Achieving Social Objectives through public procurement

Meeting 3 Caput: Societally Responsible Public Procurement
17 February 2017

Niels Uenk
Public Procurement Research Centre

Een samenwerkingsverband van de Universiteit Utrecht en de Universiteit Twente
1. Why is public procurement so complex and (therefore) interesting

2. Social considerations in (local) government procurement

3. Dutch practice: Social Return (on Investment)

4. Examples from other EU countries: Wales
# Complexity of Public Procurement

<table>
<thead>
<tr>
<th>External demands</th>
<th>Contextual demands</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Transparency</td>
<td>• Budget driven</td>
</tr>
<tr>
<td>• Integrity</td>
<td>• Budget is open</td>
</tr>
<tr>
<td>• Accountability</td>
<td>• Mutually dependent budgets</td>
</tr>
<tr>
<td>• Exemplary behaviour</td>
<td>• Cultural setting – risk aversity</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Internal demands</th>
<th>Process demands</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Many goals at the same time</td>
<td>• Legal rules and organizational procedures</td>
</tr>
<tr>
<td>• Political goals</td>
<td>• Long term relations are difficult</td>
</tr>
<tr>
<td>• Many stakeholders</td>
<td>• Horizontal cooperation – no competition</td>
</tr>
</tbody>
</table>

- **External demands**
  - Transparency
  - Integrity
  - Accountability
  - Exemplary behaviour

- **Contextual demands**
  - Budget driven
  - Budget is open
  - Mutually dependent budgets
  - Cultural setting – risk aversity

- **Internal demands**
  - Many goals at the same time
  - Political goals
  - Many stakeholders

- **Process demands**
  - Legal rules and organizational procedures
  - Long term relations are difficult
  - Horizontal cooperation – no competition
External demands:
- Transparency
- Integrity
- Accountability
- Exemplary behaviour

Internal demands:
- Many goals at the same time
- Political goals
- Many stakeholders

Contextual demands
- Budget driven
- Budget is open
- Mutually dependent budgets
- Cultural setting – risk aversity

Process demands
- Legal rules and organizational procedures
- Long term relations are difficult
- Horizontal cooperation – no competition
Social considerations in public procurement
Social considerations in public procurement:

- Promoting employment opportunities for target groups (youth, gender balance, long-term unemployed, diversity, disadvantaged groups, people with disability, etc.)

- Promoting ‘decent work’: compliance with core labour standards, decent pay, occupational health and safety, access to training, etc.

- Compliance with social and labour rights: complying to collective labour agreements, equal treatment men/women incl. equal pay, occupational health and safety law, fighting discrimination, etc.

- Supporting Social inclusion: providing equal access to contracts for firms owned by or employing persons from ethnic/minority groups, social enterprises, and promoting supportive employment for people with disability
Social (local) government procurement - potential
DUTCH PUBLIC PROCUREMENT MARKET

NL Procurement volumes in billion Euros (1.000.000.000):

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Central</th>
<th>Decentral</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>57.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Works</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services and supplies</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: onderzoek IOO, 2009

NB. Excluding health care purchases by insurers and AWBZ-organisations
Including these → € 120.000.000.000
Total procurement market Dutch municipalities:

• Before 2007: approx. € 15.000.000.000 annually
  – € 1000 per inhabitant per year

• After 2015: approx. € 30.000.000.000 annually
  – € 2000 per inhabitant per year
  – Increase due to decentralisation long term social care
LOCAL SOCIAL CONSIDERATIONS

Most widespread social consideration in Dutch municipalities relates to **reducing local unemployment**

Main goals:

- Reduce amount of people on benefits
- Improve employability (experience & training) for target groups

⇒ “Social Return”
LOCAL SOCIAL CONSIDERATIONS

“Social Return”

Requiring a re-investment in (local) employment as part of awarding a contract.
Social Return (On Investment)
Social Return on Investment

- First defined by ‘Roberts Enterprise Development Fund’ around year 2000

- Measurement tool (methodology) for calculating the ‘social return’ on investments in the context of social enterprises…

- …expressing the resulting social value / social benefits from an investment in monetary terms

\[
SROI = \frac{\text{Net Present Value of Benefits}}{\text{Net Present Value of Investment}}
\]

- For example (simplified!), a € 100,000 contract delivers € 200,000 ‘social value’ → SROI ratio 1:2 (every €1 invested delivers € 2 social return)
### SROI Calculations

($000's)

<table>
<thead>
<tr>
<th>Time Period</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>Perp</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business Cash Flow</strong></td>
<td>$3,182</td>
<td>250</td>
<td>380</td>
<td>420</td>
<td>510</td>
<td>620</td>
<td>750</td>
<td>840</td>
<td>950</td>
<td>1,170</td>
<td>1,290</td>
<td>1,400</td>
</tr>
<tr>
<td><strong>Social Benefit Cash Flow</strong></td>
<td>$2,373</td>
<td>200</td>
<td>254</td>
<td>328</td>
<td>412</td>
<td>496</td>
<td>589</td>
<td>653</td>
<td>786</td>
<td>816</td>
<td>920</td>
<td>1,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Net Present Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,555</td>
</tr>
</tbody>
</table>

\[ \text{Present Value of the Benefits} \times \text{Present Value of the "Costs"} = (\text{NPV Bus. Cash Flow} + \text{NPV Social Benefits}) \]

<table>
<thead>
<tr>
<th>Social Return Ratio</th>
<th>SROI Rate</th>
</tr>
</thead>
</table>

* = Present Value of the "costs" in this case is the grant equity contributed to the organization by government and foundation sources.
HISTORY OF SOCIAL RETURN

Beentjes-arrest 1988

- Gebroeders Beentjes vs. NL Ministry of Agriculture and Fisheries (CA)
- Public works contract → land consolidation operation
- CA required execution of the contract employing at least 70% Dutch long-term unemployed persons.

- Court of Justice EEC ruled against CA: conditions may not directly or indirectly have discriminatory effect against tenderers from other Member States of the Community
SR in practice (how does it work)

- **Amount** of investment: “5% rule”
- **Type** and **value** of contracts to apply SR

<table>
<thead>
<tr>
<th>Soort en evt. duur van de uitkering*</th>
<th>Waarde Social Return inspanning (op basis van een fulltime jaarcontract)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 2 jaar in WWB (Bijstand)</td>
<td>€ 30.000,=</td>
</tr>
<tr>
<td>&gt; 2 jaar in WWB (Bijstand)</td>
<td>€ 35.000,=</td>
</tr>
<tr>
<td>&lt; 1 jaar in WW (Werkloosheidsuitkering)</td>
<td>€ 10.000,=</td>
</tr>
<tr>
<td>&gt; 1 jaar in WW (Werkloosheidsuitkering)</td>
<td>€ 15.000,=</td>
</tr>
<tr>
<td>WIA/WAO (Arbeidsongeschiktheidsuitkering)</td>
<td>€ 30.000,=</td>
</tr>
<tr>
<td>Wajong (Voorziening Jong-gehandicapte)</td>
<td>€ 35.000,=</td>
</tr>
<tr>
<td>Leerling BBL (Beroepsbegeleidende Leerweg)</td>
<td>€ 10.000,=</td>
</tr>
<tr>
<td>Leerling BOL (Beroepsopleidende Leerweg)</td>
<td>€ 5.000,=</td>
</tr>
<tr>
<td>WSW (Wet Sociale Werkvoorziening detachering, diensten)</td>
<td>Betaalde rekeningen aan SW-bedrijf</td>
</tr>
<tr>
<td>Overige Social Return trajecten</td>
<td>€ 1.500,= per dagdeel van 4 uur</td>
</tr>
</tbody>
</table>
SR in practice (application)

- Included in Central government procurement policy
- Municipalities: No obligation to apply SROI
- Still at least 79% of municipalities applies SROI!! (2014 - TNO)
Known problems / challenges with SR application:

• “Carrousel effect”
• Abuse by contractors (no central coordination)
• SROI only used as ‘lip service’ – no monitoring
• Discrimination tenderers other member states?
• Proportionality in contracts with low labour component (supplies)

• Sustainability of social investment
• Measurement of actual ‘value’ or results complex…
Social Return in public procurement law:
‘gids proportionaliteit’:

- SR requirement must be reasonable in relation to nature and size of contract
- Exact requirements must fit with what the relevant market can offer
- Example: the ‘5% rule’ may be disproportional for a contract that:
  - is relatively labour-unintensive
  - concerns very specialized activities
SOCIAL RETURN IN PRACTICE

Challenges and problems

- **Case: Printer and copier paper**
  - Social Return 5% of total contract value (€ 150K * 2 years)
  - Invest in employing jobless people, either for this contract or for other contracts with same public entity
Social considerations in other EU countries
“Community Benefits”

- Based on “Local multiplier effect”
- Award criterion in construction contracts
- Extensive Excel-based measurement tool
Niels Uenk MSc.

Universiteit Twente
“Public Procurement Research Centre”
Postbus 217
7500 AE Enschede

Niels.uenk@pprc.eu
06 16 38 25 62
Paper & Presentations
Paper deadlines

17 February: (provisional) title of their paper + brief description

20, 21 or 22 February: individual session

28 February at 9:00: Send draft final paper + start review

1 March: Presentation (max. 10 min) + review (max. 5 min)

6 March at 9:00: Final deadline
Focus

- Europe 2020 and EU public procurement law
- One (or two) tension(s) caused by instrumental role

-> Other disciplines?
-> MS?
Assessment criteria (also for review):

- Research question

- Academic information gathering and valuation
  - Tijdschrift Aanbestedingsrecht / JAAN;
  - Public Procurement Law Review (westlaw);
  - European Procurement & Public Private Partnership Law review.

- Research approach and methods

- Structure

- Argumentation

- Acknowledgement of sources

- Style and lay-out

- Professional attitude
PRESENTATIONS

- Pitch style
- PPP

Assessment:

- Context
- Argumentation
- Structure
- Clarity
- Etc.