

Legislation

Article 19 of the EU Public Procurement Directive (2004) allowed public bodies to reserve contracts and framework agreements for Supported Businesses and enterprises where over 50% of employees were disabled.

Article 20 of the [EU Directive 2014/24/EU](#) has since updated this requirement to include businesses where 30% of the workforce is considered disadvantaged* or disabled.

“1. Member States may reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled or disadvantaged persons or may provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least 30 % of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers.

2. The call for competition shall make reference to this Article.”

*Disadvantaged includes, ‘the unemployed, members of disadvantaged minorities or otherwise socially marginalised groups’ (EU Directive 2014/24/EU).

Section 11 of the Procurement Reform (Scotland) Act 2014 also permits the reserving of contract to Supported Businesses for service and supplies contracts between £50,000 and European thresholds.

Background

Supported Businesses have been in existence in Scotland for over 150 years. They facilitate the social and professional integration of disabled or disadvantaged individuals in the workplace, enabling them to become more independent and active in their communities. The development and training opportunities contribute wherever possible to assisting the transition into mainstream employment.

Currently there are 18 Supported Businesses in operation in Scotland, providing employment for around 1,100 individuals and with a current collective turnover of £35 million. This number of Supported Businesses in Scotland will increase following the new legislation (EU) and definition of disadvantaged. A revised register of Supported Businesses will be published by The Scottish Government in due course.

Ministerial Priority

The importance of Supported Businesses in helping to improve the lives of individuals who are unable to work in the open labour market is recognised by The Scottish Government. SDS as a Scottish public sector contracting authority promotes the use of Supported Businesses for goods and services as part of the SDS overarching Corporate Procurement Strategy 2016-2020. The Sustainable Procurement Duty (PRSA section 9) encourages organisations to “facilitate the involvement of small and medium enterprises, third sector organisations and supported businesses in the process”.

The continued and increasing success of these enterprises in Scotland is a ministerial priority and an action plan and Supported Businesses Working Group have been established for the Central Government sector to raise awareness and increase spend. It focuses on several key areas, including the need for a better understanding of what Supported Businesses can deliver and the need to increase awareness of the sector as well as highlighting further developments required in relation to subcontracting opportunities.

SDS Policy

The SDS Corporate Procurement Strategy 2016-2020 section 4 details that we will continue to support and improve access to procurement opportunities for SMEs, Third Sector and Supported Businesses.

As part of our procurement strategies, SDS considers whether the goods and services required can be procured as a reserved contract.

There are various ways to engage with and procure products and services offered by Supported Businesses:

1. Reserved Contract – Regulation 21 of The Public Contracts (Scotland) Regulations 2015;
2. Direct Award or Mini Competition through the existing Scottish Government Supported Businesses Framework Agreement SP-12-002;
3. Facilitate subcontracting through a Prime Contractor (e.g. use of a supply chain focused community benefit clause to encourage prime contractors to subcontract to Supported Businesses e.g. Total Facilities Management provider for Signage requirements or IT providers for IT recycling);
4. For procurements with a value less than £50,000, invite bidders to participate in a Quick Quote opportunity.
5. For procurements with a value of £50,000 and above, an open tendering exercise will be conducted which allows Supported Businesses to compete for alongside other economic operators.

Measurement of business conducted with Supported Businesses

Section 18.2 (e) of the Act states that a Contracting Authority's Annual Procurement Report must include a summary of any steps taken to facilitate the involvement of supported businesses in regulated procurements during the year covered by the report.

SDS Procurement maintains information of contracts placed with Supported Businesses through our Contracts Register.

The Supported Business Action Group is required to provide an update on commercial activity to Ministers.

As such, contracting authorities are required to provide a quarterly return of business placed with Supported Businesses and also details of planned opportunities.

Scope

The goods and services provided by Supported Businesses are wide ranging.

Supported Businesses produce high quality products and services ranging from Furniture, Document Storage and Signage to Embroidered Work wear, Uniforms and Hand Soap.

A full list of products and services can be found within the Scottish Government's *Supported Businesses in Scotland* Directory which aims to assist buyers by providing a concise list of the Businesses and what they produce, highlighting potential procurement opportunities.

The link below will take you to the current *Supported Businesses in Scotland* Directory.

<http://www.gov.scot/Resource/0045/00456008.pdf>

A revised Directory is being developed to account for the new legislation.

British Association for Supported Employment (BASE)

BASE is the national trade association for the supported employment sector. Their purpose is to support, promote and develop the principles and provision of supported employment.

Please refer to the Further Information section below for contact information.

SDS' Eight Step Process for Consideration of Supported Businesses in Procurements

Stage 1; Identification of Business Need, engage with Procurement who will collate the Procurement Strategy and Specification. Early engagement is key!

Stage2; at Strategy stage consider whether Supported Businesses can provide the goods and services required. Engagement and communication with identified Supported Businesses is encouraged at this stage to establish exactly what products and services they supply and their capacity to deliver according to the timelines. Bidder's conferences, buyer events and visits can all help to inform the strategy.

Stage 3; Engagement with internal stakeholders is necessary to explain the benefit of procuring through Supported Businesses (social value).

Stage 4; Outline the procurement options in the Contract Strategy and provide a recommended route to market (refer to the SDS Policy section above).

Stage 5; Once the strategy has been approved, publish the procurement exercise through the Public Contracts Scotland portal (as relevant/appropriate alerting the Supported Businesses to the opportunity).

Stage 6; Receive, evaluate and award the Contract. All suppliers should be treated in an open, fair and transparent manner and so it is imperative if asked for further information to provide a debrief as part of the procurement process.

Stage 7; Manage and monitor the contract. This will be particularly important if a Supported Business is a subcontractor to a prime supplier and regular review meetings should be conducted.

Stage 8; Provide management information to The Scottish Government on a regular basis (e.g. quarterly progress report).

FURTHER INFORMATION

There are various sources of useful information. Further information can be found at:

The Scottish Government

<http://www.gov.scot/Topics/Government/Procurement/buyer-information/SuppBus>

<http://www.gov.scot/Resource/0045/00456008.pdf>

<http://www.gov.scot/Topics/Government/Procurement/directory/frameworksupportedfactbus>

<http://www.gov.scot/Topics/Government/Procurement/buyer-information/SuppBus/caseStud>

British Association for Supported Employment

www.base-uk.org

SDS Case Study

<http://www.skillsdevelopmentscotland.co.uk/media/42846/procurement-redrock-case-study-010414-v10.pdf>

Ready for Business

http://readyforbusiness.org/wp-content/uploads/2016/04/cs-SDS_Procurement_Strategy.pdf

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