

Social Value Opportunities

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What is social value?

- No **specific** definition, “improving economic, social and environmental well-being”
- Policy objective
 - Linked to UN Sustainable Development Goals, UK committed to deliver SDGs to: end poverty, protect the planet and ensure prosperity for all
 - Provides a lasting impact on individuals, communities and the environment
 - And, thus, Government has huge opportunity and responsibility to maximise such benefits through its commercial activity

Current position – law

- **Reg 67 PCR 2015**

- MEAT

- “best price-quality ratio ... shall be assessed on the basis of criteria such as ... **environmental and/or social** aspects ... linked to the subject matter of the public contract in question”
- may comprise “**social, environmental** and innovative characteristics
- Award criteria linked to the subject matter of the contract where relates to works, supplies, services to be provided under that contract in any respect and at any stage of their life cycle
- Not give an “unrestricted freedom of choice on the contracting authority”

Current position - policy

- **PPN 05/21 – National Procurement Policy Statement**
 - strategic priorities for public procurement
 - applies to all contracting authorities
 - drives wider benefits through public spending
 - should have **due regard** when procuring
- **Priorities**
 - social value
 - commercial and procurement delivery
 - skills and capability for all

NPPS (2)

- NPPS social value national priority outcomes
 1. Creating new businesses, new jobs and new skills in the UK
 2. Tackling climate change and reducing waste
 3. Improving supplier diversity, innovation and resilience (greater access for SMEs, VCSEs)

Permits local social value policies as long as they do not contradict/are procured alongside the national priorities

PPN 06/20: central government Social Value Model

- Requires **explicit evaluation** in all procurements (at all stages, Golden Thread)
- Menu of 5 themes/8 policy outcomes
 - Theme 1 – covid-19 recovery
 - Theme 2 – tackling economic inequality
 - Theme 3 – fighting climate change
 - Theme 4 – equal opportunity
 - Theme 5 – wellbeing

Social Value Model (2)

- **Standardised** model award criteria, sub-criteria, evaluation questions and reporting metrics
- Subject to adjustments (relevance and proportionality) following PME, identification of specific objectives
- Application of model **mandatory** but flexibility in deciding which of the outcomes should be applied having considered relevance and proportionality
- **Minimum** Weighting 10% unless significantly reduces competition, can be greater

Social Value Portal (TOMS) – local government

- Themes – social value areas
- Outcomes – positive changes within a community that the client selects
- Measures – how the outcomes can be delivered, KPIs
- Five themes (48 outcomes)
 - Jobs
 - Growth
 - Social
 - Environment
 - Innovation

Procurement Act 2023

- No **explicit** reference in the wording
- **Deliberate separation** between policy and legislation
- Section 12(1), “must **have regard** to the importance of:
 - (a) delivering value for money
 - (b) maximising public benefit
- Section 12(4), “must **have regard** to the fact that SMEs may face particular barriers to participation ... **consider** whether such barriers can be removed or reduced”

Procurement Act (2)

- Section 13(9) “**must have regard** to the NPPS”
- Section 19, award of public contract to **MAT**
“Adopting MAT ... should provide greater reassurance to contracting authorities that they can take a broader view of what can be included in the evaluation of tenders in assessing value for money including social value as part of the quality assessment. This approach is already provided for in the current regulations under MEAT, so this change would be about reinforcing and adding clarity rather than changing scope”
- Section 23, in setting award criteria, contracting authority must be satisfied that they ... (a) **relate** to the subject-matter of the contract ... (d) are a **proportionate** means of assessing tenders, having regard to the nature, complexity and cost of the contract
- Section 23(5), “subject-matter” includes ... (d) price, other costs or value for money in all the circumstances

Challenges

- **Any** scope not to include social value?
 - No strict legal obligation, not inherently necessary to achieve the functional objective of a specific procurement
 - but, for in-scope procurements, need to follow PPN 06/20
 - for procurements subject to new Act
 - Breach of s.12(1) duty? Properly to be framed as an obligation of process rather to mandate a particular result
 - Breach of 13(9) duty? Having regard allows departure but any departure must be recognised and reasoned and arguably have to establish a “good reason” for the departure?

Risks of inclusion

- Underlying concerns about **including** social value opportunities
 - What SV outcome(s) should be included? Is it an affordable initiative?
 - Lead to additional (significant) costs for bidders
 - Framing of social value requirements, Relevant/relates to contract and proportionate (nature, complexity and value of the contract)
 - Will cost of SV initiative impede its delivery?
 - Monitoring SV commitments as part of contract

Managing risks

- PME/Social Value Action Plans
- Consideration of increasing the value and duration of contract (incentive for bidders, proportionality)
- Specific questions at selection stage relating to chosen SV requirements (previous experience)
- Use of standardised wording/model award criteria for SV questions and evaluation of

Managing risks (2)

- Pricing SV initiatives and inclusion within evaluation
- Linking procurement process with contract delivery
- Effective contract management

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