervene
- Intervene as early as possible in each procurement process: this requires good contacts with procurement teams.
- Be explicit about the intention to use procurement to achieve employment and training requirements in relevant policies.
- Include work and skills requirements in the subject of the contract, rather than as secondary requirements, or as 'added value.'
- Target work and skills opportunities at people with significant barriers to work.
- Maximise local recruitment by naming a source from which beneficiaries must be recruited – rather than simply specifying 'local' beneficiaries.
- Ensure the named sources undertake pre-employment support with the target communities in order to provide candidates that are job-ready.
- Define the targets and measures. Terms like 'trainee', 'unemployed', 'job-seeker', 'person-week' and 'apprentice' do not have universally shared meanings.
- Provide information on the resources and services of the named source – this is important in creating a level playing field at the tendering stage.
- Consider what can be measured and verified when setting targets – it is easier to monitor absolute targets, than formula-based targets.

This guide provides information in general terms only. Readers should seek legal advice on particular cases.

IDeA

Layden House
76-86 Turnmill Street
London EC1M 5LG

telephone 020 7296 6880

facsimile 020 7296 6666

email ihelp@idea.gov.uk

www.idea.gov.uk



INVESTOR IN PEOPLE

©IDeA – March 2010

Printed on 100 per cent recycled paper
using vegetable based ink.

For a copy in Braille, Welsh, larger print or audio,
please contact iHelp on 020 7296 6880.
We consider requests on an individual basis.

L10-252
Produced by Liberata Design and Print Studio



Local Government Association

The Local Government Association is the national voice
for more than 400 local authorities in England and Wales.
The LGA group comprises the LGA and five partner
organisations which work together to support, promote
and improve local government.

I&DeA **LACORS** **LGE**  **Local Partnerships**