

SMEs cooperate to meet social procurement conditions

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1 Good morning

Cooperation and dialogue, those are important terms these days. Certainly when I read the paper, I think: that is what is needed. And in my presentation you will see these terms too. Cooperation and dialogue, SMEs need them in order to be able to fulfill social conditions in tenders.

2 Introduction

Before I tell you something about our research on social procurement and labour pools. I will present to you the underlying reason of social procurement in the Netherlands and the regulations around social procurement.

3. Unemployment

What we see here is a picture of the unemployment figures in the Netherlands. The rate of unemployment in the Netherlands increased from 3.8 percent in 2008 to 9 percent in the first quarter of 2014. At the beginning of 2014 almost 440,000 unemployment benefits were provided.

In addition, more than 400,000 people received a social assistance benefit. And if we add disabled people to these figures, more than 1 million people receive social benefits in the Netherlands.

The aim of the Dutch government is that all people, whether they are disabled or not should have a regular job. And in order to stimulate employment, the Dutch government develops all kinds of instruments, which might create extra jobs.

4. Social procurement

One of the instruments is socially sustainable public procurement. SSPP. But I don't like abbreviations, so I use the terms social procurement in my paper.

In the Netherlands social procurement is called social return, which is the abbreviation for social return on investment (SROI).

Social procurement is the mandatory social condition that enterprises who got a tender should create extra jobs for persons who receive an unemployment or disability benefit and who have a so called distance to the labour market.

In 2011 the national government decided that tenders higher than EUR 250,000 should have such a mandatory social condition. You may expect that this an effective instrument, because the purchasing volume of the National Government in the Netherlands amounts to more than a billion euros. Also some provinces and a majority of the municipalities in the Netherlands implemented social procurement. According to TNO, a Dutch independent research organization, in 2014 78% of the municipalities applied social procurement.

Public and semi public organizations also put social conditions in their tender calls, because they are also willing to contribute to stimulate employment. Whether it is really effective or not, whether it really contributes to the increase of jobs: we don't know. We don't know, because most public and semi public organizations do not monitor the tenders in which social procurement is one of the conditions.

So let's go into the regulations around social procurement. Therefore we have to go to the European Union.

5. European regulations

In the European Union social procurement is regulated by the Directives, which you see here.

6. Buying Social

The Procurement Directives do give the opportunity to take account of social considerations in tenders. But the social considerations must be linked to the subject matter of the tender. They must also be compatible with the main principles of procurement: proportionality, value for money and equality.

In the Guide Buying Social of 2010 the European Commission prescribes that social considerations may be applied if they promote, among others, employment opportunities for persons from disadvantaged groups.

According to the European Commission contract performance clauses are generally the most appropriate stage of the procedure to include social consideration. They also may be incorporated in the technical specifications of a public tender, in the contract performance conditions and in the award criteria.

As you can see later on in my presentation it is important that European regulations also allow public authorities to organize a dialogue with potential bidders before finalizing the specifications. According to the Buying Social Guide this is important, because it can help to promote equal opportunities and sustainability. The dialogue can establish the best scope for requirements. And you can make sensible arrangements for allocating and managing risk. Comparing current services with what is provided elsewhere could also help.

In 2014 new regulations were adopted by the European Parliament and the Council of the European Union and enter into force on 18 April 2016. Member States have to implement the new rules into national law before April 2016.

The new Directives describe that public procurement plays a key role in the Europe 2020 strategy and that it is one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth. Important for SMEs is that in the Directives of 2014 it is formulated that the participation of SMEs in public procurement should be facilitated, so that SMEs can make better use of public procurement. The new legislation simplifies public procurement procedures and makes them more flexible. The principles, which determine the policy on social procurement, are clarified.

7. Implementation in the Netherlands

In the Netherlands the Dutch government is preparing a legislative proposal in order to implement the Directives. The Dutch government states that the ambitions of the Dutch Procurement Act 2012 connect with the new European Directives. The Dutch government is of the opinion that the new Directives facilitate the implementation of social procurement policy. And it mentions two procedures, which already were possible, but are now included in the new Directives, namely market consultation and innovation partnership and which may contribute to this.

Organizing market consultation contracting authorities can inform entrepreneurs about the procurement plans and requirements before launching a procurement procedure. In our research this also seemed crucial for an effective social procurement.

Innovation partnership gives contracting authorities the possibility to limit the number of candidates invited to submit a tender in order to obtain an innovative product, work or service.

The Dutch government also considers the possibility of granting preference to sheltered workshops as well as social businesses is align with the Dutch legislation. This may stimulate labour participation of disabled and disadvantaged persons.

8. Research on social procurement

As I have said before, we don't know if social conditions in tender calls are effective and lead to extra jobs for persons with a distance to the labour market. What we do know is that SMEs have difficulties in dealing with social procurement. MKB Noord, a regional office of the Royal Association MKB-Nederland - the largest entrepreneurs' organization in the Netherlands – told us that SMEs did not know how to meet the conditions of social procurement, how to spend part of the value of the tender on persons with a distance to the labour market. MKB Noord was afraid this could cause an unfair competition of SMEs with large companies. Large companies have more opportunities to meet social conditions in tenders. They often have employees who are specialized in dealing with social procurement. So MKB Noord requested us to support SMEs in fulfilling social conditions in public procurement.

We set up a research project together with professor Gert Walhof and professor Louis Polstra, professor in Labour Participation and also member of the Centre of Applied Labour Market Research. The research project aimed to develop recommendations for SMEs to improve their knowledge about social procurement and indirectly their competitiveness. The research project was financed by SIA, a national organization for practice-oriented research and it was performed in the period between March 2012 and March 2014.

Together with five lecturers and fourteen students we carried out five subprojects:

1. A study of best practices on social procurement in the Netherlands. Five students did a research under the guidance of the lecturers, in five different cities among which Amsterdam and Rotterdam. We organized learning communities in which we prepared the research and exchanged experiences;
2. On the basis of the research of the best practices and a desk research we developed recommendations for SMEs about how to deal with social procurement;
3. We organized focus groups with entrepreneurs and with purchasers and persons who supply target groups. In these focus groups the recommendations were discussed. The last focus group we organized was with all the participants, SMEs as well as purchasers as people who supply target groups. This focus group was the most interesting, because the participants got a better understanding for each other's position. The experiences with this focus groups showed that dialogue is crucial in a social procurement process in which SMEs can really participate.
4. We implemented the recommendations in 5 SMEs. And we had interviews with them about the usefulness of the recommendations. In order to get information about the contracting phase of procurement we set out a survey. Although, the response was only eight percent the results of this survey gave a confirmation of the former results.
5. In the last subproject we organized a roadshow. Here we disseminated the results of the research. We made a fan-shaped leaflet with the recommendations, which were the result of our research. We spread this leaflet in meetings of SMEs. For instance, we joined the Week of Entrepreneurs in Groningen where we presented the leaflet in this American school bus of MKB Nederland and where we advised SMEs about social procurement. The recommendations and the publications of the research were also presented on Internet and linked with the websites of organizations, such as MKB Noord, the Procurement Platform Groningen, the Association of Dutch Municipalities and several purchasing advisory organizations.

9. Pre-phase decisive

During the research the following five stages in a tender process were differentiated:

1. Pre-phase before the tender takes place: SMEs should promote themselves in the market. The business operations of SMEs are decisive.
2. Preparation phase: formulation of the tender documents.
3. Contracting phase.
4. Implementation phase.
5. Monitoring phase.

The results of the best practices and focus groups show that the contracting phase is not the most problematic for SMEs during the procurement process. Once SMEs are invited to join the procurement process they are able to make proper arrangements. The other stages are more problematic.

Public authorities often do not pay special attention to SMEs in phase 1. As a result, the formulation of social conditions in tenders is such that SMEs cannot meet those conditions. In order to avoid these problems and to improve the competitiveness of SMEs with 10 – 50 employees the best practices and the focus groups showed that it is important for SMEs to proactively influence both the pre-phase as well as the preparation phase. It is also important contracting authorities invite SMEs for information meetings in the pre-phase. In these meetings the contracting authorities can show in what way social procurement could be feasible for SMEs. Also SMEs can show in what way they can meet the social procurement conditions. Another advantage of these meetings is that SMEs get the opportunity to meet other companies with which they can start cooperation, which makes it easier to meet the conditions of social procurement.

With regard to the implementation phase and the monitoring phase the research shows that companies often do not stick to the agreements, which derive from the tender. On the other hand the authorities do not always check whether the agreements are fulfilled or not; nor do they apply sanctions.

10. Results research recommendations SMEs

The main aim of the research was to develop recommendations for SMEs. We developed three core recommendations. You can see them here:

1. With the first recommendation we stressed SMEs have to deal with social procurement if they want to do business with public and semi public organizations. They have to be prepared.
2. We also recommended SMEs to try to influence the decision making process about social procurement. We advised them to visit purchasers as well as persons who supply target groups and talk about the opportunities for social procurement in their organization.
3. And we advised SMEs to choose target groups, which match best with the tasks in their organization.

SMEs stated that procurement is a time-consuming activity and they experience it as an extra burden if social conditions are included in tenders. SMEs got the idea they could increase their chances in a tender call if they cooperate with other SMEs and create chain cooperation in order to meet the social conditions more easily.

11. Recommendations Purchasers:

We not only developed recommendations for SMEs, but we also for purchasers and for persons who supply the target groups.

1. We stressed that social procurement should be part of the strategic policy of an organization and to make sure this strategic policy is applied and carried out by all organization levels.

2. We also recommended that the purchasing policy in which social procurement is included must be transparent. SMEs are best served when there is one front office where they can ask all their questions about social procurement. In order to get an appropriate formulation of social conditions in tenders it is important to organize a dialogue between SMEs and purchasers before the tender call is set out.

One of the results is that a creative formulation of the tender would give SMEs more opportunities to get the tender awarded. For instance, it is very difficult for a removal firm to set up a workplace for disabled people. It makes it easier if the company is allowed to give the candidate an administrative job. However, a study on the legal permissibility of social procurement in the Netherlands by two of our legal lecturers, Anke Hornstra and Geke Werkman showed that the Dutch Procurement Act 2012 prescribes that the social conditions in a tender have to be in a proportionate relation to the subject matter of the contract. In the Netherlands only procurements of very small amounts give the opportunity to be creative in the description of the social conditions. The conclusion must be that because the law does not fully take into account the possibilities SMEs have in their organization to place persons with a distance to the labour market, it makes it very difficult for them to meet social conditions in tender calls. So the current Dutch law is not supportive of SMEs.

2. The last recommendation focused on the placement of target groups and the importance of unburdening SMEs with this. It is important to be clear about the costs and guidance of the target groups. And before target groups can be placed on workplaces in SMEs, it is important that they are trained in labour skills.

The most important result of the study is that for a successful implementation of social procurement it is necessary that SMEs, buyers and organizations that supply target groups cooperate.

12. Negative effect of social procurement: crowding out

The exploratory research of Andriessen and Brouwer of TNO gives some evidence for crowding out because of social procurement. In this research it appears that crowding out often occurs if there is not a long term placement of employees and in situations where employees lose their job and others have to be hired because of mandatory social conditions in tenders (in the Netherlands this is called a revolving door situation).

Andriessen and Brouwer conclude that communication is crucial in preventing crowding out. Public and semi public authorities should give entrepreneurs the opportunity to give insight in the consequences for their company if they have to meet social conditions in tenders. If entrepreneurs have to let employees go, in order to meet the social conditions, because they have to hire other employees, such conditions should not be part of the tender call. Entrepreneurs should try to influence contractors and try to get support for alternatives, if necessary through branch associations.

13. Conclusion of research on social procurement

Our research shows that the dialogue between these three groups, SMEs, procurers and the persons who supply target groups, appears to be the most important factor for an effective social procurement procedure.

The research also shows that SMEs experienced procurement as a time-consuming activity. They have to provide a lot of information and still are not sure the tenders will be awarded. They experience it as an extra burden that social conditions are included in tenders. SMEs said it would be easier for them to meet social procurement conditions if they cooperate with other SMEs and by setting up labour pools, for instance in the same branch or in a cooperation chain.

14. Labour pools of SMEs

During the research on social procurement some of the participants contacted us about starting cooperation by SMEs. Together with these partners we decided to develop a research project on labour pools set-up by entrepreneurs.

We performed an exploratory research, which consisted of two parts:

1. a desk research on the legal aspects of the formation of labour pools by entrepreneurs and on the legal status of the employees in the labour pool;
2. and interviews with entrepreneurs and key figures of different labour pools about their experiences in practice.

15. Legal form

The research shows that entrepreneurs prefer to set up a labour pool in the legal form of a foundation. In my paper you may find the legal aspects of labour pools. I won't go into that now. For now I think it is more interesting to present to you the results of our research on the experiences of entrepreneurs. Setting up a labour pool requires considerable efforts from individual entrepreneurs.

16. Employees

The main aim of setting up a labour pool is to provide continuity in the work (experience) places. The entrepreneurs want to provide sustainable workplaces to their employees. The labour pool is the official employer of the employees and of apprentices. The labour pool performs the guidance and management. The guidance is mainly focused on technical skills.

The employers pay a certain rate to the labour pool. In that rate the salary and the costs of training and supervision of the employees are taken into account. On the basis of this they can be posted at the affiliated companies. The company at which the employee is posted has to pay the salary.

17. Relation with communities

SMEs also join the labour pool because they want to have a partnership that can serve as a link towards the municipality. A labour pool makes it easier to have contact with the municipality in an early stage. The research shows that a good connection with municipalities is crucial for the success of the labour pool. The labour pool is dependent of the work places at the affiliated companies. Because of this, labour pools also depend on awarded tenders. By having an early insight into the planning of procurement, companies may be better prepared. It is therefore important that municipalities are transparent in the planning of their calls for tenders. If municipalities are members of the labour pool it is easier to make good arrangements about this. The research shows that if municipalities were involved in labour pool the matching went better.

18. Conclusion

In our research we have seen that Dutch government as well as municipalities and other (semi) public authorities try to create jobs by more or less forcing entrepreneurs to create extra workplaces. Entrepreneurs, especially those who want to undertake social responsibility decide to cooperate and set up a labour pool. Our research shows that they do this because they want to contribute to regional employment and offer employees a sustainable working relationship. The question remains whether it is effective to force entrepreneurs to include certain groups in their organization.