



Employment and Skills Toolkit

Practical guidance on how to include requirements into council contracts

This is a revised draft of the approved "beta" version which is being trialled and tested during 2012.

Any comments or suggestions for improvement should be emailed to transforming.procurement@leeds.gov.uk (internal RES Transforming Procurement).

Document Owner: David Outram, Chief Officer for PPPU and Procurement

Revision History

Version	Status	Revision date	Summary of changes	Author
V2.0	Beta Version	15/06/12	Additions and amendments	David Galloway, Catherine Farrell, Helen Jackson & Philippa Toner
V2.1	Beta Version	10/07/12	Additions and amendments	David Galloway, Helen Jackson

© Leeds City Council Copyright (insert date document created).

Copyright in the typographical arrangement rests with Leeds City Council

This document, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. The material must be acknowledged as Leeds City Council copyright and the title of the publication must be stated. Further, the document must not be sold or copied for general publication. Any unauthorised publication, copying, hiring, lending or reproduction is strictly prohibited and constitutes a breach of copyright.

Contents

	Page
Introduction and Context	3
Getting started	3
Considerations	5
Options Appraisal	8
Advertising	9
Pre-Qualification	10
Specification	11
Evaluation	16
Contract Monitoring	20
Best practice and further support	21
Glossary of terms	22
Appendix 1 – The Legal Framework	24
Appendix 2 – Interactive Employment and Skills Toolkit	

Introduction and Context

As part of its commitment to 'spend money wisely' Leeds City Council aims to secure a range of benefits for the city from its purchasing power¹, and acknowledges that wider social benefits form part of its value for money considerations.

This toolkit aims to provide practical and flexible guidance on including employment and skills requirements into council contracts, including contracts for supplies, for services and for works.

This toolkit is principally aimed at contracts valued over **£100,000** and it should be applied to all contracts in excess of that value, however, the toolkit can also be applied to contracts of a lower value.

Using the council's buying power to secure social, economic and environmental objectives in ways that offer real long term benefits forms part of council policy. This includes improving education and training opportunities to assist people in gaining employment². These opportunities will support the continued development of a skilled workforce which will help to meet the needs of businesses and the economy, encouraging enterprise, competition and innovation, and contributing towards economic growth for the city³. Targeted support to enable those seeking skills training and paid work will reduce the benefit claim period, and help local people fulfil their potential by developing the skills to secure, stay and progress in work.

Including such requirements does not always increase the contract price. However, where it does, the council may decide that it is appropriate to meet those additional costs, where the wider return on investment for the council and city is shown to be greater.

Getting started

This toolkit, in conjunction with the interactive Employment and Skills Toolkit, provides the methodology and supporting tools to specify employment and skills requirements in contract documentation whilst remaining legally compliant with the Public Contract Regulations 2006 (further details of which can be found in Appendix 1 on page 24). These outputs should be delivered and monitored alongside all other contract deliverables.

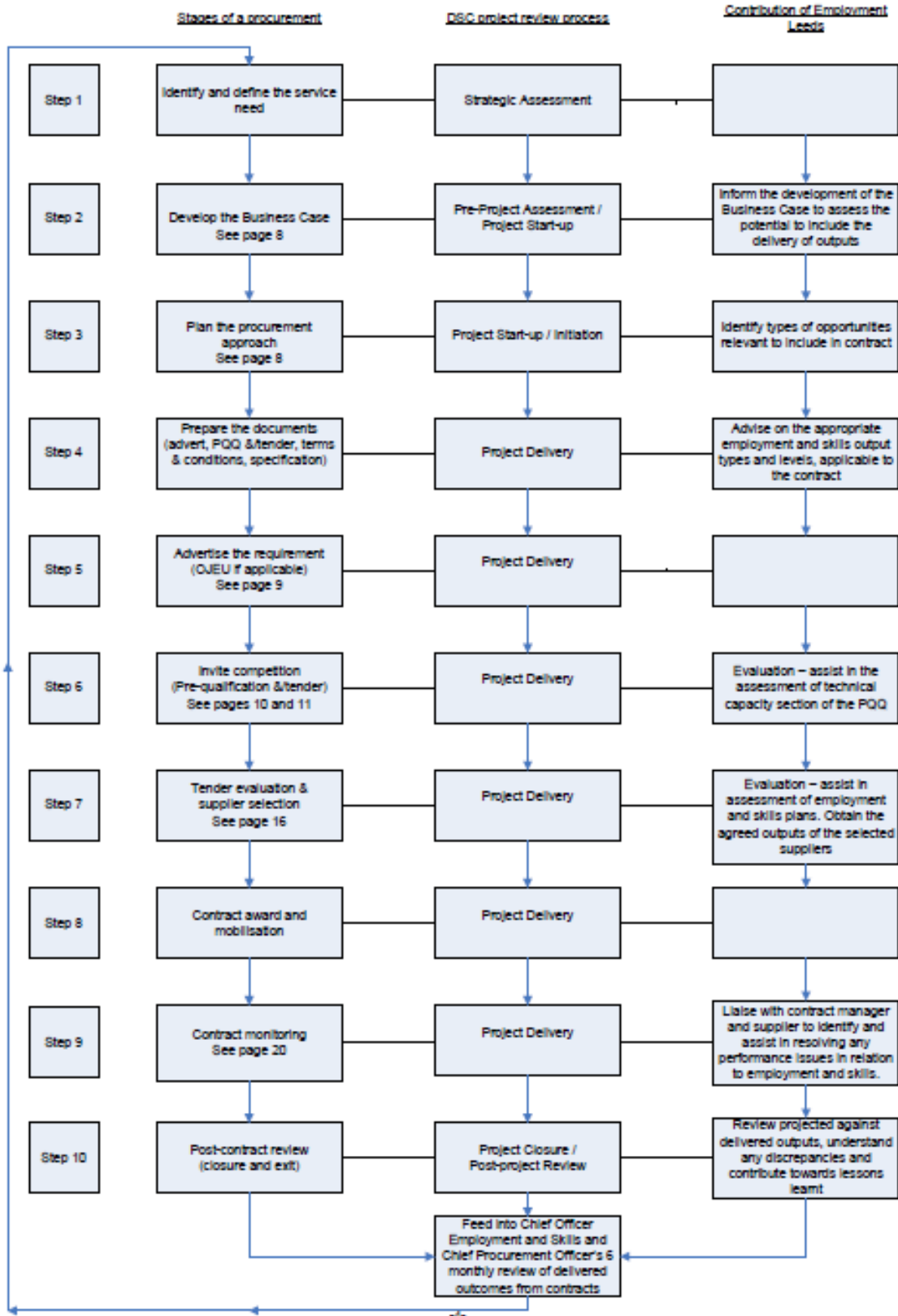
Support in applying the provisions of this toolkit is available from Employment Leeds, particularly at the stages identified in the diagram on page 4. Their expertise in working with business and networks of other agencies is crucial to the success of this initiative.

¹ Council Business Plan 2011-15

² City Priority Plan 2011-15

³ Vision for Leeds 2011-30

Procurement Process



Considerations

Whilst there is nothing that completely precludes employment and skills from being relevant to any contract, there will always be practical limits on what a local authority (and its contractors) can achieve.

In terms of applying the toolkit strategically across a range of council activities, the parameters set out in the following section should be considered in line with the employment and skills outputs at each stage of the procurement, and in particular at steps 1 – 4 of the Procurement Process Chart on page 4.

Practical Limitations

1. Monetary value

The monetary value of the contract in question will have an impact on the degree to which employment and training requirements are realisable. Principally this toolkit is aimed at contracts over £100,000 but can be applied on lower value contracts on a case by case basis. A contractor will only be able and willing to recruit or train staff to the extent that this is necessary for delivery of the contract and realistic within costs constraints – realistically, a contractor needs to make a profit, and will not deliver employment and training requirements that cause it to suffer a loss.

2. Duration

Similarly, the duration of a contract will have an impact on what can be achieved within the time available. The guide on page 13 will assist you in deciding what is realistic. What might be feasible within the scope of a long-term contract may not be possible within a much shorter timescale. On short contracts (or those for a lower monetary value), however, there may instead be scope to consider 'softer' requirements, perhaps involving on the job training rather than additional recruitment, which can still have a tangible benefit.

3. Subject matter of the specification

While it is possible to contemplate employment and training requirements in almost any context, it is nonetheless worth exercising a degree of realism concerning the subject matter of a contract and what requirements can be considered 'relevant' to it. Again, this illustrates the need to consider each and every contract or framework on its merits. What will be relevant to a large scale construction contract will not immediately be relevant to a small scale services or supply contract, for example. Apprenticeships, for example, are an employment and training model found in many sectors, but not in all. The subject matter of the contract needs to be considered before it can be made clear whether a requirement that the contractor employs a specified number of apprentices would be relevant, let alone practically realisable.

Value for money

Costs

When procuring any new contract it is important to get the best value possible. However the 'lowest cost' does not always mean the best value and it is best practice when awarding contracts to consider quality along with price.

The balance between cost and quality will differ depending on the subject and also over time. It is important to be realistic and aware that requiring contractors to recruit new staff from non-traditional routes, to guarantee a certain level of training for new staff or take on apprentices, may place an additional financial cost on the contractor. The contractor has three options: to either absorb the cost (which may be possible if the targets are relatively low compared to the overall contract value); to pass the cost on to the council; or it may be possible for contractors to draw on government initiatives for training staff and taking on apprentices. This will help reduce the additional cost greatly. Informing contractors of the availability of any support, and offering to assist them access it, will reduce the additional cost that might have been passed on to the council.

Assessing the additional cost that this brings and determining if it presents good value for money within the overall contract and its contribution to a key corporate priority on employment and skills will be essential in demonstrating excellent use of resources. For large contracts, and with sectors experienced at Targeted Recruitment and Training, soft market testing prior to contract advertising will indicate the likely price increase that the additional requirements will incur. Procuring departments will then be in a position to determine if this additional price provides good value for money.

Benefits

There will be significant benefits to the city, to employers and to individuals through adoption of this approach. Helping people find sustainable employment will lead to a reduction in payments of housing and council tax benefits, fewer requests for free school meals, reduced pressures on welfare rights and debt advice services, fewer demands on health services, and increased spend by those in sustainable employment to support Leeds' economy. Bespoke recruitment packages tailored to the needs of individual contractors makes business sense, with reduced recruitment and retention costs for employers. Contractors committed to this approach will be able to access a wide range of support to provide their recruitment and skills solutions. This will include a flexible recruitment package tailored to individual contractors needs, delivered through Leeds City Council's Employment Leeds Service and access to support services delivered through major delivery agencies including Job Centre Plus, and the National Apprenticeship Service. Work can also

provide the best form of welfare for the majority of working people, increase personal health, enhance engagement in communities and support social cohesion.

DRAFT

Options Appraisal

Using the table in the options appraisal tab of the interactive employment and skills toolkit, working with Employment Leeds consider the outputs listed in line with the practical limitations and value for money considerations outlined on pages 5, 6 and 7.

Output (Please refer to the Glossary of terms on page 22)	Issue (please refer to the considerations on page 5)				
	Ability of duration to support output	Ability of specification to support output	Ability to recover cost and achieve value for money in relation to the output	Total score	Reason for selection / rejection (Must be completed for each output)
	Score 1-5	Score 1-5	Score 1-5		
New entrants – Skills development					
School or college workshops / visits					
Work experience					
Entry and level 1 qualifications					
Apprentices – project initiated					
Project Initiated Higher Level Skills					
Existing workforce - Skills development					
Investors in people status or equivalent					
National Vocational Qualifications					
Short Courses/CPD					
Apprentices – existing					
Employment					
Progression into employment					
Safeguarded employment					

Score

1. No ability
2. Very minor ability
3. Minor ability
4. Significant ability
5. Maximum ability

Advertising

The inclusion of social, environmental and economic benefits should be considered in the early scoping stages of a procurement project. Including a broad reference to such requirements in the advert will allow award decisions to consider such factors and alerts suppliers to the council's intentions which will inform their tender submission. It also offers compliance with the Public Contract Regulations, requirement for transparency.

Below is template wording that can be inserted into an advert. In the case of OJEU adverts, this should be included under the 'Additional Information' section:

✂

Advertising

Under this contract the contractor will be required to actively contribute to the achievement of social objectives. These include: skills development; employment and training opportunities within the locality of where the contract will be delivered; and other added value initiatives throughout the supply chain to support community programmes promoted by the council.

Accordingly contract performance conditions may relate in particular to secondary considerations.

Further details of the specific social, environmental and economic contract requirements will be detailed in the tender documents, discussed in the following sections.

Pre-Qualification

To accompany your advert, you will also be making available, either on its own or in conjunction with the tender document, depending on whether the open or restricted procedure is being adopted, a Pre-Qualification Questionnaire or PQQ.

Below are sample questions that you may insert into the PQQ under the 'Technical Capacity' section:

✂

Pre-Qualification

1) Please give examples of your involvement in each of the following:

- Managing/monitoring target outputs for employment and/or training opportunities;
- Generating employment and training opportunities for long-term unemployed people;
- Providing training opportunities for young people and retaining them after the completion of training;
- Links with training providers, organisations and networks;
- The development of skills in your existing workforce; and
- Equal opportunities recruitment procedures.

What was your exact involvement in each of the above activities?

2) How were the above examples supported by the organisation in terms of structure and resources?

The answer to these questions should be evaluated in the same manner as the other questions in the 'Technical Capacity' section of the questionnaire.

Specification

In order to ensure that the employment and skills outputs can form part of the evaluation criteria which clearly can be seen to be 'linked to the subject matter of the contract' in order to comply with regulation 39 of the regulations, the conditions of the contract must include the employment and skills requirements. Below are a set of requirements which must be included within the specification documents along with the glossary of terms on page 22:



Employment and Skills Plan

1. Delivery of outputs

The contractor shall actively participate in the potential for economic and social regeneration which results from this contract and shall deliver the requirements set out in the contractor's Employment and Skills Method Statement and the associated outputs in the employment and skills requirements.

2. Modification of output levels

The Employment and Skills Method Statement, including the outputs and or their levels, may be modified at any time by mutual agreement between the parties.

3. Recruitment

Every vacancy in relation to this contract, including those with subcontractors, is to be notified to Employment Leeds, and candidates identified by them are to have an equality of opportunity in the selection process.

4. Remuneration

All trainees shall be paid in accordance with industry / sector norms and shall have terms and conditions of employment that are at least equivalent to those provided to staff and employees that have equivalent skills and experience.

The contractor is encouraged to increase the remuneration of trainees in line with their experience and productivity in accordance with the practices applied to all other employees of the contractor.

5. Monitoring and verification of Information

Every four weeks the contractor shall provide the client with an Employment and Skills Performance Statement setting out in relation to the reporting period

- the levels of outputs achieved in that period and cumulatively for the contract period

- the number of vacancies notified to Employment Leeds
- the postcodes of all people engaged in providing the services / supplies/ works in any capacity
- a trainee recruitment notification signed by the trainee permitting the provision of personal data to the Client for contract monitoring purposes
- a trainee transfer notification where a trainee is moved between sites, or between employers engaged in the contract
- a Trainee completion or termination notification

6. Contractor and subcontractor compliance

It is the contractor's responsibility to develop a working method that will deliver the employment and skills requirements and related monitoring and verification data, and obtain the full cooperation of any subcontractors and suppliers in delivering these requirements.

7. Support

The inclusion of recruitment and training requirements does not comprise or imply any promise on the part of the client or their agents to provide suitable trainees or labour. Any action taken by these bodies or their agents to broker relationships between the contractor and local individuals / firms / agencies does not imply that they or their agents consider the individual / firm / agency as suitable for engagement by the contractor. All recruitment, supervision and discipline responsibilities rest with the contractor and its subcontractors. Within this context the client will work with local agencies to help facilitate the achievement of the recruitment and training requirements.

8. Performance monitoring

As part of the council's contract monitoring process, the projected contract outputs will be reviewed against delivered outputs by the contract manager. Contractors will be required to include details of how these outputs have been met, providing supporting evidence where appropriate and identifying measures for improvement where targets have not been met.

The council's Employment Leeds team will provide a dedicated resource for support and guidance in developing and implementing the Employment and Skills plan.

Performance on individual contracts will be aggregated and reported on a six monthly basis to the relevant Chief Officers for monitoring purposes.

Guidance on how to specify relevant employment and skills requirements,
depending on the length of the contract

Having included the specification for employment and skills outputs, these need to be expressed in specific and measurable terms. The table below indicates some suggested output levels.

Outputs (Please refer to the Glossary of terms on page 22).	Contract Duration					
	0-6 months	6-12 months	12-24 months	24-36 months	36-48 months	48 months +
New entrants – Skills development						
School or college workshops / visits (No. of)	1	2	4	6	8	10
Work experience (No. of people)			1	2	4	8
Entry and level 1 qualifications (No. of people)			1	2	4	8
Apprentices – project initiated (No. of people)			1	2	4	4
Project Initiated Higher Level Skills (No. of people)				1	2	2
Existing workforce - Skills development						
Apprentices – existing (No. of people)	1	2	4	6	8	10
Investors in people status or equivalent (Existing or progression)			Progression	Secure	Maintain	Maintain
National Vocational Qualifications (No. of people)			1	2	4	4
Short Courses/CPD (No. of people)	1	2	4	6	8	10
Employment						
Progression into employment (No. of people)			1	3	6	10
Safeguarded employment (No. of people)	5	5	5	5	5	5

These are generic benchmarks that need to be adapted according to the nature of the project, and the market delivering it. The Employment Leeds team is able to provide more advice on employment and skills outputs to include in contract documents (contact details on page 21).

Contractor Response

The guidance on page 13 will enable you to specify appropriate employment and skills outputs into your contract. The table below can be inserted into the tender documentation to state the council's required outputs shown as the benchmark (based on the guidance) and then asks the contractor for their response. The time period for achieving the outputs should be specified, i.e. over the lifetime of a contract or per year. This needs to be reflected in the table below. Please refer to the Glossary of terms on page 22.



Employment and skills requirements

Outputs are per annum / over contract duration *(delete as applicable)	Contractor's response	Benchmark
New entrants – Skills development		
School or college workshops / visits (No. of)		
Work experience (No. of people)		
Entry and level 1 qualifications (No. of people)		
Apprentices – project initiated (No. of people)		
Project Initiated Higher Level Skills (No. of people)		
Existing workforce - Skills development		
Apprentices – existing (No. of people)		
Investors in people status or equivalent (Existing or progression)		
National Vocational Qualifications (No. of people)		
Short Courses/CPD (No. of people)		
Employment		
Progression into employment (No. of people)		
Safeguarded employment (No. of people)		

The contractor should include details in their method statement as to how these proposals would be delivered as part of the contract.

Method Statement

In order to effectively evaluate the contractor's proposal, the figures provided should be checked and substantiated, this is done through provision of a method statement. A method statement is a detailed response provided by the contractor which will explain and evidence how they can deliver on their projected outputs as part of the successful delivery of the contract.

Below is some suggested wording which can be inserted into the tender documents requiring contractors to provide a method statement and gives an outline of the type of information that should be provided, and how this and the contractors response will be evaluated.



Method Statement

Contractors are required to complete the table headed 'Employment and Skills requirements', populating the column headed 'Contractor's Response' with projected output figures for the duration of the contract. To support and validate the projected outputs, contractors are asked to submit an Employment and Skills method statement. This should clearly set out the approach they will take for delivering employment and skills requirements. Specifically, it should include the following areas:

- 1) Who in the organisation will be responsible for managing the delivery of the Employment and Skills Plan;
- 2) How the target outputs set out in the Employment and Skills Plan will be delivered;
- 3) How the contractor will maximise the engagement of long term unemployed people in the project. This should demonstrate how publicity would be targeted at a representative demographic profile of the local area and outreach activities would engage under-represented groups to promote diversity within the workforce;
- 4) What actions will be taken to ensure compliance by any sub-contractors working on the project;
- 5) Any bespoke training or initiative promoted as part of the contractor's delivery of works and services, how this would be financed and any tailored recruitment approach; and
- 6) How the contractor would engage with local training providers, organisations and networks.

Together these two documents will be referred to as the Employment and Skills Plan.

Evaluation

Having set out the required employment and skills outputs, you must explain clearly to potential contractors how their proposals will be evaluated as with any other qualitative criteria that are being assessed.

Below is an extract which can be inserted into your tender documents to explain to contractors how their Contractor Response and Method Statement will be evaluated.

✂

The Employment and Skills Plan will be evaluated to reflect the contractor's ability to deliver it. Each output will be awarded a score by reference to the contractor's response against the benchmark and the method statement. Any tenderer whose output response equals or exceeds the benchmark from the table and provides a wholly satisfactory method statement, will be awarded a maximum score of 1 for that output. The sum of the output scores will be averaged to a maximum score of 10 which will stand as the score for that element of the overall quality evaluation. This will then have the criteria weighting applied as set out in the evaluation model.

Evaluation scoring guidance for officers

The Employment and Skills Plan will be scored in accordance with the evaluation matrix on page 19. The scoring of the Employment and Skills Plan will reflect the contractor's ability to deliver the employment and skills outputs relative to the benchmark shown in column B. Scores will be calculated as follows:

1. Tenderers responses for each relevant output are compared with the benchmark figures in the table. Any tenderer whose response equals or exceeds the benchmark from the table will be awarded a maximum score of 1 for that output.
2. The evaluation panel will consider if a tenderer's response for each output is realistic and achievable. This will also take into consideration the Employment and Skills Method Statement, specifically:
 - How the target outputs as set out in the Employment and Skills Plan will be delivered;
 - What actions will be taken to ensure compliance by the sub-contractors working on the project, if applicable;
 - Who in the organisation will be responsible for managing the training scheme; how health and safety issues will be managed;
 - How links will be made to existing local provider/partnerships and the voluntary and community sector.

Satisfaction Factor scorings

Satisfaction Factor scorings (in column C) will be given by the evaluation panel and state how realistic and achievable the information in the method statement is, to validate the contractor's response figures.

Key to scorings:

1 = No reservations on delivery of output (maximum score)

0.75 = Very minor reservations on delivery of the output

0.5 = Minor reservations on delivery of the output

0.25 = Major reservations on delivery of the output

0 = Information clearly shows the tenderer can not satisfy the requirements of the output

Total scorings

Total scorings are calculated for each individual output, these are shown in column D.

If a contractor's response figure (column A) is less than the benchmark figure (column B) then figure A is divided by figure B, and then multiplied by the satisfaction factor (column C). The score is then entered into the Total Score box (column D). This is shown simply as:

$$A / B * C = D$$

Example:

	A	B	C	D
Outputs	Contractor's Response	Benchmark	Satisfaction Factor	Total score
Work experience (No. of people)	3	6	1	0.5

Therefore 3 divided by 6 = 0.5 X 1 = 0.5

However, if a contractor's response figure (column A) is greater than the council's benchmark figure (column B), the overall score still can not be greater than a score of 1. In this case the evaluator would give a satisfaction factor score (column C) and no further calculations are carried out. The evaluator simply carries across the score entered into column C in to column D also, as the total score.

Example:

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Outputs	Contractor's Response	Benchmark	Satisfaction Factor	Total score
Work experience (No. of people)	6	4	0.75	0.75

Therefore 6 divided by 4 = 1 (maximum possible score) $\times 0.75 = 0.75$

A total score should be entered into column D for each output to be delivered as part of the contract.

Overall Employment and Skills Plan evaluation score

The next step is to add up all the scores in column D, divide them by the total number of outputs and multiply by 10.

This gives an overall Employment and Skills Plan evaluation score out of a maximum 10 points. This is then transferred into the overall evaluation matrix to be weighted accordingly.

Evaluation Matrix

	A	B	C	D	
Outputs	Contractor's Response	Benchmark	Satisfaction Factor	Total score	Notes
New entrants – Skills development					
School or college workshops / visits (No. of)					
Work experience (No. of people)					
Entry and level 1 qualifications (No. of people)					
Apprentices – project initiated (No. of people)					
Project Initiated Higher Level Skills (No. of people)					
Existing workforce - Skills development					
Apprentices – existing (No. of people)					
Investors in people status or equivalent (Existing or progression)					
National Vocational Qualifications (No. of people)					
Short Courses/CPD (No. of people)					
Employment					
Progression into employment (No. of people)					
Safeguarded employment (No. of people)					
			Sub total		(sum of column D)
			No. of outputs		
			Overall ESP score		(sub total / no. of outputs)

Contract Monitoring

Once the contractor's outputs have been established through the tender process, they will require monitoring as with any other contract deliverable.

It is suggested that you include the measurement of performance against the employment and skills plan outputs in your periodic contract management meeting agenda.

During the meeting, reference should be made back to the employment and skills outputs, and the contractor asked to evidence their progress against their planned outputs.

Remember that you can approach Employment Leeds at any point during the life of the contract to support you and/or your contractor in delivering the employment and skills outputs.

DRAFT

Best practice and further support

Further guidance

The Socially Responsible Procurement (SRP) Toolkit provides advice on how to include social, environmental and economic benefits into the procurement process. This can be found on the Intranet under 'Policies and Procedures'.

Useful contacts

For further advice on the use of this toolkit please contact:

David Galloway, Strategic Category Manager, Procurement Unit.
Telephone: 07891 274510, email: david.galloway@leeds.gov.uk

Alice Winter, Head of Employment Leeds, Employment and Skills.
Telephone: 39 52394, email: alice.winter@leeds.gov.uk

Acknowledgements

Special thanks to Anthony Collins Solicitors LLP for giving their permission for us to include some of their model wording and documents in the toolkit.

Aspects of this toolkit are adapted from the West Midlands Economic Inclusion Panel's Procurement Framework for Jobs and Skills and the London Council's Employment and skills opportunities through procurement toolkit.

Aspects of the toolkit methodology have been derived from the YORbuild construction framework. Special thanks to Mark Scott, Employment and Skills Coordinator, for the information and support he has provided.

Thanks also go to colleagues and contractors who have contributed to the development of this toolkit.

Glossary of terms

Note: this can be included in the specification / contract definitions

Apprenticeship
A form of vocational training whereby the apprentice follow a sector skills council approved framework to develop skills and knowledge and then demonstrates and evidences the application of these in a work setting. In order to complete an apprenticeship, the apprentice must have been employed during the apprenticeship, have evidenced competence in the specified range of vocational skills and have an employed status at the time of completion. There are over 180 approved framework apprenticeships available and listed on the National Apprenticeships Service at www.apprenticeships.org.uk .
Apprenticeship – Project initiated
The project initiated apprenticeships are apprenticeship places, which would not have been otherwise created / provided via any other funding.
Progression into Apprenticeship < 9 months unemployed
The contractor can use Job Centre Plus work experience of up to 8 weeks to assess a potential apprenticeship candidate who is unemployed <9 months. The work experience period can be extended to 12 weeks to allow the apprenticeship to be set up.
Apprenticeship – Existing
Individuals who are employed on a relevant apprenticeship programme. The apprentice may be part way through their apprenticeship qualification and the contracted works are supporting the apprentice to gain the necessary work based evidence with the delivery partners' organisation. The apprentice may already be an employee of the delivery partner or their supply chain company, which is active on the contracted works. The employment of any displaced apprentices (through agreement) will also count towards this target.
Progression into employment less than and more than 6 months unemployed
Individuals who have been offered training / employment opportunities as part of a Job Centre Plus pre-employment initiative.
<u>Agency staff</u> – As of April 2011 the contractor can use agency staff towards this output area. The number counted is to be agreed.
<u>Job Centre Plus sector-based work academies</u> – Partnership between contractor, Job Centre Plus and training provider to deliver period of pre-employment training and work experience to assess candidates suitable for interview for offer of employment.

Job Centre Plus Work trials – a 1 week trial period with the contractor to assess if the candidate is suitable to take up an offer of employment.

New Entrants – Skills development

School / College / University site visits – visits by students to the site to support their learning.

School workshops – educational workshop activities that are delivered by the contractor or their supply chain within the school or college, or on site.

University research projects – Universities are generally keen to work with contractors to undertake research related to a project. The research could either be to support an ongoing research project being undertaken by a university, or alternatively to research an area that the contractor is particularly interested in being undertaken.

Work experience (under 18 years) – work experience placements with the delivery team (direct) or trade sub contractors (indirect). This can include block placements of one week or more or one / two days per week.

Work experience / entry level and level 1 qualifications (18+ years) (details as for under 18 years) – This can include placements only/qualifications only or both. It is intended to be as flexible as possible to meet employer needs.

Project initiated higher level skills - It will be expected that contractors will recruit professional staff specifically to work on these projects or will provide training to existing staff in order for them to operate at a higher level (level 3 upwards).

Existing workforce – Skills development

National Vocational Qualifications and other vocational qualifications – Workers undertaking on site assessments to achieve a National Vocational Qualification level 2 – 5.

Short courses – Short courses in a wide range of topics that provide knowledge and skills to meet the needs of different work environments, for example, health and safety training.

Appendix 1 - The Legal Framework

Public procurement in the UK and EC member states is subject to significant regulatory control. European legislation is set out in two ways, Articles of Treaties which set out matters of general principle which member states must observe, and Directives which are detailed procedures to ensure the treaties are implemented. The Directives are then implemented in local law by member states in the form of regulations, currently enacted in the UK as the Public Contract Regulations 2006.

The purpose of public procurement rules is to open up the market and to ensure free movement of supplies, services and works within the EU in a manner which is non-discriminatory against member states.

There is a widely held belief amongst practitioners in member states that these regulations are a barrier to the inclusion of 'social' conditions in contracts.

The Public Contract Regulations are based on the fundamental European Law principles of:

1. Equal treatment and non-discrimination
2. Transparency
3. Proportionality and
4. Mutual recognition

In 1998 HM Treasury advised that it was 'not consistent with value for money policy for public purchasing power to be used to pursue other aims', although this was contradicted later when the OGC/DETR's paper 'Environmental Issues in Purchasing' observed that operational and policy objectives were part of a users needs, and therefore did form part of the 'value for money' decision process. However, they then confused matters by stating that 'departments should not seek to use their purchasing power to pursue wider environmental ends', and specifically that criteria or conditions which are not directly relevant to the product or service should not be used.

Since the publication of the 2006 Regulations the position is significantly clearer. Regulation 39 states that a contracting authority may stipulate conditions relating to the performance of a public contract provided that those conditions are compatible with Community law and are indicated in the contract advertisement and/or the contract documents. Those conditions may include social and environmental considerations. Further clarification is provided at paragraph 33 of Directive 2004/18/EC on the coordination of procedures for the award of public contracts which states that contract performance conditions "may, in particular, be intended to favour on-site vocational training, the employment of people experiencing

particular difficulty in achieving integration, the fight against unemployment or the protection of the environment. For instance, mention may be made, amongst other things, of the requirements applicable during performance of the contract to recruit long-term job-seekers or to implement training measures for the unemployed of young persons....”

If they are to be lawful, those conditions must be contained in the technical specification of the contract, and Regulation 9(4) requires that any ‘technical specification’ defining the characteristics of the product, works or services must provide equal access to all potential suppliers, and does not create unjustified obstacles to the opening up of procurement to competition.

Furthermore, Regulation 30 sets out that contracts may be awarded on one of two bases, lowest price or most economically advantageous tender (MEAT), and shall use only ‘criteria linked to the subject matter of the contract’ to determine the offer that is the most economically advantageous. In other words, the criteria for evaluation of tenders must relate to something that is specified in the tender documents.

The current rules can be summarised in broad terms as follows:

1. Award criteria must be related to the subject matter of the contract
2. Authorities can pass on, where relevant, obligations they have under legislation (for example Equality requirements)
3. However the following are generally prohibited:
 - a. Requirements which cannot be justified in public expenditure terms
 - b. Award criteria not relevant to the subject matter of the contract
 - c. Discrimination on the basis of nationality or locality
 - d. A requirement to provide specific ‘local’ employment or other opportunities
4. In circumstances where the Public Contract Regulations do not apply, in part or full, the principles of EU law set out in 3.1, and the council’s contract procedure rules, must still be observed, which will result in the same approach as described above.

Where a requirement is not being included due to a legal obligation, the authority will require a policy mandate for including them. Whilst there has been clear provision in regulations to incorporate social benefit into public contracts since 2006, and guidance available in the form of the ‘Sustainable Procurement Action Plan’ (2007) and the ‘National Procurement Strategy’ (2003), by the time of the final report on the National Strategy in 2008, only 28 per cent of councils included issues of community well-being in their service contracts, 23 per cent in works contracts and 13 per cent for goods. This picture is mirrored across EU states where research suggests only 6.8 per cent of sustainable

procurement initiatives relate to social sustainability. The vast majority of effort has been directed to environmental sustainability.

DRAFT