

SME-

FRIENDLY PROCUREMENT

the CAN DO toolkit 2



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IMPORTANT: All three resources that make up the can Do Toolkit 2 provide advice in general terms only. Readers should seek legal advice before use.

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The Context

99% of all Welsh businesses are Small and Medium Enterprises (SMEs) and the Welsh Assembly Government recognises and appreciates the very important contribution they make not only to the development of a healthy economy in Wales but to our communities and the environment upon which we all depend. The Assembly Government's aim is to nurture them, and further develop their role in fostering economic, environmental and social benefits across Wales.¹

Annual public sector spend in Wales is presently around £4.3 billion on external goods and services, with much of it going on essential front line services, on which we all depend. This presents a huge opportunity for the SME sector in Wales to contribute to and benefit from the economic growth that we all anticipate after a period of recession. There are some sectors in Wales that have already been bucking the economic trend and delivering not only quality products but regeneration in some of the most deprived areas in Wales.

Social housing investment is increasing year on year as landlords strive to meet WHQS, and this has led to many added benefits, such as improved housing stock, area renewal, and job and training opportunities for local people through the use of community benefits delivered through the i2i Can Do Toolkit.

However, there is increasing concern in areas of high WHQS investment that procurement processes of social landlords, whether RSL or local authority, are overlooking the capabilities of local, smaller businesses and are favouring large, UK wide contractors, and the main contractor model. This can have inappropriate consequences for smaller local firms.

This *Can Do Toolkit 2 – SME-friendly procurement* addresses key issues such as;

- Shortcomings in client-side skills and an over-reliance on consultants
- Work packaging issues
- Anecdotal evidence of smaller contractors losing out on WHQS work
- Perceived poor practices by main contractors in relation to their sub-contractor relationship

It aims to build on work carried out by;

- Value Wales through the Barriers project and the Business Procurement taskforce, part of which includes the barriers faced by SMEs winning public sector contracts.
- **i2i's** Can Do Toolkit on targeted recruitment and training in social housing contracts, especially the TR and T: One year on report, which highlights the positive outcomes and added benefits that can be achieved by using the targeted recruitment and training requirements as a core requirement of a contract.

¹ Opening Doors - the Charter for SME Friendly Procurement published 2006 and refreshed 2008

The Can Do Toolkit 2 – SME-friendly procurement

The toolkit follows on directly from the **Can Do Toolkit: Targeted recruitment and Training for social landlords**, and should be used in partnership with the original document. Where there are strong links, readers will be signposted directly to the first toolkit, which has been updated to include any new policy and legal developments in this area. This Toolkit includes 3 linked resources:

Resource 1 – This introductory guide provides key information on how organisations can ensure that their procurement is SME friendly, and how opportunities for SMEs can be maximised.

Resource 2 – a comprehensive guide containing detailed information on legal and policy matters, as well as information for buyers on what and how to buy, and how to support SMEs. This resource is linked directly to the first Can Do Toolkit and is available for downloading on the i2i and Value Wales websites in a PDF format.

Resource 3 – a series of model materials and practical guidance on how to buy to be downloaded and adapted from the i2i and Value Wales websites in a PDF format.

How to use the Can Do Toolkit 2

This toolkit has been produced jointly by **i2i** and **Value Wales** as the next step in offering practical and clear guidance to public sector buyers and social landlords in Wales on maximising supply-chain opportunities through their contracts. It aims to help users by providing information and guidance on:

- useful actions they can take;
- legal and policy requirements and appropriate processes;
- sources of support and examples of relevant practice; and
- model clauses that may be adopted for use on a case-by-case basis.

It is hoped that the Toolkit will enable users to take an effective leadership role in the sustainable development of their organisations and the communities they serve. The tools are flexible, and can be used in ways that are:

- capable of being adapted to suit specific circumstances and the preferences of the officers involved;
- compatible with competitive tendering processes and the market allocation of resources;
- compatible with the legal framework governing the procurement activities of the users, and with best procurement practice.

Resource 1

This **introductory guide** will give public sector buyers an overview of how to incorporate SME friendly activities into their procurement by:

- Understanding the rationales and policy basis for maximising the opportunities for SMEs
- Understanding the options available that buyers can use to maximise those opportunities.

The focus for this toolkit has been on construction contracts being let by social housing providers. However, this is mainly due to anecdotal evidence from SMEs in that sector that provided the impetus for this document. This toolkit, produced jointly with **Value Wales** can be used and adapted for use by all public sector purchasers of works, and for the procurement of supplies and services.

This toolkit provides advice in general terms only, and readers are advised to seek legal advice on the particular circumstances when contracting authorities wish to utilise a particular SME-friendly method.

Section 1 Rationales for SME-friendly procurement

In its "One Wales: One Planet" sustainable development strategy, the Welsh Assembly Government has clearly made the link between social, economic and environmental factors in promoting the future sustainability of Wales. SMEs are part of that local community and economy described below;

"In our regeneration work we will encourage our partners to adopt similar principles to ours, integrating social, economic, and environmental considerations and seeking to maximise the benefits to the local community and economy from the way regeneration takes place."²

United Welsh's social objectives have one main aim: to put money into the pockets of local people through the investment made by the organisation. Using SMEs is one of the routes used for this purpose.

Richard Mann – Director of Development and Community investment. United Welsh.

Contract and work opportunities for SMEs (firms with under 250 staff or a 50m euro turnover³) has been the subject of concern within the 'public procurement community' and has generated research, recommendations and initiatives for both the UK and Wales. Key documents include:

- The "Glover Report" - Accelerating the SME economic engine: through transparent, simple and strategic procurement - HM Treasury 2008
- The Barriers to Procurement Opportunity project set up in response to the report produced by the University of Glamorgan and Bangor University in 2009

This literature identifies the following as the problems facing SMEs wanting to win work:

- accessing information on new upcoming opportunities;
- pre-qualification: too much information is required and there is too little standardisation across the public sector;
- 'aggregation' (combining similar works into 1 larger contract) and 'bundling' (putting together different types of work into 1 larger contract) results in larger contracts that are beyond the scope of SMEs (and especially micro and small enterprises) to deliver – e.g. because they don't have the required financial backing or track record.

² One Wales, One Planet Welsh Assembly Government may 2009 Chapter 1 Government may 2009 Chapter 1

³ SMEs comprise micro enterprises (less than 10 employees or €2m turnover), small firms (11-49 employees or under €10m turnover) and medium-sized firms (50-249 employees or under €50m turnover).

The 'solutions' proposed to overcome these barriers for SMEs typically include:

- advertising contract opportunities through websites, and using e-procurement tools;
- simplifying and standardising the pre-qualification information requirements;
- if aggregating contracts ensure that this is done collaboratively with other buyers, and that appropriate lots of differing size are advertised;
- encouraging main contractors to advertise their sub-contract and supply opportunities;
- increased use of outcome-based specifications and procurement processes that encourage innovation.

However, the University of Glamorgan/Tender Wise research demonstrates the way that the shortage of procurement staff (pursuing greater efficiency) works against some of these "solutions."

A difficult issue to reconcile is the dividing line between the broader SME friendly agenda of Government and the Welsh social landlord's agenda of maximising the economic benefits of the local community: the local multiplier impact from their expenditure. The literature on local economic benefits tends to come from the New Economics Foundation (nef) and presents much public procurement as inefficient because it doesn't maximise public benefit. Too often "Best Value" is assessed against a narrow range of criteria that typically prioritises price and excludes "community benefits" and the potential contribution to the local economy.

Section 3 *A Typology of SME-friendly procurement options*

Despite the barriers, public sector purchasers have a wide range of SME-friendly actions they could take. The Can Do Toolkit 2 has divided them into four types, as can be seen below in summary. A fuller description of these activities and how to undertake them can be found in Resource 2 Section 3.

'What to Buy' Options

- Pre-procurement dialogue processes
- Supply-chain management
- Works and local economic development
- Works and supply-chain development
- Labour-only and supply-only contracts

'How to Buy' Options

- Smaller contracts
- Set-aside contracts
- Division into 'lots'
- Framework contracts with smaller call-down volumes
- Simplification and Standardisation of the Pre Qualification process

Informing Potential Bidders

- Issuing a Procurement Guide
- Local advertising
- 'Meet the Buyer' events
- Buy4Wales & sell2wales
- Local Business Databases
- Databases operated by other procurement portals also provide registered businesses with information on contract opportunities.

Supplier Development

- The Supplier Development Service
- Consortium formation
- Constructing Excellence

Government action tends to focus on informing and supporting potential bidders: actions which are essentially outside of the procurement process itself. However, buyers also have considerable scope to adopt an SME-friendly approach when they are considering WHAT to buy and then HOW to buy it.

Through this **CAN DO Toolkit** buyers can select from this wider range of possible actions: the actions can be used alone, or with another option from the summary above. They may work equally well alongside Targeted Recruitment and Training clauses as discussed in the first Can Do Toolkit.

In deciding how to proceed it is vital that social landlords select professional advisers that are willing to embrace this holistic approach to the delivery of works, supplies and services and can bring relevant experience and knowledge to it.

STEP ONE: Adopting clear policies

Requirements

- the commitment to SME-friendly procurements should be included in the Procurement/Corporate/Community Strategy;
- indicate thresholds values or types of contract where the policy will apply;
- include any commitment to locality or particular types of firm; but
- be non-specific so that the policy can outlast short-term changes in priority.

STEP TWO: Developing a business case

Requirements

- consider the powers and policies that could allow the inclusion of targeted economic development or supply-chain development as a part of the subject of the contract;
- decide if these are to be included, and if so consider how the requirements will be defined, measured and monitored;
- undertake `market consultations` to assess the response to these requirements;
- consider arrangements for procuring through smaller contracts that are more accessible to SMEs;
- use Sell2wales as a means of advertising all small contracts;
- consider how best to use the resources provided by the Supplier development Service and Construct Wales.

STEP THREE: Preparing the OJEU contract notice

Requirements

- the use of social considerations including actions to support SMEs must be mentioned in the Contract Notices;
- the intention to appoint a number of contractors to a Framework must be included in the Notice
- the intention to award the work through a number of `lots` must be mentioned in the Notice.

Model Text

Training and Supply-chain Opportunities

[.....] (enter name) is committed to achieving economic, social and environmental well-being for its residents and implementing the [Community] Strategy so as to ensure a better quality of life for everyone, now and for generations to come. To achieve this it commits to the following actions to the fullest extent possible within the relevant legal and policy frameworks and the available funding:

- when selecting the strategy for each procurement, to consider what recruitment and training, equal opportunities and SME opportunities could be obtained from each works contract with an estimated value exceeding [£...m] and each services contract with an estimated value exceeding [£.....] ;
- to include training, equal opportunities and recruitment requirements, and SME opportunities in its service requirements, where it considers this appropriate;
- to include other social and environmental matters in its service requirements, where it considers this appropriate; and
- to use these requirements in all stages of the selection and contract award process, and as contract conditions.

Model Text

In preparing a business case a contracting authority must consider many issues, including:

- confirming that it has the powers and policies to undertake the procurement, including the desired social issues;
- ensuring that financial provisions are made for the entire project, including SME-friendly requirements and other social outcomes;
- ensuring that all of its SME and other social objectives can be quantified and measured, which will help evaluate how far they represent value for money;
- identifying the weighting to be given to the provision of SME opportunities in the procurement process and what procurement strategy will best achieve this; and
- identifying what SME opportunities could be provided in the supply-chain and how this is best achieved (e.g. through the specification and contract conditions), including the availability of supply-chain listings and supplier development resources and facilitation and monitoring arrangements.

Model Text

“Under this [procurement / project] the [contractor / developer] is required to participate actively in the economic and social regeneration of the locality of and surrounding the place of delivery for the [procurement / project]. Accordingly contract performance conditions may relate in particular to economic, social and environmental considerations.”

STEP FOUR: Pre-qualification questionnaire

Requirements

- consider using standard PQQ templates for financial matters and past experience in order to reduce the input required from potential bidders;
- critically examine the need for turnover thresholds and membership of trade organisations as evidence of capability: look for alternative evidence;
- include a question to check the technical and managerial capability to deliver a SME-friendly approach.

STEP FIVE: Producing the specification or invitation to tender

Requirements

- Detailed SME-friendly requirements or local economic impact requirements need to be included at this stage: what are appropriate and deliverable
- Draft clauses that are unambiguous, outcome-based and provide `a level playing field` for bidders from anywhere in Europe;
- Refer to Sell2Wales or other local databases as a source of targeted SMEs that is available to any contractor.

STEP SIX: Developing an award process

Requirements

- any weighting to be given to the SME-friendly core requirements should be identified early and included in the OJEU Contract Notice;
- ask bidders to complete a pro-forma method statement relating to their SME-friendly activity: if a core requirement the method statement can be scored and used in the award of the contract;
- if the SME-friendly activities are not core requirements they should not influence the award of the contract but they can be included as contract conditions.

STEP SEVEN: Implementing contract conditions and monitoring outcomes

Requirements

- Specific contract conditions that reflect the requirements of the specification or Invitation To Tender should be developed on a case by case basis.
- Establish procedures for monitoring and progress-chasing the SME-friendly requirements: these will be most important in the first weeks and months of a contract.

Model Text

Targeted Supply-chain Opportunities

Is your company willing to work with the contracting authority on any or all of the below, and explain how you would do this?

- Identifying `additional SME suppliers` that you have not utilised before and that are based in and around the localities where you are working;
- Utilising Sell2Wales and other supply-chain listings and working with Supplier Development Programmes;
- Nurturing and supporting these additional SME suppliers so that they are better able to meet your needs;
- Implementing best practice in payment and other terms in relation to your SME supply-chain;

How would you plan to be involved in any of these activities, or do you have any examples of how you have already been involved?

Model Text

While the details will vary from contract to contract there are a number of common elements that are included in SME-friendly specifications. These include:

- some reference to the policy or legal underpinning for the requirements;
- measurable performance indicators either within the specification or in an addendum, relating to the required outputs, and/or a process for identifying `target SMEs` that has to be followed;
- monitoring and performance review requirements; and
- a disclaimer to protect the client from 'claims' relating to any SME-friendly interventions they make.

Model Text

- A pro-forma SME-friendly method statement is included in Resource 3.
- A scoring framework should be developed to ensure a robust and fair evaluation of the SME-friendly method statements.

Model Text

The model clauses in Resource 3 can be used as a starting position for all procurements, including those covered by EU rules. They are drafted on the basis that the contractor will have supplied a service delivery plan or method statement satisfactory to the client concerning how they will implement SME-friendly activities.

checklist

actions to take

	AIMS	TARGETS	SUPPLIER SUPPORT	COSTS	CONTRACT SIZE
	Check Constitution & `Powers`	Micro enterprises	Issue a Procurement Guide	Identify cost of SME-friendly approach	Large contract + supply-chain obligations
	Check and enhance social policies	Micro and Small firms	Meet the buyer events	Ensure budget covers the approach	Framework contracts with modest or variable call-down volumes
	Check Sustainable development policy	SMEs	Advertise Opportunities	Make core SME-friendly actions a part of the VfM or best value decision	Advertise a contract to be let in smaller `lots`
	Check & revise Standing Orders	New suppliers	Use an SME data-base e.g. Sell2Wales	Identify external resources to support SME work	Avoid aggregating: provide small contracts
	Check and enhance procurement policy	Firms on Sell2Wales or other registers	Targeted capacity-building	Market-test SME requirements	Let a supply-chain management contract
	Ensure advisers are aware of social/ economic aims	New start businesses	Encourage SME registration on data-bases		Buy labour and materials separately to provide small contracts
	Consider good procurement practice	Social enterprises and supported firms	Support consortia formation		

SPECIFICATION	PROCUREMENT PROCESS	LEADERSHIP	MONITORING
Target % for the value of tender price to be provided by target SMEs	Procure via contract portal e.g. Buy4Wales / Sell2Wales	Consider monitoring issues at specification stage	Supply-chain activity must have a 'champion'
Target % for the value of works to be provided by target SMEs	OJEU Notice with social requirements and given weighting	Adopt appropriate measures: few but targeted	Identify external resources and expertise e.g. Construct Wales
Set target value for the benefit to a target local economy	PQQ –simplified and includes questions on supply-chain development activity	Prefer quantitative to qualitative measures	Provide 'specialist' support and information to procurement team
Notify supply-chain opportunities to a named register	Advertise opportunity + meet the buyer event	Specify reporting periods and formats	Report outcomes to local business forums
Contractor to advertise supply-chain opportunities	All bidders get access to a targeted supply-chain	Progress-chase and respond to outcomes	Share outcomes and lessons learnt
Contractor to hold 'meet the buyer' events and mentor new suppliers	Get and evaluate Method Statement with the tender	Consider how to verify reports	
		Excessive monitoring is poor VfM	

Section 5 Powers, priorities and choices

From this Introduction it can be seen that public sector buyers and social landlords in Wales have a significant range of choices about how they implement a SME-friendly approach to their procurement. These choices will be explored in more detail in resources 2 and 3 of the Can Do Toolkit 2 – SME-friendly procurement.

So how should public sector buyers decide what to do and how best to achieve their aims?

A range of considerations are required including:

- Identifying the buyer's **aims** from existing powers, policies and financial procedures, or perhaps enhancing these to better express the new thinking in the organisation;
- Selecting **targets**: which SMEs is it hoped will benefit and where are they located?
- What **supplier support activity** could increase awareness of opportunities and SMEs' capacity to compete successfully for these?
- How to treat **additional costs** arising from SME-friendly activity: can these be offset through use of external resources like the Supplier Development Programme?
- What can be done to **provide contracts of a size that is suitable** for the target SMEs?
- **Can the specification be extended** to include requirements that better reflect the purchaser's aims e.g. 'economic multiplier' or 'supply-chain development' requirements?
- How should the **procurement process be changed** to reflect any SME-friendly aims for the procurement e.g. at the PQQ, contract notice, specification and award stages?
- How will any SME-friendly requirements be **measured and monitored**?
- **Leadership**: who will co-ordinate and progress-chase the SME-friendly agenda and support services?

Through resources 2 and 3 buyers can learn more about and select from this wide range of possible actions in order to maximise the opportunities for SMEs in their area. Many of these decisions are taken at the pre procurement stage and offer the opportunity for organisations to develop their corporate aims and objectives, as well as their policies and procedures to reflect their sustainable development responsibilities. It can be done.

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