



Client Based Approach

To developing and implementing
an Employment and Skills Strategy
on construction projects

Local Client Guidance –Scotland
V2 July 2017



Foreword



Sarah Beale

As construction projects become an increasing focus of attention in a growing number of opportunities within the sector for training and productivity, the National Skills Academy for Construction continues to drive partnerships between the sector and clients, creating a common dialogue to enable aspirations for improved social value and economic development to be realised.



Kevin Bennett

The National Skills Academy for Construction, facilitated by CITB, supports public sector bodies and organisations with responsibility for procuring construction work, to embed employment and skills interventions into planning and procurement contracts. Known as the Client-Based Approach, this end-to-end guidance is designed to be used for construction procurement and planning to aid the creation of employment and skills interventions, including Apprenticeships, work placements, job creation and upskilling opportunities that are relevant and proportionate to the construction activity being procured.

The Client-Based Approach ensures that all tiers of the construction and built environment supply chain can grow their business by supporting employment, skills and Apprenticeships. The approach includes employer-led benchmarks for employment, skills and Apprenticeship delivery against procurement lot sizes of £1 million upwards, making engagement in this agenda directly accessible to small and medium enterprises (SMEs), as well as larger contractors and their supply chains. In Scotland, with the implementation of the Procurement Reform Act 2014, never has the subject of community benefits been so pertinent to public sector procurement. This has resulted in high levels of interest from clients, contractors and other industry stakeholders. Further to this, the need for recognised and established industry benchmarks is precisely what the Client Based Approach sets out to achieve, and in doing so the Client Based Approach has become an industry-wide recognised good practice model. Covering all areas of construction, such as housing and infrastructure, our construction industry backed guidance, which is tried, tested and endorsed by local authorities in England, Scotland and Wales, offers a genuine opportunity to work in partnership with employers in the industry and training and education providers. The guidance enables partners to set relevant and proportionate targets to increase the volume and quality of employment and skills interventions through construction contracts – meeting your communities' specific needs in a fair, measureable and sustainable way.

Co-signatories

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1.0 Introduction

Governments, at national and local levels have a crucial role to play as we identify opportunities to maximise employment, Apprenticeships, and invest in skills to realise personal and economic aspirations. Using the huge power of public procurement is one way to address the industry's skills needs now and for the future, supporting young people, adults and the businesses of this country.

The Government is committed to driving Apprenticeship opportunities and placing employers in a focal role in developing the standards for workplace training. A partnership between employers and clients enables construction contracts to support investment in skills when letting new contracts and when working with existing contractors where contracts have been awarded on a voluntary basis.

The Scottish Government's commitment is clear from the publication of the 'Review of Public Sector Procurement in Construction' report of October 2013. The terms of reference for the report authors were "to review the entire public sector and affordable housing sector construction procurement arrangements in Scotland and make recommendations to support improvements in efficiency, delivery and sustainability of construction procurement projects across the Scottish public sector..." The report made 67 recommendations, of which 66 are to be implemented by the Scottish Government and the Scottish Futures Trust.

Making procurement more sustainable is a key recommendation and sustainable procurement is defined by the Scottish Government as "a process whereby organisations meet their needs for goods and services and utilities in a way that achieves value for money on a whole life basis and generates benefits, not only for the organisation but also to society, the economy and the environment." Community Benefits are one of a range of social benefits in the Scottish public sector and the provision of apprenticeships and jobs are a key community benefit.

Implementation of the 66 recommendations will be consistent with and considered alongside the Procurement Reform (Scotland) Act 2014 ("the Procurement Reform Act"), for example as explained below, sustainable procurement is an important provision within the Procurement Reform Act. The Procurement Reform Act introduces rules that apply to public contracts above the relevant thresholds (£50,000 for a Public Supply or Public Services contract or £2,000,000 for a Public Works contract (subject to some exclusions), with a further threshold of £4,000,000 for 'major contracts'). The Procurement Reform Act is implemented via Regulations (the Procurement (Scotland) Regulations 2016). The Procurement Reform Act is in addition to The Public Contracts (Scotland) Regulations 2015 ("PC(S)R 2015"), which implements EU Directive 2014/24/EU on Public Procurement and which regulates procurements over the relevant EU Thresholds (see below). In addition, the Scottish Government has published statutory guidance to accompany the Procurement Reform Act. Within that guidance there is a chapter on community benefit requirements in procurement. The Scottish Futures Trust has published a 'Community Benefits Toolkit for Construction' (though this is not mandatory for clients). The toolkit suggests that when public bodies are developing project objectives, using the CITB Client-Based Approach should be one of a number of considerations

It has long been recognised that contracting authorities have an opportunity as "clients" to leverage a significant amount of training and employment opportunities through their

capital works programmes and their powers under planning policy and development control. As a result of the changes outlined above, public bodies will now, in certain cases, also have an obligation to consider what "community benefit requirements" (which include training and employment) would be appropriate to include in a contract, whether as part of the sustainable procurement duty or major contracts.

Furthermore, the Procurement Reform Act introduces a requirement on clients with a projected spend of £5m+ in procurements covered by that Act (so-called "Regulated Procurements") in any one financial year to prepare a Procurement Strategy setting out how that client will deliver value for money, comply with the sustainable procurement duty and, among other obligations, use community benefits in its procurements. The client then needs to report on its performance at the end of the financial year to the Scottish Government.

In Scotland, clients including all levels of Government, local authorities, housing associations and regeneration companies have sought community benefits, both in terms of training and employment and other community gain (e.g. sustainable build requirements or work with SMEs and the third sector, including social enterprises, social firms and supported businesses) and are keen to continue pursuing this goal. What was missing historically were specific employment and skills clauses which could be inserted into project documents based on data derived from actual construction projects. This guidance was first introduced in 2012 and has now been updated for 2016.

This guidance provides a simple framework for clients, their contractors and their supply chains to respond effectively to this opportunity. A glossary of commonly used terms is set out in Appendix G.

Useful links

Guidance under the Procurement Reform Act

<http://www.gov.scot/Resource/0049/00496919.pdf>

The Procurement Reform Act

<http://www.legislation.gov.uk/asp/2014/12/contents>

<http://www.legislation.gov.uk/sdsi/2016/9780111030868>

PC(S)R 2015

http://www.legislation.gov.uk/ssi/2015/446/pdfs/ssi_20150446_en.pdf

Scottish Futures Trust

http://www.scottishfuturestrust.org.uk/files/publications/Community_Benefits_Toolkit_-_For_Construction.pdf

Buying for Good

www.socialfirms.org.uk/FileLibrary/Resources/Procurement/080519%20Final%20PDF%20Guide.pdf

2.0 Background

This guide has been commissioned by CITB to provide the working documentation for public sector clients, including local authorities and registered social landlords and providers, who are procuring construction projects to embed employment and skills, right through from policy and strategies to procurement and to operational implementation of specific projects. CITB has appointed Trowers & Hamlins LLP and BTO Solicitors LLP as consultants in the production of this guide (of whom further details are set out in Appendix H).

This Guidance has been based on the legislation current as at [] 2016, including: EU Directive 2014/24/EU on public procurement; The Public Contracts (Scotland) Regulations 2015 (SI 2015 No 446); The Procurement Reform (Scotland) Act 2014; and The Procurement Reform (Scotland) Regulations 2016 (SI 2016 No 145).

3.0 CITB

It is recommended that in the first instance a client should contact CITB regarding its intended approach to employment and skills. Please email NSAfC@citb.co.uk

CITB are the Industry Training Board and a partner in the Sector Skills Council for the construction industry in England, Scotland and Wales". A social enterprise, devoted to building competitive advantage for the



construction industry and the people who work in it" We have a clear focus – to work to ensure that the construction industry has the right skills, in the right place, at the right time. The Strategic Partnerships Team is the department of CITB that works closely with clients, developers and contractors and is conversant in the development and implementation of Employment and Skills Strategies and Employment and Skills Plans (ESPs). CITB (in partnership with CITB-Northern Ireland) covers the whole of the UK and can provide support to clients, developers and contractors in how best to utilise this guide in conjunction with existing good practice.

CITB facilitates and supports the contractor-led National Skills Academy for Construction. The Client-Based Approach is a product of the Academy and presents an industry solution to embedding employment, skills and Apprenticeships into the procurement of construction works.

CITB is uniquely positioned to improve the skills base and productivity of the UK construction industry. Through its Construction Skills Network, CITB provides the authoritative picture of the skills requirements to support the construction industry moving forward. It also aims to inform Governments at national and local levels, planning to meet future employment and skills requirements, by providing sector intelligence based upon robust data and analysing capacity, productivity and skills. In its role as an Industry Training Board, CITB uses this evidence to develop sector-specific solutions to meet emerging and identified needs.

CITB, through its Strategic Partnerships Team, offers a Gap Analysis for any client identifying how it should utilise this guidance to maximise employment and skills outputs from its procurement strategy.

CITB has an electronic Management Information System which can capture details from agreed ESPs and compare proposed outcomes against other projects of a similar value and duration. This also assists in ensuring an appropriate employment and skills value return rate from proposed projects.

Over 400 National Skills Academy for Construction projects have already been supported across Great Britain and the Strategy Team is working with clients to embed employment and skills into their strategies, to develop ESPs and to engage with their supply chains. CITB is working with a number of Scottish clients, who have seen the benefits of this approach, via its implementation.

Further guidance is also available in “Buying for Good: Housing Associations, Social Firms and Community Benefits in Procurement” produced by Social Firms Scotland and Grampian Housing Association exploring in particular how housing associations can use community benefit clauses to encourage social firms and social enterprises.

This guide provides information to procuring public bodies on how to incorporate employment, skills and training requirements into the planning and procurement of construction projects, and explains how this can be evaluated and used as an incentive throughout each individual project.

This guide includes:

- Good practice information on the use of an Employment and Skills Strategy and the development of an ESP;
- Legal, policy and process advice on procurement of contracts;
- Template benchmarks relating to a range of employment and skills areas; Guidance as to the inclusion of supply chain diversity;
- Advice on early contractor procurement, reengineering the supply chain under long-term contracts, inclusion of Small and Medium Enterprises (SMEs)
- Appendices, including: a template ESP; a summary of the employment and skills areas and potential issues surrounding them; template procurement and contract clauses; and an Employment and Skills Strategy.

Increasingly, public contracts are expected to achieve wider social, economic and environmental benefits. While the focus of this document is on employment and skills, a range of support is also available to promote opportunities for SMEs and social enterprises (including social firms and supported businesses) through innovation in the supply chain. In Scotland much of this support is provided through Scottish Government funded programmes.

If a client follows this guidance as an end to end process to embed the employment and skills requirements into its strategies, procurement and implementation, it may be possible for the client to apply for National Skills Academy for Construction status across the portfolio of projects in relation to which this guidance has been used. In order to receive National Skills Academy for Construction accreditation and permission to use the brand, a successful submission must be made to the National Construction Skills Academy Group (NCSAG) (the established body of contractor and client representatives from across the construction industry which form the core part of the CITB governance structure) with supporting evidence that the Client-Based Approach has been implemented. CITB's Strategic Partnerships Team can provide further details about the application process.

High on the agenda for all public sector clients is the provision of employment and skills opportunities for local residents. As this guidance explains, public sector clients are prohibited in an EU procurement process from requiring contractors to offer local opportunities in tender documents or contract conditions. However, following contract award, clients can carry out supply chain collaboration exercises with contractors either before start on site (using Early Contractor Procurement) or over the duration of a contract (by re-engineering Long-term Contracts) in order to influence the contractor's use of a local supply chain. This is discussed further in Sections 6 and 7.

CITB has also developed

- Client Based Approach for use by contractors and developers
- Client Based Approach guidance for procurement in Wales and England
- Client Based Approach for use by clients through planning and development
- Early Contractor Procurement & Re-engineering long term contracts – an effective model for improved employment and skills outputs combined with savings and efficiencies

4.0 Good Practice Information

This good practice information covers the initial development of an Employment and Skills Strategy and an ESP, and gauging the potential impact on jobs and training. It involves a review of key delivery issues, provision of site-based facilities and personnel responsible for delivery.

The Employment and Skills Strategy should be created by the client prior to the start of the procurement or planning process. Where used in procurement, the Employment and Skills Strategy should contain the client's requirements for the proposed contract or framework of contracts. This should then become a tender document to which tenderers will need to respond.

The client should include in its Employment and Skills Strategy a template ESP (see Appendix C) with the "Summary" column on the far right populated with the client's minimum benchmarks to be met by the contractor over the duration of the contract or framework. As part of its tender return, each tendering contractor should complete the remainder of the ESP, showing when the minimum requirements will be achieved and/or exceeded on a month-by-month basis.

The tenderers should also create a Method Statement setting out in detail how the outcomes in the ESP will be implemented on site. This provides the client with transparency as to how and when the outcomes will be achieved.

There are two methods by which a client can seek to implement this approach – the 'Evaluation' and the 'Confirmation of Commitments' approaches (see section 5.2.4, below).

4.1 Overview of the Employment and Skills Strategy

The Employment and Skills Strategy sets out the process by which the client ensures that employment and skills opportunities are integrated within construction projects. The strategy should cover the following areas: objectives and priorities; employment and skills areas; benchmarks; implementation; roles and responsibilities; monitoring; reporting and review.

A workbook has been included at Appendix F, highlighting a number of considerations to be taken into account by a client when developing its Employment and Skills Strategy.

The flow diagram at Figure 1A at the end of Section 4 outlines the implementation of the Employment and Skills Strategy through a Client's procurement of a project with a value exceeding the EU Thresholds (see section 5.1.3). It is based on the steps included in the Scottish Government's Procurement Journey.

The flow diagram at Figure 1B outlines implementation through procurement of a project exceeding the Procurement Reform Act thresholds for Regulated Procurements (see section 1).

Figure 2 links the procurement process to the appendices forming part of this guidance.

Further support can be sought from the Employability Learning Network, a cross-Government initiative supporting local employability partnerships and wider partners to improve the way employability is delivered throughout Scotland.

4.2 Overview of the Employment and Skills Benchmarks

The benchmarks provide target outputs against seven key employment and skills areas. These areas cover Apprenticeships, support for schools and colleges, skills development for the existing workforce and entry into employment. Please see Appendix A for details of these employment and skills areas.

The benchmarks are the cornerstone of the Client-Based Approach and have been ratified by NCSAG. Benchmarks led and approved by the construction industry provide confidence to clients that their requirements are reasonable, relevant, proportionate and achievable.

The benchmarks have been developed to reflect the ability of various categories of construction projects to support employment and skills development. The categories are set out in Section 4.3 on the following page and covers both new build construction and repairs and maintenance.

The size of the project is taken into account by the value bandings. For construction projects these range from £1 million to £100 million in terms of overall construction spend over the life of the project. In the case of repairs and maintenance projects, the value bands are based on annual spend.

CITB is able to develop bespoke benchmarks for projects that exceed these values or are of a particular specialist nature.

A range of factors have been taken into account when developing the benchmarks. These include the typical labour content of the work type, the nature of the workforce in terms of skills and trade categories, the availability of Apprenticeship frameworks within the sector, and typical project durations. This work has been based on the experience gained by CITB from employment and skills implementation on a range of construction projects and draws extensively on the work of the National Skills Academy for Construction in this area.

The benchmarks have been set at a level that reflects the possibility that contractors and their supply chain may be involved on numerous projects requiring employment and skills targets. It is recognised that there must be a balance struck between creating opportunities for people to develop skills and the capacity of the industry to accommodate skills development within challenging project environments.

It is also recognised that many contractors, clients and their advisers already have the ability to deliver employment and skills programmes on construction projects, whereas others will need to develop the appropriate procedures and methods for implementation.

The benchmark figures will be reviewed by CITB on a regular basis as additional performance information becomes available on implementing the Client-Based Approach. This will enable the figures to be refined to reflect the capability of contractors and clients as they become more familiar with implementing Employment

and Skills Strategies.

It may be the case that following contract award, the scope of the works is varied, so that the contract sum and the number of personnel required are substantially increased or decreased. We have included flexibility in the template contract clauses for the benchmarks in the ESP and the key performance indicators to be proportionately amended by agreement. Please see Section 5.2.6 for further details.

4.3 Categories of Projects Covered by the Benchmarks

Benchmarks have been developed for the following thirteen categories of construction projects and four maintenance sectors.

Construction projects:

1. Residential - public and private sector housing
2. Retail, sports, leisure, entertainment - theatres, restaurants, public swimming baths, works and buildings such as sports grounds, stadiums and racecourses etc.
3. Highways and roads
4. Infrastructure (excluding highways) - water, sewerage, electricity, gas, communications, air transport, railways and harbours
5. Factories and warehouses (including garages)
6. Education - schools, colleges and universities
7. Health - hospitals including medical schools, clinics and welfare centres
8. Offices and commercial
9. Regeneration – new build involving existing communities
10. Refurbishment/Decent Homes
11. Water supply and waste disposal
12. Off-site structures
13. Judicial – Courts, young offenders institutes and prisons

Maintenance projects:

14. Housing repairs and maintenance
15. Non-housing repairs and maintenance
16. Highways
 - Structural maintenance
 - Routine cyclical maintenance
 - Routine Structures
17. Courts, young offenders' institutes and prisons' refurbishment

4.4 Delivery Issues for the ESP

A template ESP should be created by the client and included within its tender documents with only the "Summary" column filled in. This sets out the client's expected output figures for each of the employment and skills areas for the duration of the project. The tendering contractors should populate the remaining boxes in their ESP as part of their tender response, indicating when the client's benchmarks will be worked towards on a month-by-month basis.

It is recognised that the implementation of the ESP can be complex and that it will need management input from the client, contractors and their supply chains.

The successful implementation of an ESP will require the following:

- Development of the contractor's Method Statement for implementation of the ESP
- Guidance on delivery issues
- Review of sub-contract order details
- Monitoring and support from the client including the provision of standard form documents

4.4.1 Development of the Contractor's Method Statement

A Method Statement for the implementation of the ESP will be a requirement of the tender process.

Prior to entering into a project contract or framework agreement, the contractor should be required to produce a detailed Method Statement setting out how each of the areas in the ESP will be achieved. When using a framework agreement, a project-specific Method Statement should be produced for each individual project, which will be derived from a generic Method Statement developed for the entire framework programme.

Some contracts, such as PPC2000, have a pre-commencement phase built into their programme. These are referred to as "two-stage" contracts and enable the contractor to create a more detailed Method Statement during the pre-commencement phase. This is discussed in more detail in Section 6.

4.4.2 Client Support with Delivery Issues

Delivery of the ESP may require collaboration between a large number of agencies and organisations. The client may be in a position to assist with identifying suitable delivery partners. CITB may also be able to support contractors and their supply chain partners with delivery matters. This support can be identified through a gap analysis report prepared by CITB to meet the specific needs of a client and its developers and contractors. A range of Government funded support relating to the third sector is available on the Scottish Government website.

4.4.3 Review of Sub-Contractor Order Details

Supply chain partners working towards the implementation of an ESP on a project or framework should be involved with the development of the ESP at the earliest opportunity. An appendix in the sub-contract order should set out the level of involvement which will be required from the supply chain partners. This should also be reviewed by the contractor with their supply chain partners during any pre-commencement meeting. Please see Section 6 for further information on engaging the supply chain.

4.4.4 Monitoring and Support from the Client

The contractor's ESP should set out, on a monthly basis, the anticipated outputs against each of the employment and skills areas.

Please see Appendix C for a template ESP. This document can be used as the main monitoring tool for both the main contractor and the client to review progress. An updated ESP together with a qualitative report could be requested to be completed on a monthly basis. The client should acknowledge the amount of work and effort that will have been given by the contractor and its supply chain in the successful delivery of a challenging ESP.

CITB has developed a Management Information System, the "Skills Plans and Outcomes of the National Skills Academy" (SPONSA) that allows tracking of those critical key performance indicators on a real time basis. It is recommended that clients review the working of the SPONSA system as it provides many benefits including best practice sharing and benchmarking against other clients and projects. The use of SPONSA is not a pre-requisite to the implementation of the Client-Based Approach, but it is sanctioned by NCSAG and is highly recommended to ensure that key performance information can be captured. As part of the approval process, clients are asked to show how the quantitative data captured can be shared with CITB if alternative tools are being utilised.

4.5 Site-Based Facilities and Setting up a Skills Centre

Some site-based facilities will be required for implementing an ESP. These could be used for accommodating school visits, on-site assessment inductions, skills audits, etc. On small and medium-sized projects an existing meeting room could potentially be used.

A dedicated Skills Centre could be appropriate for large projects of, say, over £25 million. This could be a site cabin fitted out with tables and chairs, a white board and computer. Establishing facilities on site, such as a Skills Centre, is not a requirement for the Client-Based Approach, but this should be considered according to the requirements of the individual projects.

4.6 Personnel Responsible for Delivery

The contractor's Method Statement will set out how it intends to manage the implementation of the ESP. On small and medium-sized projects this could be the responsibility of the site manager with head-office support. Some contractors may have their own personnel who have responsibility within the company for coordinating and facilitating training and school engagement activities.

For larger projects or framework programmes of over £50 million there could be a case for having a dedicated Project Skills Coordinator. Their role would be to coordinate and facilitate the range of employment and skills areas. This would involve liaising with the site team, trade contractors, schools, colleges and training agencies. The cost for this post could be shared between the client and the contractor. Regardless, there is a recommendation that the client would wish to see provision for a dedicated resource costed in any submissions. This will ensure that there is a greater chance of the ESP outcomes being achieved.

As contractors become more practiced at delivering ESPs, it is likely that they will increasingly employ specialist staff to assist with this requirement.

4.7 Costing Employment and Skills Requirements

The delivery of an ESP does have certain costs associated with it. However, best practice demonstrated on National Skills Academy for Construction projects shows that whilst costs as a proportion of construction value can be relatively small, that figure can be considerable. It is vital therefore that the client and tendering contractors understand how the funding of these outcomes will be sourced, recognising that the supply chain

needs to co-fund interventions.

NB: Wage costs of Apprentices can often be significantly off-set against the productivity of the Apprentices together with grants from CITB which may be drawn down by the company employing them (conditions apply).

Useful links

Procurement Journey

www.procurementjourney.scot/

EU procurement thresholds

<http://www.scotland.gov.uk/topics/government/procurement/policy/10613>

Employability in Scotland

www.employabilityinScotland.com/

Enterprising Third Sector Organisations

[www.scotland.gov.uk/topics/people/15300/enterprising- organisation](http://www.scotland.gov.uk/topics/people/15300/enterprising-organisation)

Ready for Business

www.readyforbusiness.org

Skills Development Scotland

www.skillsdevelopmentScotland.co.uk

Figure 1A - Implementation of the Employment and Skills Strategy for the procurement of a project with a value over the Public Contracts (Scotland) Regulations 2015 thresholds

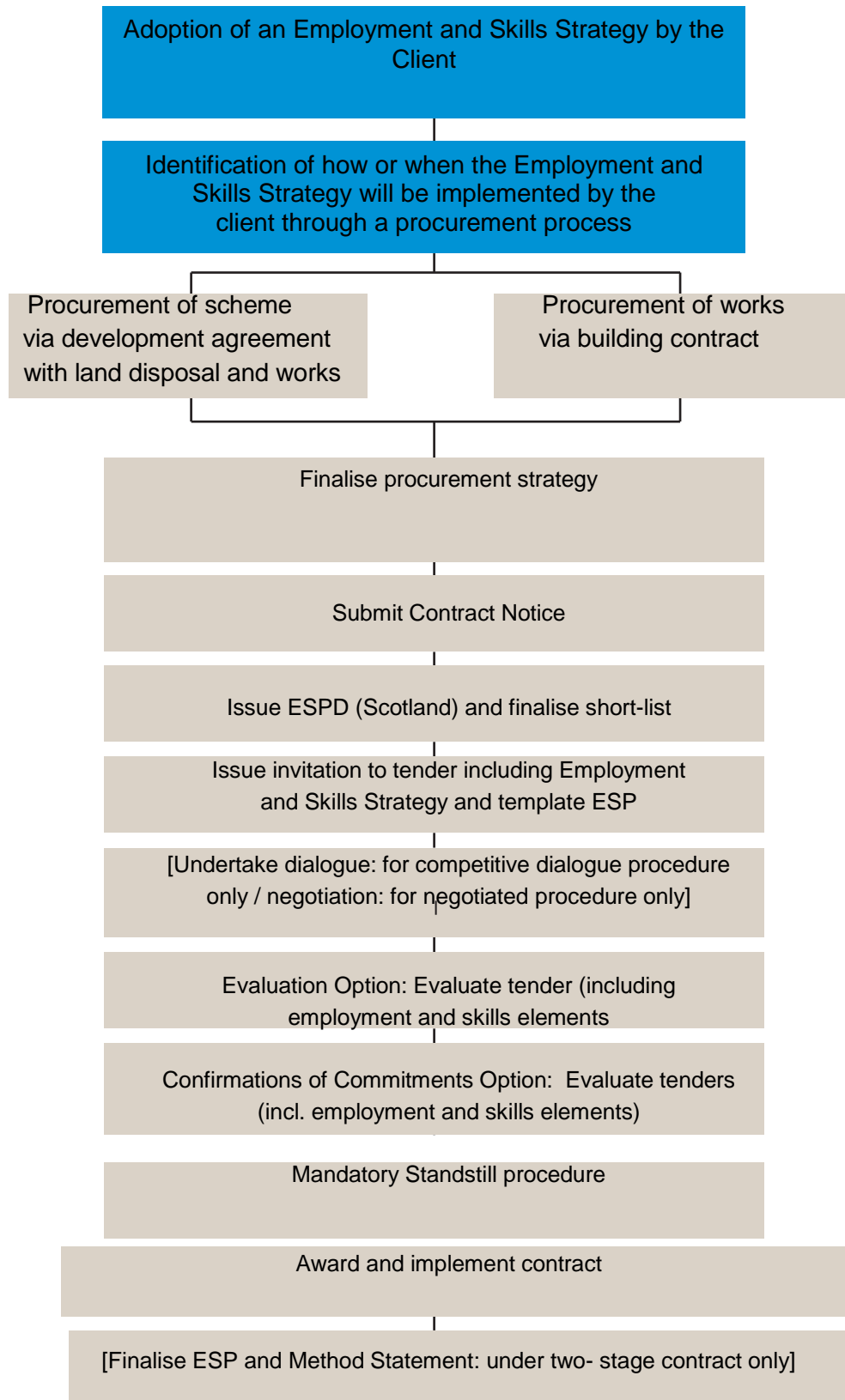
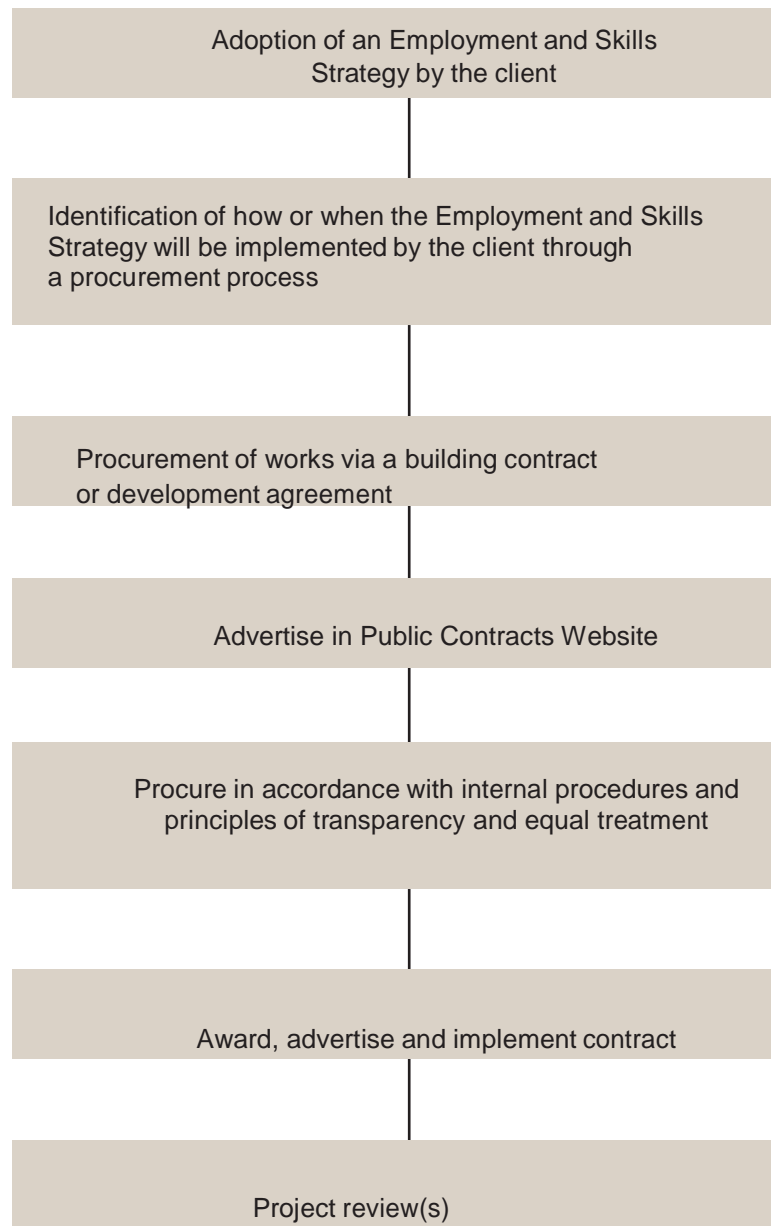


Figure 1B - Implementation of an Employment and Skills Strategy for the procurement of a 'Regulated Procurement' under the Procurement Reform (Scotland) Act 2014



In each case (1A &1B), adoption of the Employment and Skills Strategy by the client may already form part of the client's annual procurement strategy required pursuant to the Procurement Reform Act. The Programme/project reviews may feed into the client's annual report on its procurement strategy required pursuant to the Procurement Reform Act.

5.0 Legal, Policy and Process Advice for the Procurement of Contracts

5.1 Legal and Policy Issues

5.1.1 Introduction

Each year, Scottish clients spend large sums on works, goods and services that are essential to the delivery of clients in local communities. In procuring such works, goods and services, clients have an opportunity and in some instances are required to consider how they can act to improve the economic, social and environmental well-being of the area they operate in. A client may therefore consider and implement a range of initiatives that would promote skills, training, apprenticeships and employment.

Following changes to the EU procurement regime “social criteria” can be used by clients to evaluate the bids of tenderers, provided they are linked to the subject matter of the contract, they comply with EU law, evaluate the ‘most economically advantageous tender’ and do not discriminate or favour certain contractors. Following the introduction of the Procurement Reform Act, clients must, in certain cases, comply with the sustainable procurement duty and prescriptive rules on the use of community benefit requirements.

5.1.2 Legal Obligations for Procuring Clients- the Procurement Reform Act

In terms of legal obligations, the procurement framework in Scotland operates on a number of levels. On a European level, the general principles of EU law apply to clients, whilst more specific procurement rules are implemented at a national level (i.e. the Local Government Acts and the PC(S)R 2015 (explained below at 5.1.3)).

Clients in Scotland are also required to adhere to the Procurement Reform Act. This act requires clients with an estimated annual procurement spend above £5m to prepare an annual Procurement Strategy which must include a statement on the intended uses of ‘community benefit requirements’. Community benefit requirements are defined by the Procurement Reform Act as including ‘training and recruitment’ and so the Client-Based Approach can aid in satisfying this requirement. These are commonly referred to as ‘community benefits’. Clients are also required to comply with the sustainable procurement duty – specifically to consider how a Regulated Procurement can improve the economic, social and environmental wellbeing of the area, facilitate the involvement of SMEs and third sector organisations and supported business and promote innovation. Clients are further required to consider including community benefit requirements in certain major contracts (currently with a value above £4m).

Where the value of works, services or supplies contracts are deemed to be Regulated Procurements for the purpose of the Procurement Reform Act, (works contracts with a value exceeding £2m (net of VAT), or other public contracts with a value of £50,000 (net of VAT), figures correct as of April 2016; clients must adhere to the provisions of the Procurement Reform Act and the Procurement Reform (Scotland) Regulations 2016, including publication of Contract Notices and award notices on the Public Contracts Website (s.22 and s.23) (explained in greater detail in the sections below). Please see

the flow diagram in Figure 1B of Section 4, which sets out the implementation of an Employment and Skills Strategy when procuring a project where the Procurement Reform Act applies.

Failure to comply with the rules in the Procurement Reform Act and implementing regulations can result in a client being subject to challenge by an aggrieved tenderer. In some circumstances a contract entered into by a client in breach of the Procurement Reform Act can be set aside and declared 'ineffective' or a Court could order a contracting authority to amend a document in the procurement process or award damages.

Clients are also responsible for formulating their own internal procurement rules and policies within the framework of legislation, guidance or directions issued by the Scottish Government. Local authorities must also make and adhere to their own Standing Orders, providing for competition across their procurement needs. Within this large body of legal rules, there are a number of important legal constraints governing procurement practices.

5.1.3 EU Procurement Legislation

The main EU legislation on Public Procurement is Directive 2014/24/EU (the Directive). In particular, clients subject to the EU Directive 2014/24/EU must comply with the provisions of that Directive (implemented into national law via PC(S)R 2015) when procuring Public Works, Services and Supplies contracts that exceed certain defined financial thresholds (currently £4,104,394 net of VAT for works contracts and £164,176 net of VAT for services and supplies contracts or £106,047 for central government bodies) (all as updated 1 January 2016). Up to date thresholds are set out on the Scottish Government website.

Even where the value of works, services or supplies contracts do not exceed the PC(S)R 2015 financial thresholds, clients should still adhere to the EU Treaty principles of transparency, equal treatment and non-discrimination, and their own internal procurement procedures. Where the value of works, services or supplies are deemed to be a Regulated Procurement for the purposes of the Procurement Reform Act, the relevant provisions of the Procurement Reform Act should be followed (see above and below for more detail).

The EU Directive and PC(S)R 2015 set out detailed and complex rules which govern a client's procurement process. Failure to comply with such rules can result in a client being subject to challenge by an aggrieved tenderer. In some circumstances a contract entered into by a client in breach of the PC(S)R 2015 can be set aside and declared 'ineffective' or a Court could order a contracting authority to amend a document in the procurement process or award damages.

PC(S)R 2015 allows clients to pursue "secondary" policies via procurement procedures (the primary policy in an EU-compliant process being to open up the common market and to subject the particular contract to an EU-wide competition) and PC(S)R 2015 provides flexibility to consider wider requirements (in terms of the protection of the environment, employment of the long-term unemployed and other training and skills initiatives) at all stages of a procurement: from the advertisement of the contract in the Official Journal of the European Union (OJEU) to the operation of the contract with the selected contractor

Given this flexibility, clients are perfectly positioned to use their procurement processes to implement employment and skills initiatives and to require contractors to add value to their contract by promoting social and economic goals alongside the physical delivery of the construction works or similar

5.1.4 Local Opportunities

Please see Section 6 for further information on early contractor procurement and Section 7 regarding long-term contracts. CITB has also developed separate guidance which provides a detailed analysis of each of these processes.

5.2 Process Issues

This part of the guide covers the incorporation of skills and employment requirements into a procurement process: from the pre-procurement planning to the initial OJEU /contract notification process through to implementation on site. It covers both one-off project procurement and also the procurement of framework contractors.

Please note that an EU compliant procedure is only required for works procurements exceeding £4,104,394 (net of VAT) services and supplies, procurements exceeding £164,176 (net of VAT) or £106,047 (net of VAT) for those bodies listed in Schedule 1 of the PC(S)R 2015 (updated 1 January 2016). Up to date thresholds can be found on the Scottish Government website. A Procurement Reform Act compliant procedure is required for Regulated Procurements which are works contracts with a value exceeding £2m (net of VAT) or other public contracts with a value exceeding £50,000 (net of VAT) (values current at 18 April 2016).

5.2.1 Market Consultation

For above EU threshold procurements, the PC(S)R 2015 now specifically allows clients to consult the market before publishing a Contract Notice in the Official Journal of the European Union (OJEU).

Clients who are required to produce an annual Procurement Strategy pursuant to the Procurement Reform Act should first undertake relevant and proportionate consultation to gain a better understanding of the needs of its area, according to the mandatory guidance which accompanies the Procurement Reform Act. Remember a client's annual Procurement Strategy should include how it intends to comply with the sustainable procurement duty and its policy on the use of community benefit requirements (among others). Stakeholder consultation is also suggested prior to identifying appropriate community benefit requirements for specific major contracts, (for which a client must consider including community benefit requirements in accordance with the Procurement Reform Act).

This pre-procurement planning, strategy and/or market consultation should be used to confirm that the project or framework of prospective projects is suitable for the Employment and Skills Strategy. Virtually all construction projects and frameworks have the potential for employment, skills development and training, including apprenticeships. Guidance on levels of potential employment and skills outputs is contained in Appendix C – Benchmarks. Clients should ensure that any requirements for levels of training, numbers of apprenticeships etc. are proportionate to the primary aim of the contract and this must be assessed on an individual project basis.

At this stage, the client also needs to decide which procurement procedure is to be used. For above EU threshold procurements the procedures are Open, Restricted, the Competitive Procedure with Negotiation, the Competitive Dialogue or the Innovation Partnership Procedure. The Competitive Procedure with Negotiation and the Competitive Dialogue Procedure are only available in the limited circumstances set out in PC(S)R 2015 and it is generally expected that clients will first seek to use either the Open or the Restricted procedures, as discussed below.

5.2.2 OJEU & Regulated Procurements Notification Process

For above EU threshold procurements, under the PC(S)R 2015, clients can issue a Prior Information Notice (a PIN) in the OJEU in order to call for competition, rather than using an OJEU notice, if they are adopting a Restricted Procedure or a Competitive Procedure with Negotiation. A client may also issue a PIN in the OJEU prior to a Contract Notice, in order to indicate the essential details of its future procurement plans.

A PIN may be used to shorten the timescales for the Open Procedure, the Restricted Procedure and Competitive Procedure with Negotiation, where it is issued at least 35 days before and not more than 12 months in advance of a Contract Notice. In this case, the PIN must include the information that would be included in the Contract Notice, where available, such as the ESP requirements. A PIN is not mandatory, unless it is being used to shorten timescales, and nor will it commit the client to carrying out the contracts identified.

Otherwise, the next stage of an above EU threshold procurement (whether using the Open, Restricted, Competitive Procedure with Negotiation, the Competitive Dialogue or the Innovation Partnership Procedure) is usually the completion and submission of a Contract Notice. The Contract Notice is an EU-wide advertisement that notifies the EU marketplace that the client intends to procure a contract, framework or dynamic purchasing system for works, services or supplies. A clause should be included within the Contract Notice setting out the intention of the client to include skills development, including apprenticeships, within the project or framework. Please see Appendix E Part 1 for example Contract Notice wording. When considering whether to include the Employment and Skills Strategy in the Contract Notice, clients must act in a way that is not discriminatory, with regard to the country of origin of potential tenderers.

For Regulated Procurements subject to the Procurement Reform Act (but below EU thresholds) clients must publicise its intention to seek offers on the Public Contracts Website. A clause should be included within the Contract Notice setting out the intention of the client to include skills development, including apprenticeships, within the project or framework. Please see Appendix E Part 1 for example Contract Notice wording.

5.2.3 Selection and use of the (Scottish) European Single Procurement Document (ESPD (Scotland))

For above EU threshold procurements, Contractors must respond to the Contract Notice, indicating their interest in bidding for the contract. In the Restricted Procedure and Competitive Procedures with Negotiation and the Competitive Dialogue Procedure, clients would previously have despatched a "Pre-Qualification Questionnaire" (PQQ) to those contractors that have expressed an interest. Now, clients must require contractors to submit a European Single Procurement Document (ESPD (Scotland)). This next stage of the OJEU notification process is where the client evaluates the responses submitted by the contractors in order to select a short-list of contractors for the purposes of tendering. In the Open Procedure this short-

listing process is not required and Invitations to Tender together with the ESPD (Scotland) are simply made available to interested contractors. For Regulated Procurements pursuant the Procurement Reform Act, clients should also use the standardised version of the ESPD (Scotland), guidance on which is included in the Scottish Procurement Policy Note 06/2016.

At this selection stage, a client must only consider information relating to each contractor's financial or economic standing, technical or professional ability and other issues that provide the client with grounds for rejection, as set out at Regulations 58 and 59 of the PC(S)R 2015 (in the case of above EU threshold procurements) or as set out in Regulations 8-10 of the Procurement (Scotland) Regulations 2016 (in the case of Regulated Procurements).

Unlike the previous system of using PQQs, clients cannot change or add to the questions in the standard ESPD (Scotland) document, other than deleting questions which are not relevant to the contract in question. Provided the Contract Notice clearly sets out the requirement for employment, skills and training, prospective contractors can address this requirement in their response to the standard questions around technical and professional ability, which can be assessed by clients. Further information can be found in the ESPD (Scotland) Standard Statements document, available on the Procurement Journey website.

5.2.4 Tender Process and Tender Evaluation

An Invitation to Tender is issued either direct to contractors under the Open Procedure or to the short-list of contractors that has been compiled following the ESPD stage in the Restricted Procedure. The tendering process, post-ESPD, for Competitive Dialogue is further commented on at Section 5.3.

In Open and Restricted Procedures, the Invitation to Tender should be prepared so that it obtains the tendering contractors' proposals for the contract or framework agreement linked to stated evaluation criteria. A section should be included within the tender documentation including the Employment and Skills Strategy for the proposed project or framework. The Employment and Skills Strategy should provide an outline of what the project or framework is expected to be able to support in terms of skills development, training and apprenticeships and should include a template ESP containing its minimum requirement benchmarks to be achieved across each of the employment and skills areas in the "Summary column". This can be included alongside any other relevant socio-economic and environmental aspects.

Previously, European case-law provided an unclear position for clients wanting to evaluate social criteria (such as employment and skills) as part of their EU procurement procedure. The prevailing view was that social criteria could not be evaluated unless it formed the primary purpose of the contract. This meant that previous versions of this Guidance reflected the prevailing view which was that social criteria could not be evaluated unless they formed the primary purpose of the contract (which in relation to a major construction project is the construction of a building or facility). However, following the implementation of Directive 2014/24/EU and PC(S)R 2015, clients can use tender evaluation criteria, including employment and skills criteria, provided they are linked to what the client is buying, comply with

EU law and evaluate the Most Economically Advantageous Tender (MEAT). Further, the criteria should allow an objective comparison of tenders, be published in advance and not discriminate/favour potential contractors from across the EU.

Please note for above EU threshold procurements, under Regulation 67 of PC(S)R 2015 contracts must be awarded to the most economically advantageous tender and not be awarded on the basis of lowest price or lowest cost. MEAT criteria must be made up of price or cost and other criteria such as quality, organisations factors and issues associated with after sales services, technical assistance and delivery matters.

The Scottish Government statutory guidance that accompanies the Procurement Reform Act states that the MEAT approach should also be applied to any award criteria for Regulated Procurements below the EU threshold values. Although it is not possible to award a contract on the basis of lowest price or cost, a client can award the majority of available points to price or cost, if to do so would reflect its priority for the contract in question

Introduction to the Two Recommended Evaluation Options

Given the flexibility that now exists under the new EU Procurement regime, CITB has sought to provide clients with an additional evaluation option (“the Evaluation Option”) that can be used in the event that a client wants to evaluate the employment and skills agenda at tender stage. The original approach (referred to in this Guidance as the “Confirmation of Commitments Option”) remains an option, provided the MEAT criteria have otherwise been applied.

At this stage, it is worth noting that Regulation 54 of PC(S)R 2015 states that, “Contracting authorities must offer on the internet unrestricted and full direct access free of charge to the procurement documents from the date of the publication of a notice in accordance with Regulation 52 (form and manner of sending notices for publication at EU level) or the date on which an invitation to confirm interest was sent”. There is industry debate as to what Regulation 54 requires a client to do. Whilst a strict reading suggests all procurement documents required by the procurement process must be made available at the same time as the publication of the Contract Notice, the Scottish Government has issued helpful guidance by way of response to a frequently asked question.

In response to the FAQ, “What is meant by ‘procurement documentation’, and if all documentation has to be ready ‘upfront’ what goes into the Invitation to Tender (ITT)?” the Scottish Government has suggested that the intention of the PC(S)R 2015 more logically appears to be that procurement documents should be made available in-line with the relevant stages of the procurement process, rather than upfront at the time of publishing the Contract Notice. This means that the Invitation to Tender would be made available to the participants and on the internet after the selection stage and from the point at which the deadline for receipt of tenders runs. This also makes sense when read alongside the procedures themselves having regard to time periods.

It is CITB's view that as much reference to the client's Employment and Skills Strategy (including how it is to be evaluated or included in the contract) should be

made as possible at the time of publishing the Contract Notice as this helps to promote the aims of the client as set out in such strategy and ensures that such aims are at the forefront of the minds of tenderers. It also means that experience of delivering employment and training can be taken into account in selecting bidders via the ESPD (Scotland). This applies to both the Confirmation of Commitments and the Evaluation Options.

1. The “Confirmation of Commitments” Option

In the event the client does not want to evaluate the responses it receives from tenderers concerning the employment and skills development, but instead wants to use the benchmarks as a set of minimum requirements to be finalised post-tender, it should adopt this option.

Contractors should be asked to confirm their commitment to implement employment and skills development on the contract or framework agreement and to complete the remainder of the ESP to show how the benchmarks will be achieved on a month by month basis. The template ESP at Appendix C provides a breakdown of the employment and skills areas as set out in the client's Employment and Skills Strategy. A Method Statement outlining how the ESP will be implemented on site should also be requested within the tender documents in order for the contractor to show how it intends to ensure delivery and achieve the benchmarks.

Questions should be inserted in the standard Invitation to Tender so that the requirements of the client detailed in its Employment and Skills Strategy are set out clearly and tenderers' responses are obtained in a format that can be taken forward by the client post-tender (completion of the ESP). This ensures that there is no ambiguity as to what is expected of the contractors, whilst still allowing the contractors a degree of flexibility to "add value" or go over and above such requirements. The Employment and Skills Strategy also creates a "bottom line" for any future developments under a framework agreement.

The contractors' responses with regard to the ESP and Method Statement should state their commitment to deliver the Employment and Skills Strategy, the minimum benchmarks and any cost of doing so. In any other regard such responses should not be subject to evaluation but be taken forward with the client post -tender.

If the client is using an EU-compliant procedure to let the relevant contract, the minimum employment and skills commitments it is seeking from the successful contractor should be set out and responded to within the formal bid process. It is important that no post-tender discussions on the exact employment and skills commitments have the effect of substantially changing the content of the final bid proposals.

Clients need to ensure that they convey the absolute nature of this requirement so that a reasonably well informed and normally diligent tenderer is able to understand that its tender will be rejected if it fails to confirm the absolute requirements. It is important to note that it is unlikely to be acceptable for a client to waive any of the minimum benchmarks once they have been declared in the procurement documents and/or tenders have been invited, in the interests of transparency and equal treatment.

In respect of the Restricted and Open Procedures, the EU Regulations presume that

the client will set out its requirements in the tender documentation and will award on the basis of the tender responses received.

Our recommendation is therefore for the client to set out its minimum requirements in respect of the relevant contract/framework agreement it is seeking to let and that any discussion over the exact number of trainees, employees and apprenticeships as well as the types of training, employment and apprenticeships offered should be clarified and finalised in a manner that will avoid any significant changes to the contractor's overall proposals post-tender.

2. The “Evaluation” Option

Under the Directive and the PC(S)R 2015 a client can use any tender evaluation criteria, including those relating to the employment and skills agenda, when evaluating the bids received from contractors.

Unlike the “Confirmation of Commitments” approach, the Evaluation approach is structured so that a client includes evaluation criteria relating to the provision of skills, development, training and apprenticeships linked to the delivery of the Employment and Skills Strategy in the procurement process.

Use of such award criteria is permitted provided that they are linked to the subject matter of the contract, they comply with EU Law, evaluate the Most Economically Advantageous Tender and do not discriminate or favour certain contractors. The award criteria must also mean that the objective comparison of tenders remains possible.

Pursuant to Regulation 56 of PC(S)R 2015, the relevant award criteria must be made available at the same time as the publication of the Contract Notice. This means that a client wishing to evaluate a tender’s ESP and Method Statement will necessarily be required to front-load the work involved in the procurement process so that all relevant information concerning tender requirements and evaluation approach is made available from the outset of the procurement process.

As with the “Confirmation of Commitments” approach, contractors should be asked in the Invitation to Tender to:

- Confirm their commitment to implement employment and skills development on the contract or framework agreement and to complete the remainder of the ESP to show when the benchmarks will be achieved on a month by month basis. The template ESP at Appendix D provides a breakdown of the employment and skills areas as set out in the client’s Employment and Skills Strategy.
- Complete a Method Statement outlining how the ESP will be implemented on site.

Further questions could be inserted in the standard Invitation to Tender so that the requirements of the client detailed in its Employment and Skills Strategy are set out clearly and tenderers’ responses are obtained in a format that can be evaluated on a “like-for-like” basis and can be taken forward by the client post-tender (e.g. for the completion of the ESP). This ensures that there is no ambiguity as to what is expected of the contractors, whilst still allowing the contractors a degree of flexibility to “add value” or go over and above such requirements. The Employment and

Skills Strategy also creates a “bottom line” for any future developments under a framework agreement.

The contractors’ responses with regard to the ESP and Method Statement should state their commitment to deliver the Employment and Skills Strategy, the minimum benchmarks and any cost of doing so. This can be used as a baseline and then scores can be allocated to responses to the client’s specific questions or certain sections of the ESP, Method Statement or added value proposals, depending on the client requirements.

The minimum benchmarks should be evaluated by the client on a pass/fail basis so that all bids submitted comply with the minimum benchmarks set out in the client’s Employment and Skills Strategy. Therefore, if a tender fails to confirm their commitment to implement the minimum benchmarks on the contract or framework, the client should reserve the right to reject that tender. Clients need to ensure that they convey the absolute nature of this requirement so that a reasonably well informed and normally diligent tenderer is able to understand that its tender will be rejected if it fails to confirm the absolute requirements. It is important to note that it is unlikely to be acceptable for a client to waive any of the minimum benchmarks once they have been declared in the procurement documents and/or tenders have been invited, in the interests of transparency and equal treatment. The client then has a degree of flexibility as to which elements of the tenderer’s responses it wishes to evaluate via a scoring and weighting exercise, for example:

- The completed ESP;
- All or certain elements of the Method Statement; and/or
- Added value proposals

A client must set out clearly what award criteria and (ideally) the weighting, against which it will evaluate the tenderers’ ESP and/or Method Statement and/or added value proposals.

A client should also provide a scoring matrix against which it will score the tenderers’ responses. This provides (for example) a range of scores from 1 to 5 or 1 to 10 and sets out how the contracting authority intends to evaluate bids and award scores against the pre-disclosed award criteria, using the pre-disclosed scoring matrix.

In addition to the scoring matrix, the client should also set out scoring guidance that links back to the range of scores achievable for each question and sets out how the tenderer could achieve an “excellent” or “good” (or “poor” or “unacceptable”) score.

Please refer to Appendix D Part 2 for an example scoring table.

Our recommendation is therefore for the client to set out the minimum benchmarks it will require in respect of the relevant contract/framework agreement and make it clear that they are absolute requirements in the tender documents. It should then set out which elements of the tenderers’ responses it wishes to evaluate and set out the relevant award criteria, alongside all of the other qualitative award criteria in the Contract Notice, Contract Notice or procurement documents, ideally with their weightings. Where the knowledge of sub-criteria and their related weightings could

affect the preparation of a tender, these should also be disclosed to tenderers in advance of them preparing their tender (and we would recommend that these are set out in the procurement documents too). Please refer to Appendix D Part 2 for an example evaluation matrix.

Clients should also remember to include any pricing evaluation information in its Invitation to Tender, if it wants to evaluate the costs of delivering the ESP separately from the overall contract sum.

5.2.5 Project Implementation and Review

The project manager working on behalf of the client should ensure that it reviews the performance of employment, skills development and training throughout the project or framework against the ESP and Method Statement. Continuing support and interest by the client in the employment, skills and training development programme will play an important role in ensuring its success. Success should be acknowledged and celebrated. Failure to deliver against the ESP could be taken into account when rewarding performance and when awarding future projects or additional work under a framework, as discussed below.

Clients who are required to prepare an annual Procurement Strategy pursuant to the Procurement Reform Act will also require to report on its performance against that Procurement Strategy at the end of the year for the Scottish Government. Therefore individual project reviews will be crucial to complete this reporting task.

5.2.6 Key Performance Indicators

Clients need to consider the status of the key performance indicators (KPIs) and targets that they set for the implementation of ESPs and Method Statements by their appointed contractors.

Where such implementation is a contractual obligation linked to KPIs and targets, decisions need to be made as to:

- Whether failure to meet an agreed KPI target is a breach of contract giving rise to a claim for damages (the so-called 'reimbursement value') or even right of termination - these are onerous remedies;
- Creation of links between achievement of the KPI targets and the level of profit payable to the appointed contractor – this approach can be a powerful incentive which needs to be integrated in the pricing structure used for payment of the contractor in relation to each project; and
- Creation of links between the achievement of KPI targets and the award of future projects pursuant to a framework agreement – this is another powerful incentive for contractors to treat the KPIs and targets seriously.

In all cases, clients should consider what is proportionate and reasonable (i.e. what shortfall against agreed KPI targets will give rise to what remedies). It is important that contractors take their responsibility seriously, but it is also important that they are not dissuaded from tendering or encouraged to quote a risk premium for fear of the remedies imposed if they do not meet targets.

Clients and contractors should also bear in mind that a significant or persistent deficiency in the performance of a substantive requirement of a public contract which led to early termination damages or other comparable sanction may be used

by any client to exclude a potential tenderer from a subsequent tender exercise (for either an above EU threshold procurement or a Regulated Procurement pursuant to the Procurement Reform Act). Again, this should act as a powerful incentive for contractors to treat KPIs and targets seriously

5.2.7 Contract Development

Contractors may be unfamiliar with implementing an ESP, either at a framework level or on specific projects, and it is possible that at tender stage they may over-estimate the cost of implementation. However, under the Open and Restricted Procedures there is no opportunity to negotiate the bidders' financial submissions within the procurement itself and therefore for those procedures, the client may need to adopt a two-stage process (explained below) in order to finalise its requirements with its selected bidders.

The Competitive Dialogue procedure and the Competitive Procedure with Negotiation does allow some scope for structured negotiation with bidders and it may be that the client would prefer to finalise its requirements and the contractor's proposals within the dialogue or negotiation phase of the relevant procurement procedure, so that final bids are obtained on the basis of a well-developed ESP and Method Statement that will be subject only to fine-tuning or minor clarification post-tender. However, this procedure is only appropriate in respect of complex procurements and its adoption would need to be justified in respect of the relevant project as a whole, rather than only on the strength of a client's need to examine tenderers' proposals for an ESP.

Clients should seek to provide the maximum information during the tendering process to ensure that bidders are costing the implementation of employment and skills requirements as accurately as possible.

As noted above, clients should consider the benefit of a two-stage approach that permits finalisation of details of ESPs after selection of contractors, either:

Early Contractor Procurement- for a particular project by use of a two-stage contract such as PPC(S)2000 which contains a procedure for completing details of the ESP in tandem with finalisation of designs and supply chain members; and/or

Re-engineering Long-term Contracts - for multiple projects by creation of a framework agreement or term contract that allows for a call-off procedure during which ESPs can be finalised to match the requirements of the designs and supply chains required for particular projects.

Please refer to Appendix D part 1 for template procurement clauses. Appendix E for template contract clauses, Section 6 regarding early contractor procurement and Section 7 regarding reengineering of long-term contracts.

5.2.8 Contract Documentation

The finalised ESP and Method Statement should be included as contract documents in the building contract or framework agreement. There should also be provision for monthly reviews of progress against the ESP and key performance indicators, and a final review at the end of the project or at the end of each project under a framework.

These should be inserted as contractual obligations that the contractor must sign up to. Please see Appendix E for template contract clauses.

Contract conditions or requirements relating to employment and training should be set out in the tender documents in order to comply with the EU treaty principles of transparency and equal treatment. Therefore the client should ensure that the final forms of the clauses are included in the contracts that are sent out with the tender documents (this is a requirement of the EU Open and Restricted Procedures in any event).

In order to comply with EU procurement regulations, and associated case-law, employment and skills clauses must:

- have been mentioned both in the Contract Notice and tender documents, or at the latest, in the tender documents;
- be relevant to the performance of the contract;
- be transparent and non-discriminatory; and
- be linked to the subject matter of the contract.

We have therefore drafted the template clauses set out at Appendix E in order to comply with the above principles. However, they will need to be reviewed in light of the requirements of each contract in order to ensure that they remain relevant and proportionate to the performance of the contract and are relevant to the subject matter going forward.

As noted previously, such clauses should be used carefully and any extra cost incurred as a result of them should be justifiable. The more obligations which are passed to contractors which are not normally required by the market, the greater the likely tenderers' return prices and the higher the likelihood that the contractor base bidding for the contract will be reduced. This in itself is likely to work against the client's other policies for widening tender participants and supplier diversity, and so should be carefully considered prior to dispatching the tender documents.

Most building contracts will provide for variations or changes to the scope of the works, which may cause an increase or decrease in the contract sum. Where this increase or decrease is substantial and affects the number of personnel employed, the client and contractor should be able to assess the impact on the benchmarks contained in the ESP and any related key performance indicators (discussed below).

We have included provision in the template clauses for the ESP and key performance indicators to be reviewed by both parties, so that, in the event that the scope of works is substantially varied, the contractor is not bound to deliver output benchmarks which are not achievable and so that the client is getting best value out of the overall cost of the project.

For the avoidance of doubt, this variation procedure should apply only to a change in work under the building contract post-award and is not designed to accommodate flexibility in a bidder's tender at the procurement stage - the client's benchmarks

should still be committed to as a minimum requirement.

5.3 Competitive Dialogue Procedure

The Competitive Dialogue is a procedure which allows the client to enter into structured dialogue and negotiation with its tenderers as part of the procurement process. Regulation 27(4) of PC(S)R 2015 states that the Competitive Dialogue Procedure may be used where:

- the needs of a contracting authority cannot be met without the adaption of readily available solutions;
- the contract includes design or innovative solutions;
- the contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, complexity or legal and financial makeup or because of the risks which are attached to them;
- the technical specifications of the contract cannot be established without sufficient precision by a contracting authority with reference to a standard common technical specification; and/or
- in response to an open or restricted procedure only irregular or unacceptable tenders are submitted.

The purpose of the dialogue phase is to allow a client to discuss with contractors their solutions whilst identifying and defining the best means by which to satisfy the client's requirements.

As under the Restricted Procedure, the client will specify its needs and requirements in a Contract Notice. Once the client has completed its shortlist (minimum of 3, if numbers allow), those bidders are then invited to dialogue with the client and the dialogue phase of the procedure should continue until the client is capable of identifying "one or more solutions capable of meeting its needs". Regulation 31(8)(b) PC(S)R 2015 allows the client to discuss all aspects of the contract with the shortlisted bidders. Once the client declares that the dialogue has concluded, the bidders can only be requested to clarify, specify or optimise their tenders without making any changes to the basic features of the tender.

As part of the short-listing process, the bidders will be required to indicate their experience of implementing employment, skills development and training on previous projects similar to that required by the client. The client's descriptive document should include its Employment and Skills Strategy, which all bidders will be required to respond to in their tenders. The client will need to discuss the ESP and related Method Statement with the bidders at the dialogue stage and satisfy itself that its minimum requirements can be met by the preferred solution. By the end of the dialogue phase each candidate will be requested to submit their Final Tenders containing all the elements required and necessary for the performance of the project, which will include details of their proposed ESP and Method Statement.

Regulation 31(20) PC(S)R 2015 allows the client, once it has identified the contractor which has submitted the tender presenting the best price-quality ratio in accordance with Regulation 67 of PC(S)R 2015, to confirm financial commitments and other terms contained in the tender. This allows a client to work with the identified tenderer to finalise the terms of the contract provided that this does not

have the effect of materially modifying essential aspects of the tender including the needs and requirements set out in the Contract Notice nor must it distort competition or cause discrimination.

Useful links

EU value thresholds

<http://www.scotland.gov.uk/topics/government/procurement/policy/10613>

Scottish Government Post-tender clarifications

www.scotland.gov.uk/Topics/Government/Procurement/policy/SPPNSS/PANS/policy-notes/19070

European Single Procurement Document

<https://www.procurementjourney.scot/route-3/route-3-develop-documents-esp-scotland>

6.0 Early contractor involvement

In addition to the employment and skills outputs obtained through the EU procurement process, a methodical approach to early contractor involvement can achieve further contractor, subcontractor and supplier contributions in the delivery of employment and skills. A number of clients have already achieved significant results through use of this approach, including local jobs and training opportunities, and other community benefits.

Early contractor procurement is a relatively new procurement strategy which has its origins in two stage tendering, but adopts a more systematic approach with clear conditionality and binding deadlines. It is based on a series of post-award processes undertaken after contractor selection but prior to mobilisation on site and involves activities in which the contractor and its key supply chain members are directly involved.

6.1 What is early contractor involvement?

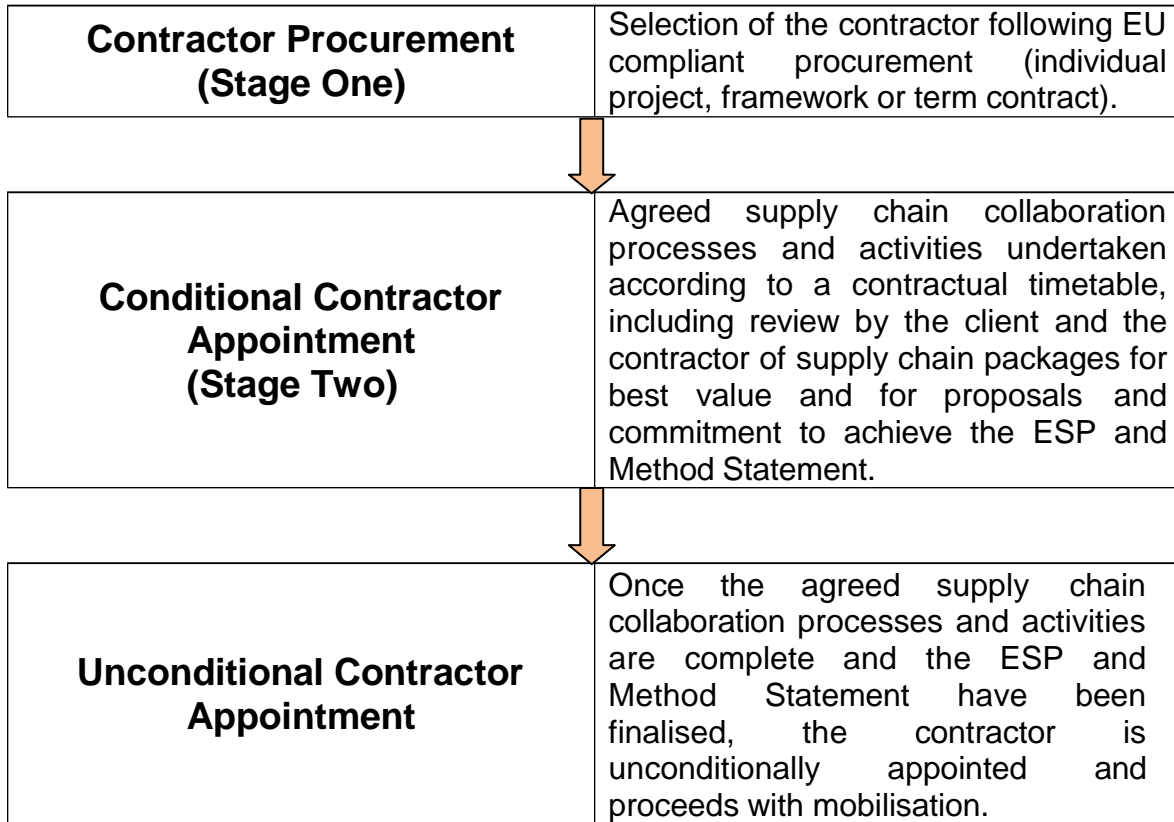
Early contractor involvement is a "two stage" process whereby the client undertakes a procurement exercise and enters into a conditional contract with a contractor, which will not become unconditional or permit start on site until a set of pre-conditions have been met during a pre-mobilisation phase. Such pre-conditions may include clarification and enhancement of the contractor's ESP and Method Statement. This approach can be applied to an individual project, a framework agreement or a long-term contract.

The terms of the conditional appointment under a two stage process should set out contractual mechanisms by which the client works with the contractor to review and "reengineer" its proposals for direct labour, subcontractors and supply contracts in order to establish whether better value options are available and to deliver enhanced and refined employment and skills outputs. These processes should not involve client nomination of subcontractors or suppliers but provide a transparent means by which the client can ensure that the contractor tests its proposals in detail and alters them if better value and better employment and skill commitments can be achieved.

Without early contractor procurement, a client undertakes a procurement exercise and then enters straight into an unconditional contract with a contractor, which starts on site without a pre-mobilisation phase built in. The limited time and opportunities created by the constraints of a single stage tender exercise lead to the risk of contractors not pursuing detailed tender enquiries with their potential supply chain members to address employment and skills requirements, thereby depriving them of an opportunity to obtain fully developed and thought through proposals from team members.

This CBA guidance is designed to assist clients with the creation of clear expectations and commitments at the procurement stage and can be used whether a client is undertaking a single-stage procurement with immediate start on site or a two-stage procurement under early contractor involvement.

6.2 How Does Early Contractor Involvement Work?



The benefits of the two stage approach are:

- a period of thinking time post-award during which the contractor can engage with the client and the supply chain members to clarify and enhance the ESP and Method Statement and improve on costs;
- an opportunity for the contractor and the supply chain members to offer innovative solutions; and
- a period for the client to assist the contractor by liaising with employment and skills intermediaries and signposting the use of local training providers, employment agencies and education facilities.

6.3 Early Contractor Procurement and the EU Regulations

The EU Regulations prohibit public sector clients from making material changes to contract conditions once the procurement process has completed.

Clients may therefore be concerned that, when using the Open or Restricted Procedures, dialogue with the contractor and supply chain post-award may give rise to a challenge from unsuccessful tenderers. In order to minimise the risk of challenge, the client must ensure that the pre-mobilisation activities are clearly provided for in the contract conditions at tender stage and the contractor is not

permitted to reduce or depart materially from the proposals in its original tender.

6.4 Early Contractor Procurement and Standard Form Contracts

Early contractor procurement is dealt with in relatively few published contract forms. For clients implementing a single project in line with this guidance, early contractor involvement processes are set out in detail in the PPC2000 form of contract, which describes a series of preconstruction activities and links these to objectives that include employment and skills. These processes have been successfully tested on a wide range of client projects over the last 15 years. In November 2015 NEC published an "early contractor involvement" Clause with related guidance, which enables a contractor to be appointed in two stages. The "Stage One" appointment enables the build up of designs and costs in advance of "Stage Two".

JCT produced in 2009 a Pre-Construction Agreement, which is suitable for early contractor involvement but requires clarification of the specific preconstruction phase activities and processes and creation of a timetable governing their completion. It also needs clearer links between the procurement of the Pre-Construction Agreement and procurement of the construction phase Building Contract. JCT contracts can be amended to include early contractor involvement provisions. There are no published forms of Framework Agreement that deal expressly with early contractor involvement.

For long-term contracts, early contractor involvement is provided for only in the TPC2005 form of contract, and recently the NEC3 form of contract. Other forms of long-term contract such as the JCT Measured Term Contract would require adaptation to create the conditional appointments described in this guidance.

CITB has developed separate guidance explaining the use of early contractor involvement in further detail.

7.0 Reengineering Long-term Contracts

The guidance focuses on procurement of single projects, but there are far greater opportunities for public sector clients to maximise employment and skills outputs where they are in a position to appoint contractors to long-term contracts. These can comprise:

- Framework Agreements; and/or
- Term Contracts

7.1 Use of long-term contracts

Any long-term contract can contain contractual mechanisms for the client to review the main contractor's proposals for direct labour, subcontractors and supply contracts in order to establish better value options which also deliver enhanced employment and skills outputs.

Without adoption of these processes it will be difficult to revisit the employment and skills commitments originally tendered even though, over the life of the long-term contract, circumstances will change causing the client to expect improvements. These expectations would be reasonable in circumstances where:

- the contractor is receiving more work than originally anticipated;
- the contractor becomes more familiar with the client's estate and objectives;
- the contractor can place more confidence in data provided by the client;
- there is greater availability of local subcontractors and suppliers;
- changes in the marketplace are resulting in more economically advantageous subcontract terms;
- the main contractor's increased confidence in the work available under the long-term contract translates into more opportunities for subcontractors and suppliers.

7.2 Framework Agreements and Term Contracts

Long-term contracts fall into one of the following two types:

Under a Framework Agreement, the client will not guarantee work to the main contractor, but project contracts will be awarded (over a period up to four years) either directly against agreed prices or by mini-competition among a number of contractors to which Framework Agreement(s) have been awarded.

A Term Contract is a commitment to a scope of work, subject to the ordering of particular quantities being called off. In order for a long-term contract to operate as a Term Contract rather than a Framework Agreement, it must have sufficient clarity as to the brief and the pricing for the client to be able to call-off as if from a "shopping list".

7.3 How does supply chain collaboration work under long-term contracts?

The supply chain collaboration machinery in any long-term contract should set out in clear contractual commitments events which will trigger supply chain collaboration; the steps to implement the process and the timing of each of the activities.

The benefits of supply chain collaboration are the opportunities:

- for the main contractor to revisit supply chain arrangements;
- for subcontractors and suppliers to understand the full extent of the opportunities available to the main contractor and thereby to themselves;
- for a limited list of subcontractors and suppliers to provide proposals to the main contractor with full visibility to the client; and
- to assess the employment and skills outputs available from local contractors.

7.4 How are long-term contracts relevant to employment and skills?

When the client invited tenders for the long-term contract, it will have stated its employment and skills expectations, which will have been reflected in the main contractor's ESP and Method Statement. However, at this time the main contractor will have had little scope to engage with subcontractors and suppliers, especially on a local basis.

A controlled process of supply chain reviews under long-term contracts allows the main contractor to clarify and refine its employment and skills commitments as well as other added value for the client.

7.5 Long-term contracts and the EU regulations

The systems for supply chain collaboration do not conflict with the PC(S)R 2015 or any other aspect of EU procurement law. They are predicated on the assumption that any accepted proposals will include lower prices and improved value as well as enhanced employment and skills commitments.

7.6 Is there a commercial incentive for the supply chain?

Supply chain review also creates a commercial incentive for subcontractors and suppliers. Put simply, a subcontractor/supplier bidding to a conditionally appointed main contractor (allowing for 3 subcontractor/supplier bidders) has a 1 in 3 chance of appointment, whereas a subcontractor/supplier bidding to a main contractor that itself remains a bidder in relation to the original long-term contract (allowing for 6 main contractor bidders) has a 1 in 18 chance of success.

For the main contractor, it is possible to create significant incentives by linking improved prices and enhanced employment and skills outputs to the extension of a long-term contract, contract award in a mini-competition or payments upon achievement of key performance indicators.

7.7 Consortia

Where clients are working in a consortium or in an integrated alliance of clients and/or main contractors delivering related works, there are opportunities for the refined outputs to be benchmarked and for best practice to be agreed and implemented.

CITB has developed separate guidance explaining the use of long-term contracts in further detail.

8.0 Inclusion of SME Contractors and Supply Chain Diversity

SMEs form the core of the construction industry and are likely to employ a higher percentage of trainees and apprentices than their larger competitors. However, clients are at risk of inadvertently excluding such small and diverse businesses by opting for a "bulk-buy" or a framework approach for their procurement needs and including disproportionately high levels of employment and skills requirements in respect of which SMEs are (by their nature) too small to compare favourably

against larger competitors with established track records and more resources.

Many SMEs see the EU Regulations as a barrier to participation in procurement processes. This was recognised in the Review of Scottish Procurement report (published in October 2013).

Given this, the new PC(S)R 2015 include a number of Regulations that can be used to facilitate the involvement of SMEs. For example, Regulation 47 of PC(S)R 2015 requires a contracting authority to explain its decision not to sub-divide procurements into smaller lots. As regards selection criteria, a contracting authority cannot impose a requirement that tenderers have an annual turnover of more than twice the contract value (for both above EU threshold procurements and Regulated Procurements under the Procurement Reform Act).

As explained above, the Procurement Reform Act introduces the sustainable procurement duty which must be complied with for any Regulated Procurement. The sustainable procurement duty includes the duty to facilitate the involvement of SMEs. Further, all Regulated Procurements below EU threshold value must be advertised on the Public Contracts Scotland Website and the standard ESPD (Scotland) should be used.

Supplier diversity via the inclusion of SMEs (including social enterprises and supported businesses), in a client's supply chain can benefit the local community and increase opportunities for employment, skills development and apprenticeships. Therefore, supplier diversity in procurement is central to the delivery of sustainable communities and, to overcome the potential problems arising in relation to the inclusion of SMEs, clients should seek to open up their procurement processes to SMEs in a number of ways.

The Scottish Government recommends public bodies adopt "Six Simple Steps" to improve SME access to contract opportunities. They are to:

- 1 Adopt the "Suppliers Charter" which commits clients to improving the way they work with bidders and supply chains;
- 2 Use the Public Contracts Scotland advertising portal, which was launched in July 2008 to provide businesses with easy access to contract opportunities;
- 3 Review contract award procedures to ensure that they place the minimum possible burden on the supply chain
- 4 Use outcome-based tender specifications wherever possible – to allow businesses to propose innovative and alternative solutions to client needs;
- 5 Include in contract terms a requirement that main contractors pay the supply chain within 30 days of receipt of a valid invoice- to ensure that supply chain partners as well as main contractors, receive prompt payment; and
- 6 Use data from the Scottish Procurement Information Hub to monitor spend with SMEs.

Three "Procurement Journeys" (low, medium and high risk) have been developed by the Scottish Government for use by public sector clients to encourage a consistent approach to procurement and encourage local economic interests to be placed at the heart of procurement strategies, so far as possible, clients are also encouraged to consider economic/SME impact in collaborative procurement strategies – by splitting national requirements into specialist or geographical lots and supporting SME consortia and supply chain opportunities, wherever possible.

Other methods of encouraging SMEs to bid for tenders include:

- Improving access to tender opportunities by advertising in the local and trade press and the client's website as well as the Official Journal of the European Union;
- Simplifying the administrative processes involved in an OJEU procedure (i.e., mandatory use of the ESPD (Scotland)), and present documents in clear and concise language;
- Offering coaching or guidance notes to all bidders on how to complete the documentation and how the process will run, and consider increasing the time-scales so they are long enough for the SMEs (who often have little or no administrative bid support) to respond;
- Encouraging alternative routes into the market (i.e., SMEs acting as sub-contractors to larger firms);
- Dividing a contract into separate lots and reserving up to 20% of the entire contract value (up to 1 million euro) for a separate procurement process for SMEs; and/or
- Encouraging SMEs to bid for larger contracts as part of a consortium.

Useful links

"Six Simple Steps" to improve SME access to contract opportunities

www.scotland.gov.uk/Topics/Government/Procurement/buyer-information/SMEs

Public Contracts Scotland - free access to contract opportunities in Scotland (whether requiring OJEU advertisement or requiring a Contract Notice per the Procurement Reform Act)

www.publiccontractsscotland.gov.uk

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Appendix A

Summary of the Employment and Skills Areas

The purpose of this section is to provide outline details of the Employment and Skills Areas that are contained within the Employment and Skills Plan (ESP) and the definitions for measuring outputs. Please refer to Appendix C for a Template ESP.

KPI 1: Work Experience Placements

This KPI is aimed at providing persons with the opportunity to carry out tasks agreed by their supporting organisation (where applicable) and the employer enabling the individual to gain a meaningful insight into the construction sector.

- This target describes work experience attendance on NSAfC Projects for students from schools, colleges and Universities (14 years plus) who undertake a work-experience placement for a minimum of 5 working (consecutive or non-consecutive) days. *Longer duration traineeships can be counted under KPI 5.* This KPI is aimed at providing students with the opportunity to carry out tasks agreed by the education provider and the employer enabling the learner to gain a meaningful insight into the construction sector.
- This target describes work experience attendance on NSAfC Projects for persons who are not enrolled in a course of education/study and who undertake a work-experience/pre-employment placement for a minimum of 5 working (consecutive or non-consecutive) days. This can include individuals from organisations such as Princes Trust, Probation Service, Job Centre Plus, Women into Construction, Armed Forces re-settlement programmes or local community organisations. It may also be appropriate for individuals seeking a career change.

This target relates to (data reporting lines)

- Work Experience Placement (In Education)
- Work Experience Placement (Not In Education)

KPI Measure: 1 completed work placement represents 1 outcome

Evidence:

1. Written confirmation from the learning provider or employer of the student participation in the activity, and;
2. Learner evaluation form

KPI 2: Jobs created by NSAfC Projects (new entrants)

This target describes the creation of new and sustainable job opportunities for new entrants into the sector. And as a result of the project, the successful candidate(s) are required on the project site(s) by the main contractor or subcontractor.

This target relates to (data reporting lines)

- Persons who are employed as Apprentices
- Persons previously unemployed
- Graduates

KPI Measure: 1 individual represents 1 outcome

Evidence:

1. Notification of vacancy on site, and;
2. Copy of offer of employment;
3. Confirmation letter or statement from employer following one month minimum employment (qualifying period)

KPI 3: Construction Careers Information, Advice & Guidance (CCIAG) Events

This target consists of the organisation and delivery of events focused on improving the image of the sector.

Events are aimed at increasing awareness of the opportunities available within the industry, what it is like to work in Construction and how to get into the sector. To be counted, the activity must be formally structured, agreed by the project and the participating organisation

The key target groups for delivery of this outcome are

- Entrants 14-19: (e.g. persons currently not in education, employment or training, or school students, school leavers, college students)
- Under graduates
- Influencers (e.g. schools/universities, adult influencers, careers advisors, learning providers, community groups)

KPI Measure: 1 event represents 1 outcome.

Evidence:

1. Confirmation from the participating organisation of the student engagement in the activity, and;
2. Completed documentation detailing activity delivered and numbers attended

KPI 4: Training Weeks on Site

This target relates to and counts the number of weeks of formal training being undertaken by trainees/new entrants working on a NSAfC Project. This will involve training following a recognised syllabus of study which has been accredited/certificated by either an awarding body for that qualification or by the recognised issuing organisation. *One training week = 5 working days.*

This target relates to (data reporting lines)

- New entrants undertaking apprenticeships
- New entrants undertaking traineeships (to include regional flexibilities)
- New entrants undertaking technical/higher level qualifications

KPI Measure: Total number of training weeks currently taking place on the project

Suggested Evidence:

1. Registration documents/written confirmation from training provider detailing course of study, duration and qualification, and;
2. Completion certificates

KPI 5: Qualifying the Workforce

This target relates to persons gaining a nationally recognised qualification equivalent to Level 2 or above. Achievements can include vocational awards/diplomas, apprenticeship completions, professional qualifications, leadership and management courses including ILM, Health and Safety, (including IOSH, NEBOSH, SMSTS & SSSTS). Outcomes must be accredited by a nationally recognised professional institution or awarding body

This target further relates to persons gaining industry certification. Achievements can include short duration courses; project specific learning e.g. products, installation, technologies, or may relate to occupational competence, licence to practice or sector specific training e.g. the environment, sustainability, health and safety.

Outcomes must be accredited by public education establishments, employers or other training providers and may be held externally or in-house and must be a minimum duration of 3 hours.

This target relates to (data reporting lines)

- a)Qualifications achieved– main contractor
- b)Qualifications achieved– sub contractors
- c)Short Duration training certification– main contractor
- d)Short Duration training certification– subcontractors

NB For the client based approach the sub-contractor reporting lines are optional

KPI Measure. 1 Qualification /certification achieved represents 1 outcome

Evidence:

Completion certificates.

KPI 6: Training Plans

This target relates to the annual company plan which details the organisational structured approach to training and developing the workforce. The plan must show the start and end date so that it demonstrates that this is a plan rather than a matrix. This target can included new plans and plans to be renewed.

KPI Measure: 1 new or annually renewed company training plan

Evidence:

A copy of the training plan with start and completion dates

KPI 7: Case Studies Approved

This target consists of completing and submitting a promotional case study which describes either an example of best practice or a significant achievement on the NSAfC project. Case studies counted against this measure must be compliant with the National Skills Academy for Construction case study guidelines.

The completed case study must be approved by a representative of CITB and the client/contractor's internal communications team and be made available for inclusion on the National Skills Academy for Construction webpages and for additional promotional purposes.

KPI Measure: 1 Case Study approved represents 1 outcome

Evidence:

Copy of approved case study

Appendix B Benchmarks

1.0 Residential		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements – persons	3	6	8	11	14	16	20	22	23	25	25	26	26
2	Jobs created by NSAfC	1	4	7	12	14	16	18	19	22	23	25	26	28
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	4	5	6	7	9	10	11	12	12	13	14
4	Training Weeks on site	47	99	167	261	365	522	731	939	1148	1357	1656	1775	1984
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	15	20	24	29	32	36	39	43	45	50	51
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	2	5	8	11	13	16	18	20	22	24	26	27
5(c) 5(d)	• Industry certification gained	5	7	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	4	4	5	5	5	6	6	6	7	7	7	8	8
7	Case Studies	Project Specific – to be agreed pre-approval												

2.0 Retail, sports, leisure and entertainment		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	Band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements- persons	2	4	5	6	8	9	10	11	12	13	13	14	14
2	Jobs created by NSAFc projects	0	2	4	7	8	9	10	11	11	13	13	14	15
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	3	3	4	5	6	7	7	8	8	8	9
4	Training Weeks on site	44	93	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	7	11	13	15	19	21	24	26	30	30	33	34
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	6	8	9	10	12	12	13	14
5(c) 5(d)	• Industry certification gained	4	6	8	9	10	13	13	15	16	18	18	20	20
6	Training Plans	2	2	3	3	3	4	4	4	4	4	4	5	5
7	Case Studies	Project Specific – to be agreed pre-approval												

3.0 Highways		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements	0	2	2	3	3	4	5	5	6	6	6	6	6
2	Jobs created by NSAfC projects	0	2	4	5	7	7	9	9	11	13	13	14	14
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	0	1	2	2	3	3	4	5	5	5	5	6	6
4	Training Weeks on site	21	45	76	118	166	237	332	426	521	616	711	806	901
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	7	11	13	15	18	20	23	25	28	28	31	32
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	6	8	9	10	11	11	12	13
5(c) 5(d)	• Industry certification gained	4	6	8	9	10	12	12	14	15	17	17	19	19
6	Training Plans	1	1	2	2	2	2	2	2	2	2	2	2	2
7	Case Studies	Project Specific – to be agreed pre-approval												

4.0 Infrastructure		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements - persons	1	2	2	3	3	4	5	5	6	6	6	6	6
2	Jobs created by NSAFc projects	0	3	4	5	7	8	9	10	11	12	13	14	14
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	0	1	2	2	3	3	4	5	5	5	5	6	6
4	Training Weeks on site	21	45	76	118	166	237	332	426	521	616	711	806	901
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	7	11	13	15	18	20	23	25	28	28	31	32
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	6	8	9	10	11	11	12	13
5(c) 5(d)	• Industry certification gained	4	6	8	9	10	12	12	14	15	17	17	19	19
6	Training Plans	1	1	2	2	2	2	2	2	2	2	2	2	2
7	Case Studies	Project Specific – to be agreed pre-approval												

5.0 Factories		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements - persons	0	1	1	1	2	2	2	3	3	3	3	3	3
2	Jobs created by NSAfC projects	0	2	3	5	5	6	8	8	9	10	11	11	12
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	0	1	2	2	3	3	4	5	5	5	5	6	6
4	Training Weeks on site	12	26	44	69	97	139	194	250	306	361	417	472	528
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	4	6	9	12	14	17	19	22	23	25	25	28	29
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	6	8	9	10	11	11	12	13
5(c) 5(d)	• Industry certification gained	3	5	6	8	9	11	11	13	13	14	14	16	16
6	Training Plans	3	3	4	4	4	5	5	5	6	6	6	6	6
7	Case Studies	Project Specific – to be agreed pre-approval												

6.0 Education		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements - persons	4	7	9	13	17	20	24	27	528	30	30	31	31
2	Jobs created by NSAFc projects	1	4	5	10	11	12	14	15	18	19	19	21	22
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	5	6	7	8	11	12	13	14	14	16	17
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	15	20	23	28	31	35	38	42	44	49	50
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	2	5	8	10	12	15	17	19	21	23	25	26
5(c) 5(d)	• Industry certification gained	5	7	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	3	3	4	4	4	5	5	5	5	5	5	6	6
7	Case Studies	Project Specific – to be agreed pre-approval												

7.0 Health		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	2	4	5	6	9	10	12	13	13	15	15	16	16
2	Jobs created by NSAFc projects	0	2	4	8	8	10	11	12	14	14	16	16	17
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	3	4	5	6	8	9	9	10	10	11	12
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	13	17	20	24	27	30	32	36	37	41	42
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	2	3	5	7	8	11	12	13	15	16	17	18
5(c) 5(d)	• Industry certification gained	5	7	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	2	2	3	3	3	3	3	3	4	4	4	4	4
7	Case Studies	Project Specific – to be agreed pre-approval												

8.0 Offices		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placements- persons	1	2	2	4	4	5	7	7	8	8	8	8	8
2	Jobs created by NSAFc projects	0	2	4	7	7	9	10	11	11	11	13	13	14
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	3	4	4	5	6	7	7	7	8	8
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	13	16	19	23	25	27	29	33	34	38	39
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	6	7	9	9	10	12	13	14	15
5(c) 5(d)	• Industry certification gained	5	8	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	2	2	3	3	3	4	4	4	4	4	4	5	5
7	Case Studies	Project Specific – to be agreed pre-approval												

9.0 Regeneration		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	4	7	9	13	17	20	24	27	28	30	30	31	31
2	Jobs created by NSAFc projects	1	5	9	14	16	19	21	23	27	28	31	32	34
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	3	5	6	8	9	11	13	14	15	15	16	18
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	11	17	22	27	32	36	40	44	49	51	58	59
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	3	6	9	13	15	19	21	24	26	28	31	32
5(c) 5(d)	• Industry certification gained	5	8	11	13	14	17	17	19	20	23	23	27	27
6	Training Plans	4	4	6	6	6	7	7	7	8	8	8	9	9
7	Case Studies	Project Specific – to be agreed pre-approval												

10.0 Refurbishment / Decent Homes		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	2	4	5	7	9	10	12	14	14	16	16	17	17
2	Jobs created by NSAFc projects	1	4	7	11	13	15	16	18	20	20	22	23	25
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	4	5	6	7	9	10	11	12	12	13	14
4	Training Weeks on site	45	95	160	275	350	500	701	901	1101	1301	1502	1702	1902
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	7	11	16	20	24	26	28	31	32	35	39	40
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	6	8	10	12	12	14	15	17	18	19
5(b) 5(c)	• Industry certification gained	4	6	8	10	12	14	14	16	17	18	18	21	21
6	Training Plans	2	2	3	3	3	4	4	4	4	4	4	5	5
7	Case Studies	Project Specific – to be agreed pre-approval												

11.0 Water supply and waste disposal		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 - 6m	£6.1 - 10m	£10.1 - £15m	£15.1 - £20m	£20.1 - 30m	£30.1 - 40m	£40.1 - 50m	£50.1 - 60m	£60.1 - £70m	£70.1 - 80m	£80.1 - 90m	£90.1 - £100m
1	Work Placement - persons	1	2	2	3	3	4	5	5	6	6	6	6	6
2	Jobs created by NSAFc projects	0	2	2	5	5	5	7	7	8	9	9	9	11
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	0	1	1	1	2	2	2	3	3	3	3	3	4
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	3	5	6	8	9	11	12	14	14	16	16	18	18
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	1	2	3	3	4	5	6	6	7	7	8	8
5(c) 5(d)	• Industry certification gained	3	4	4	5	6	7	7	8	8	9	9	10	10
6	Training Plans	2	2	2	2	2	2	2	2	3	3	3	3	3
7	Case Studies	Project Specific – to be agreed pre-approval												

12.0 Off-site structures		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	1	2	2	3	4	5	6	6	7	7	7	7	7
2	Jobs created by NSAfC projects	0	2	3	5	6	6	8	8	9	10	10	11	12
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	3	4	4	5	6	7	8	8	8	9	10
4	Training Weeks on site	48	100	168	263	369	527	738	949	1160	1371	1581	1792	2003
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	3	3	7	8	9	12	14	15	16	17	18	21	21
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	6	8	8	9	10	11	12	12
5(c) 5(d)	• Industry certification gained	2	2	4	4	4	6	6	7	7	7	7	9	9
6	Training Plans	1	1	2	2	2	2	2	2	2	2	2	2	2
7	Case Studies	Project Specific – to be agreed pre-approval												

13.0 Judicial

13.1 Courts – New Build		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	4	7	9	12	15	18	21	24	25	27	27	28	28
2	Jobs created by NSAfC projects	1	4	5	10	11	12	14	15	18	19	19	21	22
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	4	5	6	7	9	10	11	12	12	13	14
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	8	14	19	22	27	29	33	35	39	42	47	48
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	2	4	7	9	11	14	16	18	20	21	23	24
5(c) 5(d)	• Industry certification gained	5	6	10	12	13	16	15	17	17	19	21	24	24
6	Training Plans	3	3	4	4	4	5	5	5	5	5	5	6	6
7	Case Studies	Project Specific – to be agreed pre-approval												

13.2 Young Offenders – New Build		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1- 3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	3	5	6	8	10	12	14	16	17	18	18	19	19
2	Jobs created by NSAfC projects	1	3	5	9	10	12	13	14	17	17	18	20	21
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	3	4	4	5	6	7	7	7	8	8
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	14	19	22	27	30	33	36	40	42	47	48
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	2	4	7	9	11	14	15	17	19	21	23	24
5(c) 5(d)	• Industry certification gained	5	7	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	3	3	4	4	4	5	5	5	5	5	5	6	6
7	Case Studies	Project Specific – to be agreed pre-approval												

13.3 Prisons – New Build		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1- 3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	2	4	6	7	9	10	13	14	15	16	16	17	17
2	Jobs created by NSAfC projects	1	3	4	8	9	11	12	13	16	16	17	18	19
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	3	3	4	5	5	6	6	6	7	7
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	14	18	22	26	29	33	36	40	41	46	47
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	2	4	6	9	10	13	15	17	19	20	22	23
5(c) 5(d)	• Industry certification gained	5	7	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	3	3	4	4	4	5	5	5	5	5	5	6	6
7	Case Studies	Project Specific – to be agreed pre-approval												

14.0 Housing repairs and maintenance		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1-3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	3	4	6	9	10	12	16	17	18	19	19	20	20
2	Jobs created by NSaFC projects	0	3	4	8	8	9	11	12	13	14	15	16	17
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	4	5	6	7	9	10	11	12	12	13	14
4	Training Weeks on site	45	95	160	275	350	500	701	901	1101	1301	1502	1702	1902
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	2	3	6	8	10	12	13	15	15	16	17	20	20
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	1	3	4	5	6	7	9	9	10	11	12	12
5(c) 5(d)	• Industry certification gained	2	2	3	4	5	6	6	6	6	6	6	8	8
6	Training Plans	1	1	2	2	2	2	2	2	2	2	2	2	2
7	Case Studies	Project Specific – to be agreed pre-approval												

15.0 Non-housing repairs and maintenance		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1 - 3.5m	£3.6 - 6m	£6.1 - 10m	£10.1 - 15m	£15.1 - 20m	£20.1 - 30m	£30.1 - 40m	£40.1 - 50m	£50.1 - 60m	£60.1 - £70m	£70.1 - 80m	£80.1 - 90m	£90.1 - £100m
1	Work Placement - persons	2	4	5	7	9	10	13	15	15	16	16	17	17
2	Jobs created by NSAfC projects	0	1	3	6	6	8	8	9	11	11	12	12	14
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	3	4	4	5	6	7	7	7	8	8
4	Training Weeks on site	50	106	179	279	391	558	782	1005	1229	1452	1676	1899	2123
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	2	2	5	7	8	11	11	11	12	12	13	16	16
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	0	2	3	3	5	5	5	6	6	7	8	8
5(c) 5(d)	• Industry certification gained	2	2	3	4	5	6	6	6	6	6	6	8	8
6	Training Plans	1	1	1	1	1	2	2	2	2	2	2	2	2
7	Case Studies	Project Specific – to be agreed pre-approval												

16. Highways maintenance

16.0 All categories		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9
		£1 - 3.5m	£3.6 – 6m	£6.1 - 10m	£10.1 - 15m	£15.1 - 20m	£20.1 – 30m	£30.1 - 40m	£40.1 – 50m	£50.1 – 60m
1	Work Placement - persons	2	3	4	5	6	7	8	9	10
2	Jobs created by NSAfC projects	1	1	3	4	5	7	8	9	10
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	3	4	5	6	7	7	7
4	Training Weeks on site	25	52	89	139	194	277	388	499	610
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	10	13	17	21	26	28	32	36
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	0	1	3	5	7	8	10	12
5(c) 5(d)	• Industry certification gained	6	10	12	14	16	19	20	22	24
6	Training Plans	1	2	2	3	3	4	4	4	5
7	Case Studies	Project Specific – to be agreed pre-approval								

16.1 Highways structural maintenance		band 1 £1 - 3.5m	band 2 £3.6 - 6m	band 3 £6.1 - 10m	band 4 £10.1 - 15m	band 5 £15.1 - 20m	band 6 £20.1 - 30m	band 7 £30.1 - 40m	band 8 £40.1 - 50m	band 9 £50.1 - 60m
1	Work Placement - persons	2	3	4	5	6	7	8	9	10
2	Jobs created by NSaFC projects	0	1	4	5	6	6	8	8	11
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	2	3	3	3	4	4
4	Training Weeks on site	25	52	89	139	194	277	388	499	610
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	7	10	14	17	22	24	28	32
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	0	1	3	4	7	8	10	12
5(c) 5(d)	• Industry certification gained	5	7	9	11	13	15	16	18	20
6	Training Plans	1	1	1	2	2	3	3	3	4
7	Case Studies	Project Specific – to be agreed pre-approval								

16.2 Highways routine cyclical maintenance		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9
		£1 - 3.5m	£3.6 – 6m	£6.1 - 10m	£10.1 - 15m	£15.1 - 20m	£20.1 – 30m	£30.1 - 40m	£40.1 – 50m	£50.1 – 60m
1	Work Placement - persons	2	3	4	5	6	7	8	9	10
2	Jobs created by NSAfC projects	1	1	2	2	4	7	7	8	10
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	2	3	4	5	5	6	6
4	Training Weeks on site	25	52	89	139	194	277	388	499	610
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	11	14	18	23	26	28	32	36
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	0	1	3	6	7	8	10	12
5(c) 5(d)	• Industry certification gained	5	11	13	15	17	19	20	22	24
6	Training Plans	1	2	2	4	4	5	5	5	6
7	Case Studies	Project Specific – to be agreed pre-approval								

16.3 Highways routine structures		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9
		£1 - 3.5m	£3.6 - 6m	£6.1 - 10m	£10.1 - 15m	£15.1 - 20m	£20.1 - 30m	£30.1 - 40m	£40.1 - 50m	£50.1 - 60m
1	Work Placement - persons	2	3	4	5	6	7	8	9	10
2	Jobs created by NSAFc projects	1	1	3	5	6	8	10	10	12
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	2	3	5	7	9	10	10	12	12
4	Training Weeks on site	25	52	89	139	194	277	388	499	610
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	10	13	17	21	26	28	32	36
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	0	0	1	3	5	7	8	10	12
5(c) 5(d)	• Industry certification gained	6	10	12	14	16	19	20	22	24
6	Training Plans	1	2	2	3	3	4	4	4	6
7	Case Studies	Project Specific – to be agreed pre-approval								

17.1 Courts – Refurbishment		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1- 3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	2	3	4	6	7	8	9	10	11	12	12	13	13
2	Jobs created by NSAFc projects	0	2	4	7	7	9	10	11	12	12	14	14	15
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	3	4	4	5	6	7	7	7	8	8
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5.	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	6	9	13	16	19	23	25	27	29	33	34	38	39
5a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	6	7	9	9	10	12	13	14	15
5(c) 5(d)	• Industry certification gained	5	8	10	12	13	16	16	18	19	21	21	24	24
6	Training Plans	2	2	3	3	3	4	4	4	4	4	4	5	5
7	Case Studies	Project Specific – to be agreed pre-approval												

17.2 Young Offenders - Refurbishment		band 1	band 2	Band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1- 3.5m	£3.6 – 6m	£6.1 - 10m	£10.1 - £15m	£15.1 £20m	£20.1 – 30m	£30.1 - 40m	£40.1 – 50m	£50.1 – 60m	£60.1 - £70m	£70.1 – 80m	£80.1 – 90m	£90.1 - £100m
1	Work Placement - persons	1	2	3	4	4	5	6	7	8	8	8	8	8
2	Jobs created by NSAfC projects	0	2	4	6	7	8	9	9	11	12	12	14	14
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	2	4	5	6	7	9	10	11	12	12	13	14
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	8	11	14	16	20	22	24	25	28	29	33	33
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	6	8	8	9	10	11	12	12
5(c) 5(d)	• Industry certification gained	4	7	8	10	11	14	14	16	16	18	18	21	21
6	Training Plans	2	2	3	3	3		4	4	4	4	4	5	5
7	Case Studies	Project Specific – to be agreed pre-approval												

17.3 Prisons – Refurbishment		band 1	band 2	band 3	band 4	Band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1- 3.5m	£3.6 – 6m	£6.1 – 10m	£10.1 – £15m	£15.1 – £20m	£20.1 – 30m	£30.1 – 40m	£40.1 – 50m	£50.1 – 60m	£60.1 – £70m	£70.1 – 80m	£80.1 – 90m	£90.1 – £100m
1	Work Placement - persons	1	2	2	3	3	4	5	5	6	6	6	6	6
2	Jobs created by NSAfC projects	0	2	4	5	7	7	9	9	10	12	12	13	13
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	0	1	1	2	2	2	3	3	3	4	4	4	4
4	Training Weeks on site	44	94	157	246	345	492	690	887	1084	1281	1478	1675	1872
5	Qualifying the Workforce – project workforce <i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>	5	7	11	14	17	19	21	24	26	28	29	33	33
5(a) 5(b)	• Qualifications gained (equiv. NVQ2 and above)	1	1	3	4	5	5	7	8	9	10	11	12	12
5(c) 5(d)	• Industry certification gained	4	6	8	10	12	14	14	16	17	18	18	21	21
6	Training Plans	2	2	3	3	3	4	4	4	4	4	4	5	5
7	Case Studies	Project Specific – to be agreed pre-approval												

Appendix C

Template Employment and Skills Plan (ESP)

Employment and Skills areas	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Summary. No
1	Work Placements – Persons												
	<i>Total of 1(a) plus 1(b)</i>												
1(a)	Work Placements (In education)-persons												
1(b)	Work Placements (Not in Education) - persons												
2	Jobs created by NSAFc projects												
	<i>Total of 2(a) plus 2(b) plus 2(c)</i>												
2(a).	Jobs created by NSAFc projects (Apprentices)												
2(b)	Jobs created by NSAFc projects (New Entrants)												
2(c)	Jobs created by NSAFc projects (Graduates)												
3	Construction Careers Information, Advice & Guidance (CCIAG) Events												
4	Training Weeks on site												
	<i>Total of 4(a) plus 4(b) plus 4(c)</i>												
4(a)	Training Weeks on site (Apprenticeships)												
4(b)	Training Weeks on site (Traineeships)												
4(c)	Training Weeks on site (New entrants)												
5	Qualifying the Workforce – project workforce												
	<i>Total of 5(a) plus 5(b) plus 5(c) plus 5(d)</i>												
5(a)	Qualifications gained (equiv. NVQ2 and above) (Main contractor)												
5(b)	Qualifications gained (equiv. NVQ2 and above) (Sub-contractor)												
5(c)	Industry certification gained (Main Contractor)												
5(d)	Industry certification gained (Sub-Contractor)												
6	Training Plans												
7	Case Studies												

Appendix D - Part 1

Template Procurement Clauses

- 1.0 Contract Notice**
- 2.0 Contract Notice (Procurement Reform Act Procurements)**
- 3.0 Invitation to Tender**

1.0 Contract Notice

A standard clause should be inserted in the Contract Notice or PIN if using it as a call for competition to put contractors on notice that the contract documents are likely to include special terms dealing with skills development, training and employment initiatives. This is required by Regulation 70 of the Public Contracts (Scotland) Regulations 2015. Therefore, the contracting authority should insert the following at Section [III.1.4] of each Contract Notice:

"Under this [project] [contract] [programme] the contractor and its supply chain will be required to actively participate in the achievement of social objectives relating to participation in skills development, employment and training programmes in accordance with the [contracting authority]'s Employment and Skills Strategy, which can be found at [insert web address] and other added value contributions by the contractor and its supply chain in order to support community programmes promoted by [contracting authority]. Accordingly the contract performance conditions may relate in particular to secondary considerations."

Where recruitment is included as a requirement of the contract, the common procurement vocabulary (CPV) for 'labour recruitment and provision of personnel services' CPV74500000-4 should be included in the list of CPV codes given in the Contract Notice.

2.0 Contract Notice (Procurement Reform Act Procurements)

A standard clause should be inserted in the Contract Notice to be published on the Public Contracts Website to put contractors on notice that the contract documents are likely to include special terms dealing with skills development, training and employment initiatives. Therefore, the contracting authority should insert the following in each Contract Notice:

"Community benefits are included in this requirement. A summary of the expected community benefits have been provided as follows:
Under this [project] [contract] [programme] the contractor and its supply chain will be required to actively participate in the achievement of social objectives relating to participation in skills development, employment and training programmes in accordance with the [contracting authority]'s Employment and Skills Strategy, which can be found at [insert web address] and other added value contributions by the contractor and its supply chain in order to support community programmes promoted by [contracting authority]. Accordingly the contract performance conditions may relate in particular to secondary considerations."

Where recruitment is included as a requirement of the contract, the common procurement vocabulary (CPV) for 'labour recruitment and provision of personnel services' CPV74500000-4 may be included in the list of CPV codes given in the Contract Notice.

3.0 Invitation to Tender Template Clauses

Please note below the Template Clauses for completion and subsequent inclusion in an Invitation(s) to Tender are as follows.

These Clauses are based on the requirements set out in the Employment and Skills Strategy. The Appendices to this guidance can be used in an Invitation to Tender to provide further guidance, benchmarks and template ESPs and Method Statements.

"[Contracting authority] will require the successful contractor to work with it, as part of the delivery of the works in transforming the community [in a real and sustainable manner.]

To this end, Tenderers are required to complete an Employment and Skills Plan (ESP) and Method Statement as outlined below and in accordance with the guidance in Appendices [] and [] of this Invitation to Tender.

Tender Action Point 1: Employment and Skills Plan

Tenderers are required to complete an ESP covering the following Employment and Skills Areas from the table below:

<i>Work Placements</i>
<i>Jobs created by NSAfC projects</i>
<i>Construction Careers Information, Advice & Guidance Events</i>
<i>Training Weeks on site</i>
<i>Qualifying the Workforce</i>
<i>Training Plans</i>
<i>Case Studies</i>

Benchmarks are provided in Appendix [] to this Invitation to Tender for the minimum outputs for the ESPs. These are based on the project values as indicated. Tenderers are to use their own judgement as to what additional outputs they consider are achievable in relation to the Project.

The template for the ESP is contained in Appendix [] to this Invitation to Tender. [Additional template sheets should be used for contracts that will exceed 12 months duration.]

The output figures for the ESP are to indicate the minimum Outputs for each month against the relevant Employment and Skills Areas. The 'Summary' columns are also to be completed. Guidance on the Employment and Skills Areas is also included within Appendix [].

Tenderers are requested to provide an unequivocal Statement in the ESP that, if appointed, they will meet all of the above requirements in accordance with the Terms and Conditions set out in the [Framework Agreement] [Contract].

Tender Action Point 2: Employment and Skills Plan Method Statement

Tenderers are required to provide a detailed Method Statement setting out how they intend to implement the employment and training requirements of [client] and to deliver the ESP. The Method Statement should be restricted to [800] words and clearly set out the proposed approach for delivering skills development against the Employment and Skills Areas, covering the following:

- *Who in the organisation will be responsible for managing the training scheme and overseeing the proposals?*
- *Which education and training providers will be involved with the delivery of the ESP?*
- *What types of accredited and non-accredited training are expected to be offered and who are expected to be the main beneficiaries of this training?*
- *Which trades or occupational areas is it envisaged will be offering Apprenticeship opportunities?*
- *What types of Apprenticeship are expected to be offered (i.e. traditional, programme, Advanced etc.)?*
- *How will the Target Outputs as set out in the ESP be delivered?*
- *How will health and safety issues be managed?*
- *What actions will be taken to ensure the support of trade contractors and sub-contractors working on the project?*
- *How will compliance be managed [and monitored] with respect to the organising trade contractors and subcontractors?*

[Additional Tender Action Point to include in the [Price Framework] [pricing document]:

Tenderers are required to include a 'Training and Apprenticeship Figure' in the Price Framework to cover the contribution to the wages, costs of the trainees and Apprentices and associated costs in supporting the training and Apprenticeship arrangements set out in the ESP and Method Statement and full details of how that sum has been calculated.]"

Appendix D Part 2 Example Evaluation Information

Clients should note that the evaluation information provided below are examples only and are not designed to be used as templates for the relevant procurement process. Instead, clients should adapt/amend the examples below as required in order to meet their project-specific requirements.

1.0 Example Scoring Table

2.0 Example Evaluation Matrix

1.0 Example Scoring Table

The following scoring table shows the range of scores for each question asked in the Invitation Document against which the tenderer's responses will be scored. This needs to be complemented by associated guidance, setting out information as to what the "standard" is for each question and how the tenderer could achieve the relevant marks.

Comment	Judgement	Marks available
<i>Meets the standard in all aspects and exceeds the standard in some or all of those aspects</i>	<i>Excellent</i>	<i>9-10</i>
<i>Meets the standard in all aspects but does not exceed it</i>	<i>Good</i>	<i>7-8</i>
<i>Meets the standard in the majority of aspects but fails some</i>	<i>Satisfactory</i>	<i>5-6</i>
<i>Fails to meet the standards in the majority of aspects but meets in some</i>	<i>Unsatisfactory</i>	<i>3-4</i>
<i>Significantly fails to meet the standard</i>	<i>Poor</i>	<i>1-2</i>
<i>Completely fails to meet the standard</i>	<i>Failed</i>	<i>0</i>

2.0 Example Evaluation Matrix

The following is an example quality evaluation matrix, extracted from a tender document used for a procurement process run in accordance with the Public Contracts Regulations 2015.

"The successful Tender Proposal will be chosen as the one that achieves the best overall scores. The Tender Proposals will be assessed according to the criteria set out below and in proportion to the following weighting:

- **Quality – 60%**

A maximum of 60% of the marks available will be allocated to the qualitative submissions. The criteria and weightings are set out below.

- **Commercial – 40%**

A maximum of 40% of marks available will be allocated according to the information submitted in the financial submission.

Qualitative Evaluation

Quality Question Number	Description of Criteria and Sub-criteria	Weighting
1.	Acceptance of Contract Terms and Conditions	Pass/Fail
6.	Employment and Skills Minimum Benchmarks	Pass/Fail
2.	Design Proposal for: <ul style="list-style-type: none"> • Phase 1 • Phase 2 	20% as split as follows: P1 – 12.5% P2 – 7.5%
3.	Construction Timetable	10%
4.	Approach to: <ul style="list-style-type: none"> • Risk • Completed Risk Register 	10% split as follows: Risk Proposals: 5% Risk Register: 5%
5.	Sustainability	7.5%
6.	Employment and Skills Delivery Proposals as set out in: <ol style="list-style-type: none"> 1 ESP 2 Method Statement 3 Added Value Proposals 	12.5% split as follows: ESP: 6% Method Statement: 4% AVPs: 2.5%

Each of the quality evaluation criteria set out above (except where marked on a pass/fail basis) will be marked out of ten, using the scoring scale noted [above] and will then be weighted in accordance with the percentage weightings noted above."

1.0 Example evaluation matrix

The following is an example quality evaluation matrix, extracted from a tender document used for a procurement process run in accordance with the Public Contracts (Scotland) Regulations 2015.

"The Successful Tender Proposal will be chosen as the one that achieves the best overall scores. The Tender Proposals will be assessed according to the criteria set out below in proportion to the following weighting:

(a) Quality – 60%

A maximum of 60% of the marks available will be allocated to the qualitative submissions. The criteria and weightings are set out below.

(b) Commercial – 40%

A maximum of 40% of marks available will be allocated according to the information submitted in the financial submission.

Qualitative evaluation

Each of the quality evaluation criteria set out above (except where marked on a pass/fail basis) will be marked out of ten, using the scoring scale noted [above] and will then be weighted in accordance with the percentage weightings noted above.”

Appendix E

Template Contract Clauses

1.0 Building contracts

- 1.1 ACA Standard Form of Contract for Partnering for use in Scotland - PPC(S) 2000 (amended 2003);
 - 1.2 NEC Engineering and Construction Contract (April 2013);
 - 1.3 SBCC Design and Build Contract for use in Scotland (DB/Scot (2011 Edition))
 - 1.4 SBCC Standard Build Contract With Quantities for use in Scotland: SBC/Q/Scot (2011 Edition) / SBCC Standard Build Contract without Quantities for use in Scotland: SBC/XQ/Scot (2011 Edition)
- 2.0 Bespoke Framework Agreement

1.0 Building contracts

- 1.1 ACA Standard Form of Contract for Project Partnering for use in Scotland- PPC(S) 2000 (amended 2003)

For inclusion as a Special Term in the Project Partnering Agreement by reference to clause 28 of PPC(S) 2000 (amended 2003).

Clause **Employment and skills**
28.1

In Appendix 1, the following definitions shall be inserted:

"Employment and Skills Strategy – *the Client's Employment and Skills Strategy forming part of the Project Brief;*

ESP - *the Project-specific Employment and Skills Plan produced by the Constructor and forming part of the Project Proposals to be complied with and implemented by the Constructor in order to execute the Employment and Skills Strategy;*

Method Statement - *the Project-specific method statement produced by the Constructor and forming part of the Project Proposals which sets out in detail how the Constructor shall implement the ESP";*

Clause *Clause 14.1 shall be amended by the insertion of the following at the end of the*
28.2 *clause:*

"(xiii) development and finalisation by the Constructor of the ESP and the
Method Statement"

Clause *Pursuant to clause 7.6 the Constructor shall comply with and implement the ESP and*
28.3 *Method Statement in accordance with the Employment and Skills Strategy.*

Clause *The Constructor shall nominate an individual to liaise with the Client Representative*
28.4 *and provide the Client Representative with information as required to demonstrate the*
Constructor's compliance with the ESP and Method Statement.

- Clause 28.5 *The Client Representative shall provide to the Constructor information it has available to enable the Constructor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy (1).*
- Clause 28.6 *The Constructor shall provide to the Client Representative on a monthly basis, in accordance with the Partnering Timetable and the Project Timetable (2), a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills KPI, and provide details of the various employment and skills activities delivered in the month. The Client Representative shall be responsible for monitoring the Constructor's compliance with and implementation of the ESP and Method Statement, and such monitoring shall form part of the Client's assessment of the employment and skills KPI (3).*
- Clause 28.7 *Insert in clause 23.6 (Post-Project Completion review), after the word, "KPIs," the following words: "(including the employment and skills KPI and), and its compliance with and implementation of the ESP and the Method Statement".*
- Clause 28.8 *Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Constructor are included in the Price Framework (4).*
- Clause 28.9 *Insert new clause 17.9: " Where any Change agreed or established in accordance with this clause 17 has the effect of substantially increasing or decreasing the Agreed Maximum Price, the Constructor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the Method Statement and any relevant KPIs and Targets. The Client and the Client Representative shall consider any such proposal made by the Constructor and shall seek to agree any amendments with the Constructor".*

¹ (PPC(S)2000) The Client should ensure that the Project -specific information to assist the Constructor with the implementation of the ESP and Method Statement is contained in the Employment and Skills Strategy within the Project Brief.

² (PPC(S)2000) To ensure regular monitoring of the Constructor's achievement of the ESP, Method Statement KPIs and Targets, dates for submission of progress reports should be included in the Partnering Timetable (in the form appended to the PPC(S)2000 at Appendix 6) and in the Project Timetable annexed to the Commencement Agreement .

³ (PPC(S) 2000) In order to effectively monitor and continually incentivise the Constructor's achievement of the ESP and Method Statement, a suitable KPI and relevant Targets directly referring to both should be inserted into KPIs. Achievement of a KPI can be linked to a share of Profit in order to motivate the Constructor towards full implementation. Any KPI linked to termination must be referred to in the termination provisions at clause 26 of the Partnering Terms.

⁴ (PPC(S)2000) The Client should be satisfied that the Constructor has included in the Price Framework all costs in relation to the implementation of the ESP and Method Statement.

1.2 NEC3 Engineering and Construction Contract April 2013

Option Z clause for inclusion in the NEC3 Engineering and Construction Contract April 2013 (note: NEC propose the alternative of equivalent wording in the Works Information).

Z1 Employment and Skills

- Z1.1 *The following new definitions shall be added to Core Clause 11.2:*
- "11.2. (34) The Employment and Skills Strategy is the Employer's Employment and Skills Strategy forming part of the Works Information;*
- 11.2.(35) The ESP is the works-specific Employment and Skills Plan produced by the Contractor and forming part of the Works Information to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy;*
- 11.2.(36) The Method Statement is the works-specific method statement produced by the Contractor and forming part of the Works Information which sets out in detail how the Contractor shall implement the ESP;"*
- Z1.2 *The Contractor complies with and implements the ESP and Method Statement in accordance with the Employment and Skills Strategy.*
- Z1.3 *The Contractor nominates an individual to liaise with the Project Manager and provides the Project Manager with information as required to demonstrate the Contractor's compliance with the ESP and Method Statement.*
- Z1.4 *The Project Manager provides to the Contractor information it has available to enable the Contractor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy(5).*
- Z1.5 *The Contractor provides to the Project Manager on a monthly basis, in accordance with the relevant Key Dates (6), a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills Key Performance Indicator contained in the [Schedule of Partners] [Incentive Schedule (7)], and provides details of the various employment and skills activities delivered in the month. The Project Manager is responsible for monitoring the Contractor's compliance with and implementation of the ESP and Method Statement, and such monitoring forms part of the Employer's assessment of the employment and skills Key Performance Indicator.(8)*
- Z1.6 *The Contractor and the Project Manager attend a meeting (convened by the Project Manager) after Completion to review the completed works and the Contractor's performance against the Key Performance Indicators (including performance against the employment and skills Key Performance Indicator), and its compliance with and implementation of the ESP and Method Statement, and to consider the scope for further improvement on future projects.*
- Z1.7 *Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Contractor are included in the [relevant contract pricing Option] (9).*
- Z1.8 *Where a compensation event set out in clause 60.1 and agreed or established in accordance with clauses 60 to 65 substantially increases or decreases the Price, the Contractor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the Method Statement and any relevant Key Performance Indicators. The Employer and the Project consider any such proposal made by the Contractor and seek to agree any amendments with the Contractor.*

⁵ (NEC3) The Employer should ensure that the works-specific information to assist the Contractor with the implementation of the ESP and Method Statement is contained in the Employment and Skills Strategy forming part of the Works Information.

⁶ (NEC3) To ensure regular monitoring of the Contractor's achievement of the ESP and Method Statement, dates for reviews should be included as Key Dates.

⁷ (NEC3) The conditions are drafted in the anticipation that a Key Performance Indicator to cover employment and skills is included in relation to either Option X12 (Partnering) or Option X20 (Key Performance Indicators). The Key Performance Indicator should be set out either in the Schedule of Partners (in relation to Option X12) or the Incentive Schedule (in relation to Option X20).

⁸ (NEC3) In order to effectively monitor and continually incentivise the Contractor's achievement of the ESP and Method Statement, a relevant Key Performance Indicator should be inserted into either the 'Schedule of Partners' (in relation to Option X-12) or the 'Incentive Schedule' (in relation to Option X-20). Achievement of Key Performance Indicator and targets can be linked to share of profit in order to motivate the Contractor towards full implementation. Any Key Performance Indicators linked to termination must be referred to in the termination provisions in the contract.

⁹ (NEC3) The Employer should be satisfied that the Contractor has included in the relevant NEC 3 contract pricing Option all costs in relation to the implementation of the ESP and Method Statement.

1.3 SBCC Design and Build Contract for use in Scotland (2011 Edition): DB/Scot (2011 Edition)

Notes for using this style clause:

- See the notes embedded within the clause below provided as footnotes
- On the Contract Particulars at the Seventh Recital and Part 2 of Schedule Part 2 insert the following text: "Employment and Skills – Paragraph 13 applies"
- Clause is based on Employer's Agent liaising with and monitoring the Contractor. Consider whether this is part of their scope/ whether another person within the Employer's organisation would be better placed to liaise and monitor.
- Incorporate the text below as an additional Paragraph 13 for inclusion in Part 2 of Schedule Part 2 of the SBCC Design and Build Contract for use in Scotland (2011 Edition). This can be incorporated as part of a wider 'schedule of amendments' to the conditions or as a standalone document. You may need to take separate advice as to how to ensure this is properly incorporated into the contractual terms.

Supplemental Provision 13 for inclusion in Part 2 of Schedule 2 of the SBCC Design and Build Contract for use in Scotland (2011 Edition)

13 *Employment and Skills*

13.1 *Insert the following new definitions in clause 1.1 of the Conditions:*

"Employment and Skills Strategy: the Employer's Employment and Skills Strategy forming part of the Employer's Requirements;

ESP : the Works-specific Employment and Skills Plan produced by the Contractor and forming part of the Contractor's Proposals to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy;

Method Statement: the Works-specific method statement produced by the Contractor and forming part of the Contractor's Proposals which sets out in detail how the Contractor shall implement the ESP;"

13.2 *The Contractor shall comply with and implement the ESP and Method Statement in accordance with the Employment and Skills Strategy.*

13.3 *The Contractor shall nominate an individual to liaise with the Employer's Agent and provide the Employer's Agent with information as required to demonstrate the Contractor's compliance with the ESP and Method Statement.*

13.4 *The Employer's Agent shall provide to the Contractor information it has available to enable the Contractor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy (10).*

13.5 *Pursuant to Paragraph 11 of Part 2 of Schedule 2, the Contractor shall provide to the Employer's Agent on a monthly basis, in accordance with the relevant dates set out in the Employment and Skills Strategy(11), a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills performance indicator contained in the Contract Documents, and provide details of the various employment and skills activities delivered in the month. The Employer's Agent shall be responsible for monitoring the Contractor's compliance with and*

implementation of the ESP and the Method Statement and such monitoring shall form part of the Employer's assessment of the employment and skills performance indicator (12).

- 13.6 *The Contractor and the Employer's Agent shall attend a meeting (to be convened by the Employer's Agent) after Practical Completion of the Works to review the completed Works and the Contractor's performance against the performance indicators (including performance against the employment and skills performance indicator) and its compliance with and implementation of the ESP and Method Statement, and to consider the scope for further improvement on future projects.*
- 13.7 *Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Contractor are included in the Contract Sum Analysis (13).*
- 13.8 *Insert new clause 5.8: "Where any variation to the Client's Brief has the effect of substantially increasing or decreasing the [Project pricing document], the Contractor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the Method Statement and any relevant KPIs. The Client and Employment and Skills Manager shall consider any such proposal made by the Contractor and shall seek to agree any amendments with the Contractor."*

¹⁰ (SBCC) The Employer should ensure that the Works-specific information to assist the Contractor with the implementation of the ESP and Method Statement is contained in the Employment and Skills Strategy forming part of the Employer's Requirements.

¹¹ (SBCC) To ensure regular monitoring of the Contractor's achievement of the ESP and Method Statement, dates for reviews should be included in the Employer's Requirements.

¹² (SBCC) The contract provides for the use of performance indicators to measure the Contractor's performance against relevant targets at Paragraph 11 of Schedule Part 2 (Supplemental Provisions). The Employer should be satisfied the Employer's Requirements contain employment and skills performance indicators and any relevant incentives or consequences of not achieving the stated targets. Any performance indicators linked to termination must be referred to in the termination provisions in the contract.

¹³ (SBCC) The Employer should be satisfied that the Contractor has included in the relevant Contract Sum Analysis all costs in relation to compliance with and implementation of the ESP.

1.4 SBCC Standard Building Contract [With / Without Quantities] Quantities for use in Scotland (2011 Edition): SBC/Q/Scot (2011 Edition) / SBC/XQ/Scot (2011 Edition)

Notes for using this style clause:

- See the notes embedded within the clause below provided as footnotes
- On the Contract Particulars at the Eighth Recital and Schedule Part 8 insert the following text: "Employment and Skills – Paragraph 7 applies"
- Clause is based on Architect/Contract Administrator liaising with and monitoring the Contractor. Consider whether this is part of their scope/ whether another person within the Employer's organisation would be better placed to liaise and monitor.
- Incorporate the text below as an additional Paragraph 7 for inclusion in Schedule Part 8 of the SBCC Standard Building Contract [with/without] Quantities for use in Scotland (2011 Edition). This can be incorporated as part of a wider 'schedule of amendments' to the conditions or as a standalone document. You may need to take separate advice as to how to ensure this is properly incorporated into the contractual terms.

7 *Employment and Skills*

7.1 *Insert the following new definitions in clause 1.1 of the Conditions:*

"Employment and Skills Strategy: the Employer's Employment and Skills Strategy forming part of the Employer's Requirements;

ESP : the Works-specific Employment and Skills Plan produced by the Contractor and forming part of the Contractor's Proposals to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy;

Method Statement: the Works-specific method statement produced by the Contractor and forming part of the Contractor's Proposals which sets out in detail how the Contractor shall implement the ESP;"

7.2 *The Contractor shall comply with and implement the ESP and Method Statement in accordance with the Employment and Skills Strategy.*

7.3 *The Contractor shall nominate an individual to liaise with the Architect/Contract Administrator and provide the Architect/Contract Administrator with information as required to demonstrate the Contractor's compliance with the ESP and Method Statement.*

7.4 *The Architect/Contract Administrator shall provide to the Contractor information it has available to enable the Contractor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy (10).*

7.5 *Pursuant to Paragraph 5 of Schedule Part 8, the Contractor shall provide to the Architect/Contract Administrator on a monthly basis, in accordance with the relevant dates set out in the Employment and Skills Strategy(11), a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills performance indicator contained in the Contract Documents, and provide details of the various employment and skills activities delivered in the month. The Architect/Contract Administrator shall be responsible for monitoring the Contractor's compliance with and implementation of the ESP and the Method Statement and such monitoring shall form part of the Employer's assessment of the employment and skills performance indicator (12).*

7.6 *The Contractor and the Architect/Contract Administrator shall attend a meeting (to*

be convened by the Architect/Contract Administrator) after Practical Completion of the Works to review the completed Works and the Contractor's performance against the performance indicators (including performance against the employment and skills performance indicator) and its compliance with and implementation of the ESP and Method Statement, and to consider the scope for further improvement on future projects.

7.7 *Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Contractor are included in the Contract Sum Analysis (13).*

7.8 *Insert new clause 5.11 in the Conditions: "Where any variation to the Employer's Requirements has the effect of substantially increasing or decreasing the Contract Sum, the Contractor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the Method Statement and any relevant KPIs. The Architect/Contract Administrator and the Employer shall consider any such proposal made by the Contractor and shall seek to agree any amendments with the Contractor."*

¹⁰ (SBCC) The Employer should ensure that the Works-specific information to assist the Contractor with the implementation of the ESP and Method Statement is contained in the Employment and Skills Strategy forming part of the Employer's Requirements.

¹¹ (SBCC) To ensure regular monitoring of the Contractor's achievement of the ESP and Method Statement, dates for reviews should be included in the Employer's Requirements.

¹² (SBCC) The contract provides for the use of performance indicators to measure the Contractor's performance against relevant targets at Paragraph 11 of Schedule Part 2 (Supplemental Provisions). The Employer should be satisfied the Employer's Requirements contain employment and skills performance indicators and any relevant incentives or consequences of not achieving the stated targets. Any performance indicators linked to termination must be referred to in the termination provisions in the contract.

¹³ (SBCC) The Employer should be satisfied that the Contractor has included in the relevant Contract Sum Analysis all costs in relation to compliance with and implementation of the ESP.

2.0 Bespoke Framework Agreement

Note: Defined terms such as "Brief", "Client", "Contractor", "Employment and Skills Manager", "KPI", "Practical Completion", "Programme", "Project" and "Site" may need to be amended to use the appropriate defined Terms in the Framework Agreement.

Definition	Meaning
Employment and Skills Manager	[Details of Employment and Skills Manager] nominated by the Client who shall assist with the release of opportunities by the Contractor into the labour and supplier market and whose role shall include the promotion of Employment and Skills opportunities
Employment and Skills Strategy	The Client's Employment and Skills Strategy as set out in Schedule [] to this Agreement
KPIs	The Key Performance Indicators as set out in Schedule [] to this Agreement
Programme	The Programme of Projects governed by this Agreement comprising []
Programme-Specific ESP	The Employment and Skills Plan produced by the Contractor relating to the entire Programme as set out in Schedule [] to this Agreement to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy ¹⁴
Programme-Specific Method Statement	The Programme-Specific Method Statement produced by the Contractor relating to the entire Programme as set out in Schedule [] to this Agreement to be developed by the Contractor into Project-Specific Method Statements, which sets out in detail how the Contractor shall implement each Project-specific ESP
Project	A Project forming part of the Programme
Project Contract	A Contract entered into between the Client and Contractor for the carrying out of each Project pursuant to this Agreement
Project-Specific ESP	The Employment and Skills Plan relating to each Project, to be developed by the Contractor based on the Programme-specific ESP to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy throughout that Project
Project-Specific Method Statement	The Method Statement relating to each Project to be developed by the Contractor based on the Programme-Specific Method Statement which sets out in detail how the Contractor shall implement the ESP throughout that Project

¹⁴ (Framework) These template Framework Agreement Clauses are drafted on the assumption that the ESP and Method Statement have been developed by the Contractor on the basis of a fully scoped Programme. The Client's Employment and Skills Strategy, the key performance indicators (KPIs) and the Contractor's ESP and Method Statement should be appended as schedules to the Agreement.

Operative Clauses

1 Prior to commencement of a Project on Site, the Employment and Skills Manager shall be satisfied that the Programme-specific ESP and Programme-specific Method Statement have been sufficiently developed into a Project-specific ESP and Project-specific Method Statement respectively, to enable effective implementation on Site, including provision for monthly monitoring in accordance with Clause [5]¹⁵.

2 The Contractor shall comply with and implement the Project-Specific ESP and the Project-Specific Method Statement in accordance with the Employment and Skills Strategy.

3 The Contractor shall nominate an individual to liaise with the Employment and Skills Manager and provide the Employment and Skills Manager with information as required to demonstrate the Contractor's compliance with the Programme-Specific ESP, the Programme-Specific Method Statement, each Project-Specific ESP and each Project-Specific Method Statement.

4 The Employment and Skills Manager shall provide to the Contractor information it has available to enable the Contractor to comply with and implement the Project-Specific ESP and Project-Specific Method Statement, including the details listed in the Employment and Skills Strategy.

5 The Contractor shall provide to the Employment and Skills Manager on a monthly basis¹⁶, in accordance with the dates set out in the Employment and Skills Strategy a report outlining the achievements during the previous month against the Programme-Specific ESP and Programme-Specific Method Statement and the Employment and Skills KPI, and provide details of the various employment and skills activities delivered in the month. The Employment and Skills Manager shall be responsible for monitoring the Contractor's compliance with and implementation of the Programme-Specific ESP and Programme-Specific Method Statement, and such monitoring shall form part of the Client's assessment of the Employment and Skills KPI¹⁷.

¹⁵ (Framework) This is a pre condition to start on Site that the ESP and Method Statement are developed to the Employment and Skills Manager's satisfaction. If the agreement contains other pre conditions, this can be added to them rather than as a stand-alone Clause.

¹⁶ (Framework) To ensure regular monitoring of the Contractor's achievement of the ESP, Method Statement, KPIs, targets and dates for reviews should be included in the Employment and Skills Strategy.

¹⁷ (Framework) In order to effectively monitor and continually incentivise the Contractor's achievement of the ESP and Method Statement, a Key Performance Indicator (KPI) should be inserted into an appended schedule of KPIs. Achievement of KPIs and targets can be linked to share of profit/award of further Projects in order to motivate the Contractor towards full implementation.

6 The Contractor and the Employment and Skills Manager shall attend a meeting (to be convened by the Employment and Skills Manager) after Practical Completion of each Project to review the completed Project and the Contractor's performance against the KPIs (including performance against the Employment and Skills KPI) and its compliance with and implementation of the relevant Project-Specific ESP and Project-Specific Method Statement, and to consider the scope for further improvement on future Projects.

7 Any and all costs relating to compliance with and implementation of the Programme-Specific ESP and Programme-Specific Method Statement by the Contractor over the duration of the Programme and any and all amounts relating to the implementation of the Project-Specific ESP and Project-Specific Method Statement must be included in [Project pricing documents]¹⁸."

8 Where any variation to the Client's Brief has the effect of substantially increasing or decreasing the [contract sum], the Contractor may propose a corresponding and proportionate amendment to the Employment and Skills output figures contained in the ESP, the Method Statement and any relevant KPIs. The Client and Employment and Skills Manager shall consider any such proposal made by the Contractor and shall seek to agree any amendments with the Contractor.

¹⁸ (Framework) The Client should be satisfied that the Contractor has included in the relevant contract pricing document all costs in relation to the implementation of the ESPs and Method Statements.

Appendix F

Employment and Skills Strategy Workbook

For the development and implementation of an Employment and Skills Strategy.

1.0 Objectives

Define the goals that the client would like to achieve in relation to an Employment and Skills Strategy over the duration of the Project or Framework.

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2.0 Coverage of the Employment and Skills Strategy

List the types and size of Project that the Employment and Skills Strategy will cover.

Projects through Development Agreements or Section 106 Agreements
Projects through Client Procurement

3.0 Scope of the Employment and Skills Plan (ESP)

Include the benchmarks appropriate to the Project type and value in the Summary column of a Template ESP.

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4.0 Development and Implementation Team

Identify who will be involved in developing and implementing the Employment and Skills Strategy, setting out roles and responsibilities within the Client organisation.

Individual	Role	Responsibility

5.0 Development and Implementation

Set out key stages in the development and implementation of the Employment and Skills Strategy e.g. awareness and internal support, inclusion in planning policy, incorporation in Procurement Framework.

Stage 1
Stage 2

6.0 Potential Obstacles and Potential Solutions

Define potential obstacles to the successful development and the implementation of the Employment and Skills Strategy, then propose potential solutions.

6.1 Development of an Employment and Skills Strategy

Potential Obstacles	Potential Solutions

.2 Implementation of an Employment and Skills Strategy

Potential Obstacles	Potential Solutions

7. Programme

Define the Key Milestones in relation to the implementation of the Employment and Skills Strategy on a Project e.g. key meetings, explanatory workshop, preparation of procurement documentation, issue of tenders, review of internal monitoring and reporting procedures.

Milestone 1	Date
Description	
Milestone 2	Date
Description	

Appendix G Glossary

Term	Meaning
Client-Based Approach	The Client-Based Approach is a National Skills Academy for Construction product and provides clients with clarity as to what is permissible in an EU-compliant procurement and comfort that their Employment and Skills requirements when procuring construction projects are proportionate and achievable.
Employment and Skills Areas	The Key Performance Indicators, as further defined in Appendix B
Employment and Skills Strategy	The Client's project or Framework-Specific Strategy outlining the Client's Employment and Skills goals and key deliverables, to be included as a tender and contract document.
ESP	The contractor's Employment and Skills Plan created as part of the contractor's tender return, setting out how the Employment and Skills Strategy will be implemented. It is based on the template provided by the Client in the Employment and Skills Strategy and will become a contract document.
ESPD	European Single Procurement Document which replaces the standard pre-qualification questionnaire for above EU threshold procurements. It is also recommended for use in Regulated Procurements pursuant to the Procurement Reform Act.
Method Statement	The contractor's detailed description of how the ESP will be implemented on site. It should be created as part of a tender return and become a contract document.
NCSAG	National Construction Skills Academy Group is an established body of contractor and client representatives from across the construction industry which form part of the governance structure of the National Skills Academy for Construction.
OJEU	The Official Journal of the European Union, where all procurements by Public Sector clients over the Public Contracts Regulations 2015 value thresholds must be advertised.
Procurement Reform Act	The Procurement Reform (Scotland) Act 2014
SMEs	Small and Medium Enterprises.
SPONSA	The Skills Plans and Outcomes of the National Skills Academy, a management information system developed by CITB, which allows tracking of KPI's on a real time basis.

Appendix H The Authors

CITB

CITB is the Construction Industry Training Board, and a partner in the Sector Skills Council for the construction industry in England, Scotland and Wales. We have a clear focus – to work to ensure that the construction industry has the right skills, in the right place, at the right time. The Strategic Partnerships Team is the department of CITB that works closely with clients, developers and contractors and is conversant in the development and implementation of Employment and Skills Strategies and Employment and Skills Plans. CITB covers the whole of Great Britain and can provide support to clients, developers and contractors in how best to utilise this Guide in conjunction with existing good practice.

CITB facilitates and supports the contractor-led National Skills Academy for Construction. The Client Based Approach is a product of the Academy and presents an industry solution to embedding employment, skills, and Apprenticeships into the procurement and planning of construction works.

Trowers & Hamlins LLP

Trowers & Hamlins LLP, the city and international law firm, was commissioned by CITB to provide legal input into the drafting of this National Skills Academy for Construction Client-Based Approach Guidance for clients, as well as the equivalent guidance for Central Government and contractors. Trowers & Hamlins LLP has unparalleled expertise in the delivery of innovative and commercial EU procurement and state aid advice, acting for Local Authorities, registered providers, central Government, contractors, service providers and suppliers.

Rebecca Rees is a Partner in Trowers & Hamlins' Projects and Construction Department. Named as a "Leader in the Field for Public Procurement (UK-wide)" by the Chambers and Partners' Guide to the Legal Profession 2015, Rebecca specialises in advising commercial clients, Local Authorities and Housing Associations on non-contentious construction law, EU procurement and State Aid issues. Rebecca specialises in providing practical advice on complex procurement issues and advises on tendering procedures, procurement structures and evaluation/qualification criteria and processes. Rebecca has significant experience of advising on all aspects of EU procurement regulation to numerous private and public sector clients and has advised, presented seminars, written articles and co-authored/edited various publications on the EU procurement regime and the associated UK Regulations.

BTO Solicitors (LLP)

BTO Solicitors (LLP), a well established and recognised independent Scottish Law firm, were commissioned to review the drafting of this guidance to ensure that it reflects the legal position in Scotland. bto has built up a strong practice in procurement matters, advising both contracting authorities and contractors, as well as working with clients and Social Firms Scotland to put in place policies or guidance documentation regarding good practice in procurement. Patrice Fabien, partner at bto, regularly advises in this area of law with a particular emphasis on social housing and third sector involvement in major project work and associated procurement issues.

This publication is intended for general information only.

It is not intended to be a substitute for legal advice or the exercise of professional judgement.

CITB and the authors of this document cannot accept any responsibility for any loss or damages occasioned to any person acting or refraining from action as a result of any material in this publication.



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