



# IDeA – Equality guidance on procurement

## Supplier diversity

### Introduction

Many councils are keen to support local businesses, to work with partners to keep and create jobs in their area. And they want to help small and medium-sized enterprises (SMEs) to grow and prosper. They have a power of economic wellbeing which they can use. To do so helps in meeting their equality duties and their obligations under the Equality Framework for Local Government (EFLG). More than half of local authorities have introduced supplier diversity policies. Supplier diversity means ensuring that an organisation's procurement processes provide equal opportunities for all suppliers to compete for contracts.

When procuring, councils cannot restrict contracts to local businesses as this is not lawful under EU competition rules. But local authorities can help organisations to be in better position to compete. They can more generally support supplier diversity with respect to black, Asian and minority ethnic (BAME) and other diverse organisations. These include SMEs, voluntary and community organisations and social enterprises. Further information – *Sustainable Procurement Cupboard, The Legal Shelf* – is available at: [www.procurementcupboard.org](http://www.procurementcupboard.org)

In general, however, local authorities tend to address supplier diversity by urging and providing support to their first-tier suppliers to sub-contract with smaller providers, rather than breaking down contracts into smaller lots or packages.

The Department for Work and Pensions (DWP) Commissioning Strategy states that: "We envisage a market where smaller providers will mainly act as sub-contractors and in which excellent sub-contractual relationships is the norm."

To visit the *DWP Commissioning Strategy*, go to: [www.dwp.gov.uk](http://www.dwp.gov.uk)

While SMEs and voluntary and community sector organisations may be better placed to meet the requirements of particular groups than larger organisations in some cases, authorities may have unwarranted concerns that breaking down bigger contracts to increase access to their procurement process could be seen as disaggregating contracts to avoid EU threshold requirements. But it may also be in response to pressures to increase efficiency through larger, often shared procurements.

The Office for Government and Commerce (OGC)'s guidance, *Making Equality Count*, makes it clear that breaking down contracts to increase accessibility to smaller suppliers or to provide more appropriate services is lawful. This is referred to specifically on page 11 of the guidance – [www.ogc.gov.uk](http://www.ogc.gov.uk)

## Supporting SMEs

SMEs and voluntary and community sector organisations may be better placed, or more innovative, to meet the requirements of particular groups than larger organisations because of their specialist knowledge.

There are a range of government and other initiatives which are supportive of such actions. The Government and the Local Government Association (LGA)

agreed a 'small business concordat' in 2005 as part of the National Procurement Strategy. This was aimed at supporting SMEs when procuring.

The *Small Business Friendly Concordat: Good Practice Guide 2005* is available on the Department for Communities and Local Government website: [www.communities.gov.uk](http://www.communities.gov.uk)

This best practice guide provides local authorities with details of why they should sign up to the small business concordat. It also sets out the steps they need to take to be part of this voluntary commitment.

## Using the Supported Businesses and Factories provision

The 2006 Public Contracts Regulations (Regulation 7) allow public bodies to restrict the tendering process for goods or services to supported businesses only. Supported businesses are defined as those where more than 50 per cent of employees are disabled. Government guidance is that every public body should reserve at least one contract for supported businesses. The OGC expects local and other public authorities to use the supported factories and businesses provisions where possible. For information on planning the project, go to: [www.idea.gov.uk/idk/core/page.do?pagelid=9308217](http://www.idea.gov.uk/idk/core/page.do?pagelid=9308217)

## Working with the voluntary and community sector

A thriving voluntary and community sector – voluntary and community groups, social enterprises, charities, cooperatives and mutuals – increasingly delivers public services. Third sector news can be found at:

[www.cabinetoffice.gov.uk/third\\_sector.aspx](http://www.cabinetoffice.gov.uk/third_sector.aspx)

Local authorities and other public bodies are being encouraged to contract with voluntary and community sector organisations where they can deliver improved services. They may in particular be able to better understand and meet the needs of diverse groups in the community.

The National Programme for Third Sector Commissioning recently published *Evaluation of the National Programme for Third Sector Commissioning: Consultation with BAME third sector organisations, 2008*:

[www.idea.gov.uk/idk/core/page.do?pagelid=6583598](http://www.idea.gov.uk/idk/core/page.do?pagelid=6583598)

This report provides some views on the kinds of additional difficulties BAME voluntary and community sector organisations face in becoming more involved in commissioning.

## Supplier diversity in local government

A recent survey of procurement practitioners from the IDeA, Equality and Human Rights Commission (EHRC) and Society of Procurement Officers in Local Government (SOPO) indicated that:

- 60 per cent of those who replied have a policy to support SMEs to be able to compete fairly for places in the public sector supply chain.

- 53 per cent have such a policy for voluntary and community sector organisations.
- 40 per cent have such a policy for social enterprises.
- Roughly a third have such a policy for minority businesses, with London boroughs over-represented among those who do; 37 per cent reported that they had no such policies at all.

*Equalities and Procurement Survey 2008* is available at: [www.lga.gov.uk](http://www.lga.gov.uk)

The best known examples of vigorous supplier diversity policies are to be found in London. The Greater London Authority (GLA) group has a responsible procurement strategy and encouraging a diverse base of suppliers is one of its seven key themes.

*Getting value for London* is available at: [www.lga.gov.uk](http://www.lga.gov.uk)

Transport for London (TfL)'s policy, for example, covers SMEs, BAME businesses, suppliers from other under-represented or protected groups and suppliers demonstrating a diverse workforce composition. TfL defines SMEs both in terms of employee numbers and turnover. BAME businesses are defined in terms of company ownership – 51 per cent BAME. Diverse businesses and or suppliers are defined by ownership – for example, women, disabled people – and/or demonstrating good workforce representation.

*TfL Supplier Diversity Definitions 2008* is available at: [www.tfl.gov.uk](http://www.tfl.gov.uk)

TfL works with its first-tier suppliers to ensure they have good equalities practices. It also encourages them to use a wider range of sub-contractors and ensure they in turn have good practices.

The London Development Agency (LDA) supports supplier diversity and good practice across London through Diversity Works for London.

For supplier diversity information, go to:

[www.diversityworksforlondon.com](http://www.diversityworksforlondon.com)

The LDA states: *“Supplier diversity is becoming a business necessity for both large organisations and SMEs. As a supplier, effectively managing the diversity of your own organisation can help you to win new contracts. American phone giant AT&T says the diversity of their supplier is ‘often a tipping factor’ in winning a bid.*

*“Supplier diversity means ensuring that an organisation’s procurement processes provide equal opportunities for all suppliers to compete for contracts. When tendering to public sector purchasers and large private sector purchasers, many increasingly see diversity management as a business imperative. Suppliers increasingly need to demonstrate their commitment to equality and diversity.”*

There is a strong focus on contractors improving their own practices and on them diversifying their own – sub-contractor – supply base. Diversity Works for London’s ‘top ten tips’ for supplier diversity are available on the website.

Diversity Works for London provides numerous helpful toolkits and advice both for those procuring and for suppliers. It usefully differentiates between SMEs and large organisations.

CompeteFor is a major initiative to get increased supplier diversity into the 2012 Olympics. It acts as a brokerage service between buyers throughout the London 2012 supply chain and potential suppliers by publishing Games-related contract opportunities. CompeteFor also provides access to business support services, building skills and capacity. This ensures that businesses throughout the UK can access opportunities linked to the hosting of the London 2012 Games.

For further information, go to: [www.competefor.com](http://www.competefor.com)

Further details of the Olympic Delivery Authority’s work on their equality and inclusion strategy, the steps they are taking to increase supplier diversity and their procurement strategy is available on: [www.london2012.com](http://www.london2012.com)

Recent EHRC evaluation of the implementation of the strategy for supplier diversity has highlighted some problems – see *Procurement and*

*Supplier Diversity in the 2012 Olympics*, Kingston University 2008: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Although it is still early in the run-up to 2012, the study found problems with obtaining information about ownership to monitor while recognising the importance of regular monitoring. Feedback from businesses showed too much detail is asked for, given their lack of experience of tendering.

Information is not always accessible and user-friendly for disabled users and not enough feedback is given about why an organisation was not shortlisted. Companies could do with more ‘meet the buyer’ days and opportunities to display innovative ideas and products.

The report also highlighted the competing demands on those buying services. How contracts are packaged makes a difference. In practice it is hard to stop contractors sub-contracting with suppliers they know and have worked with before.

To view the *Buyer’s Day* for Hindu organisations, go to:

[www.hinducounciluk.org](http://www.hinducounciluk.org)

The Government provides a similar portal to government contracts. Supply2.gov.uk ([www.supply2.gov.uk](http://www.supply2.gov.uk)) is the first portal of call for accessing lower-value contracts – typically below £100,000 – online.

## IDeA/EHRC/SOPO research

The research from the Idea, EHRC and SOPO highlighted that SMEs sometimes found understanding and providing evidence of compliance with equalities legislation challenging. To help smaller and local organisations, some councils provide guidance for suppliers or run workshops to help educate suppliers on the process.

Oxford City Council ran a ‘Meet the Buyer’ event in April 2009 which brought together 24 large buying organisations. Oxford has more public sector and not-for-profit organisations than most areas. This is due to having two universities, medical centres of excellence, the UK Atomic Energy Agency, five local councils and Oxfam all based in the area.

The Federation of Small Businesses and Business Link both supported the event. The aim was to give local businesses some free advice as well as helping them network and find out about selling to the public sector. The buyers talked about what they were looking for and the council ran three ‘how to do business with the public sector sessions’ during the day. They also arranged for a group of Oxford professional services bodies (accountants, lawyers and banks) to come in and offer a few minutes’ free advice to local suppliers.

Some local authorities had allowed certain suppliers to be exempt from these requirements during the tendering process. Or they had made exceptions when looking at equality information from smaller organisations, so long as they were willing to introduce equalities policies and practices during the life of the contract.

*The following references are from the research carried out by the IDeA, EHRC and SOPO:*

*“If someone’s policies are not up to what we expect, it doesn’t mean they will not be successful – we will just work with them to get their policies changed.”* (Procurement Department, County)

*“What we are looking for, whoever you award the contract to, is to get them up to the standard that we require during the course of the contract – so it’s an education process rather than a big stick saying ‘you haven’t met that threshold’. We want them to get better as a business.”* (Corporate Procurement, London)

*“If they are an SME and a preferred supplier and they don’t have an equality policy, we will contact them and ask about it and help them to put one in place.”* (Corporate Procurement, County)

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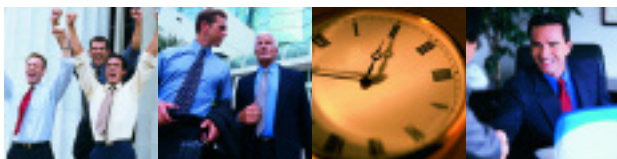
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