



BSA response to “Social value in government procurement” consultation

June 2019

Overview

1. The BSA strongly supports the Government’s intention to use its purchasing power to deliver increased social value and welcomes the move to set out an evaluation model for commissioners. A shift away from contracting purely on short-term costs helps to support a more sustainable and effective market and will help improve public trust in partnerships between the public and independent sectors. We commend the Government for the ambitious plans set out in the consultation document. It is our experience that suppliers are ready for this development and would even support more ambitious proposals, for example, the development of a new unit for social value measurement, enabling the UK Government to become a world leader in this area.
2. The BSA represents service providers from across the private, voluntary and social enterprise sectors. These organisations range from the big to the small, with some well-established and others looking to enter public sector markets. It is from the BSA’s diverse perspective that we raise concerns regarding flexibility and recommend a more graded, nuanced application of the proposed framework. Some of the metrics are legalistic and risk-based, whereas some are vague. This means it is unclear whether the new policy is mandatory. We are concerned this confusion could lead to business as usual instead of instigating new behaviours. Strengthening the Social Value Act, as the Government committed to in the Civil Society Strategy, would send a strong signal that the policy is mandatory. Alternatively, linking the proposed policy matrix to existing government guidelines, such as the Government Buying Standards (GBS), would increase clarity. The GBS are outdated and often not used by commissioners, but it seems unnecessary to reinvent a different set of standards if the government can amend and strengthen existing standards. In any case, guidance is needed on how the new framework fits with existing requirements, including GBS, but also with the CEASER framework and with existing national frameworks such as the Future Generations Act (Wales) and the Reform Act (Scotland).
3. A graded approach could separate out metrics which are essential from those that are desirable. Essential metrics could include broad government objectives such as prompt payment, gender pay gap reporting and anti-slavery practices. This removes the need to reinvent the wheel and encourages good business practice among the wider supplier market. Desirable metrics could be split into ‘preferred’ and ‘optional’. We recommend these metrics are not overly prescriptive and are relevant and proportionate to the contract. This ensures SMEs and VCSEs can compete with larger companies, and avoids good ideas becoming lost between the themes.
4. We believe that much of the success of this policy comes down to the tendering process, especially good market engagement. It will require an intelligent client and a diverse supply base. Otherwise, it risks being hampered by other problems with the procurement process, such as iniquitous risk transfer, onerous terms and conditions, excessive pressure on cost reduction and the threat of legal challenge. It is therefore essential the Government addresses these problems with a matter of urgency so we can move to a new phase of contracting behaviour, one with good feedback and a mutual understanding of costs. The Outsourcing Playbook makes good

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recommendations, but we need more concerted efforts to see change on the ground. A good start would be new guidance from the Cabinet Office on pre-market engagement.

Question 1: Do you agree with the proposed policy metrics in the model in the attached annex? Do you have examples of such metrics being successfully used in public procurement?

5. There are two issues - at what level do the metrics apply, and do they focus on the right things. Measuring all the metrics at a contractual level will place a heavy administrative burden on providers that are small and/or infrequent suppliers to the public sector. In addition, it would be a wasted opportunity if the new rules encouraged providers to deliver only one-off, ad hoc social benefits in order to win a contract. It would also be unfortunate if a situation emerges where providers deliver social value in one contract and act against it in another contract which doesn't have the same requirements.
6. We understand that applying these social value metrics at an organisational level would not comply with the public procurement regulations 2015. However, a graded approach as used in The Netherlands may have a more coherent effect. Metrics already legislated for should be separately listed, for example, those included in the 'safe and secure supply chains' theme. Other metrics could be considered essential for a particular contract, for example, levels of cyber security protection if dealing with sensitive information. These metrics must be measured at an organisational level as it only makes sense if the whole organisation complies. Assessment of essential metrics could become part of the pre-qualification questions (PQQ) stage. Other metrics could be listed on a menu as desirable, left to negotiation during the tender process, and measured at a contractual level. If there are multiple sites in a contract then the social value criteria adherence should be co-ordinated at an organisational level.
7. This would ensure the Government only does business with providers who are fully aligned to its broad social objectives. It removes the option to use no social value, as there must always be an angle for social value in all procurements.
8. We do not want to see a situation where a list of metrics becomes the only metrics considered. A strictly limited set of standardised criteria and metrics, without any degree of flexibility built in, risks: i) missing other forms of social value which may be the specialism of mission-based organisations; and ii) putting smaller and less frequent bidders at a disadvantage because of their reduced ability to adapt to these criteria and metrics and effectively standardise delivery of them in ways which larger and more frequent bidders with greater economies of scale will find easier to do.
9. Instead of being prescriptive on what social value to deliver, the commissioning authority could outline their priority issues and ask how the supplier, through their existing social value programmes can support these issues, whether in the area that the contract is delivered or in an area where the supplier is based. For example, if the priority is to increase employability skills, the supplier should demonstrate how they do this through school visits and school/college partnerships. This relies on a collaborative approach to delivering social value involving a two-way dialogue with suppliers, voluntary sector organisations and government during the tender process.
10. Looking at an organisation's total approach means suppliers can prove they commit to social value even if they are not delivering the service in a particular commissioning authority's area. The rise in digital services means that delivering place-based social value is only applicable for contracts where the supplier is present. Delivering a service remotely from an area where there is high unemployment and low social mobility can increase the impact of social value, and therefore must not be penalised.
11. There is no mention of alignment to UN Sustainable Development Goals in the consultation and the policy context cited is UK or sub-UK. The later direction of travel is likely to be UK Government reporting in line with these goals and then total contribution reporting including social value. This would help to provide a framework and focus to the metrics.



12. The inclusion measures on page 16 seem to focus more on legislative requirements for inclusion rather than on mental health and wellbeing, areas which are increasing factors in the workplace. These could focus more on a holistic approach for wellbeing and physical health, to encourage suppliers to demonstrate measures actively taken to ensure wellbeing in the workplace and for their customers.
13. The environmental measures are all risk-based and look at the reduction of environmental aspects. They should also consider opportunities to enhance the environment, for example:
 - Non-skill-based volunteering
 - Planting of bio-diverse areas, enhancing wildlife and conservation
 - Opportunities for enhancing wellbeing.
14. The metrics for community engagement would benefit from the inclusion of broader measures such as volunteering and pro-bono work.
15. The skills and employment theme should reflect the fact that softer skills development of employees is unlikely to be obtained through training courses. It should also be stronger towards the skills and employment of persons external to the organisation bidding, rather than its own internal workforce. It would be useful to measure local jobs created by a specific proposal. For example, if an infrastructure project is to be delivered in a neighbourhood, it should be possible to use the investment to produce other local social value and outcomes (jobs and economic development) with physical regeneration also delivering sustainable social regeneration.
16. When a procured service is itself about delivering social value (e.g. employment interventions or installing electric vehicle charging) there should be a metric to measure and distinguish the relative impact of different offers. A service that delivers more social impact should deliver more social outcomes and save more money down the line. If that is quantified as part of a bid, a commissioner can justify spending more up front to save more further down the line rather than being restricted by price. It is better to spend £2 to save £5 than to spend £1 to save £2. For example, a service that works with ex-offenders to help them gain sustainable work can reduce the risk of reoffending and that not only provides the economic benefits associated with employment but also potentially saves money in terms of police time, court time and prison costs. It is reasonable to take the additional social value/impact into account if comparing such a service with one that simply works with jobseekers.

Question 2: Do you agree that the proposed minimum 10% weighting for evaluating social value in the bid is appropriate?

17. The BSA believes the 10% weighting is a good starting point. However, 10% risks being seen as more of an add-on rather than a key aspect of the procurement process. A higher weighting would incentivise the supplier to consider social value a fundamental part of procurement as well as a key factor throughout the life of the contract. It is arguable that the 10% is already being delivered under the Social Value Act 2012. Therefore, we recommend the Government commissions a study to look at the effect of this legislation to reveal the extent of take-up and delivery.
18. The 10% should be a stand-alone score (e.g., price (60), quality (30), social value (10)) and not part of the quality score. This will ensure social value is properly embedded and not ignored. A separate score also means social value becomes a market differentiator for suppliers who are genuinely responsible and sustainable. The social value weighting could operate on a sliding scale, for example, 5/10/15%, with justification for each set out in guidance.
19. If not a sliding scale, the flexibility implied by the 10% should still be more explicit through accompanying guidance. Where creation of social value and the social value policy outcomes being promoted through the framework are most closely aligned with the delivery of the contract, then a higher weighting is appropriate.



20. On the other hand, a high weighting can be construed as adding additional cost, for example, employing additional apprentices. The weighting and targeted approach could lead to short-term thinking to achieve targets, for example, apprenticeships being renewed every two years. A higher weighting would therefore need to be balanced with the length of the contract to ensure the benefits are imbedded. The quality of social value and definition and compound value from a coherent longer term more sustainable approach rather than just, for example, doubling the numbers of apprenticeships.
21. An upper/maximum cap on percentage allocation may be sensible in order to not detract from other important parts of the evaluation process. In addition, we would be interested to understand if on a price per quality point evaluation the 10% weighting would exaggerate the impact of social value more than intended and lead to substantial differences in pricing submissions.
22. The Government should therefore consider alternatives to the minimum weighting, which promote social value's importance but avoid wide pricing variations. For example, a minimum level or score which contractors must achieve to bid for public contracts would prevent a weak social value response from even winning a tender. This could be determined in the PQQ phases.
23. Commissioners should aim for a more equitable balance between social value, finance and quality. This means removing systemic structures that encourage gaming of contracts. Payment by Results, when results are measured in outcomes and impacts, is one example of a more transparent and stable approach. All parties must look sensibly at the investment requirements to generate genuine social value, rather than focusing purely on the cost base of the contract.
24. In terms of how the metrics are measured, it is important that social value is monetised in a transparent way, so that during procurement, we are comparing apples with apples, and not how the data is collected. We are concerned that more complicated ways to measure social value, such as long-term involvement with a community, will get lost.
25. The contracting authority must be clear how they are going to evaluate competing suppliers' approaches to meeting a social value metric. For example, a commissioner may have to distinguish between a supplier that commits to meeting a metric, but has no evidence to back up their claim, and a supplier who can meet a lower target but can prove it is achievable. If the commitment to achieve a metric is a minimum requirement, then all bidders would do this regardless of whether they thought it was achievable. This opens-up the issue of how bidders will be held to account against social value commitments they make at bid stage. In which case, do social value metrics become part of the KPI framework?
26. One method for comparing bids and making quantitative assessments within the procurement process is the National Social Value Measurement Framework (Themes, Outcomes, Measures - TOMs). This calculates a financial measure of each submission, allowing for objective comparison and a level playing field for SMEs. We recommend the Government considers this approach, and we support the Institute of Workplace and Facilities Management's development of a facilities management specific plug-in for the national TOMs.
27. Government could drive social value by measuring it in a completely different unit, one that isn't measured in pounds. Cost in monetary terms is often misunderstood in this area. The new metric would be a relative value otherwise optimistic entries can lead to gross over-estimations.

Question 3: Does the proposed approach risk creating any barriers to particular sizes or types of bidders, including SMEs or VCSEs? How might these risks be mitigated?

28. Measuring social value is not a one-off activity but a core, constant part of any delivery that needs to be planned before the start and then continue for the life of the contract. Larger organisations will usually have more capacity to commit to the bidding process and be better able to commit resource at measuring and demonstrating social value on a day-to-day basis. SMEs and VCSEs are often very lean organisations without this additional capacity. This will incur costs that will need factoring into the contract value, and therefore, put them at a pricing



disadvantage. The very smallest companies may also have resource constraints that make it difficult to deliver additional social value beyond the contribution of the business itself.

29. These barriers could be overcome by:

- The commissioning authority requesting suppliers to provide some of the data for their whole company rather than a per contract basis, during the PQQ phase. It would reduce the administration burden and encourage SMEs to improve their responsible business practices.
- Commissioning authorities leading pre-market engagement with prime contractors and SMEs/VCSEs so that prime contractors can develop services and partnership delivery structures with SMEs/VCSEs in mind.
- Supporting SMEs/VCSEs to develop processes to report the metrics without adding additional administration burden to their organisation - this support could be delivered by third sector organisations e.g. Heart of the City - a business-led charity funded primarily by the City of London Corporation. The charity supports London-based businesses develop and deliver responsible business programmes.
- To incentivise, and if necessary, mandate large companies to work with SMEs and VCSEs through delivery of the contract being bid for.
- Taking a proportional approach to the metric i.e. linking the metrics to the project value and ensuring only the metrics relevant and proportionate to the contract are chosen.

30. We see the potential risk that if proportionality is not accounted for, some companies may not bid for services. Proportionality refers to both the size, scope and duration of the contract in question, as well as the size and scale of the contractor itself. For example, it would be sensible to apply such rules alongside minimum annual contract value guidelines, such as £10m per year. Contracts with values between £1m and £10m per year could have less quantitative measures but still have some prescribed outcomes relating to scale; while contracts below £1m per year should have ambitions and not specific targets. In terms of duration, a long-term contract requires a totally different approach to social value, with an integrated, community approach, and a proper stakeholder engagement and collaboration process.

31. There is a risk that commissioners will specify required social value that does not directly relate to the service being procured and in some circumstances that might disadvantage smaller bidders. This risk can be mitigated by the commissioner asking bidders to describe the social value that will be delivered through their offer rather than pre-specifying specific outcomes. This can include a set of outcomes that commissioner would particularly value but does not exclude new ideas.

32. Mid-sized businesses must also be considered, as well as SMEs and larger companies, when aiming to guarantee a level playing field. Companies that fall over the SME threshold but do not have the scale of larger-cap companies are in danger of being disadvantaged by a challenging policy platform if it is essentially aimed at larger companies but exempts SMEs from evaluation.

Question 4: How can we ensure government's existing procurement policy mandates (for example on levelling the playing field for SMEs) take precedence in designing the procurement?

33. In addition to the measures stated above, the Government could provide workshops supporting SMEs and VCSEs with the procurement process, helping them to understand and respond to questions. For example, an SME might not have a Human Rights Policy but they should be helped to respond to these questions to show how they treat their employees fairly.

34. A graded approach to the metrics as discussed earlier would also help in this regard. Existing procurement policy mandates would be regarded as essential criteria, for example, SMEs in the supply chain. Or the policy could be added to procurement guidelines so that, for example, bidders with social enterprise partners will be 'preferred'.

35. As the Outsourcing Playbook develops it would be appropriate for it to have a main section on Social Value, including how it can be evaluated across different types of suppliers. This approach should also be embedded in the CCS framework for central government bidding.