

Procurement And Social Firms

Accessing Reserved Contracts: Guidelines for the Social Firm sector

Background

In January 2006 a new public sector procurement Directive – Article 19 – was introduced. This new provision gives contracting authorities the option to reserve contracts for organisations providing supported employment opportunities to disabled people. The Directive makes these provisions in Article 19 for ‘sheltered workshops’ or through ‘sheltered employment programmes’. The Office of Government Commerce (OGC), in consultation with bodies such as Department of Work and Pensions, Remploy, GMB and Job Centre Plus, interpreted these terms to the ones used in the UK of ‘supported factories and businesses’ which are the ones applied in the Directive in the UK.

Application of the Directive

The OGC says, in its document entitled ‘Social Issues In Purchasing’ dated February 2006: ‘A contracting authority should pursue this option on the basis of their user requirement and specification, after establishing that supported employment organisations can meet this specific requirement and provide value for money before conducting the procurement exercise. Many of these organisations have websites and electronic catalogues which provide product and service lines and include details of their capacity potential. Contracting authorities should bear in mind that these organisations are often flexible in what they are prepared to offer and it should not be assumed that the cost of using supported employment will be higher. When reserving contracts, contracting authorities cannot ring-fence contracts for any single employer, but must allow all those meeting the necessary criteria an opportunity to bid. Contracting authorities cannot therefore discriminate against organisations offering supported employment from other member states.’

The OGC has issued guidance specific to Reserved Contracts (see Appendix I or link to: http://www.ogc.gov.uk//documents/supported_factories_and_businesses.pdf)

Criteria for Supported Factories and Businesses

For a supported factory or business to be listed as eligible under the reserved contracts opportunity, it has to employ disabled people comprising more than 50% of its workforce.

Because Social Firms employ disabled people comprising more than 25% of their workforce, Social Firms UK has made enquiries with OGC, Remploy and Jobcentre Plus to see if Social Firms that employ more than 50% meet the required criteria. Although most of the supported factories and businesses are going to be large scale operations, the terms used of ‘supported factories and businesses’ is sufficiently vague to potentially include Social Firms.

It has been confirmed with Remploy that, so long as the minimum 50% employment level for disabled people is exceeded, there is no reason why Social Firms cannot be included as organisations eligible under Article 19.

Promotion and Next Steps

The main medium for promoting supported factories and businesses to procurement officers around the country is www.supportedbusiness.org.uk. This website serves as the single gateway to information about all the organisations and the types of services/products they offer. The role of the OGC has finished, in that it has provided the necessary guidance. DWP and Jobcentre Plus are responsible for promotion of the website, although BASE (British Association for Supported Employment) – many of whose members are supported factories and businesses – is also fairly active on promoting the facility.

A concern of Social Firms UK is that procurement officers around the country are currently being lobbied from several angles – including the Social Enterprise Coalition and others – regarding the benefits of procuring with social enterprises. The latter has not had reason to promote the Directive referring to reserved contracts so, not only are different promotional messages being sent to the same audience but in fact there might be overlap as some social enterprises (Social Firms employing more than 50% of their workforce who are disabled people) are also eligible for reserved contracts.

On agreement from the parties responsible for the 'supported business' website that Social Firms do qualify if they meet the employment criteria, the next steps are:

- Social Firms UK identifies (from the national mapping process) which Social Firms should be listed on the www.supportedbusiness.org.uk website;
- Social Firms UK approaches those Social Firms to see if they wish to have their details featured – if so then they are provided with the contact details for the website administrator to take it forward from that point themselves;
- The annual Social Firm sector mapping process informs the eligibility on an ongoing basis, e.g. if a Social Firm meeting the employment criteria in 2005 becomes listed but then doesn't meet the criteria in 2007 then their details will need to be removed from the site.

It is clear that, if Social Firms UK did not carry out its mapping then it would be harder to identify which Social Firms would be eligible. The ability to provide accurate data of this nature is good for Social Firms UK and the Social Firms it is able to put forward under this opportunity.

It is also anticipated that the Social Firm standard being launched in 2007 will assist those Social Firms listed because it features accreditations against each company. Social Firms UK will encourage the Social Firms that are eligible for being listed under reserved contracts that obtaining the accreditation is in their interests in opening up procurement opportunities.

If you have queries arising out of this brief paper then please contact Social Firms UK on 01737 764021 or email info@socialfirms.co.uk