European Commission
DIRECTORATE-GENERAL Employment, Social Affairs and Inclusion

Awareness raising and networking activities on the Guide for Social Consideration in Public Procurement

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BPI group

Case Studies

- Examples of a possible scenario for a public procurement.
- Describe fictional, but typical situations for contracting authorities.
- Describe political decisions, action plans etc. that the authorities has to consider in the procurement procedures.

Case Study 1

Public works Contract

Case 1: Public Works Contract

- Contracting Authorities

The National Agency for Infrastructure in collaboration with three local municipalities.

- What to buy
  - A 100 km motorway, including a tunnel (2 km) and a parallel road with bus stops and accessing roads from domestic areas; a bicycle path along the road.
  - Bus ticket providing and maintenance of bus stops.

Background

- Tense time schedule: Works are planned to be finished by Summer 2013.
- Working conditions can be heavy, dangerous and underground and according to studies the work site accidents are increasing.
- Maintenance service has so far been conducted through in-house provision.
- In the construction area, contractors from other countries than the contracting authority are likely to submit tenders. Due to that, the price of construction has dropped substantially in recent years.

Political decisions and other demands (I)

- National Level
  - The National Agency sets safety high and has vision of no persons killed in road accidents.
  - A national action plan for “Design for all” has been adopted by the government which points out the importance of responsible public procurement. The plan also points out that the participation of SMEs, in particular micro enterprises, should be greater in public procurement. A recent survey has indicated that the main reasons for absence of SME participation in tenders for works contracts is competition from contractors from other countries and no visibility of potential subcontracting opportunities.
  - The Agency requires that the contractors pay the workers at least 10 % more than the legal minimum wages and equal pay for men and women. All workers shall carry special identity badges to prevent illegal workers.

Political decisions and other demands (II)

- Local Level
  - The local authorities have problems with long term unemployment for young people under 25 years, women over 30 years and people with disabilities and have decided to combat that through procurement.
  - The Councils are aware of a decline in business activities in the region and have decided to promote local business and building material from local sources in public purchasing.

Political decisions and other demands (III)

- Local Level
  (… continued)
  - The maintenance and service for bus stops in the region has so far been performed “in-house”. The political majority wants to see more of private undertakings. The political minority can accept that if social-economy organizations are given preferences.

Group Work, part 1

- The group should consider the political decisions and other demands that are described in the case and discuss the legal implications by applying the guide "Buying Social" on the case.
- The focus is <u>what</u> contracting authorities can require in a public tender procedure and <u>how</u> , from defining the subject matter to award of the contract.
- The questions to discuss will be describe below.
- Use a flipchart paper for the presentation.

Case Study 1: Questions part 1

1. Define the “subject matter of the contract(s)” and consider the social implications in the case.
2. Sketch a procurement procedure, in which steps would you put in the social responsible requirements? Motivate the choice of procedure and requirements for social considerations.
3. What kind of legal implications might arise? Please list them. Consider any difference above or below the thresholds for social considerations.
4. By which alternative procedures could social responsibility targets better be achieved (e. g. variants, competitive dialogue).
5. Consider the matter with “abnormally low bids” and possible measures.

Group Work, part 2

- The group should consider the issues that are described in the case and discuss the target setting and the issues regarding monitoring and reporting by applying the guide “Buying Social” on the case.
- The focus is how contracting authorities can act to promote social responsibility, from relevant targets to methods to conduct a contract review.
- The questions to discuss will be describe below.
- Use a flipchart paper for the presentation.

Case Study 1: Questions part 2

1. Consider the methodology and measures that are required for an efficient performance monitoring during the contract period. What resources are needed? Consider financial sanctions for underperformance or incentives for better performance.
2. Discuss the targets in the case. Are they relevant and appropriate with regard to social improvement?

Case Study 2

Services Contract

Case 2: Services Contract

- Contracting authority

A local council, responsible for upkeep of social housing stock as well as residential care homes for disadvantaged (blind, mental and physical disabilities, children in care, women's refuges).

- What to buy
  - Maintenance, repair and upgrade services to existing properties - 20m Euro per annum – framework contract.
  - Personnel placement services – 50,000 Euro per annum.

Background

- Social risks: certain run down densely populated areas populated with minority groups experiencing long-term unemployment and lack of opportunities for young people.
- Lack of investment over time has led to poor use of newer technology (insulation, energy metering, use of alternative energy sources and high speed internet access).
- Advances in IT under utilised vis-à-vis existing logistics and support for repair and maintenance teams.

Political Decisions and other demands (I)

- National Level
  - A national action plan stipulates that national businesses should have at least 50 % women in their boards and that the percentages of men taking parental leave should increase. The action plan points out that suppliers who are awarded public contracts should provide annually an equality plan and explain measures to meet the other action plan goals.
  - The Action Plan “Design for all” has overall impact on all national, regional and local purchasing, with the aim “for all users and no barriers”.
  - Participation of SMEs and “social economy organisations” should be greater.

Political Decisions and other demands (II)

- Local Level
  - There are issues with long term unemployed particularly within certain ethnic backgrounds and gender equality issues.
  - The Council wants to increase access to procurement opportunities for firms employing those with particular ethnic background.
  - A TV documentary has recently exposed staff being employed in its care homes without adequate qualifications, training or appropriate language skills.

Political Decisions and other demands (III)

- Local Level
  (… continued)
  - Contracting authority expects apprenticeship training to be made available to its residents.
  - A recent survey has indicated that the main reasons for absence of SME participation in its tenders are:
    - The general complexity and high cost of tender participation;
    - Real risk of bankruptcy due to lack of compliance with payment terms;
    - No visibility as regards potential subcontracting opportunities.

Group Work

- The group should consider the issues that are described in the case and discuss the legal and practical implications by applying the guide “Buying Social” on the case.
- The focus is what and how contracting authorities can require in a public tender procedure, from defining the subject matter of contract to monitoring the contract.
- Finally, answer the questionnaire below. Instead of the table you can also make use of flipchart paper or do it digital, e.g. by producing a word document.

Case 2: Questions part 1

1. Outline the different procurement procedures available. Identify where you would put in the social responsible requirements?
2. What kind of legal implications might arise? Please list them.
3. Consider the use of a framework agreement with re-opening of competition. Can social criteria be used in the second phase?
4. By which alternative procedures could social responsibility targets better be achieved (e. g. variants, competitive dialogue).

Group Work, part 2

- The group should consider the issues that are described in the case and discuss the target setting and the issues regarding monitoring and reporting by applying the guide “Buying Social” on the case.
- The focus is how contracting authorities can act to promote social responsibility, from relevant targets to methods to conduct a contract review.
- The questions to discuss will be describe below.
- Use a flipchart paper for the presentation.

Case Study 2: Questions part 2

1. Consider the methodology and measures that are required for an efficient performance monitoring during the contract period. What resources are needed? Consider financial sanctions for underperformance or incentives for better performance.
2. Discuss the targets in the case. Are they relevant and appropriate with regard to social improvement?

Group Work

Session 1

Group Work Session 1

- We will build 2 working groups
- Task: Apply the guide on the cases
  - Identify legal implications
  - Develop possible measures for social consideration into the procuring process

Group Work Session 1

- Complete the questionnaire, use flip chart posters to summarize your work
  - After lunch there will be 10 minutes for each group to present the group results (timing including question and answers)

Group Work

Session 2

Group Work Session 2

- Based on the …
  - results of group work session 1
  - following discussions
  - feedback from the trainer team
- Please answer the following questions
  - What do you need to set up a strategy for SRPP?
  - Set up strategies and targets, based on the cases
  - Consider efficient monitoring of the contracts and reporting

Group Work Presentation

Please present your group work results in 10 minutes

Discussion

Thank you
for your attendance!