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Public Procurement

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Social Enterprises

UK Procurement Policy

- Purchasers are free to decide their requirements including community benefits
- Requirements must be based on powers and policies
- A requirement does not need to give a monetary benefit: achieving policy is sufficient
- Tenderers must have the technical capacity to deliver the requirements
- VfM is judged against all of the requirements

EC Procurement Rules

- Public bodies must not discriminate against non-local firms
- `Contracting authorities` must follow procedures in the procurement directives
- Social considerations must not discriminate e.g. by being locally referenced
- Social considerations can then be a contract requirement and used in selection

LA Procurement

- S.17 1988 Local Govt. Act prevents labour force matters being used in contractor selection
- This is set aside where necessary to achieve `best value`
- Best value is determined by the community strategy and other policy documents
- Risk of challenge under Race laws if requirements are locally referenced

Summary

- Public bodies must not discriminate against non-local contractors;
- They should select contractors on the basis of VfM/best value and suitability;
- They should not select on the basis of locality or organisational structure
- They cannot target contracts at social enterprise.

Redefining the Requirements

- Identify the `community benefits` obtained through a social enterprise
- Use these to redefine the service requirements
- Check that these requirements are supported by powers and policies
- Identify providers that can deliver the service requirements
- Tender or negotiate the contract in accordance with standing orders and internal procedures.

Alternatives to Procurement

- VfM and `best value` allows the purchaser to choose how best to provide the requirements
- Options include in-house delivery and via partner organisations
- A service level agreement can be used to set out service requirements
- SLAs provide a grey area between grants and contracts

Service Level Agreements

- Poorly defined: term used to refer to:-
- An agreement between different parts of the same organisation
- Delivery arrangements between different public bodies
- Delivery arrangements related to grants given to community and voluntary organisations.

Conclusions

- The benefits you seek from SEs can be included in contract requirements
- This may enable the SE to compete more effectively
- But you can't target procurement at SEs
- Alternative: look at the use of grants and SLAs as a means of supporting SEs.