

OGC/Defra joint note on environmental issues in purchasing

9: Social issues in procurement

9.1 Introduction

In general, the scope to take social issues into account during the procurement process is more limited than that for environmental issues because, by virtue of their nature, they are less likely to be clearly related to the subject of the contract. And, frequently, there will be other, more efficient and effective, means of achieving social outcomes than through their consideration in the procurement process. However, there will be cases where social issues can legitimately be taken into account. Services contracts, for example, are much more likely to have a social aspect than supply contracts. This section aims to outline briefly where these opportunities are most likely to arise.

9.2 The earlier sections...

The explanation of the EC rules and the Government's procurement policy that have been given in the previous sections are just as relevant to the consideration of social issues as they are to environmental issues. The same questions need to be asked at the various stages of the procurement process in order to decide whether such consideration is appropriate.

9.3 Opportunities for consideration of social issues

The following bullet-points describe the circumstances in which the consideration of social issues during the procurement process is most likely to be appropriate.

- Where the authority has obligations of a social nature, for example under the Race Relations Amendment Act, in relation to a particular function the performance of which it is contracting out, it can legitimately pass these on to the contractor. For example, an obligation on a public authority running a prison to monitor the ethnicity of the prisoner may need to be passed on to the contractor as a contract condition.
- As with environmental issues, it is often best to take social issues into account early on in the procurement process. For example, ensuring that an IT system is accessible to disabled users or that a caterer will provide meals suitable for special religious or other diets.
- If a candidate has breached social or employment legislation, or has been guilty of grave professional misconduct in the course of their business then they can be excluded from tendering for a contract. This could apply, for example, to a conviction for use of illegal labour. Please see Section 5.2 above for further details.
- Where a contractor is to work either on the authority's own premises or construction site, or where the contractor's staff will be interacting with the authority's staff, there may be codes of practice, for example, which it will be necessary to apply to all staff in order to ensure that the organisation or site operates safely and effectively. Where this is the case, adherence of staff employed on the contract to such a code of practice can be a legitimate condition of contract.
- Where the contract requires particular skills or expertise of a social nature, this can be reflected in the specifications, or in selection criteria. For example, it is quite legitimate to require specific language skills or other relevant expertise from staff in order to meet the needs of the community they serve.
- Working with suppliers post-award, on a voluntary basis, provides further opportunity to manage the social impact of the procurement.

As discussed in relation to environmental issues, contracting authorities should not ask about tenderers' general policies where this goes beyond what is relevant to the particular contract to include, for example, the company's workforce as a whole (rather than just those workers that would be involved in the contract). Nor would it be permissible, for example, to include a requirement to employ a certain percentage of local people, or to include, in the award criteria, elements that do not provide a benefit to the contracting authority.

As with all public expenditure, any cost premium incurred through the inclusion of requirements of a social nature must be critically tested for need, affordability and cost-effectiveness to ensure that they can be justified in public expenditure terms.

The Treasury Green Book, Appraisal And Evaluation in Central Government is a useful resource, and describes how the economic, financial, social and environmental assessments of a policy, programme or project should be combined. See:

http://www.ogc.gov.uk/SDToolkit/reference/ogc_library/related/Green_Book_03.pdf (Adobe Acrobat).

