

Social procurement clauses



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v2.0 April 2020

The State of Queensland (Department of Housing and Public Works) 2020



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Acknowledgments

This guidance is a product of the Queensland Government Social Procurement Project. The Queensland Department of Housing and Public Works gratefully acknowledges funding and assistance received from the Queensland Mental Health Commission in establishing and guiding the Queensland Government Social Procurement Project.

Contact us

The Office of the Chief Advisor – Procurement is committed to continuous improvement. If you have any suggestions about how we can improve this guide, or if you have any questions, contact us at

betterprocurement@hpw.qld.gov.au.

Disclaimer

This document is intended as a guide only for the internal use and benefit of government agencies. It may not be relied on by any other party. It should be read in conjunction with the Queensland Procurement Policy, your agency's procurement policies and procedures, and any other relevant documents.

The Department of Housing and Public Works disclaims all liability that may arise from the use of this document. This guide should not be used as a substitute for obtaining appropriate probity and legal advice as may be required. In preparing this document, reasonable efforts have been made to use accurate and current information. It should be noted that information may have changed since the publication of this document.

Where errors or inaccuracies are brought to the attention of the Department of Housing and Public Works, a reasonable effort will be made to correct them.

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Introduction

Social procurement refers to how Queensland Government spending can be used to support social priorities. By leveraging even a small slice of the government's spend to add social value, communities and suppliers across the state can benefit enormously.

More information about social procurement is included in the [Social procurement guide](#)¹.

This guide provides example social clauses which can be adapted by Queensland Government buyers for use within tender documents or contracts to deliver social value.

How to use this guide

This guide can help deliver on the government's commitment to consider social value in procurement. It is primarily concerned with process and practice associated with significant procurement. You should consider this guide alongside other resources supporting government objectives including:

- [Putting Queenslanders first when securing value for money guide](#)²
- [Queensland Indigenous \(Aboriginal and Torres Strait Islander\) Procurement Policy](#)³
- other social procurement toolkit resources, including:
 - [Ending domestic and family violence guide](#)⁴
 - [Frequently asked questions](#)⁵.

Social clauses

Social clauses can be used within tender documents or contracts to deliver social benefits to communities, alongside goods and services.

Social clauses must take the context and circumstances of each procurement into consideration. These clauses reflect the importance government places on social benefits, such as creating employment opportunities for Queenslanders facing disadvantage.

The inclusion of social clauses into tenders and contracts can influence supplier behaviour and help advance government objectives.

The wording of a social clause will depend on the benefit being sought and how it will be evaluated.

Social clauses need to be suitable for the communities affected by the procurement and proportional to the value, risk and objectives of the procurement. Requirements resulting from these processes are not aspirational goals, they need to be achievable and measurable, just like other deliverables within a contract.

Where appropriate, avoid being too specific about *how* social benefits are to be delivered, allowing for innovation from suppliers.

When to use social clauses

While not all procurement initiatives are suitable for a social benefit inclusion, many are, and it is important buyers test suitability to make sure best value is being achieved. Thorough analysis and

¹ *Social procurement guide* can be found at https://www.hpw.qld.gov.au/data/assets/pdf_file/0020/3980/socialprocurementguide.pdf

² *Putting Queenslanders first when securing value for money* can be found at https://www.hpw.qld.gov.au/data/assets/pdf_file/0018/4932/securingvalueformoney.pdf

³ *Queensland Indigenous (Aboriginal and Torres Strait Islander) Procurement Policy* can be found at <https://www.datsip.qld.gov.au/resources/datsima/publications/policy/queensland-indigenous-procurement-policy.pdf>

⁴ *Ending Domestic and Family Violence: Guidance for Government Buyers* can be found at https://www.hpw.qld.gov.au/data/assets/pdf_file/0014/3218/dfvguideforgovernmentbuyers.pdf

⁵ *Frequently asked questions* can be found at <https://www.forgov.qld.gov.au/social-procurement-frequently-asked-questions>

planning will determine if the 'core need' of a procurement can be met, and the primary good or service delivered efficiently, while adding value by using social clauses.

You should have a clear understanding of why a good or service is being procured, the context in which it is being procured and an understanding of communities affected by the procurement.

Social clauses in tender documents

Social clauses in tender documents should include a clear statement about the intended social impact.

Clarity allows tenderers to readily determine their capacity to deliver on the requirement. Social clauses can be mandatory or not mandatory; weighted or unweighted criteria.

Weighted social clauses

Weighting a tender clause is the act of attributing a relative value to a requirement. A higher weighting percentage indicates the requirement is more important to the procuring agency. Weighted clauses are particularly effective when the buyer is confident there are suppliers in the market capable of delivering on the social benefit requirement.

Weighting a social clause sends a strong message to tenderers about the importance, or value, a buyer places on the social benefit and is often associated with having a greater impact in communities.

Opportunities to weight a social clause are best identified through detailed analysis of community needs and the supply market during the planning stages of the procurement activity. Early engagement with industry can help inform this analysis.

Unweighted social clauses

Unweighted clauses allow an evaluation of whether tenderers can deliver social impacts while not discouraging or disqualifying potential suppliers. This approach is suited when you are keen to consider social benefits but are less informed about the supply market and/or community needs. It encourages tenderers to research and understand the communities they would be working in and to describe how they would address social priorities within those communities.

Social clauses in contracts

When a supplier has been chosen, commitments made in their tender about social benefit impacts need to be incorporated into a contract and managed. The contract should clearly outline the proposed social benefit, the intended deliverables and reporting requirements used to track implementation. These processes should be obvious to suppliers so there is no doubt about expectations.

The [Queensland Procurement Policy \(QPP\)](#)⁶ includes a commitment to ensure that all Queensland Government procurement activities comply with the [Disability Discrimination Act 1992 \(Cth\)](#)⁷. This means that disability discrimination provisions are reflected in **all** contracts.

⁶ The *Queensland Procurement Policy 2019* can be found at https://www.hpw.qld.gov.au/data/assets/pdf_file/0020/3377/qldprocurementpolicy.pdf

⁷ The *Disability Discrimination Act 1992* can be found at <https://www.legislation.gov.au/Details/C2016C00763>

Contract clauses should include:

- a measurable performance indicator. For example, this might be the number of jobs a supplier will deliver for a target group of jobseekers
- a timeframe for implementation
- reporting and monitoring information to allow you to evaluate outcomes and social impact(s) based on reporting.

Success will rely on effective contract management and this is much easier to undertake when contract clauses are achievable and measurable. Unmeasurable outcomes within contracts reduce the likelihood of success.

Get advice

Prior to the public release of the tender or contract documentation, social clauses need to be reviewed as part of the procurement process. This includes seeking legal input and advice where appropriate. Clauses must comply with the QPP and agency procurement procedures.

It is important to also ensure that the procurement process respects probity principles.

Using social clauses in procurement documents

The below clauses are provided as examples only. Social clauses must be drafted to take into account the circumstances of the procurement activity. Careful planning will provide you with a clear understanding of the goods and services being sought, the social impact opportunities, and the capability of the supply market. As with all procurement, buyers must provide potential suppliers the same opportunities to understand and address requirements.

Please refer to the [Social procurement buyer toolkit](#)⁸ for more information and guidance on undertaking a social procurement activity.

Step 1 – Declare your intent

It is recommended that you include a statement within the tender specifications or objectives, expressing what social outcomes the government is seeking from the supply market. For example:

- The Queensland Government is committed to creating employment opportunities for disadvantaged and vulnerable Queenslanders.

⁸ *Social procurement buyer toolkit* can be found at <https://www.forgov.qld.gov.au/consider-social-procurement>

Step 2 – Applying tender and contract clauses

There are different ways to draft social clauses:

- *Prescriptive* - tender documents specify targets or specific outcomes. Examples include:
 - stating that a predetermined number, or percentage of, disadvantaged jobseekers need to be employed when delivering on the contract
 - specifying that social enterprises must be engaged as part of the total solution offered by the supplier.
- *Non-prescriptive* - procurement documents ask potential suppliers to describe the nature and extent of social benefits to be delivered and how these will be achieved.
- *Mixed* - it is possible to mix these approaches. For example, a buyer might prescribe a particular social benefit appropriate to the procurement, such as employment opportunities for people with disability, but ask suppliers to describe how they will deliver on these requirements.

Example clauses

Below are example social clauses for prescriptive clauses, non-prescriptive clauses and mixed social clauses.

Column one of each table lists example clauses for tender documents, listed as the ‘response question.’ The type of tender clause used will depend on what goods or service is being procured, the context in which it is being procured, the capability and maturity of the market, an understanding of communities affected by the procurement, and the social impact being sought.

Column two, ‘how this would be evaluated’, provides guidance about how to assess supplier responses against tender clauses.

Column three, ‘contract clauses’, provides example contract clauses. Contract clauses must be monitored for supplier compliance. This can be achieved by applying key performance indicators to the social outcomes and effective contract management. If a supplier fails to comply with their social commitments, consideration may be given to the possible suspension or termination of the contract (subject to the contract’s terms and conditions).

Prescriptive clauses

These clauses are to be considered if you are confident about the social impact you are seeking and how you want it delivered. They are designed to seek detailed responses from tenderers and will often lead to a stronger commitment from suppliers.

These provisions will be suitable when:

- you are confident the supply market has capacity to deliver the intended social impact
- when suppliers are being asked to address specific requirements based on known community needs
- where there is an applicable Queensland Government or agency priority identified
- where *‘set aside’* procurement processes are applicable⁹.

⁹ A set aside process is a practice whereby a specific procurement initiative, or portion of a procurement spend, is quarantined from a normal procurement process and is offered, in the first instance, to social benefit suppliers (e.g. Aboriginal and/or Torres Strait Islander businesses or social enterprises). Please refer [Social procurement guide](https://www.hpw.qld.gov.au/data/assets/pdf_file/0020/3980/socialprocurementguide.pdf) for more information https://www.hpw.qld.gov.au/data/assets/pdf_file/0020/3980/socialprocurementguide.pdf

Response question		How would this be evaluated	Contract clauses (subject to proposals described in tender)
<p>Compliance with the <i>Disability Discrimination Act 1992 (Cth)</i></p>	<p>To ensure that all Queenslanders with disability have the same access to opportunities and contribute and participate in all that Queensland has to offer, all Queensland Government procurement activities must comply with <i>the Disability Discrimination Act 1992 (Cth)</i>¹⁰.</p> <p>Will your organisation commit to ensuring that any goods and/or services delivered under the contract will comply with the Act?</p>	<p>This question requires a yes or no response.</p> <p>Tenderers should provide evidence of compliance (or proposed compliance) with the Act. This could include:</p> <ul style="list-style-type: none"> proposed consultation/engagement with disability advocates supporting information such as a Disability Discrimination Act action plan¹¹. 	<p>The supplier agrees that any goods and/or services delivered under the contract will be compliant with the <i>Disability Discrimination Act 1992 (Cth)</i>.</p> <p>The customer will be notified within ten (10) business days of any significant issues associated with achieving or maintaining compliance with the Act.</p> <p>Reviews of compliance with the Act will form part of scheduled contract management meetings.</p>
<p>Jobs for disadvantaged Queenslanders</p>	<p>The Queensland Government is committed to supporting employment opportunities for <i>[name the jobseeker target group or disadvantaged jobseekers]</i>. This might include, but is not limited to:</p> <ul style="list-style-type: none"> people with a disability Aboriginal and/or Torres Strait Islander people people from non-English speaking backgrounds young people at risk of long-term unemployment people exiting prison, ex-offenders or parolees. <p>Please describe how your organisation will provide / support jobs for disadvantaged Queenslanders through the delivery of goods and/or services under this contract.</p> <p>Please indicate how many full-time equivalent (FTE)</p>	<p>These requirements should be weighted where possible.</p> <p>Things to look for in relation to employment include:</p> <ul style="list-style-type: none"> number of people from the target group engaged over the life of the project and (where possible) beyond a history of delivering employment and training opportunities for the target group. supporting information including fact sheets, equal opportunity strategies, evidence of collaborations with third party 	<p>The supplier agrees to support <i>[number] Full-time equivalent (FTE)</i> employment opportunities for <i>[name the jobseeker target group or disadvantaged jobseekers]</i> in connection with the <i>[project]</i>.</p> <p>OR</p> <p>The supplier agrees that <i>[minimum percentage]</i> of work under the contact will be delivered by <i>[name the jobseeker target group or disadvantaged jobseekers]</i> in connection with the <i>[project]</i>.</p> <p>The customer will be notified within ten (10)</p>

¹⁰ *Disability Discrimination Act 1992 (DDA)* can be found at <https://www.legislation.gov.au/Details/C2016C00763>

¹¹ *DDA action plans and guides* can be found at <https://www.humanrights.gov.au/our-work/disability-rights/action-plans-and-action-plan-guides>

Response question	How would this be evaluated	Contract clauses (subject to proposals described in tender)
<p>positions your organisation will support directly, or indirectly via supply chains, for <i>[name the jobseeker target group or disadvantaged jobseekers]</i> when delivering on this contract.</p> <p>OR</p> <p>Please indicate the percentage (%) of work that will be delivered by <i>[name the jobseeker target group or disadvantaged jobseekers]</i> under the contract. This can be a minimum percentage of hours.</p>	<p>providers such as social enterprises, other social benefit suppliers or Disability Employment Services.</p>	<p>business days of any significant issues associated with achieving or maintaining this target.</p> <p>Performance reviews (including the number of FTE positions filled by the target group, or any issues associated with the employment commitment) will form part of scheduled contract management meetings.</p> <p>OR</p> <p>The supplier will provide <i>[name the reporting timeframe]</i> reports regarding status of these employment requirements.</p> <p><i>Note: Contract clauses depend on commitments made in the tender documentation. Contract clauses may link payments to employment milestones.</i></p>
<p>Social benefit suppliers as subcontractors or providers to lead suppliers.</p> <p>In line with the <i>Queensland Procurement Policy (QPP)</i>, we seek to achieve social value through our procurement and to do business with ethically, environmentally and socially responsible suppliers. Describe how you will engage <i>[social benefit suppliers]</i> when delivering the project, thereby supporting employment and training opportunities for <i>[name the jobseeker target group or disadvantaged jobseekers]</i>.</p> <p>How many FTE positions do you expect to support over the life of the project and (where possible) beyond?</p>	<p>As above.</p> <p><i>Note: This could include lead suppliers using social benefit suppliers in supply chains.</i></p>	<p>The supplier will engage <i>[social benefit supplier]</i> as a subcontractor / provider, thereby supporting <i>[number]</i> FTE positions for <i>[name the jobseeker target group or disadvantaged jobseekers]</i>.</p> <p>The customer will be notified within ten (10) business days of a change to the social benefit supplier, or of any significant issues associated with achieving or</p>

Response question		How would this be evaluated	Contract clauses (subject to proposals described in tender)
			maintaining the FTE positions target.
Directly engaging social benefit suppliers	<p>In line with the QPP, we seek to achieve social value through our procurement and do business with ethically, environmentally and socially responsible suppliers.</p> <p>Does your organisation identify as a social benefit supplier?</p> <p>If yes – Provide a brief description of your organisational structure and history which demonstrates that social benefits are core to your operations.</p>	<p>This question requires a yes or no response.</p> <p>A social benefit supplier is an organisation that is led by an economic, social, cultural, or environmental purpose consistent with a public or community benefit, such as a social enterprise.</p> <p>If a tenderer identifies as a social benefit supplier, they should provide evidence of social benefits delivered previously and describe proposed benefits and how they would be delivered.</p> <p>In addition, if a tenderer identifies as a social enterprise, this will need to be verified (refer Social enterprise certification guide).</p>	The customer will be notified within ten (10) business days if the status of the supplier changes and it is no longer a social benefit supplier.
Engaging Aboriginal and/or Torres Strait Islander businesses	<p>The Queensland Government is committed to increasing procurement with Aboriginal and/or Torres Strait Islander businesses.</p> <p>Does your organisation identify as an Aboriginal and/or Torres Strait Islander business?</p> <p>If yes – please provide supporting documentation.</p>	<p>This question requires a yes or no response.</p> <p>As defined in the Queensland Indigenous Procurement Policy (QIPP), an Aboriginal and/or Torres Strait Islander owned business is one that is at least 50% owned by an Aboriginal person/s and/or a Torres Strait Islander person/s.</p> <p>If a tenderer identifies as an Aboriginal</p>	The customer will be notified within ten (10) business days if the status of the supplier changes and it is no longer an Aboriginal and/or Torres Strait Islander owned business.

Response question	How would this be evaluated	Contract clauses (subject to proposals described in tender)	
	and/or Torres Strait Islander owned business, they should provide supporting documentation, such as evidence of registration with Supply Nation¹² or Black Business Finder¹³ , or complete a statutory declaration.		
Engaging not for profit organisations	<p>Are you registered as a not for profit organisation with the Australian Taxation Office?</p> <p>If yes – please provide supporting documentation that outlines the purpose of your organisation and how profits are directed/applied to that purpose.</p>	<p>This question requires a yes or no response.</p> <p>If a tenderer identifies as a not for profit organisation, they should provide supporting documentation such as a 'not for profit clause' in their constitution, rule book, deed of trust etc.</p>	<p>The customer will be notified within ten (10) business days if the not for profit status of the supplier changes.</p>
Set aside arrangements	<p>Is your business registered with, or a member of a peak body or other organisation representing social benefit suppliers, such as a social enterprise?</p> <p>If yes – Provide a brief description of your organisational structure and history which demonstrates that social benefits are core to your operations.</p>	<p>These questions require a yes or no response.</p> <p>Any claims of registration or membership with peak bodies or accreditations should be accompanied by evidence which can be verified by evaluators.</p> <p>Where asked, tenderers should provide evidence of social benefits delivered previously and describe proposed benefits and how they would be delivered.</p>	<p>Contract clauses for set aside arrangements will vary depending on the commitments made in the tender documents.</p> <p>The contract should include measurable and achievable key performance indicators and clear reporting requirements.</p>

Non-prescriptive clauses

These clauses are higher-level and broader in nature. They give tenderers the opportunity to respond more generally.

These provisions will be suitable for:

- procurement for goods or services within multiple communities or regions

¹² *Supply Nation* can be found at <https://supplynation.org.au/>

¹³ *Black Business Finder* can be found at <http://www.bbf.org.au/>

- setting up common-use supply arrangements, including standing offer arrangements where you want to better understand the corporate social responsibility (CSR) commitments of suppliers.

You should consider including a description of the types of social benefit suppliers you seek to engage with in your tender documents. The social procurement guide includes descriptions for social benefit suppliers, including social enterprises.

Response question		How would this be evaluated	Contract clauses
<p>Corporate social responsibility</p>	<p>Describe any programs or initiatives your organisation has in place directed towards meeting social and ethical responsibilities and objectives, such as:</p> <ul style="list-style-type: none"> • engaging with social benefit suppliers, such as social enterprises, or with Aboriginal businesses or Torres Strait Islander businesses • having a Reconciliation Action Plan in place and evidence of its implementation • creating employment opportunities for disadvantaged or vulnerable jobseekers such as: <ul style="list-style-type: none"> – long-term unemployed people – people with disabilities – people with a lived experience of mental health conditions – people from culturally and linguistically diverse backgrounds – people exiting prison, ex-offenders or parolees. <p>Preference may be given to bidders who are able to deliver relevant social benefits alongside the goods or services which are the core subject of this contract.</p> <p><i>Note: Always ask for supporting documentation to validate claims.</i></p>	<p>The information provided should be evaluated but it can be more difficult to assign a weighting to a non-prescriptive clause.</p> <p>Tender responses to social impact, may be considered to differentiate offers when all other factors are equal.</p> <p>Things to look for include:</p> <ul style="list-style-type: none"> • evidence of established and ongoing collaborations with not-for-profit organisations, social benefit supplier, Aboriginal businesses or Torres Strait Islander businesses • a plausible commitment to, and plan for, working with social benefit suppliers or target groups <p>This could include using social benefit suppliers in supply chains or engaging them on an ongoing basis as providers (e.g. as cleaners or caterers).</p> <p>Evidence of delivering on corporate social responsibility commitments, including reporting or testimonials from independent organisations.</p>	<p><i>Contract clauses will vary but must align with commitments made within the tenders.</i></p> <p>The contract should include measurable and achievable key performance indicators and clear reporting requirements.</p> <p><i>For example:</i></p> <p>The supplier will engage <i>[type of social benefit supplier]</i> as a subcontractor, thereby supporting employment opportunities for <i>[jobseeker target group or disadvantaged jobseekers]</i>.</p> <p>OR</p> <p>The supplier shall maintain <i>[insert name of corporate social responsibility initiative]</i> for the term of this contract. The supplier is to notify the customer, in writing, within ten (10) business days if this initiative is discontinued or if the agreed social benefit is not being delivered.</p>

Mixed clauses

These clauses stipulate the social impacts being sought (for example, employment for people with disability) but encourage innovation by not specifying how this will be delivered.

These provisions are most suitable for procurement initiatives where the government buyers understand the social outcomes required in a community, but don't necessarily understand the best way to achieve them.

Response question		How would this be evaluated	Clause for inclusion in a resulting contract
Supporting specified target groups	<p>In delivering on this program of work, how will your organisation:</p> <ul style="list-style-type: none"> improve the participation of <i>[name the target group]</i> in the workforce and community; and/or engage with <i>[name the target group]</i> owned businesses. 	<p>These requirements should be weighted where possible. Things to look for include:</p> <ul style="list-style-type: none"> evidence of social benefits delivered previously and details about how the proposed social benefits will be achieved evidence of innovative programs benefiting the target group(s) evidence of accessible and inclusive policies or practices. 	<p>The supplier shall maintain its <i>[insert name of strategy]</i> for the term of this contract. The supplier is to notify the customer, in writing, within ten (10) business days should it cease this strategy.</p> <p>The customer may, at its discretion, request the supplier provide a copy of this strategy and progress against it at any time during the term of this contract.</p>
Training for target groups	<p>Please provide details about how your organisation will provide training opportunities for <i>[name the jobseeker target group or disadvantaged jobseekers]</i>.</p> <p>Where possible include evidence of your organisation's experience in delivering training programs that promote progression within the work force and economic and social participation for <i>[name the jobseeker target group or disadvantaged jobseekers]</i>.</p>	<p>Supporting information including fact sheets or evidence of collaborations with third party providers (such as registered training organisations), and/or target group owned businesses.</p>	<p>The contractor will offer accessible and inclusive opportunities to develop essential skills to all employees associated with the contract.</p> <p>The contractor will submit a training plan to the customer within <i>[number]</i> weeks of the contract start date.</p> <p>The contractor will provide evidence, satisfactory to the customer, of the offer, and take-up by the target group.</p>