

THE
LANDMARK
PROJECT
MOVING TOWARDS
SOCIALLY RESPONSIBLE
PROCUREMENT

SUCCESS STORIES IN SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

USING PUBLIC SPENDING TO DRIVE IMPROVEMENTS FOR WORKERS IN GLOBAL SUPPLY CHAINS



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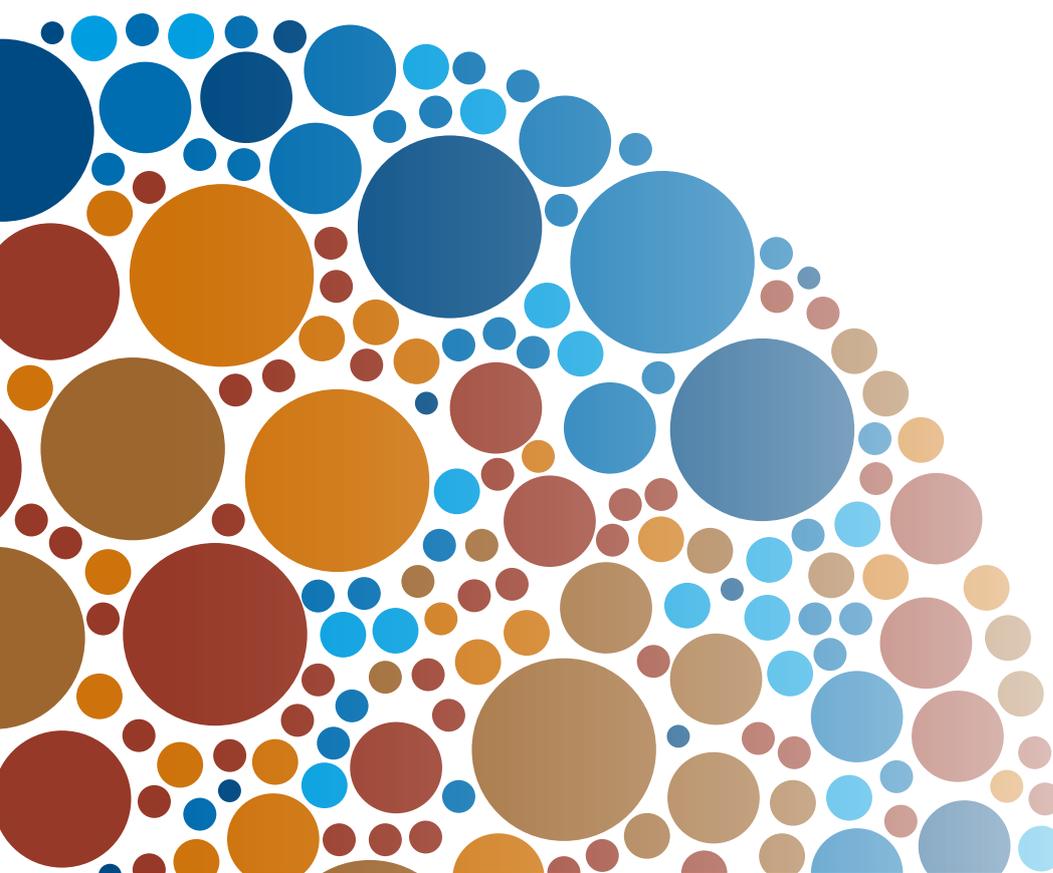
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1 INTRODUCTION

Public sector buyers can use procurement to improve working conditions and lives in their supply chains, and public administrations across Europe are starting to do this.

The European Commission funded LANDMARK project brought together public bodies and NGOs to develop best practice in socially responsible public procurement (SRPP). This report focuses on success stories demonstrating SRPP that emerged from this collaboration. It showcases and explains best practice examples from across Europe, and provides guidance by detailing both positive and negative experiences, which other public administrations may be able to learn from.

Public spending on products and services has huge potential to reform supply chains and change markets, as it makes up 19% of Europe's GDP¹. However, many public organisations who wish to further their political objectives to achieve sustainability and social responsibility through procurement do not know exactly how to do so, or are unsure about certain elements. This report aims to help by providing an in-depth look at methods that have been undertaken by others.

The revised European public procurement directives were approved by the European Parliament in January 2014 and subsequently published in March, requiring EU Member States to transpose the new rules by March 2016. Nations including the UK aim to begin this process in 2014, whilst others will start proceedings in 2015. Certain changes made have demonstrated that there is an increased consensus that public procurement legislation should be opened up to allow more space for SRPP to be achieved².

Whilst the implementation of SRPP is spreading across leading public bodies in Europe, many public buyers still want to know exactly how to use the procurement process to promote social responsibility, from market engagement to contract management.

The success stories in this report highlight examples of public authorities using tools such as; market engagement, self commissioned auditing, code of conduct development, and resource pooling to achieve more significant results across multiple local authorities. The report analyses twelve tenders from across Europe that have integrated social responsibility and will discuss the lessons that other public sector organisations could take away from them. The actual tenders are described in detail in boxes alongside the text.

Secondly, this report describes three examples of public authorities that have

1 http://ec.europa.eu/enterprise/policies/innovation/policy/public-procurement/index_en.htm

2 http://www.coup.ac.uk/perch/addons/apps/wrs_speakers/upload/2%20-%20In%20pursuit%20of%20responsible%20and%20ethical%20procurement.pdf

set up initiatives and/or procedures related to the procurement and contract management process, which have enabled them to make steps forward in using public purchasing to improve social outcomes in their supply chains. The report shows that some public bodies across Europe have managed to mainstream SRPP in their organisations. Again the lessons learned should be applicable to other public organisations with similar goals.

Each success story presents:

- details on the particular tender or process, including the product category
- details of the methods of contract monitoring or process management
- results and impact so far
- transferability and lessons learned from each success story

Whilst the use of public procurement to improve social outcomes, such as labour conditions, wages and rights in supply chains is still in its infancy compared to green public procurement, early actors are showing good progress with developing mechanisms to verify fair working conditions. By showcasing some of the best practice examples of this so far, this report aims to encourage the growth of SRPP.

This collection of success stories is a complementary publication to a legal guide '[Verifying Social Responsibility in Supply Chains](#)' by LANDMARK, which provides in-depth legal perspectives on how verification can be achieved. It is also accompanied by the LANDMARK guide '[Good Practice in Socially Responsible Public Procurement](#)' and the documentary '[Verifying Social Responsibility in Supply Chains](#)' which specifically introduces case studies and analysis on how verification of social responsibility has been used in practice.



2 LANDMARK in figures



10 local authorities took part in the LANDMARK project³



100% of LANDMARK participants will continue to apply SRPP in tenders in the future



'Good Practice in Socially Responsible Public Procurement' downloaded by 6.000 people

³ <http://www.landmark-project.eu/en/about-landmark>



The Practical and Legal Guide
'Verifying Social responsibility
in Supply Chains' downloaded by
5.000 people



€76 million of public expenditure
has been spent using socially
responsible processes in the
tenders featured in this report
alone



55% of public authorities in
Europe practice some form of
sustainable procurement⁴



10 product categories are
discussed in this report

⁴ http://ec.europa.eu/environment/gpp/studies_en.htm

3 SUCCESS STORIES OF SOCIALLY RESPONSIBLE TENDERS

TENDERS THAT INCORPORATED SOCIAL RESPONSIBILITY AS A RESULT OF THE LANDMARK PROJECT



Steps towards socially responsible IT hardware: Ask the bidder for a concept

SUCCESS STORY 1: An IT hardware tender by Dataport for the Northern federal states of Bremen, Hamburg and Schleswig-Holstein, Germany.

A. BACKGROUND

Dataport is a public law institution, and its owners are the federal states of Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, Schleswig-Holstein and the municipal IT association of Schleswig Holstein. Currently Dataport provides IT hardware and services to public authorities in the German federal states of Schleswig-Holstein, Hamburg and Bremen, and IT services for the tax administration of the federal states of Mecklenburg-Western Pomerania and Lower Saxony. As of 2013 Bremen has around 650.000 inhabitants, Hamburg around 1,8 million and Schleswig-Holstein around 2,8 million⁵.

B. DESCRIPTION OF THE SUCCESS STORY

The LANDMARK partner WEED, together with the LANDMARK associates Bremen Development Network (BeN), *Eine Welt Landesnetzwerk Mecklenburg-Vorpommern* (One-World Country Network of Mecklenburg-Western Pomerania) and other North German NGOs, met with Dataport representatives to explore Dataport's undertaking of the socially responsible procurement of IT hardware. Dataport has previously used green criteria in tenders, but when informed of Bremen's engagement in the LANDMARK project and the experiences of the partners, it was also interested in engaging in socially responsible public procurement (SRPP).

⁵ Cf. http://www.statistik-bremen.de/aktuelle_statistiken/o1a.htm and <http://www.statistik-nord.de/daten/bevoelkerung-und-gebiet/bevoelkerungsstand-und-entwicklung> (28.01.2014)

LANDMARK partners, the Municipality of Bremen and the NGO WEED played an active role in the preparation of the tender documents by providing relevant information on the social issues and by advising on the implementation of SRPP in the current tender. Still, they did not advise on legal issues. Bremen also played an active role in the evaluation of the social aspects of the bids.

DETAILS OF THE TENDER

Product Group: IT hardware

The tender was for IT hardware (PCs and notebooks as well as thin clients, monitors, keyboards, PC-mice and components), and IT services for the hardware. The IT services were for both new and existing IT hardware products. These services included managed services such as the installing of IT workstations and software installation. The total expected demand of the three federal states for personal computers and notebooks is approximately 60.000 and 12.500 units respectively.

Contract period: 4 years (framework contract)

Total value: The total value of the tender is approximately €70 million.

Name of supplier: IT service provider Bechtle AG

Type of tender: negotiated procedure⁶

Subject matter of the contract: IT hardware and related managed services

Award criteria: The weightings for this tender were divided between price and quality.⁷ Under quality the award criteria for this tender included the social concept of the bidder referring to the International Labour Organisation (ILO) Fundamental Conventions and other ILO Conventions. The quality criteria also included; technical quality, the concept for the provision of services and of product innovation among others. The social concept accounted for 10% of the weighting allocated to quality award criteria. Of these, 50% were allocated to the plausibility⁸ of the concept, 40% to the verification model and 10% to the coverage of social standards.



Laptops are among the products supplied by Dataport in this tender – Julia de Boer

- 6 'Negotiated procedures' means, according to Art. 1.11 of EC/2014/18, those procedures whereby the contracting authorities consult the economic operators of their choice and negotiate the terms of contract with one or more of these. In this case the negotiated procedure with prior competition in accordance with German National Law, §3 EG, Abs. 3 lit. c) VOL/A (GWB §101, Abs. 5), was carried out.
- 7 The calculation of the points was: Price divided by quality points. The smallest number wins. If equal points (i.e. up to 2% difference in this cost-benefit ratio) then the deciding factor are the points for: the social concept, the internal company set-up in response to the services requested and the concept for provision of services.
- 8 In the meaning of 'seemingly or apparently valid, likely, or acceptable; credible' to the questions raised on social issues, cf. next page.

Referring to social criteria in tender documentation

In contracts, Dataport used social criteria based on ILO Conventions. Like many public authorities it used the eight ILO Fundamental Conventions (29, 87, 98, 100, 105, 111, 138, 182 – see Annex A). But as a result of specific social issues in global IT production, Dataport's requirements were not constrained to the ILO Fundamental Conventions, but also referred to the additional ILO Conventions 1, 30, 102, 115, 131, 135, 155, 158, 169, 170, as detailed in Annex B.

Using award criteria to require a written concept on social compliance

Electronics supply chains lack transparency, and there is currently no comprehensive, credible and independent monitoring system for the electronics industry that can be used by the public sector to monitor its IT supply chains (although a new initiative Electronics Watch is currently establishing one). It is therefore challenging for public sector buyers who want to abide with labour law issues, to take conditions in their supply chains into account.

Dataport's method was to ask the bidders to provide a **concept**, in which they describe how they are going to comply with the above mentioned social standards in the best possible way – both in the manufacturing of the products and in the exploitation of the raw materials used – and how this will be monitored. The **concept** was then awarded points based on the extent to which the bidder could demonstrate how their procedures included a wide coverage of the ILO Conventions above, and that their method was of the required quality. A verification procedure was put in place to evaluate these aspects.

As the bidders had a wide range of choices, the quality of the control mechanism had to be ensured in two ways. Firstly, the tender documentation outlines one possible verification scheme, a set of examples for measures that can be taken by the bidders and for questions to be answered in a mandatory report. Secondly, the plausibility of the concept (which accounted for 50% of the score) and the verification offered (40% of the score) were given a particularly high priority.

Plausibility of the concept

The plausibility of the **concept** – which represented 50% of the social award criteria – was judged specifically by answers to the following questions:

1. To what extent was the bidder able to name the suppliers of the manufacturer and their subcontractors throughout the supply chain?
2. To what extent was it identifiable how the manufacturers will get information on their suppliers throughout the supply chain in relation to local working conditions?
3. To what extent is the bidder able to show that the manufacturer had taken concrete measures to account for the requested ILO Conventions in the

best possible manner, both in the manufacturing and in the production of raw materials?

Verification

The bidders were also asked to describe how they intended to provide evidence for their compliance with the social standards during the contract period.

One possibility which was explicitly mentioned was a **report** from the manufacturer. The report would show what measures the supplier had taken during the contract period to align the production of the delivered goods and the production of raw materials. This would be undertaken in an optimal way according to the requested ILO labour and social standards.

To help the bidders and also to set a high standard, the tender documentation contained a **set of possible questions** for the report (See Annex C).

Bidders were also given the possibility of offering other forms of verification. **External audits** were explicitly mentioned as one possibility. In terms of the quality of the proposed verification scheme, 40% of the “social concept” points were awarded.

Contract monitoring

The tender documentation indicated that the way in which the contract will be monitored depends upon the choice and the concept of the winning bidder. A report with specific questions or an external audit (see above) were suggested as possibilities but this was ultimately at the discretion of the winning bidder. In this case, the winning bidder put forward the idea of having a quarterly review meeting with representatives from Dataport as well as Bremen, Hamburg and Schleswig-Holstein. The first meeting is scheduled to take place in April 2014.

C. RESULTS AND IMPACT

This was the first time that Dataport had confronted bidders with the issue of SRPP, and they responded positively. Contrary to the expectations and fears of many public procurers, no bidders withdrew as a result of the SRPP requests. Dataport stated that the bidders actually appeared to be pleased that a public procurer was finally taking these elements into consideration.

Due to the fact that the range of prices and the technical know-how were similar amongst the bidders from the IT industry, the social concept criteria were influential in the awarding of the contract, as they accounted for 10% of the points allocated to quality.

Dataport states that it is too early to say whether or not their suppliers have been able to meet the specified standards. Whilst all bidders did submit a concept, none of them gained full marks for quality and verification. As the first assessment will not be carried out before April 2014 (after the publication of this text), it is too early to judge the impact of this work. One impact already observed is that bidders are starting to get involved in SRPP. Accordingly,

through their involvement with social issues in IT production, including a workshop carried out for several Dataport procurers by the LANDMARK partners WEED and Bremen on working and living conditions in the IT industry, Dataport will continue to ask for social standards in its tenders and are also open to trying out new methods. Moreover, Dataport has decided to integrate SRPP into all of its tenders where applicable – not only in IT procurement, but also for all other products purchased such as, for example, office furniture. Currently it does not plan to change the method as outlined here, although it has been suggested that in future there should be a minimum standard for verification, or at least a mandatory report with mandatory questions.

The tender was published on the website of the federal competence centre for sustainable procurement⁹ so Dataport hopes that this will encourage other public buyers to consider using the same techniques.

D. LESSONS LEARNED AND CONCLUSIONS

The approach to this tender is based on the idea of engaging in dialogue with bidders who are potentially interested in managing sustainable supply chains, using the negotiated procedure. Through dialogue, the best possible influence on social production conditions can be “teased out”. In doing so, the respective bidders can explain in their concepts what they think is possible and what efforts they are willing to offer – in terms of both the scope of social standards and in relation to their verification schemes applied. This has been extensively done with potential suppliers, discussing the written concepts and requirements for social compliance.

Dataport identified that not having in-house expertise on socially responsible IT manufacturing made it challenging for them to specify the social criteria requirements in the tender, and especially to assess the offered concepts. This was resolved by getting support from Bremen’s LANDMARK expert. With the help of WEED’s expertise, Bremen’s expert contributed to the text before the Call for Proposals was published. Bremen’s expert was also consulted by Dataport for the evaluation of the social concepts.

Strengths

- The process encouraged dialogue as well as embraced and stimulated creativity and the bidders’ knowledge in a ‘competition of good ideas’ or a ‘race to the top’.
- It directed bidders’ attention towards the public sector demand for socially produced IT hardware and at the same time they were challenged with participating in finding a solution.
- This method could mean less work for procurers later on in the process, as the dialogue took place at the beginning of the process.

⁹ Cf. <http://www.nachhaltige-beschaffung.info/> (28.01.2014)

Weaknesses

- There were no minimum labour standards required, just as there were no minimum levels of either plausibility or verification. This could mean that suppliers still fell below the level of standard that was acceptable to Dataport.
- There was no obligation for suppliers to use the proposed measures or to deliver a report after the contract was awarded.
- The ‘competition of good ideas’ requires that the bidders really deal with the questions raised in a serious manner and try to beat the others with new ideas and approaches. If this is not the case, because it may be too difficult and new, or due to other award criteria such as the price, then the advantage of this approach is in the awareness raised rather than the effective result.

Lessons learned

For a difficult product group such as IT hardware (without fairly produced products and without real certification schemes) it is important to have a dialogue with bidders on what they can offer prior to publishing the tender. This approach offers the possibility to engage in quite an informed dialogue within the procurement process.

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Useful references:

<http://www.dataport.de/ueber-uns/preseservice/pressemitteilungen/Seiten/Dataport2013/130801-Kooperation-IT-Beschaffung.aspx> (German)



Developing and
applying a Code
of Conduct

SUCCESS STORY 2: The Code of Conduct for Suppliers of Loures Municipality

A. BACKGROUND

The Municipality of Loures has a population of around 200.000. As a LANDMARK project participant and an organisation committed to social sustainability, Loures took steps to ensure that products and services purchased by the Municipality were delivered in a socially responsible way. This aspect was considered alongside environmental implications and life cycle costing.

B. DESCRIPTION OF THE SUCCESS STORY

In order to involve municipal suppliers and service providers in delivering its social sustainability policy, Loures drafted a code of conduct incorporating the current principles of the Universal Declaration of Human Rights, the Conventions of the International Labour Organization, and Portuguese National and Community Legislation.

The Code of Conduct for Suppliers was created by means of collaboration with internal experts such as local jurists. In doing this, Loures aimed to complement other similar policies that promote respect for the environment amongst their suppliers.

In December 2012, Loures undertook the first tendering procedure in which candidates were informed about the new Code of Conduct for Suppliers. Bidders were asked to present a Declaration of Commitment which committed them to being able to deliver the standards in the Code of Conduct. Any subcontractors, whether nationals or not, were covered by the same provisions.

During the procurement process, the Code of Conduct for Suppliers and a model Declaration of Commitment to the Code of Conduct was sent to all suppliers of the Municipality of Loures. All proposals for the tender that did not involve the Declaration of Commitment were excluded from consideration.

The text of the Declaration that bidders were asked to sign is in the box to the right.

THE DECLARATION

Based on the spirit of cooperation and trust and the principle of good faith which characterises the Code of Conduct for Suppliers in the Municipality of Loures, we expect the following:

- When requested by the Municipality of Loures, suppliers must provide information on aspects of their activity and their subcontractors considered relevant to the theme under review.
- Suppliers must allow the representatives of the Municipality of Loures to visit their facilities to assess conformity with the practices described in this Code of Conduct.

Details of the tenders

The Code of Conduct for Suppliers has now been used in the procurement of five further product and service categories, which are described in the table opposite. The extent to which Loures applied the Code within each procedure ranged from the winning supplier being required to submit a Declaration, to all bidders having to submit one, with penalties for non-compliance. The first two describe **Restricted Tenders**¹⁰ and the latter three are **Open Tenders**.

Monitoring and verification

Loures used the possibility of fines for non-compliance, increasing their ability to enforce their Code of Conduct. Their contract included ‘the possibility of a contractual penalty worth 0.5% of the total contract value. This would be enforced if corrective action, deemed sufficient by Loures Municipality, were not taken within a mutually agreed time frame.

Suppliers were also informed that if there were repeated breaches of the Code it could ultimately lead to the termination of the contract. The verification of non-conformities would be made by a dedicated ‘Verification Group’. This group is described below in the section on processes, starting on page 29.

Reaction of suppliers

As shown by the number of proposals submitted as part of each procedure, suppliers showed a willingness to bid, even with the responsibility of conforming to the Code of Conduct for Suppliers.

Informal contact was made with several of the companies involved in the procurement procedures above. These contacts were made with the goal of assessing how the market would react to the demand of having to adhere to social criteria. Contact with the competing organisations was made via telephone or face-to-face with several companies depending on the services and products that were being acquired. However, at all times the principles of competition and transparency that bind public procurement were respected.

¹⁰ A restricted tender is a two-stage process in which the purchasing authority directly invites a restricted number of companies to bid. According to the EU public procurement rules, a number of bidders should be sufficient to ensure adequate competition, usually a minimum of five and up to a maximum of 20.

| Product/ service category | Procedure | Tender launch date | No. bidders | Value | Declaration of Commitment to Code of Conduct |
|--|---|--------------------------|----------------|---------------|---|
| Continuous supply of consumables and toner cartridges. | Procurement restricted to 4 companies | December 2012 | 1 | €68.000 + VAT | Required from the winning bidder. Declaration made before contract signed. |
| Purchase of Personal Protective Equipment, Uniforms and Footwear ¹¹ | Procurement restricted to 6 companies | December 2012 | 5 | €20.766 + VAT | All applicants were required to deliver the Declaration, with the risk of exclusion if not. One bidder was excluded for this reason*. |
| Acquisition of Services of Surveillance and Safety in Loures Municipality facilities. | Open tender published in the Official Journal of the European Union | March 2013 | 13 | €375.658 | The winning bidder had to deliver the Declaration. The Tender made reference to the ILO Fundamental Conventions and included penalties in the case of the Conventions not being respected. The Declaration was presented before the contract was signed. |
| Acquisition of Services of Preventive Control of Urban Plagues (murine ¹² , insects and spiders) | A tender was published in the Portuguese Official Journal | March 2013 | 11 | €96.078 | All applicants had to sign the Declaration with the risk of exclusion if not. The tender made reference to the ILO Fundamental Conventions and included penalties in the case of the Conventions not being respected. All bidders signed the Declaration. |
| Acquisition of Services of School Transport for Municipality of Loures students. | An open tender was published in the Official Journal of the European Union. | April 2013 | 2 | €705.544 | All the applicants had to sign the Declaration with the risk of exclusion in case they did not do so. The tender made reference to the ILO Fundamental Conventions and included penalties in the case of the Conventions not being respected. One bidder was excluded due to the lack of a Declaration of Commitment. |

11 Loures sought legal advice before undertaking the procedure, and the interpretation that was made concluded that such exclusion is possible, because the possibility of exclusion was indicated in the contractual procedure.

12 Murines are animals that belong to the rodent family of mammals, including mice.

C. RESULTS AND IMPACT

Loures intends to apply the Code of Conduct for Suppliers to the largest possible number of future procurement procedures, and in particular to the high risk product categories, which have been the focus of the LANDMARK project.

The Loures **Code of Conduct for Suppliers** has already been mentioned and shared with different Portuguese municipalities, either within the *Network for Intermunicipal Cooperation for Development*, or as part of the *Go Local Campaign: Towards a Sustainable City*. It has encouraged other municipalities to take an interest in the subject and has started a debate on the importance of including social criteria in public procurement.

Furthermore, within the framework of RSO PT, (*The National Network for Corporate Social Responsibility*) a working group of public purchasers has been established to debate the topic of socially responsible public procurement.



Loures Code of Conduct for Suppliers – IMVF

D. LESSONS LEARNED & CONCLUSIONS

After six months of applying the Code of Conduct for Suppliers, Loures has been able to identify some of the lessons learned and identify strengths, weaknesses and key challenges.

Strengths

- Suppliers have increased their understanding and knowledge of labour rights violations in supply chains;
- There is a strong possibility that other Portuguese authorities will replicate the process used.

Weaknesses

- The new procedures required sound legal knowledge in order to use social criteria within the framework of the European Public Procurement Directives, therefore advice from external parties needed to be sought;
- The potential complexity and cost of the process/verification tools of compliance with the social standards.

Key Challenges

Loures identified that implementing effective verification mechanisms does not have a resource cost in itself. However, municipal decision makers have stated that, regardless of the costs, they have a duty to apply effective verification tools so that they can monitor compliance with their Code of Conduct and fulfil their policy priorities.

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Using market surveys to determine how best to evaluate suppliers

SUCCESS STORY 3: Kolding Municipality ensures ethical practices in the production and laundering of textiles

A. BACKGROUND

The Municipality of Kolding in Denmark has 8.000 employees and serves 90.000 inhabitants. It is the single largest business in the area.

The purchasing structure is partly centralised and partly devolved. Mandatory framework agreements for a wide range of product groups and services are made by central procurement officers in close cooperation with devolved purchasers.

The textiles leased under this tender cover a wide range of uniforms for the 1.800 senior operational staff members such as nurses, care workers and home helpers, who assist older people at centres for the elderly and in their own homes. Work wear includes t-shirts, tunics, sweaters, fleece jackets, jeans, skirts, vests, and outerwear in sizes from XS to XXXL.

B. DESCRIPTION OF THE SUCCESS STORY

Kolding published a restricted tender for the provision of washing and rental of textiles (work wear) for senior operatives in 2013. The contract period ranged from 1 September 2014 to 31 August 2018 and was worth a total value of 3.8 million DKK (~500.000 Euro).

Three potential suppliers of combined textile wash and hire were invited to bid. Prior to this, a draft of the tender material had been sent to the three potential suppliers, who were asked for their comments on the specifications, award criteria, etc.

The Environment and Procurement teams at Kolding held discussions with a representative of the senior operational team regarding at which stage of the tender process ethical practices should be assessed. It was decided that using a selection criterion would be a less effective way of ensuring a commitment to social responsibility, as all the potential suppliers were found to have either; their own code of conduct, a supply chain management system, or an OHSAS 180001 certificate. The Municipality was unsure of the relative robustness of each of these processes/certifications, therefore it was considered preferable to evaluate the bidders on the merits of each system as part of the award phase. Bidders were required to give a statement on how they have built and implemented a system to verify social standards within the supply chain.

DETAILS OF THE TENDER

Subject matter of the contract: Washing and rental of textiles for senior operational staff

Selection criteria: Selection criteria were not related to social or environmental standards

Technical specifications:

- Substantial specification for the range and quality of textiles
- Substantial environmental specification for the production of textiles (Similar to EU GPP Criteria)
- Substantial environmental specification for the detergents (Similar to Eco-label criteria for the Nordic Swan)
- Specification for fleet and route optimizing

Award criteria: Most Economically Advantageous Tender (MEAT), with weightings of Price (40%), Quality (30%), Service (20%) and Environment and Ethics (10%)

Using Award Criteria to reward social responsibility

Local Government Denmark has a purchasing portal covering all elements of procurement as well as legal guidance. The purchasing portal recently launched guidance on responsible purchasing, covering both environmental as well as ethical aspects, including suggested technical specifications, award criteria, etc. The guidance went through a legal assessment before its launch. The ethical award criteria and contract clauses in this tender reflect this responsible purchasing guidance. Kolding specified the below in their award criteria, in order to advise, support and reward applicants with better procedures.

“The Municipality of Kolding wants its suppliers to respect basic human rights and labour rights in their own businesses as well as throughout their supply chains. Furthermore, Kolding aims to ensure that goods supplied to the Municipality are produced, processed and finalised under conditions based on UN Conventions, ILO Conventions and labour legislation at the site of production.”

The supplier must have established a quality management system for ethical trade, which ensures that the supplier is able to comply with the ethical contract clauses.

The supplier must describe in their bid how the system for quality management of ethical trade is or will be constructed and implemented for the supply to the Municipality of Kolding. This includes ensuring that subcontractors also comply with relevant contract clauses.

The system must at least contain methods that ensure:

- **Traceability in the supply chain.** The supplier must describe how traceability is ensured at all stages of the supply chain including producers of the principle component to be delivered under the contract.



Ethically traded textiles worn by care provider for the elderly - Kolding Municipality

- **Implementing ethical requirements in the supply chain:** The supplier must describe how the elements of the ethical contract clauses are mediated throughout the supply chain involved in delivering the contract.
- **Monitoring and auditing:** The supplier must describe how it has planned to monitor and audit compliance with the ethical contract clauses in the supply chain involved in delivering the contract.

Contract performance clauses

Kolding used the following criteria in their contract performance clauses:

- **Ethical and social responsibility:** The entity requires that the contract holder complies with international conventions ratified by the State of Denmark, including the ILO Fundamental Conventions and the additional ILO Conventions 135 and 155 (see Annex B).

A further requirement was made that the contract holder and its subcontractors respect basic human rights including the UN Human Rights declaration, the UN Convention of Childrens' Rights and the European Human Rights Convention.

Kolding made clear in their contract performance clauses that failure to comply 'is seen as a significant negligence which justifies the entity to terminate the contract with immediate effect'. The Municipality would however meet with the contract holder as a first step and only terminate the contract if the problem could not be resolved through corrective action.

Therefore, Kolding required its suppliers to adhere to social criteria in these categories: child labour, the eight Fundamental ILO Conventions, further extended ILO Conventions and fair trade criteria.

A self-declaration was seen as sufficient evidence for compliance with the ethical specifications. The winning supplier was also CSR certified.

Monitoring and verification

As this is a new contract, Kolding has not yet decided how these contractual conditions will be monitored. However, a technical clarification meeting will be held with the contract holder after all relevant staff have been measured for tailoring purposes and have produced the clothes. At this point Kolding requires accompanying documentation supporting compliance with the contract terms, including technical specifications.

Verification is expected to be undertaken by the suppliers themselves. Whilst it is acknowledged that this form of verification can be problematic, readers wishing to know more about types of verification should read LANDMARK's accompanying report 'Verifying Social Responsibility in Supply Chains'.

As all of Kolding's potential suppliers either had a code of conduct and/or a supply chain management system in place, the Municipality decided to ask bidders for detailed statements regarding how their verification system is built and implemented in their supply chain.

C. RESULTS/IMPACT

A major impact of Kolding's system was that staff members felt they could begin to address ethical problems in the locations where the goods are produced. The Municipality's risk analysis uncovered the now widely-recognised conclusion that textiles is one of the product categories with the highest risk of social issues occurring in the supply chain.

Kolding stated that, after starting to integrate social criteria, it discovered that providers of services for washing and hiring textiles in Denmark are taking environmental and social issues very seriously. Potential suppliers had one or more of EU Flower/ Nordic Swan/ OEKO-TEX 100 labeled clothing, eco-labelled washing services and detergents. This was in addition to ISO 9001, ISO 14001 Environmental Management Systems (EMSs) and codes of conduct, supply chain management systems and/or OHSAS 18001 certificates¹³.

The winning bidder is certified with the Danish Standard DS 49001, a Danish management system to certify social responsibility and sustainable procedures. The system is based on the guidance under ISO 26000 with additional sustainability requirements including social responsibility, ethics, respecting basic human rights, etc. The company is also ISO 9001, ISO 14001, OHSAS 18001 certified and it has signed the UN Global Compact. The supplier audits its subcontractors and requests that they also sign the UN Global Compact and audit their own subcontractors.

Kolding has now committed to address social issues wherever relevant and to clarify whether or not they should be addressed as selection criteria, technical specifications or award criteria, on an ongoing basis in high risk contracts.

The Municipality is part of Denmark's Green Cities initiative and has written a case study on this tender for the latest newsletter, in a bid to encourage others to replicate the good practice. Kolding is also part of Denmark's Green Procurement Network (GPN) and will be disseminating information about the inclusion of ethical criteria through this network also.

The winning contractor uses short supply chains to source its products and uses Nordic subcontractors with good reputations in terms of social responsibility.

D. LESSONS LEARNED AND CONCLUSIONS

Strengths

- The market research conducted was a learning experience for Kolding, as it discovered that the market is ready for such ethical (and environmental) stipulations to be made.

¹³ Readers considering using similar methods should be aware that there is considerable debate and critique regarding conventional social auditing which can be found in other publications. E.g. <http://www.aflcio.org/content/download/77061/1902391/CSReport.pdf> or <http://www.cleanclothes.org/resources/publications/05-quick-fix.pdf/view>

- The requirements set out as part of the invitation to tender (ITT) and contract also sent a clear message to the market about Kolding's commitments to SRPP.

Weaknesses

- The monitoring methods were not clearly defined as part of the contract, but rather are being determined after the commencement of the contract. Also, it was apparent at the end of the tender exercise that the proportion of points awarded to environmental and ethical quality aspects was not large enough to influence the outcome, i.e. the best ethical candidate did not win. However, it was still certified under numerous schemes promoting social responsibility, named above.

Lessons learned

A key challenge for Kolding was to decide whether or not social issues should be addressed as selection criteria, technical specifications or award criteria. Due to the fact that all potential providers were seen to have a certain level of commitment to SRPP when the market was analysed, it was decided that using selection criteria would not add any value to the tender as it would not narrow the field. It was decided that the best way of differentiating bidders in terms of ethical requirements was to use award criteria to evaluate the relative strengths of each approach. The Municipality was informed by one bidder that their specifications for, and assessment of environmental and social responsibility, was the most comprehensive it had ever seen.

The Kolding success story shows that it is possible to use social responsibility as an award criterion, which, because of the legal uncertainty felt by many public authorities, leads some to believe this is a grey area. This uncertainty should be further reduced by the revision to the EU public procurement rules, which will be published in March 2014 and implemented by Member States in 2014/2015.

If Kolding were to repeat the experience, it would put more effective measures in place to ensure that the contractor's quality systems for ethical trade were robust and reliable. The Municipality committed to using this experience to describe monitoring methods in the next tender for washing and hiring textiles. There also exists the possibility that a higher weighting would be used for social criteria, depending on the risk level of the product or service category.

Contact for further information:

Bente Møller Jessen, Municipality of Kolding
e-mail: bmje@kolding.dk

Useful references:

Discussions that took place during the EcoProcura Conference 2012 with both Emma Johansson from Malmö (see Case 1 in the LANDMARK publication Good Practice in Socially Responsible Public Procurement) and with Magne Paulsrud from IEH – The Ethical trading Initiative based in Oslo, Norway.



SUCCESS STORY 4: A series of tenders from Bremen

A. BACKGROUND

In 2007, the Free Hanseatic City of Bremen started to reform its public procurement policy and to incorporate social and environmental considerations into their procurement activities. In 2009, Bremen's revised public procurement law was passed. It obliges public contractors to demand compliance with the Fundamental Conventions, also known as "Core Conventions" of the ILO in public tenders, and includes the specific instruction to "consider the environmental impact of the product when procuring construction, supplies and services."

Bremen started working with the LANDMARK project in 2011. An obligation to satisfy social criteria was shortly afterwards put into writing as part of the 'Regulation of the State of Bremen about the Core Labour Standards'.

To implement this law the City of Bremen trained their procurers and encouraged them to network with each other as well as other departments to get an overview of what people were looking for in products and to learn how other procurers work. Activities began with some initial 'lighthouse' purchases. These were highly visible objects within public buildings, such as new wooden furniture from sustainable sources or new laser multifunctional devices. After learning from these examples, sustainable procurement has now been mainstreamed into all procurement departments.

B. DESCRIPTION OF THE SUCCESS STORY

Potential bidders have to be informed at an early stage about the new requirements implemented by these regulations, namely compliance with the Fundamental Conventions of the ILO. Therefore certain procurement departments started interviewing companies by the end of 2011. Potential bidders shall be invited to a dialogue before any procurement takes place. The procurement requirements and the requested social standards are to be explained to them. The basic guidelines for interviews presented here have been developed to promote this dialogue. The basic guidelines for interviews have been developed by the Landmark Project.

Immobilien Bremen AöR is a public-law institution located in the Free Hanseatic City of Bremen. As a central service unit for the City of Bremen it also works as one of Bremen's central purchasing authorities. Immobilien Bremen advertises tenders for a broad variety of products (about 3,000 different articles, amongst them detergents, office supplies, office furniture, photocopiers and fuel oil). This leads to a total procurement value of about €10 million each year.



Immobilien Bremen agrees framework supply contracts with suppliers and the purchased products are then published in an electronic catalogue which is available to all public authorities in Bremen. The other public authorities in Bremen are entitled and advised to purchase whatever they need from the catalogue.

DETAILS OF THE TENDERS

This report features three tenders into which labour rights were incorporated and in which verification methodologies were used. The 'Lessons learned' section reflects on all three tenders.

In 2011 Immobilien Bremen AöR started to advertise tenders for wooden furniture which were to be produced according to the standards of sustainable forestry. The furniture items included wooden furniture for conference rooms, 24-hour chairs and the electric sit-stand desks which are the subject of the first tender.

Electric Sit-Stand Desks including sustainable timber

Product Group: electric sit-stand desks containing wooden elements

Contract period: 1.7.2013 – 30.6.2014; existing option to prolong the contract twice for one year

Total value: approximately €46.000

Name of supplier: Firma Grothe & Co. GmbH

Type of tender: Open national tender

Type of contract: Framework supply contract

Subject matter of the contract: Electric sit-stand desks from verifiable sustainable forest management systems, with environmentally compatible and socially responsible produced cushions and cover fabrics.

Selection criteria: the selection criteria were not related to the ILO Fundamental Conventions

Technical specifications: 'Controlled Security'-mark by an accredited laboratory

DIN EN 527 part 1-3,

DIN EN 14074,

DIN 16550-1

DIN 4554

DIN EN 14322 (concerning environmental and health requirements)

DIN EN ISO 9001 (Quality management system)

DIN EN ISO 14001 (Environmental management system)

Security rules concerning workplaces in offices and workstations (GUV 17.7/17. (GUV –I 650)

The wooden parts of the electric sit-stand desks have to be from verifiable sustainable forest management.

The supply chain from the forest to the finished product must be verifiable.

Award criteria: Quality and price

Contract performance clauses: The electric sit-stand desks must be produced in the best possible compliance with the eight ILO Fundamental Conventions.

Certification and control mechanisms used: If the product has the Blue Angel certification RAL-UZ 76 all environmental requirements are deemed to be fulfilled except for the sustainable management specifications.

1. As far as timber components are concerned, products which can present FSC or PEFC certification are deemed to comply with all specifications regarding the origin of the timber and the management of the forest, as well as with the ILO Fundamental Conventions. As Bremen was aware, that the certifying organisations FSC and PEFC are still at the beginning of controlling the ILO Fundamental Conventions along the supply chain, it informed the two organizations that better control would be needed in future tenders.

Concerning the cushions and cover fabrics qualified bidder declaration (in accordance with Bremen's Fundamental Conventions regulation) were accepted, as there are no (social) certificates for these textile elements.

2. It was announced that in further tenders a FSC or PEFC or equivalent Chain of Custody certificate (CoC) would be required.

Contract monitoring

Immobilien Bremen has undertaken no post-award contract monitoring concerning the quality, social or ecological characteristics of the desks. The economic aspects of the purchase are controlled by an electronic management system for goods. The authorities that actually buy the desks from the framework supply contract, are asked by Immobilien Bremen to control whether or not the desks fulfill all of the contractual requirements, including the social and ecological requirements.



Electric sit-stand desks with responsibly produced wooden and textile elements - CEKA

C. RESULTS AND IMPACT

No business dialogue had been carried out prior to the tender, although informal talks with potential suppliers took place. In these talks the environmental and social requirements were explained.

The bidders were able to meet the requirements posed by Immobilien Bremen. The successful bidder provided FSC-CoC certification and a bidder declaration concerning the cushions and cover fabrics. Indeed, all bidders were able to provide a Blue Angel and FSC-CoC certification. However, most of the bidders did not provide any certification or a bidder declaration concerning the cushions and cover fabrics.

The social and ecological criteria asked for, did however constrict the number of bidders. It also changed the tendering process, as different stakeholders – Immobilien Bremen, the Senate for Environmental Affairs and the Senate for Finance – worked very closely together to prepare the call for bids and then to evaluate the bids.

Since this procurement of electric sit-stand desks, Immobilien Bremen has carried out further tenders that included requirements for verifiable sustainable forest management systems and compliance with ILO Fundamental Conventions. These requirements have become standard in tenders for furniture carried out by Immobilien Bremen.

Due to the fact that Immobilien Bremen is one of the central purchasing units in Bremen, it serves as a role model for other purchasing units. The tender in question is one part of a whole range of tenders in Bremen, which now consider social and ecological criteria. They are all outcomes of the process of reforming public procurement in Bremen. This process has been aided and encouraged by the support of the LANDMARK project.

Bremen integrated social criteria into a tender for natural stones, a category in which there are serious potential labour rights issues, particularly at the mining stage.

Natural Stones for stairs

Wirtschaftsförderung Bremen is a central purchasing unit in Bremen for construction projects.

Product Group (construction project): Stairs (staircase) including natural stones in Verkehrshöfe/Hafenstraße

Contract period: 11.2.2013 – 31.3.2014

Total value: €658.453,94 (gross)

Name of supplier: Bietergemeinschaft Matthäi/HAST – Am Deich 60-62, 28199 Bremen

Type of tender: open national procedure; tender for a construction project

Type of contract: construction contract

Subject matter of the contract: staircase

Selection criteria, technical specifications and award criteria: not related to the ILO Fundamental Conventions

Contract performance clauses: Conformance to the eight ILO Fundamental Conventions

Certification or control mechanisms used: Fair Stone, WGDN (Werkgroep Duurzame Natuursteen), Xertifix

Contract monitoring

No ILO Fundamental Conventions-related monitoring is planned. Bremen will continue to work with WGDN, and with labels and standards organisations (see above) in a bid to ensure that the ILO fundamental conventions are adhered to during the performance of the contract. Each purchasing unit must ensure that certificate are valid for the products being delivered under the contract.

C. RESULTS AND IMPACT

Three bidders participated in this tender and they all provided a Win:Win Fairstone certificate. None of the bidders had any questions or stated concerns about the ILO requirements.

Wirtschaftsförderung Bremen is now planning to include ILO Fundamental Conventions as contract performance clauses in all future tenders for natural stones. Wirtschaftsförderung Bremen as a public procurer is obliged to adhere to the social and ecological standards set by the “Act about Guaranteed Wages and Procurement of the State of Bremen” and the “Regulation about the Core Labour Standards”. Taking part in the LANDMARK project has supported Umweltbetrieb Bremen to carry out these legal provisions.

The final tender into which Bremen incorporated social criteria was as outlined below. In this case Umweltbetrieb Bremen undertook the procurement procedure.

Personal protective equipment

Umweltbetrieb Bremen is another central purchasing unit in Bremen purchasing – among other products - cars and some work clothes.

Name of Public Administration: Umweltbetrieb Bremen

Product Group: personal protective equipment (textiles)

Contract period: 8.8.2012 - 31.12.2014

Total value: €79.140,00

Name of supplier: Krapp

Type of tender: Restricted national tender with competitive participation

Type of contract: framework agreement

Subject matter of the contract: personal protective equipment (textiles)

Selection criteria, technical specifications and award criteria: not related to the ILO Fundamental Conventions

Contract performance clauses: Conformance to the eight ILO Fundamental Conventions

Certification or control mechanisms used: Fair Wear Foundation, Ethical Trading Initiative, Fair Labour Association, Social Accountability International Standard 8000

Contract monitoring

No ILO Fundamental Conventions-monitoring is planned. Bremen will continue to work as part of various multi-stakeholder initiatives, along with labels and standards organisations (see above) in a bid to ensure that the ILO fundamental conventions are adhered to during the performance of the contract. Each purchasing unit must ensure that certificate are valid for the products being delivered under the contract.

C. RESULTS AND IMPACT

Two suppliers made bids as part of this textiles tender. They both offered products manufactured by the textiles company Engel. They provided a self-declaration made by Engel, accompanied by an internal Code of Conduct. In the declaration Engel revealed main parts of its supply chain. Therefore, neither supplier was able to provide one of the recommended certifications but offered a company self declaration. However, this process did raise awareness amongst suppliers.

Umweltbetrieb Bremen is planning to include ILO Fundamental Conventions as contract performance clauses in an upcoming tender for weatherproof clothing, as it is obliged by Bremen's law to do so. It will thereby use the knowledge gained from engagement in the LANDMARK project to continue to embed SRPP criteria into its future tenders.

In terms of its good practice spreading to other authorities, Umweltbetrieb Bremen has been in close contact with Immobilien Bremen to share information on how to integrate the ILO Fundamental Conventions as criteria in the tender above.

D. LESSONS LEARNED AND CONCLUSIONS FROM THE BREMEN SUCCESS STORIES

In evaluating the tenders above, certification schemes were found to be easier to use and easier to obtain than bidder declarations. Immobilien Bremen has stated that in future it will attempt to get more chain of custody certifications.

It would have been preferable for all three purchasing units to have engaged in market dialogues before inviting tenders. However, this activity can be time consuming and may only be possible for high priority product and service categories.

Strengths

- The use of qualified bidder declarations is one way of ensuring compliance with the ILO Fundamental Conventions in product groups where independent evidence of compliance is presently not available before the award of the contract.
- The use of qualified bidder declarations to integrate social standards into additional contract terms was considered the safest way at present under EU public procurement rules.
- Certification schemes may be the clearest and most objective way to measure compliance, and enable compliant work to be carried out by qualified experts rather than the public authority itself for each product category.

Weaknesses

- The market showed signs of being under-developed in regards to SRPP.
- Public buyers must be careful because some certification schemes are more robust than others and they all have differing social standards.
- It is time consuming to identify an appropriate certificate for each product type.
- The use of certification schemes relies on the monitoring of others and the public authority is less in control.

Key challenges

The first big challenge is to inform the market about Bremen's social and ecological criteria, in order to make it more likely that the public purchasers really get what they ask for in the tender. Therefore Bremen's public purchasers have to be in a steady communication process with their potential suppliers. Business dialogues, which were planned as part of the LANDMARK project, are an effective mechanism to help achieve this.

The second big challenge is the price which has to be paid for products produced in a socially responsible and ecological manner. For some products such as hospital textiles for example the price paid for socially responsible and ecologically produced products might be higher than the price for conventional products. Thus Bremen has to revise the tender process completely in order to check possibilities for saving money, for example reducing the amount of hospital textiles or buying reusable products rather than disposable products.

Lessons learned

Bremen stated that the first thing other public authorities can learn from this success story, is that it is permitted under European rules and indeed by German federal law and Bremen's law to ask for ecological and social criteria.

Secondly, it is worth making efforts to undertake more ecological and socially responsible public purchasing, as it not only has the potential to improve worldwide working conditions and the environment, but also results in products with a high quality.

Requiring environmental and socially responsible production also leads to a new approach to public procurement in general. For example, different units work together on a common topic, whether a product is actually needed or not is put under closer examination and disposable items may be replaced by reusable products, which has positive effects on the procurement process itself and the administration's everyday operations and organizational culture.

Contacts for further information:

Wooden furniture

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Personal Protective Clothes

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Natural Stones

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4 SUCCESSFUL PROCESSES SET UP TO MANAGE SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

Public authorities wishing to take action to improve workers' lives and reduce poverty in their supply chains may be interested in the systems and processes set up by other authorities, as well as the tenders themselves. Before a tender that integrates social considerations is even considered, there is often a process of making a political commitment to SRPP, setting up roles and responsibilities for overseeing it, and setting up systems of oversight and implementation. A crucial part of involvement in the LANDMARK project has been the setting up of these systems.

This section features success stories of public authorities across Europe that have set up systems, processes or agreements in order to embed and deepen their commitment to SRPP.

SUCCESS STORY 5: Barcelona City Council, Barcelona Provincial Council and the Government of Catalonia

A. BACKGROUND

Since June 2012, representatives from Barcelona City Council, Barcelona Provincial Council and the Government of Catalonia have participated in a monthly working group on SRPP. The aim of the working group is to drive the introduction of social criteria into the foreseen tenders of textile and electronics products of these three administrations, the main public buyers in the Catalonia region. The group was initially promoted by the NGO SETEM Catalunya.

The working group is the first space in which these three organisations have met to attempt to use their combined leverage to influence the market on labour rights in their supply chains. Its aim is to establish common standards to include in tenders so that companies supplying each administration are required to guarantee and verify conformance with the ILO Fundamental Conventions in their production processes. In the longer term these common standards could be replicated for all Catalan city councils.

One of the first steps taken by this working group was to identify upcoming calls for tenders in order to make sure that respecting the ILO Fundamental



Conventions was required as part of the procurement process. Barcelona City Council drew on an existing example of best practice, which was their introduction of social criteria into a work wear contract for Parks and Gardens in 2006. Barcelona included a requirement to respect ILO Fundamental Conventions into the subject matter and technical specifications of this contract. The approach to verification began with a self-declaration by bidders and from 2012 onwards, only external social audits, or affiliation to the Fair Wear Foundation, have been accepted as evidence of compliance.

The Barcelona Sustainability Programme is an active member of the SRPP Working Group and their internal working plan was to reproduce this model in future calls for tenders starting with Barcelona Municipal Services (BSM as per its name in Catalan).

B. THE TENDER IN DETAIL

In 2013 BSM put out a call to tender for work wear. The tender is described in detail below.

Product Group: Work Wear

Contract period: 2012-2015 (with the option to extend for 3 additional years)

Total value: €2.511.255,84 (before taxes)

Name of supplier: Iturri

Subject matter and technical specifications: Although the model promoted by the Barcelona Sustainability Program was to include requirements to respect the ILO Fundamental Conventions into the subject matter and technical specifications, similar to the Parks and Gardens call for tenders, BSM included these requirements instead as part of the contract performance clauses.

Selection criteria and award criteria: ILO Fundamental Conventions are not referred to.

Contract performance clauses: Compliance with labour rights based on the ILO Fundamental Conventions is included in the contract performance clause as a special clause. The bidder has to declare the compliance with ILO Fundamental Conventions regarding health and safety policies, freedom of association, collective bargaining, extra hours, minimum salaries, any kind of discrimination, child labour and that they have a social responsibility policy to ensure respect for the ILO Fundamental Conventions.

The respect for these Conventions can be proven with the SA8000 certification, which should be presented to BSM a year after the contract has been signed.

Social criteria referred to: The eight ILO Fundamental Conventions



Uniforms produced respecting the ILO Fundamental Conventions – Barcelona Municipality Services

Monitoring and verification

Barcelona has chosen to use the SA8000 certification as a means of verification. During the first year of the contract there will be several meetings with the supplier to verify the process of being certified with SA8000. Barcelona Sustainability Program will be working with BSM to support this process. After that there will be annual reviews and annual meetings.

The contract was awarded within the last year, as such it is not yet mandatory for the successful supplier, Iturri, to have the SA8000 certification. However, the company has now received the certification. Iturri stated that it had no problem in meeting these standards as the company had started working to get SA800 three years before the call for tenders was published.

C. RESULTS AND IMPACT

Since 2006, all suppliers participating in Parks and Gardens' call for tenders and now in BSM's call are being confronted with the issue of SRPP. Barcelona City Council's Sustainability Program has a working plan to ensure that all future calls for textile tenders will include social aspects in their contractual conditions. This process will be accompanied by internal meetings with the different work wear suppliers that Barcelona City Council is working with.

The SRPP working group aims to unify these social criteria across the three participating administrations, therefore all work wear suppliers in Catalonia will be asked to meet SRPP criteria within the next few years. Moreover, the idea is to use the same criteria across the three main public buyers in order to increase leverage.

As a result of the participation of Barcelona City Council's Sustainability Program in the SRPP working group, an internal work plan has been developed, which stipulated the inclusion of social criteria in all future tenders for work wear bought by Barcelona City Council. The Parks and Gardens model,

including ILO Fundamental Conventions in the subject matter and in the technical specifications, will be used in future. This model is regarded as being more robust and effective as it requires bidders to show compliance before the award, a point in the process when the public buyer has the most leverage. For more information on this tender, see LANDMARK's accompanying report 'Verifying Social Responsibility in Supply Chains'.

The main objectives of the SRPP working group were successfully achieved, these included; sharing experiences between the three main public administrations in Catalonia, learning from one another and from good practice shared by other municipalities and establishing common standards in order to help drive the market successfully.

D. LESSONS LEARNED AND CONCLUSIONS

Strengths

- The creation of the SRPP working group promotes labour rights in the three main Catalonian public administrations' supply chains in a coordinated way.
- Barcelona's Sustainability Department has developed an internal working plan to introduce the requirement to respect for ILO Fundamental Conventions into all textile tenders issued by the Municipality. They also plan to ensure the sustainable procurement of vehicles, timber and electronics.

Weaknesses

- The tendering model is not optimal due to the fact that the ILO Fundamental Conventions are only included as special clauses. The model was therefore weaker than that promoted by the Barcelona Sustainability Programme.
- SRPP of textile products by Barcelona City Council is not promoted by a multidisciplinary team which includes members of all procurement areas. The main promoter is Barcelona's Sustainability Program and so SRPP is not currently considered a cross-departmental goal to work towards.

Lessons learned

Barcelona and SETEM consider this case to be a success story of the LANDMARK project. The SRPP working group constitution embeds an ongoing commitment to SRPP. The internal working plan that Barcelona's Sustainability Program has developed includes social criteria in future calls for tenders of work wear.

The key challenge identified by Barcelona was exploring and maximising the power of these three main public administrations working together. For example, it was a complex process to try to negotiate and establish common standards, in order to use their combined leverage to influence their bidders and suppliers.

Another important lesson identified is that it is valuable for NGOs interested in promoting SRPP to undertake technical work with key individuals inside a public administration before looking for a political commitment to SRPP.

Barcelona and SETEM argue that other public administrations could learn from this project. The emphasis of the working group is on learning across local public buying organisations. It is also a model that can be replicated within other groups of large or small administrations. When the working group was formed, it restricted its focus to textile products. However, in late 2013 and 2014 it started working on IT tenders to try to promote compliance with ILO Fundamental Conventions in supply chains.

Two of the three members of the SRPP working group are participating in the Electronics Watch Advisory Group and the third one is considering participation. Electronics Watch is a project to help public authorities to pool resources and leverage, undertake labour rights monitoring, and the reform of their ICT supply chains (see www.electronicswatch.org).

Barcelona has stated that, if the City were to go through the process again, it would adjust the tendering model to that of the Parks and Gardens tender, which uses the contract's subject matter and technical specifications to promote SRPP, rather than that used in the BSM tender, which only used contract performance criteria due to its better use of public leverage over suppliers. In upcoming work wear tenders relevant staff will try to promote the Parks and Garden model and they hope to have more political support and commitment.

Contact for further information:

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Useful references:

http://www.ajsosteniblebcn.cat/es/programa-a-s_1367

<http://www.bsmsa.cat/ca/perfil-del-contractant/en-proces-de-licitacio/index.html>



Using in house staff
to assess compliance

SUCCESS STORY 6: Loures Municipality and the creation of a Verification Group

A. BACKGROUND

Loures Municipality considers that sustainable public procurement means taking into account economic, environmental and social criteria in all phases of the procurement process. More sustainable goods contribute not only to the minimisation of environmental impacts but also reduce life cycle (production, transport, use and disposal). However, these positive impacts rely on knowledge, supply chain transparency and supplier integrity in the case of social criteria.

The Municipality wanted to go further than specifying a Code of Conduct, therefore it developed and implemented a process which would enable its staff to start to verify the claims made by their suppliers.

B. THE PROCESS IN DETAIL

In order to monitor the adherence of suppliers to their Code, Loures uses an internal multidisciplinary team. The Verification Group for the Code of Conduct for Suppliers was created in November 2013. It consists of representatives from four different technical areas within the Municipality which are relevant to SRPP. These are shown in the box to the right.

Areas of Loures Municipality which are represented on the Verification Group

Logistics Division: the service responsible for public procurement undertaken by the Municipality of Loures.

Multidisciplinary team of Economic Development, Tourism and Employment: the service responsible for supporting the creation of enterprises and employment, attracting investment into Loures and for the promotion of corporate social responsibility and sustainability within the organisation.

Division of Occupational Health and Safety, Occupational Health and Social Support: the service responsible for ensuring safe working conditions, health and well-being to all municipal workers and fulfilling legal requirements and recommendations of international organisations, in particular the ILO, the World Health Organisation (WHO) and the European Community (EC).

Department of Social Cohesion and Housing: the service which ensures the exercise of technical, administrative and operational support in order to pursue the aims of the Municipality in the field of social action, health and housing.

Within the Verification Group a **methodology** has been developed to verify compliance with the Code of Conduct for Suppliers. It is detailed below.

- Apply the **Code of Conduct for Suppliers** to all processes relating to the procurement of textiles, food, construction works and electronics.
- Ask all suppliers to fill in a **monitoring questionnaire** after the formalisation of the supply contract. This questionnaire aims to verify that suppliers act in accordance with their Declaration of Commitment made to the Municipality of Loures by meeting the requirements laid down in the Code of Conduct which are the eight ILO Fundamental Conventions, the additional ILO Conventions 26, 131 and 135 (see Appendix B), and ILO Recommendation 143, in the principles of the Universal Declaration of Human Rights, and in national and community legislation. This questionnaire is accompanied by written guidance on how it should be filled out. After filling out the questionnaire the Verification Group do an analysis and an evaluation report.
- **Visits to the premises of suppliers and collection of evidence and documents.** Each supplier will be visited by the Verification Group. In these visits evidence will be collected and interviews with a representative of the supplier enterprise will be conducted. Specific documents may be collected which comprise evidence relating to socially responsible actions taken or not taken by the supplier. The Declaration and the respective visit report will then be sent to the supplier with proposals for improvement and suggestions for good practice more generally.
- Each time instances of non-compliance are identified, a **Corrective Action Plan** will be prepared and negotiated between the supplier and Loures in order to involve suppliers in its evaluation. The implementation of the actions foreseen in the Action Plan will be overseen by the Municipality of Loures or by a designated third party.

Loures has decided that the Working Group will meet every fortnight until March 2014, in order to embed this process into the Municipality.

C. RESULTS AND IMPACT

Loures Municipality has not yet applied its verification processes to these cases. It intends, however, to follow up with compliance and any verification will happen according to the provisions indicated in the Code of Conduct.

An internal team will discuss the model and verification tools to be used. Requests for documents, visits to the suppliers, and a questionnaire to be completed by winning bidders, are some options that are being considered.

A working group has been formed with other public organisations within a country-wide grouping called the **National Network of Socially Responsible Organisations** to discuss the theme of SRPP. This will both extend the debate around SRPP and lead the market towards an enhanced incorporation of socially responsible practices.



Seminar on Socially Responsible Public Procurement, Loures - IMVF

D. LESSONS LEARNED AND CONCLUSIONS

Strengths

- By entering into a dialogue with the market and by creating a multidisciplinary Verification Group, the Municipality of Loures has been able to engage with suppliers. This has encouraged an ongoing process of communication about social standards and working conditions in its supply chains. This will make suppliers aware of relevant issues and help them to face and overcome difficulties.
- This is a way to involve the market and to promote discussion, knowledge, and practical implementation of SRPP strategies.

Weaknesses

- There remain uncertainties regarding the character of the requirements that must be made to suppliers.
- The potential for complexity, cost of the process and of creating verification tools can be high if undertaken by one local authority acting alone.

Lessons learned

The dissemination of good practice is essential to ensure that public authorities are supported and feel able to procure responsibly and demand more from their suppliers. It is expected that this dissemination will encourage companies to improve their working practices, otherwise the signal to the market may not be strong enough.

Contact for further information:

Loures Municipality, Multidisciplinary team of economic development and employment promotion
e-mail: atividadeseconomicas@cm-loures.pt

SUCCESS STORY 7: Oslo City Council leads the cooperation between Norwegian municipalities to ensure social responsibility in public contracts



A. BACKGROUND

Whilst many public institutions have SRPP or a sustainable procurement policy requiring that their suppliers comply with ILO conventions and internationally recognised human rights standards, few public institutions have the capacity or expertise to monitor whether their suppliers do so. In order to respond to this issue, the City of Oslo initiated a broad venture involving the public and private sectors that aimed to improve ethical standards in public procurement.

The Municipality purchased compliance monitoring through a framework agreement on contract management in supply chains, which it signed with Det Norske Veritas (DNV), MiSA, Deloitte and KPMG. The contract, which began at the end of 2013, is for two years with the option to extend for another two years. The total value of the contract is up to 1 million NOK per year (~€120.000), 4 million NOK (~€475.000) if extended over 4 years.

All Norwegian public institutions were invited to participate in the Framework Agreement. Inspired by the collaboration between the Swedish municipalities featured in Case 1 of LANDMARK's 'Good Practice in Socially Responsible Public Procurement', Oslo considered that getting as many government bodies involved in this Framework Agreement as possible, would be a cost efficient way of sending a significant signal to the market about the commitment of the public sector to social responsibility. Results of the audits carried out under this Framework Agreement are to be made available on the Procurement Portal, which was established for this purpose on Oslo Municipality's website.

Oslo Municipality established this project in partnership with the Norwegian Agency for Public Management and eGovernment (Difi). The project received financial support from the Ministry of Children, Equality and Social Inclusion (BLD).

Oslo stipulates that all of its suppliers follow either the eight ILO Fundamental Conventions on the freedom of association and right to collective bargaining, forced labour, discrimination and child labour, or the broader ten principles of the United Nation's Global Compact, which include human rights, labour, environment and anti-corruption standards. Failure to comply with these can result in breach of contract with the municipality.



Agency for Water and Sewage Works –
Oslo City Council

Monitoring

For every contract prepared, Oslo always does a risk analysis. Along with many other aspects, this includes environmental and ethical considerations. Difi has published a (non-exhaustive) high risk list for goods which is used by the Municipality along with its own risk analysis.

The companies who have been contracted to undertake compliance work for Oslo will conduct audits in various ways. Contract monitoring can include assisting Oslo with supplier meetings, or the supervision of suppliers' head offices in Norway. It can also involve inspections of the production facilities belonging to suppliers and subcontractors abroad.

The City of Oslo began its first mini-competition under the Framework Agreement in January 2014. It is for the purchase of consultancy contract monitoring of ethical standards in the supply chain of the municipal work wear provider. The assignment is to verify that the current supplier is ensuring that ethical standards are adhered to in their supply chains and that the production of selected goods is in line with human rights and the ILO Fundamental Conventions.

B. THE FIRST MINI-COMPETITION IN DETAIL

Background to the original work wear contract

Under the contract performance clauses, the Supplier is obliged to ensure that within their own business practices and those of any subcontractors that contribute to the performance of the contract, the eight Fundamental Conventions of the ILO are adhered to.

At the request of the Buyer (Oslo), compliance with these standards shall be documented by:

- Self-assessment and / or
- Follow-up calls and / or
- An independent inspection of working conditions and / or
- Third party certification, such as SA8000 or equivalent

Once identified, any violation of employee's rights as set out in the contract must be remedied within an amount of time stipulated by the Buyer as long as this time is not unreasonably short. The corrections shall be documented in writing and approved by the Buyer. Failing to remediate any violations will be considered a material breach and the Buyer will be entitled to terminate the contract.

The Buyer reserves the right to conduct announced, semi-announced or unannounced inspections at one or more actors in the supply chain during the contract period. The supplier is required to provide the names and contact details of the subcontractor(s). Contact information confidential.

Requirements for the audit assignment

This contract should commence as soon as possible and shall be completed before 1 April 2014. A monitoring meeting should be conducted with the Supplier based on the following reporting form. Documentation must be enclosed to verify each 'Yes' response, otherwise it should be clearly stated that supporting information is not documented.

| Monitoring Meeting Questionnaire | No | Yes |
|---|----|-----|
| Does the Supplier have a list of all subcontractors in the supply chain for products supplied under the work wear contract? | | |
| Are the Supplier's guidelines for socially responsible manufacturing at least equivalent to Oslo's contractual requirements? | | |
| Is there an appropriate company report (2012-13) on production units that manufacture goods under the work wear contract? | | |
| Does the Supplier conduct follow-up conversations with subcontractors to ensure that the contract provisions regarding socially responsible production are complied with? | | |
| Are there any current reports of factory inspections (2012-13) of the production units which manufacture the goods under contract? | | |
| Does the Supplier conduct independent monitoring of suppliers? | | |
| Is/are the production unit(s) 3 rd party certified (with SA8000 or equivalent)? | | |
| Is there other evidence that Oslo's contract requirements for socially responsible production are complied with? | | |

Enter the addresses of the production unit(s) where the goods in the Framework Agreement on work clothes are manufactured:

The following requirements are optional. This means that this part of the offer will be evaluated according to the award criteria and included in the overall evaluation, but it is still the customer's decision whether the option will be exercised.

- a) Implement audit of the selected location in China according to SMETA audit methodology and prepare a SMETA 2 Pillar audit report.
- b) A summary of the SMETA report will be produced in Norwegian. All discrepancies revealed in the SMETA report shall be described in the Norwegian summary. The scope of the Norwegian report shall be at least 10 A4 pages of text and any tables, excluding photos.

If the Consultant proposes additional activities in connection with the controls/audit, Oslo would welcome this. In this case, these activities are priced separately. Suggestions for additional activities will not be evaluated under the award criteria and will therefore not have any impact on the choice of consultant to be engaged.

UKE will liaise with the Supplier to ensure that the Consultant can obtain the necessary information and that the Supplier makes any necessary arrangements at the location in China.

Award criteria

Total price 60% (The SMETA audit in China should be priced separately)

Competence 20% (A CV shall be provided for those individuals who are to perform the audit engagement in Norway and for the person responsible for the assignment. These shall be accompanied by a description of those who would carry out the assignment in China demonstrating that they have relevant expertise to conduct a SMETA audit)

Understanding of the assignment 20% (Description of how the Consultant shall carry out the assignment)

Materials to be submitted upon completion of the assignment

1. The Final report of the audit engagement in Norway. This shall contain the Consultant's assessment of the documentation and the Supplier's status in relation to Oslo's contract demands for socially responsible production.
2. The SMETA audit report from Location in China.
3. The Norwegian summary / final report shall describe the findings made in the SMETA audit. Personal Information will be anonymised. The report will be published.
4. Additional materials are for the client's use and will not be made public.

C. RESULTS AND IMPACT

Oslo informed others about the advantages of the Framework Agreement and how to participate through articles in public procurement magazines and on web pages. A key result was that more than 60 public authorities joined the Agreement, entitling them to use it as and when required to monitor the provision of high risk product and service categories. The number of government entities that signed up demonstrates the strong commitment in Norway for more socially responsible supply chains and shows the benefits/advantages of such cooperation for public authorities. In acquiring this contract management system, Oslo believes that it is also able to send a clear signal to the market that public entities are conscious of and committed to their ethical and social responsibilities. Estimated spend under the contract by all participants combined is around 1 million NOK annually (~€120.000).

The range of organisations involved has contributed to the successful development of this initiative. Oslo Municipality was responsible for the implementation of the procurement procedure for the Framework Agreement and Difi has provided its expertise and its network. The companies Det Norske

Veritas (DNV), MiSA, Deloitte and KPMG available under the Framework Agreement have extensive international experience in auditing and certification services.

D. LESSONS LEARNED AND CONCLUSIONS

The establishment of this Framework Agreement has proved to be an effective way of putting social responsibility within public procurement on the map in Norway. It demonstrates the power of cooperation and the achievements that can be made when municipalities with more resources available to them take the lead and undertake such ventures on behalf of smaller authorities with less capacity.

It was more time consuming than expected to set up the Procurement Portal, which caused delays publishing the first mini-tender. It was deemed important to demonstrate the functionality of the Portal to all participants before proceeding; therefore the tender was delayed while the technical problems with the system were resolved. The most important aspect of the Portal is that reports from the various audits can be shared between those authorities signed up to using the Framework Agreement.

The consolidation of resources by such a large number of municipalities makes the cost of supplier monitoring significantly lower, compared to each institution buying the same service. Suppliers will also save time and money by reaching out to more buyers with the same information. Making factory inspections an optional part of mini-competitions also allows municipalities to focus their attention on suppliers who do not demonstrate effective management of social standards throughout their supply chains. National financial support for the initiative, including the establishment of the procurement portal, was also of key importance.

The fact that Oslo reserved the right to conduct inspections of one or more actors involved in the supply chain of high risk product categories such as work wear products in the original contract was fundamental. It facilitated the auditing process and helped to avoid disputes with municipal suppliers.

The audit of municipal work wear supply chains has yet to be carried out at the time of writing, but summarised results of this mini-tender will be publicised on the City of Oslo's website.

Contact for further information:

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Useful references:

<http://www.sedexglobal.com/ethical-audits/smeta/>

<http://www.unglobalcompact.org/abouttheGC/TheTenPrinciples/index.html>

<http://ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>

<http://anskaffelser.no/anskaffelser/artikler/use-srpp-criteria-when-procuring-high-risk-products>

<http://www.procuraplus.org/>

5 CONCLUSIONS

These success stories show that public authorities across Europe are beginning to employ effective methodologies to improve working conditions in their supply chains. Their large contracts with suppliers give both a responsibility, and a capacity, to change procurement processes and contract management ensuring that both human rights and labour standards are respected.

The success stories all share a political commitment to taking on the responsibility of ensuring that people making goods for public authorities are treated fairly. Beyond this, they also highlight that public authorities, with different needs, levels of expertise and resources, have been creatively developing a range of different solutions for this issue.

The following list summarises the methods put into practice in the featured success stories:

- Developing and monitoring compliance with a Code of Conduct, which is included into contractual procedures
- Asking bidders to explain their monitoring, verification and compliance systems in a concept, and awarding points for this.
- Using social responsible as a requirement in contract clauses.
- Defining social responsibility in the subject matter and making it a technical specification.
- Requiring relevant certifications or asking specific questions about working conditions.
- Purchasing compliance monitoring and sharing costs across public authorities.
- Sharing data on compliance and monitoring across authorities.
- Setting up methods of collaborating across authorities such as working groups or participation in national initiatives.

Whilst these methods differ, some common themes emerge.

Defining standards

It is essential to define the social standards that a public authority requires as part of an official/adopted policy, and refer to or include related requirements in contracts, in order to give the public authority leverage in negotiations with suppliers. These standards differ from industry to industry, as workers in different industries suffer from different problems. Using associations which specialise in sustainable procurement and civil society groups such as

NGOs to advise on these issues is the easiest way to research these problems and discover relevant questions to ask suppliers and relevant contractual conditions.

Verification and cooperation

Defining standards is merely a first step, public authorities also need to be able to verify whether or not those standards are being met. The success stories detailed in this publication show that this is easier when done in collaboration either with other local buyers, as in the case of Barcelona's working group, nationally as with Oslo's commissioned compliance monitoring, or internationally as with Barcelona's involvement with the Electronics Watch project. This verifying of compliance can include sharing of information or pooling human and financial resources, which saves costs.

Many of the examples described are in the early stages of development and implementation. Further research on their impact on suppliers, on their supply chains and ultimately on workers themselves is required. This is outside the scope of this report. What is certain, however, is that if public authorities do not take steps to improve their social impact, human rights and labour standards will continue to suffer. The public authorities covered by this study have performed a useful service to others by forging a path for other authorities to follow.

The LANDMARK project ran from April 2011 until March 2014, and aimed to enable European local authorities to act as key drivers for the promotion of fair working conditions in global supply chains for certain products purchased by the European public sector.

By changing the consumption patterns of public authorities, the living and working conditions of workers in Asia and parts of Sub-Saharan Africa, particularly those in the textiles, food, construction and electronics sectors, will dramatically improve.

It is clear from many of the success stories in this report that this work has now been scaled up and mainstreamed by public authorities across Europe. In cases such as Oslo's, a large number of other public authorities have been able to use the outputs of the project to improve their own SRPP, further magnifying the impacts. Others will hopefully read this guide and want to do the same.

Future Perspectives under the revised EU Public Procurement Directives

Selection criteria: In terms of qualitative grounds for selection, contracting authorities can now ask for "an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract", which is likely to assist in verifying sustainable supply chains.

Technical specifications: Article 42 clarifies that they may relate to production processes and methods or a specific process for another stage of the life-

cycle provided these are “linked to the subject-matter of the contract and proportionate to its value and its objectives.” The Commission’s earlier position that such processes must ‘alter the material substance’ of the finished product, service or work has been officially abandoned.

Award criteria: Article 67 states that award criteria may include “social, environmental and innovative characteristics and trading and its conditions”, following the decision of the Court of Justice in the Dutch Coffee case (C-368/10). The combined effect of these measures is to allow greater scope for sustainable production processes to be taken into account.

Eco-labels: Article 43 allows contracting authorities to require labels as proof that environmental or social characteristics set out in technical specifications, award criteria or contract clauses are met. Labels may only be used in this way if their requirements are linked to the subject matter of the contract and they meet a number of other standards related to their objectivity and transparency. Equivalent labels must also be accepted, but suppliers will only be able to rely upon other means of proof (e.g. a technical dossier) if they can demonstrate that they had no possibility to attain the label within the time limits for reasons not attributable to them.

The LANDMARK consortium hopes to encourage as many local authorities as possible to use the outlined approaches. If you would like to share your experiences with the application of verification schemes or would like to get further support, please contact procurement@iclei.org.

ANNEXES

ANNEX A

The Eight ILO Fundamental Conventions are:

- 29 Forced Labour (1930)
- 87 Freedom of Association and Protection of the Right to Organize (1948)
- 98 Right to Organize and Collective Bargaining (1949)
- 100 Equal remuneration (1951)
- 105 Abolition of Forced Labour (1957)
- 111 Discrimination (Employment and Occupation) (1958)
- 138 Minimum Age Convention (1973)
- 182 Elimination of the Worst Forms of Child Labour (1999)

ANNEX B

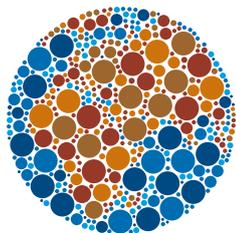
Additional ILO Conventions referred to throughout this publication:

- 1 Limiting the Hours of Work in Industrial Undertakings to Eight in the Day and Forty-eight in the Week (1919);
- 30 Regulation of Hours of Work in Commerce and Offices (1930);
- 102 Minimum Standards of Social Security (1952);
- 115 Protection of Workers against Ionising Radiations (1960);
- 170 Safety in the use of Chemicals at Work (1990);
- 131 Minimum Wage Fixing, with Special Reference to Developing Countries (1970);
- 155 Occupational Safety and Health (1981);
- 135 Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking (1971)
- 158 Termination of Employment at the Initiative of the Employer (1982);
- 169 Indigenous and Tribal Peoples in Independent Countries (1989)

ANNEX C

List of suggested questions included in Dataport's tender documents:

1. Where has the hardware which the bidder is about to deliver been produced?
2. Did the producer produce the hardware entirely in his/her own manufacturing facilities?
3. If not, who were the suppliers along the supply chain?
4. How did the producer find out information about the working conditions in every company along the supply chain?
5. Where along the hardware supply chain did severe problems appear with the compliance with ILO Conventions 1, 30, 87, 98, 29, 102, 105, 100, 111, 115, 158, 169, 170, 182?
6. What has been done to solve these problems?
7. How many workers were involved in the production of the IT hardware to be delivered? How many of the workers involved in the hardware production had a proper employment contract?
8. Is the management of all companies involved in the production process informed about the requirements and implementation of the freedom of association and the right of collective bargaining, as well as about a healthy and safe working environment?
9. Has there been support for the founding of workers' interest groups during the production process?
10. If no workers' interest groups existed in the companies involved in the production: Has a complaint system been established?



THE LANDMARK PROJECT

MOVING TOWARDS
SOCIALLY RESPONSIBLE
PROCUREMENT

PROMOTING FAIR WORK CONDITIONS ALONG THE GLOBAL SUPPLY CHAIN

The LANDMARK project, running from April 2011 until March 2014, strived to enable European local authorities to act as key drivers for the promotion of fair working conditions in global supply chains for certain products purchased by the European public sector.

By changing the consumption patterns of public authorities, the living and working conditions of workers in Asia and parts of Sub-Saharan Africa, particularly those in the textiles, food, construction and electronics sectors will dramatically improve.

The LANDMARK project is an international project co-funded by the European Union (Programme Non-State Actors and Local Authorities, managed by EuropeAid) and is formed on the basis of a partnership between seven European organisations including cities, municipalities, national and international expert organisations.

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