

# Client Based Approach

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

Local Client Guidance – Wales





## Foreword

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



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

The Client-Based Approach ensures that all tiers of the construction and built environment supply chain can grow their business by supporting employment, skills and Apprenticeships. The approach includes employer-led benchmarks for employment, skills and Apprenticeship delivery against procurement lot sizes of

£1 million upwards, making engagement in this agenda directly accessible to small and medium enterprises (SMEs), as well as larger contractors and their supply chains. The approach also covers early contractor procurement and the re-engineering of long-term contracts which gives further scope for dialogue between the client and the contractor to achieve the best outcomes.

Covering all areas of construction, such as housing and infrastructure, our construction industry backed guidance, which is tried, tested and endorsed by local authorities in England, Scotland and Wales, offers a genuine opportunity to work in partnership with employers in the industry and training and education providers. The guidance enables partners to set relevant and proportionate targets to increase the volume and quality of employment and skills interventions through construction contracts – meeting your communities' specific needs in a fair, measureable and sustainable way.

Co-signatories

A handwritten signature in black ink, appearing to read 'S. Beale'.

**Sarah Beale**  
Chief Executive, CITB

A handwritten signature in black ink, appearing to read 'Kevin Bennett'.

**Kevin Bennett**, Chairman  
National Construction Skills Academy Group,  
Head of Training, BAM Nuttall Ltd.





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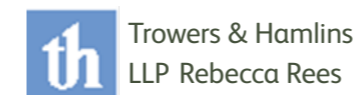
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CITB Strategic Partnerships Team

NSAFC@citb.co.uk

[www.citb.co.uk](http://www.citb.co.uk)



Phone: 0207 423 8021

Email: [rrees@trowers.com](mailto:rrees@trowers.com)

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# 1.0 Introduction

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

This Client-Based Approach guidance contains a simple framework of processes enabling clients to obtain contractual commitments from contractors and developers, which can be monitored and enforced during the construction phase. 'It builds on the themes discussed in the Welsh Government's Community Benefits Policy and guidance'.

The Welsh Governments programme for government, Taking Wales Forward 2016-2022 commits to 'Continue to improve...procurement policy to bring economic, social and community benefits to Wales' and to the creation of a 'minimum of 100,000 high quality all age apprenticeships.'

These aspirations are supported by the Wales Procurement Policy Statement 2015 (WPPS) which sets out ten clear principles for public procurement in Wales including Principle 4 which is dedicated to Community Benefits policy the Primary focus of which is promotion of employment and skills and supply chain opportunities plus consideration of a wider range of community benefits wherever possible including the promotion of third sector businesses, community initiatives, contribution to education and environmental initiatives. The programme for government and WPPS support the Well-being of Future Generations (Wales) Act 2015 (WBFGA 2015) as initiatives to strengthen the sustainability of the Welsh economy.

This Client-Based Approach is aligned with these policy objectives as it focusses on adding value through the innovative use of procurement and contract conditions and achieving community benefits through the creation of employment and skills opportunities.

Public sector bodies in Wales are required to apply the 'Community Benefit' approach to all procurements and to report Community Benefit outcomes on all contracts over £1m via the Community Benefits Measurement Tool (CBMT) created by Welsh Government. The CBMT is separate from the measurement tools explained in this guidance and can be found on the Welsh Government's Procurement Route Planner website [www.prp.wales.gov.uk](http://www.prp.wales.gov.uk) along with the Welsh Government's Community Benefits policy and guidance.

This guide provides information to clients in Wales on how to incorporate employment and skills requirements into the planning and procurement of construction projects, and explains how this can be evaluated and used as an incentive throughout each individual project. The processes can be applied to any type of and value of construction project and to mixed use developments. A glossary of commonly used terms is set out in Appendix J.

The framework that has been used in this guide is based on the National Skills Academy for Construction programme. This approach integrates skills development with major construction projects. The National Skills Academy for Construction programme has been established since 2007 and has supported in excess of 400 projects. It requires the delivery of an Employment and Skills Plan (ESP) which is developed to reflect the profile of each individual construction project or development.

This guide includes:

- Good practice information on the use of an Employment and Skills Strategy and the development of an ESP
- Legal, policy and process advice on procurement of contracts, planning policy and development control
- Template benchmarks relating to a range of employment and skills areas
- A National Skills Academy for Construction case study on the development and implementation of ESPs
- Guidance as to the inclusion of Small and Medium Enterprises (SMEs) and supply chain diversity
- Advice on early contractor involvement and re-engineering the supply chain under long-term contracts
- Appendices, including:
  - A template ESP
  - Template procurement, contract and Section 106 Agreement Clauses
  - An Employment and Skills Strategy Workbook

# 2.0 Background

This guide has been commissioned by CITB Wales in conjunction with Welsh Government. It provides the working documentation for public sector clients, including local authorities and registered providers, who are procuring construction projects to embed employment and skills, right through from policy and strategies to procurement and to operational implementation of specific projects. CITB Wales has appointed Trowers & Hamlins LLP as consultants in the production of this guide ([of whom further details are set out in Appendix K](#)).

Welsh Government can provide advice on wider community benefits policy.

(mailto: [CommunityBenefits@wales.gsi.gov.uk](mailto:CommunityBenefits@wales.gsi.gov.uk))

This guidance has been based on the legislation current as at January 2017, including: EU Directive 2014/24/EU on public procurement; The Public Contracts Regulations 2015 (SI 2015 No 102); The Government of Wales Act 2006; The European Communities (Designation) (No 2) Order 2015 (SI 2015 No 1530); Well-being of Future Generations Act 2015; Town and Country Planning Act 1990; The Planning and Compulsory Purchase Act 2004; and the Planning (Wales) Act 2015.



## 3.0 CITB

It is recommended that in the first instance a client should contact CITB regarding its intended approach to employment and skills. Please email [NSAFC@citb.co.uk](mailto:NSAFC@citb.co.uk)

CITB are the Industry Training Board and a partner in the Sector Skills Council for the construction industry in England, Scotland and Wales. A social enterprise, devoted to building competitive advantage for the construction industry and the people who work in it. We have a clear focus – to work to ensure that the construction industry has the right skills, in the right place, at the right time. The Strategic Partnerships team is the department of CITB that works closely with clients, developers and contractors and is conversant in the development and implementation of Employment and Skills Strategies and Employment and Skills Plans (ESPs). CITB (in partnership with CITB-Northern Ireland) covers the whole of the UK and can provide support to clients, developers and contractors in how best to utilise this guide in conjunction with existing good practice.

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

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

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

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

Over 400 National Skills Academy for Construction projects have already been supported across Great Britain. The Strategic Partnerships team are working with clients to embed employment and skills into their strategies, to develop ESPs and to engage with their supply chains. In a first for Wales, the £100 million Heads of the Valleys Road upgrade was awarded National Skills Academy for Construction project (NSAFC) status ([see Appendix I for further details](#)).

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

High on the agenda for all public sector clients is the provision of employment and skills opportunities for local residents. As this guidance explains, public sector clients are prohibited in an EU procurement process from requiring contractors to offer local opportunities in tender documents or contract conditions. However, following contract award, clients can carry out supply chain collaboration exercises with contractors either before start on site (using Early Contractor Procurement) or over the duration of a contract (by re-engineering Long-term Contracts) in order to influence the contractor's use of a local supply chain. This is discussed further in Sections 8 and 9.

CITB has also developed

- Client Based Approach for use by contractors and developers
- Client Based Approach guidance for procurement in England and Scotland
- Client Based Approach for use by clients through planning and development



## 4.0 Good Practice Information

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

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

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

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

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

### 4.1 Overview of the Employment and Skills Strategy

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

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

The flow diagram at Figure 1 at the end of Section 4 outlines the various routes of implementation of the Employment and Skills Strategy through a client's planning or procurement processes and Figure 2 links the procurement process to the appendices forming part of this guidance.

## 4.2 Overview of the Employment and Skills Benchmarks

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

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

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

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

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

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

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

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

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

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



## 4.3 Categories of Projects Covered by the Benchmarks

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

### Construction projects:

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

### Maintenance projects:

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

## 4.4 Delivery Issues for the ESP

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

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

The successful implementation of an ESP will require the following:

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

### 4.4.1 Development of the Contractor’s Method Statement

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

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

Some contracts, such as PPC2000, have a pre-commencement phase built into their programme. These are referred to as “two-stage” contracts and enable the contractor to create a more detailed Method Statement during the pre-commencement phase. This is discussed in more detail in Section 8.

### 4.4.2 Client Support with Delivery Issues

Delivery of the ESP may require collaboration between a number of agencies and organisations. The client may be in a position to assist with identifying suitable delivery partners. CITB may also be able to support contractors and their supply chain partners with delivery matters. This support can be identified through a gap analysis report prepared by CITB to meet the specific needs of a client and its developers and contractors.

### 4.4.3 Review of Sub-Contractor Order Details

Supply chain partners working towards the implementation of an ESP on a project or framework should be involved with the development of the ESP at the earliest opportunity. An appendix in the sub-contract order should set out the level of involvement which will be required from the supply chain partners. This should also be reviewed by the contractor with their supply chain partners during any pre-commencement meeting. Please see Section 8 for further information on engaging the supply chain.

#### 4.4.4 Monitoring and Support from the Client

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

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

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

#### 4.5 Site-Based Facilities and Setting up a Skills Centre

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

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

#### 4.6 Personnel Responsible for Delivery

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

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

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

#### 4.7 Costing Employment and Skills Requirements

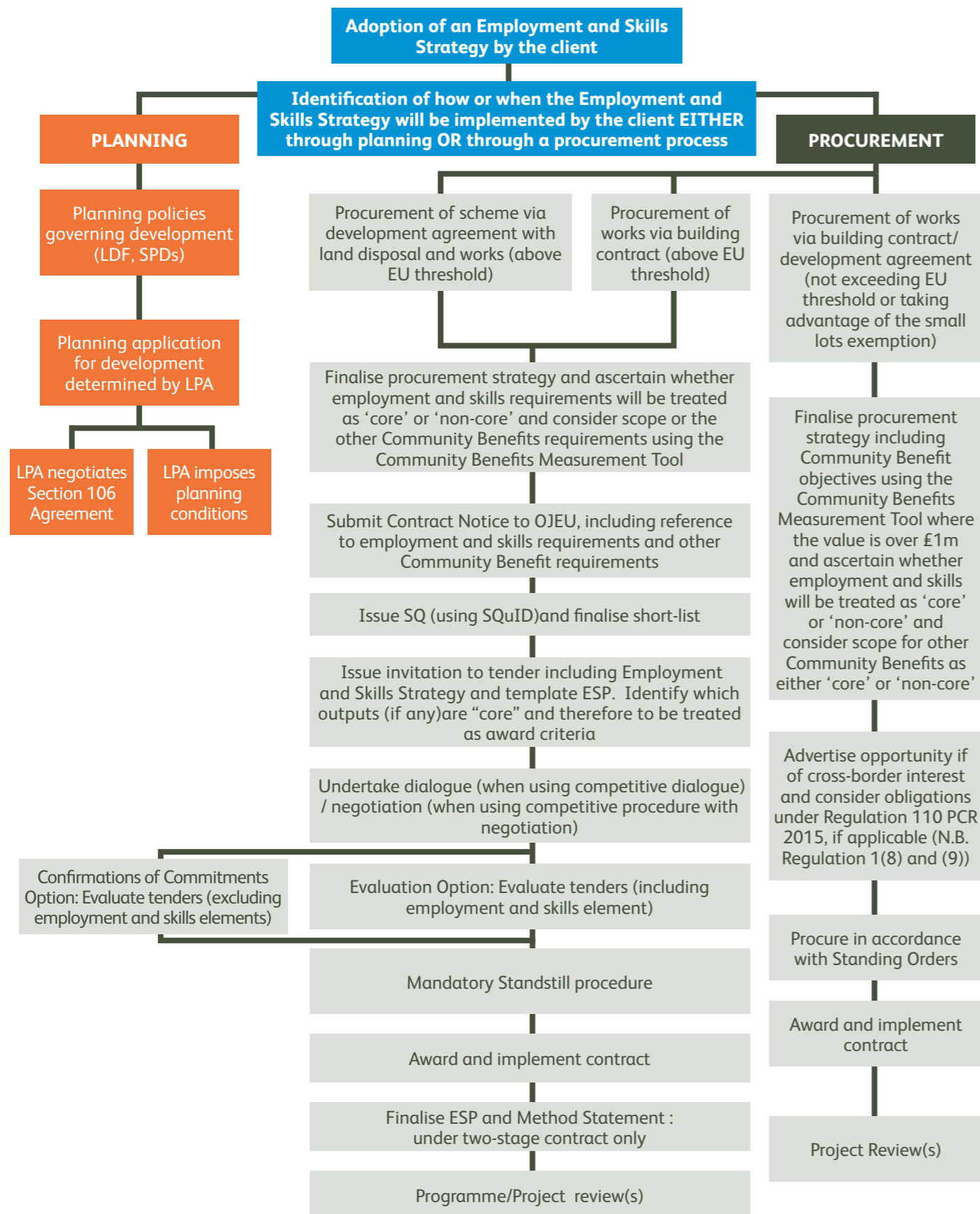
The delivery of an ESP does have certain costs associated with it. However, best practice demonstrated on National Skills Academy for Construction projects shows that while costs as a proportion of construction value can be relatively small, that figure can be considerable. It is vital therefore that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

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





# Figure 1 - Implementation of the Employment and Skills Strategy



# Figure 2 – The Procurement Process

Procurement Stage	Process Considerations	Guidance Reference
Finalise Procurement Strategy	<ul style="list-style-type: none"> <li>Suitability of project to deliver employment and skills areas and benchmarks</li> </ul>	Appendix B Benchmarks
	<ul style="list-style-type: none"> <li>Suitability of project to deliver other Community Benefit objectives as either "core" or "non-core"</li> </ul>	Section 10 – Inclusion of SME and supplier diversity
	<ul style="list-style-type: none"> <li>Suitability of project to deliver Well-being Statement (where applicable)</li> <li>Framework or individual procurement</li> </ul>	Welsh Government Community Benefits guidance <a href="http://www.prp.wales.gov.uk">www.prp.wales.gov.uk</a>
OJEU Notification	<ul style="list-style-type: none"> <li>Intention of including employment and skills development in the contract</li> </ul>	<b>Appendix D - Template Procurement Clauses:</b> Part 1 – Template Contract Notice Wording Welsh Government Community Benefits guidance <a href="http://www.prp.wales.gov.uk">www.prp.wales.gov.uk</a>
Prequalification	<ul style="list-style-type: none"> <li>SQ</li> </ul>	Appendix D - Template Procurement Clauses: Part 1 – Template SQ Wording
	<ul style="list-style-type: none"> <li>Evaluation of responses</li> <li>Selection of tenderers</li> </ul>	
Tender	<ul style="list-style-type: none"> <li>Presentation of benchmarks</li> </ul>	Appendix D - Template Procurement Clauses: Part 1 – Template Invitation to Tender Clauses Part 2 - Example Evaluation Information <b>Appendix A</b> Summary of Employment and Skills Areas <b>Appendix B</b> Benchmarks <b>Appendix C</b> Template ESP
	<ul style="list-style-type: none"> <li>Completion of ESP and Method Statements</li> </ul>	
Finalisation of Contract	<ul style="list-style-type: none"> <li>Clarification and finalisation</li> <li>Detailed Method Statement</li> <li>Agree costs</li> </ul>	<b>Appendix C</b> Template ESP <b>Appendix E</b> Template Contract Clauses <b>Appendix F</b> Section 106 Agreement Clauses
	<ul style="list-style-type: none"> <li>ESP</li> <li>Method Statement</li> <li>Monthly reviews/KPIs</li> <li>Measurement and reporting through Community Benefits Measurement Tool</li> <li>Final reviews</li> </ul>	
	Contract Documentation	

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

## 5.1 Legal and Policy Issues

### 5.1.1 Introduction

When procuring public works, goods and services, public sector clients have an opportunity to, and in some instances are required to, consider how they can act to improve the economic, social and environmental well-being of the particular area they operate in. A client may therefore consider and implement a range of initiatives that would promote skills, training, Apprenticeships and employment.

Following changes in the EU procurement regime, “social criteria” can be used by clients to shortlist candidates and to evaluate tenders, provided this is done in a way which is linked to the subject matter of the contract, evaluates the “Most Economically Advantageous Tender”, does not discriminate or favour certain contractors and otherwise complies with EU law.

### 5.1.2 Legal Obligations for Procuring Clients

The legal obligations on clients, in relation to procurement, operate on a number of levels. On a European level, the general principles of EU law apply, whilst more specific procurement rules are implemented at a national level (i.e. the Local Government (Wales) Acts, the Public Contracts Regulations 2015 and the Well-being of Future Generations (Wales) Act 2015 (explained below)).

At a more local level, clients are also responsible for formulating their own internal procurement rules and policies within the framework of guidance or directions issued by Welsh Government Value Wales, Communities and Local Government, HM Treasury and the Cabinet Office (Crown Commercial Service). Clients must also make and adhere to their own Standing Orders, providing for competition across their procurement needs. Within this large body of legal rules, there are a number of important legal constraints governing client procurement practices.

The 2012 Wales Procurement Policy Statement, updated in 2015, is clear that, in the delivery of added value in procurement, clients should consider the incorporation of community benefits such as employment and skills provisions. The means by which such requirements can be included and evaluated in the procurement will depend on whether they are considered as a ‘core’ or ‘non-core’ element to a specific project and will be subject to the client’s powers and governance documents (see section 5.2.4 below for further information). Welsh Government policy encourages clients to treat social issues, such as employment and skills requirements, as “core” to a procurement, unless there is justification for not doing so. Clients which are “Public Bodies” according to the WBFGA 2015 must also consider their obligation to fulfil the well-being objectives; they are audited on their fulfilment of setting well-being objectives and taking steps to meet those objectives at least once per ordinary General Election cycle (see section 15 of the WBFGA 2015).

### 5.1.3 EU Procurement Legislation

The main EU legislation on Public Procurement is Directive 2014/24/EU (the Directive), which has been implemented in the UK (except Scotland) by the Public Contract Regulations 2015 (the EU Regulations).

Local authorities are “contracting authorities” pursuant to the EU Regulations. Contracting authorities must comply with the provisions of the EU Regulations when procuring public works, services and supply contracts that exceed certain defined thresholds, and with the general principles of EU law and certain provisions of the EU Regulations below those thresholds. The current financial thresholds relevant to local authorities are:

**Works Contracts: £4,104,394 (net of VAT)**

**Services and Supply Contracts: £164,176 (net of VAT)**

These thresholds were updated on 1 January 2015 and will be valid until 31 December 2017.

As stated, even where the value of public works, services or supply contracts do not exceed the financial thresholds set out in the EU Regulations, clients should still adhere to the EU Treaty principles of transparency, equal treatment, non-discrimination, proportionality and the client’s own internal procurement procedures. There is also a requirement in Part 4 of the EU Regulations for local authorities and other sub-central government and NHS bodies to advertise contracts with values of £25,000 (or, £10,000 if a central government body) or more and if it is already advertising via other mediums, on UK Government’s “Contracts Finder” portal as part of a series of reforms intended to encourage the inclusion of small and medium enterprises (SMEs) into the UK procurement market. (As this guidance is focussed on higher value projects, the below-threshold obligations are not explored further.)

The EU Regulations set out detailed and complex rules which govern a contracting authority’s procurement procedures. Failure to comply with such rules can result in a client being subject to challenge by an aggrieved tenderer and, in some circumstances, a contract entered into by a client in breach of and the EU Regulations can be set aside and declared “ineffective.”

Given the consequences of breaching the EU Regulations, it is imperative that clients run compliant procurement procedures. However, this should not prevent them from focusing on structuring their procurements when they approach the market-place in order to oblige tenderers to consider added-value benefits, such as training and skills initiatives, as part of the contract delivery.

The EU Regulations allow clients to pursue “secondary” policies via procurement procedures (the primary policy aim in an EU-compliant process being to open up the common market and to subject the particular contract to EU-wide competition). The EU Regulations provide flexibility to consider secondary requirements (in terms of the protection of the environment, employment of the long-term unemployed and other training and skills initiatives) at all stages of a procurement: from the advertisement of the contract in the Official Journal of the European Union (OJEU) to the operation of the contract with the selected contractor, service provider or supplier.

Developments enshrined in the EU Regulations now enhance the ability of clients to evaluate social and environmental objectives through a legally compliant evaluation methodology and this Guidance sets out how clients can incorporate this additional flexibility into their procurement procedures.

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



### 5.1.4 Local Opportunities

EU principles of freedom of establishment and non-discrimination prevent clients from expressly requiring tendering contractors to provide opportunities for local residents, within a given area or even within the UK. Such obligations must not be included in either tender documents or contract conditions.

However, a client can make use of supply chain re-engineering processes following contract award, which allow the client to engage with the contractor to influence the choice of supply chain partners, either before start on site or over the duration of a long-term contract.

Please see Section 8 for further information on early contractor involvement and Section 9 regarding long-term contracts.

## 5.2 Process Issues

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

**Please note that an EU compliant procedure is only required for works Procurements exceeding the following thresholds:**

- **Works Contracts: £4,104,394 (net of VAT) (for both central and sub-central government)**
- **Supplies and Services Contracts: £106,047 (net of VAT) (for central government) and £164,176 (net of VAT) (for sub-central government)**

The thresholds are subject to change and up-to-date information can be obtained from the Tenders Direct website ([www.tendersdirect.co.uk](http://www.tendersdirect.co.uk)). These figures were updated on 1 January 2015. Local authorities and housing associations are deemed to be sub-central contracting authorities.

### 5.2.1 Market Consultation

The EU Regulations now specifically allow clients to consult the market before publishing a Contract Notice in the Official Journal of the European Union (a Contract Notice). This period of pre-procurement planning and initial consultation should be used to confirm that the project or framework of prospective projects is suitable for the Employment and Skills Strategy. Virtually all construction projects and frameworks have the potential for employment, skills, development and training, including Apprenticeships. Guidance on the levels of potential employment and skills outputs is contained in Appendix B - Benchmarks. Whilst the Benchmarks have been endorsed by NCSAG, clients should ensure that any requirements for certain levels of training, numbers of Apprenticeships and other benchmarks are proportionate to the subject matter and value of the contract as well as both relevant and non-discriminatory on an individual project basis.

At this stage, the client is able to engage with prospective tenderers as to how it sees the Employment and Skills Strategy being delivered through the project or framework. The client can also gauge the potential interests of SMEs, start-ups and suppliers which champion employment and skills practices. The client also needs to decide which procurement procedure is to be used – Open, Restricted, the Competitive Procedure with Negotiation, Competitive Dialogue or the Innovation Partnership Procedure. The Competitive Procedure with Negotiation and the Competitive Dialogue Procedure are only available in the limited circumstances set out in the EU Regulations.

### 5.2.2 OJEU Notification Process

The next stage of a procurement (whether using the Open, Restricted, Competitive Procedure with Negotiation, Competitive Dialogue or Innovation Partnership procedure) is usually the completion and submission of a Contract Notice in the Official Journal of the European Union (OJEU). The Contract Notice is an EU-wide advertisement that notifies the EU market-place that the client intends to procure a contract, framework or dynamic purchasing system for works, services or supplies.

A Clause should be included within the Contract Notice setting out the intention of the client to include skills development, including Apprenticeships, within the project or framework. Please see Appendix D Part 1 for example wording. When including the Employment & Skills Strategy in the Contract Notice, clients must do so in a way that is not discriminatory with regard to the country of origin of potential tenderers.

Under the EU Regulations, local authorities and other non-central government entities may now publish a Prior Information Notice (a PIN Notice) in the OJEU in order to call for competition, rather than using a Contract Notice, if they are adopting a Restricted Procedure or a Competitive Procedure with Negotiation. A PIN may also still be used by all contracting authorities to indicate the essential details of its future procurement plans. A PIN may be used to shorten the timescales for the Open Procedure, the Restricted Procedure and Competitive Procedure with Negotiation, where it is issued at least 35 days before and not more than 12 months in advance of a Contract Notice. In this case, the PIN must include the information that would be included in the OJEU Notice, where available. A PIN is not mandatory, unless it is being used to shorten timescales, and nor will it commit the client to carrying out the contracts identified.

In addition to publishing a Contract Notice for above threshold contracts, the Welsh Government's Sell2Wales portal enables public sector clients to advertise procurement opportunities and increase accessibility for small or medium sized enterprises (SMEs), though for above-threshold contracts the Contract Notice must be submitted to the OJEU prior to being advertised on the portal. Clients can use the portal for above and below threshold contracts. It has significantly increased engagement between contractors and suppliers. Utilising Sell2Wales will allow businesses to:

- promote their companies to all Welsh public sector clients
- search all public sector Contract Notices
- search the supplier database for potential bid collaborators
- share best practice

For further information, visit [www.sell2wales.gov.uk](http://www.sell2wales.gov.uk)

### 5.2.3 Selection

Contractors must respond to the Contract Notice, indicating their interest in tendering for the contract. In the Restricted Procedure, the Competitive Procedure with Negotiation and the Competitive Dialogue Procedure, clients will dispatch a "Selection Questionnaire" (SQ) to those contractors that have expressed an interest. This next stage of the OJEU notification process is where the client evaluates the responses submitted by the contractors in order to select a short-list of contractors for the purposes of tendering. In the Open Procedure, this short-listing process is not allowed and Invitations to Tender are simply made available to interested contractors. For works contracts of a value below £164,176 (net of VAT) the use of a SQ is now prohibited pursuant to Regulation 111 of the EU Regulations, though 'suitability questions' may be asked.

At this SQ selection stage, a client must only consider information relating to each contractor's financial or economic standing, technical or professional ability and other issues that provide the client with grounds

for rejection, as set out at Regulations 57 and 58 of the EU Regulations. It is essential at this stage that clients do not ask questions pertaining to the performance of the proposed contract, but rather focus on the past performance and experience of the contractors. Clients should carefully consider the wording of any employment and skills questions at this stage (including the example wording at Appendix D Part 1) to ensure that it will not prejudice Small or Medium Enterprises (SMEs) or new start-up companies who do not have the requisite experience, but who may nevertheless be competent to deliver the skills, training and Apprenticeship requirements under the proposed contract.

For the purposes of the selection stage, a Clause could be included within the selection questionnaire requiring prospective contractors to indicate their experience of implementing employment, skills development and training on previous projects or frameworks similar to the level required by the client and to set out a short Method Statement as to how they have achieved this on previous projects or frameworks, indicating what levels of training, including Apprenticeships, have been historically offered. A word limit of, say, 500 words could be included. Please see Appendix D Part 1 for example SQ wording. Clients may also find the Supplier Qualification Information Database (SQuID) a useful source of questions which can be adapted to their requirements.

Responses to the request in the SQ for previous employment and skills experience can be allocated points, evaluated and used as selection criteria.

#### 5.2.4 Tender Process and Tender Evaluation

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

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

Previously, European case-law provided an unclear position for UK contracting authorities wanting to evaluate social criteria (such as employment and skills) as part of their EU procurement procedure. This meant that previous versions of this Guidance reflected the prevailing view which was that social criteria could not be evaluated unless they formed the primary purpose of the contract (which in relation to a major construction project is the construction of a building or facility).

Following the adoption and implementation of the Directive and the EU Regulations, clients can use tender evaluation criteria based on employment and skills criteria, provided they are linked to what the client is buying, are proportionate, comply with EU law and evaluate the Most Economically Advantageous Tender. Further, the criteria should allow objective comparison of tenders, be published in advance and not discriminate/favour potential contractors. This position is supported by Guidance issued by the Cabinet Office and Crown Commercial Service, which encourages England and Wales contracting authorities to include evaluation criteria which take account of social issues such as employment and skills.

A client needs to be confident that it has the authority within its own governance arrangements to procure both a construction and an employment/training contract, and to treat employment and skills requirements as "core." Welsh Government has taken a policy decision that all procuring clients should regard employment and skills requirements as core to the procurement as the default position, unless it can be demonstrated that this is not viable.

This default position is set out in the 2012 Wales Procurement Policy Statement (as updated in 2015). This statement makes it clear that addressing social issues through community benefits should be applied to all public sector procurements where such benefits can be realised. In addition, the 2015 Statement requires procuring clients to apply the Community Benefits Measurement Tool to any such contract with a value of over £1 million, in order to capture and report outcomes to the Welsh Government.

### Introduction to the Two Recommended Evaluation Options

Previously, how employment and skills requirements are treated at Invitation to Tender stage depended on whether they were considered by the client as a 'core' requirement of the specific project or framework procurement. 'Core' requirements are treated as award criteria and would be evaluated to measure the quality of a contractor's submission against the requirements of the specification. However, given the increased flexibility in the EU Regulations to include employment and skills requirements in the tender evaluation process, it is no longer necessary to define the requirements as "core" to be able to use them as award criteria (though the definition of Community Benefits as "core" and "non-core" should still be done followed pursuant to the 'Delivering Maximum Value for the Welsh Pound' guidance).

Given the flexibility that now exists under the new EU procurement regime, CITB has sought to provide clients with an additional evaluation option (the "Evaluation" Option) that can be used in the event that a client wants to evaluate the employment and skills agenda at tender stage. The original approach (referred to in this Guidance as the "Confirmation of Commitments" Option) remains legally compliant, efficient and effective under the new EU procurement regime and therefore it has been retained as an evaluation option under this Guidance.

At this stage, it is worth noting that Regulation 53 of the EU Regulations states that, "Contracting authorities shall, by means of the internet, offer unrestricted and full direct access free of charge to the procurement documents from the date of the publication in the Official Journal of a notice..." There is industry debate as to what Regulation 53 requires a client to do. While a strict reading suggests all procurement documents required by the procurement process must be made available at the same time as the publication of the Contract Notice, the Crown Commercial Service (CCS) have released (non-binding) guidance - current version at the time of writing this Guidance is 17 September 2015 - which pursues a purposive approach, suggesting that documents can be published as they are finalised, at different stages of the process. While CCS guidance may be subject to review in subsequent editions, it is CITB's view that as much reference to the client's Employment and Skills Strategy (including how it is to be evaluated or included in the contract) should be made as possible at the time of publishing the Contract Notice as this helps to promote the aims of the client as set out in such strategy and ensures that such aims are at the forefront of the minds of tenderers. This applies to both the Confirmation of Commitments and the Evaluation options.

#### The "Confirmation of Commitments" Option

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

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

Questions should be inserted in the standard Invitation to Tender (ITT) so that the requirements of the client detailed in its Employment and Skills Strategy are set out clearly and tenderers' responses are obtained in a



format that can be taken forward by the client post-tender (completion of the ESP). This ensures that there is no ambiguity as to what is expected of the contractors, whilst still allowing the contractors a degree of flexibility to “add value” or go over and above such requirements. The Employment and Skills Strategy also creates a “bottom line” for any future developments under a framework agreement.

The contractors’ responses with regard to the ESP and Method Statement should state their commitment to deliver the Employment and Skills Strategy, the minimum benchmarks and any cost of doing so. In any other regard this option assumes that such responses will not be subject to evaluation. Instead these responses are taken forward with the client post-tender.

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

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

In respect of the Open and Restricted Procedures, the EU Regulations presume that the client will set out its requirements in the tender documentation and will award on the basis of the tender responses received.

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

## The “Evaluation” Option

Under the Directive and the EU Regulations a client can use tender evaluation criteria relating to the employment and skills agenda when evaluating the tenders received from contractors. Clients should note that, pursuant to the Wales Procurement Policy Statement 2012 (as updated in 2015), ‘non-core’ requirements should not be used as award criteria during the evaluation. This option is therefore relevant to ‘core’ requirements only.

Unlike the “Confirmation of Commitments” approach, the Evaluation approach is structured so that a client includes evaluation criteria relating to the provision of skills, development, training and Apprenticeships linked to the delivery of the Employment and Skills Strategy in the procurement process. Use of such award criteria is permitted provided that they are linked to the subject matter of the contract, are proportionate, they comply with EU law, evaluate the Most Economically Advantageous Tender and do not discriminate or favour certain contractors. The award criteria must also mean that the objective comparison of tenders remains possible.

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

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

In addition to the ESP and Method Statement, questions may be inserted by the client in its Invitation to Tender so that their requirements are set out clearly and tenderers’ responses are thereby obtained in a more standardised format that can be evaluated on a “like-for-like” basis and can be taken forward by the parties post-tender (e.g. for the completion of the ESP). This has the added benefit of ensuring that there is no ambiguity as to what is expected of the contractors, whilst still allowing the contractors the flexibility to “add value” or go over and above such requirements. The Employment and Skills Strategy also creates a “bottom line” for any future developments under a framework agreement.

As part of the required responses with regard to the ESP and Method Statement, the tenderers are likely to be required to state their commitment to deliver the Employment and Skills Strategy, the minimum benchmarks and any cost of doing so. The client is then likely to use this initial requirement as a baseline and allocate scores to specific questions relating to their employment and skills requirements or certain sections of the ESP, Method Statement or added value proposals.

The minimum benchmarks will then be evaluated by the client on a pass/fail basis so that all tenders submitted comply with the minimum benchmarks set out in the client’s Employment and Skills Strategy (this is identical to the “Confirmation of Commitments” approach and therefore if a tenderer fails to confirm their commitment to implement the minimum benchmarks on the contract or framework, the client is likely to reject that tender). It is important for tenderers to note that a client is unlikely to waive any of the minimum benchmarks once they have been declared in the procurement documents and/or tenders have been invited, in the interests of transparency and equal treatment and are specifically restricted by the EU Regulations from removing minimum requirements once these have been stated.

The tenderers should be asked to review the evaluation information carefully in order to ascertain which elements of the tenderer’s responses the client will be evaluating via its scoring and weighting exercise, for example:

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

A client must clearly set out in its procurement documents what award criteria and (ideally) the weighting it will use to evaluate the tenderers’ ESP and/or Method Statement and/or added value proposals. The weighting may not be set out if tenders are either to be evaluated purely on price, or it is not objectively possible to set out the weighting (in which case it should set out the decreasing order of importance of each criterion).

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

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

In summary, the “Evaluation” option requires the client to set out the minimum benchmarks it will require in respect of the relevant contract/framework agreement and requires the client to make it clear that minimum benchmarks are absolute requirements. The Invitation to Tender should also set out which elements of the tenderers’ responses it wishes to evaluate along with the relevant evaluation criteria, alongside all of the other qualitative evaluation criteria in the Contract Notice or procurement documents, ideally with their weightings. Where the knowledge of sub-criteria and their related weightings could affect the preparation of a tender, these should also be disclosed to tenderers in advance of them preparing their tender.

Clients may also include pricing requirements and selected price evaluation information in its Invitation to Tender, if it has chosen to evaluate the costs of delivering the ESP separately from the overall contract sum. In any event, the client is likely to expect that all commitments made by the tenderer in its ESP and Method Statement are fully priced in the tender proposal, unless stated otherwise.

### 5.2.5 Project Implementation and Review

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

### 5.2.6 Key Performance Indicators

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

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

- Whether failure to meet an agreed KPI target is a breach of contract giving rise to a claim for damages or even right of termination - these are onerous remedies and in most cases are unlikely to be appropriate
- Creation of links between achievement of the KPI targets and the level of profit payable to the appointed contractor - this approach can be a powerful incentive which needs to be integrated clearly in the pricing structure used for payment of the contractor in relation to each project so that any additional payment does not fall foul of the test in Regulation 72 of the EU Regulations on modification of contracts
- Creation of links between the achievement of KPI targets and the award of future projects pursuant to a framework agreement - this is another powerful incentive for contractors to treat the KPIs and targets seriously

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

### 5.2.7 Contract Development

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

The Competitive Dialogue Procedure and the Competitive Procedure with Negotiation does allow some scope for structured negotiation with tenderers and it may be that the client would prefer to finalise its requirements and the contractor's proposals within the dialogue or negotiation phase of the relevant procurement procedure, so that final tenders are obtained on the basis of a well-developed ESP and Method Statement that will be subject only to fine-tuning or minor clarification post-tender. However, this procedure is only appropriate in respect of complex procurements and its adoption would need to be justified in respect of the relevant project as a whole, rather than only on the strength of a client's need to examine tenderers' proposals for an ESP (see Section 5).

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

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

**Early Contractor Procurement** - for a particular project by use of a two-stage contract such as PPC2000 which contains a procedure for completing details of the ESP in tandem with finalisation of designs and supply chain members; and/or

**Re-engineering Long-term Contracts** - for multiple projects by creation of a framework agreement or term contract that allows for a call-off procedure during which ESPs can be finalised to match the requirements of the designs and supply chains required for particular projects. Regardless of the procurement adopted, please refer to Appendix D Part 1 for template procurement Clauses, Appendix E for template contract Clauses, Section 8 regarding early contractor involvement and Section 9 regarding re-engineering of long-term contracts.

### 5.2.8 Contract Documentation

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

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

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

- Have been mentioned in the Contract Notice or tender documents (at the latest)
- Be relevant to the performance of the contract
- Be proportionate to the contract subject matter
- Be transparent and non-discriminatory
- Be linked to the subject matter of the contract

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

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

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



We have included provision in the suggested template Clauses for the ESP and key performance indicators to be reviewed by both parties, so that, in the event that the scope of works is substantially varied, the contractor is not bound to deliver output benchmarks which are not achievable and so that the client is getting best value out of the overall cost of the project. For the avoidance of doubt, this variation procedure should apply only to a change in work under the building contract post-award and is not designed to accommodate flexibility in a tenderer's tender at the procurement stage - the client's benchmarks should still be committed to as a minimum requirement.

### 5.2.9 Identifying 'powers' to implement Community Benefits

*"When considering whether to pursue community benefits in the context of any procurement process, a contracting authority must determine whether they have the legal power, express or implied, to do so. Without appropriate powers, community benefits cannot form part of a Contracting Authority's procurement exercise."*

'Community Benefits: Delivering Maximum Value for the Welsh Pound', Welsh Government 2014.

Examples of such sources of 'power' are:

For Welsh Government's own procurement or those it leads on as collaborative arrangements for other public bodies in Wales;

- The Government of Wales Act 2006, Section 60 'well being' power

For organisations in receipt of Welsh Government 'hypothecated' grant funding, conditions of grant may have delivery of community benefits attached.

For Welsh Local Government, local authorities own procurements or those it leads on as collaborative arrangements for other public bodies in Wales

- Local Government Act 2000

For public bodies fulfilling a devolved activity;

- Well-being of Future Generations Act 2015

'Public Bodies' is defined as:

(a) the Welsh Ministers

(b) a local authority

(c) a Local Health Board

(d) the following NHS Trusts

(i) Public Health Wales

(ii) Velindre

(e) a National Park authority for a National Park in Wales

(f) a Welsh fire and rescue authority

(g) the Natural Resources Body for Wales

(h) the Higher Education Funding Council for Wales

(i) the Arts Council of Wales

(j) the Sports Council for Wales

(k) the National Library of Wales

(l) the National Museum of Wales

For NHS Wales – Local Health Boards or NHS Trusts in Wales own procurements or those it leads on as collaborative arrangements for other public bodies in Wales

- The NHS (Wales) Act 2006

Other potential sources of 'power' may be found by reviewing, for example:

- Organisation's Constitution

- Standing Orders

- Financial Regulations

- Business Plans

- Established Orders or equivalent

- Standing Financial Instructions

- Organisation's Policies/Procedures

- Sustainable Development Policy

- Equality and Diversity Policy

- Organisation's Goals and Objectives

- Community Strategy

- Procurement Strategy

- Regeneration Programmes including: EU Regional Development Fund, European Social Fund

## 5.3 Competitive Dialogue Procedure

The Competitive Dialogue is a procedure which allows the client to enter into structured dialogue and negotiation with its tenderers as part of the procurement process. Regulation 26(4) of the EU Regulations states that the Competitive Dialogue Procedure may be used where:

- The needs of a contracting authority cannot be met without the adaption of readily available solutions
- The contract includes design or innovative solutions
- The contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, complexity or legal and financial makeup or because of the risks which are attached to them and/or
- The technical specifications of the contract cannot be established with sufficient precision by a contracting authority with reference to a standard common technical specification

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

As under the Restricted Procedure, the client will specify its needs in a Contract Notice published in the OJEU. The client's requirements may be further elaborated in a descriptive document, sent to interested tenderers, most likely with the SQ. Once the client has completed its shortlist (minimum of 3, if numbers allow),

those tenderers are then invited to dialogue with the client and the dialogue phase of the procedure should continue until the client is capable of identifying “one or more solutions capable of meeting its needs.” The EU Regulations allows the client to discuss all aspects of the contract with the shortlisted tenderers. Once the client declares that the dialogue has concluded, the tenderers can only be requested to clarify, specify or optimise their tenders without making any changes to the basic features of the tender.

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

Regulation 30(20) of the EU Regulations allows the client, once it has identified the contractor which has submitted the tender presenting the best price-quality ratio in accordance with Regulation 67 of the EU Regulations, to confirm financial commitments and other terms contained in the tender. This allows a client to work with the identified tenderer to finalise the terms of the contract provided that this does not have the effect of materially modifying essential aspects of the tender including the needs and requirements set out in the Contract Notice nor must it risk distorting competition or cause discrimination.

The Competitive Dialogue procedure is used for procurement of PF2 (previously PF1) contracts amongst others. Appendix G of this guidance contains suggested template Clauses to be read in line with the Standardisation of PF2 Contracts (Version 4) (PF2). These template Clauses can be inserted into a PF2 Project Agreement, usually entered into between the client and a special purpose vehicle (SPV) who will carry out the construction/ refurbishment and provide the longer-term services. Please note that in most cases, the employment and skills requirements set out in the template Clauses will be passed down by the SPV to the contractor under the building contract.

## 6.0 Legal, Policy and Process Advice for Planning Policy

### 6.1 Training and Local Employment under the Planning System

Under the planning system in England and Wales, which is governed by the Town and Country Planning Act 1990 (TCPA 1990), requirements concerning the provision of training and local employment can be considered when local planning authorities (LPAs) determine planning applications for new developments.

At this point it is worth noting that the Planning (Wales) Act 2015 has introduced the possibility of Strategic Planning Areas (SPAs), each with a Strategic Planning Panel (SPP), which would be a merging of two or more LPAs and which must prepare a Strategic Development Plan (SDP) which sets out the SPP’s objectives and policies for implementing those policies, for the SPA. The SDP must be in general conformity with the National Development Framework (NDF) which, as of the date of writing, has not been published (the NDF replaces the Wales Spatial Plan). Clients should be aware of the possibility of a national or area-wide policy when looking at planning in any particular situation. As the Planning (Wales) Act 2015 is part of a series of legislation aimed at sustainable development to secure the long-term well-being of Wales, it is probable that employment and skills may become a key aim in these policies.

### 6.2 Planning Policies

The LPAs can justify imposing requirements concerning the provision of employment when determining planning applications by adopting planning policies providing for such requirements, as planning applications must be determined in accordance with adopted planning policies unless material considerations indicate otherwise.

Requirements will vary according to each LPA’s priorities concerning employment and skills and also according to the type and scale of the development. However, The LPA will need to set out its approach in its planning policies so that developers are aware of these requirements and their imposition as part of the planning process can be justified.

Planning policies should be contained in the LPA’s Local Development Framework together with any saved policies from their previous local plan. National planning policies must also be considered in determining applications.

### 6.3 Local Development Framework

The Planning and Compulsory Purchase Act 2004 introduced the requirement for LPAs to replace their current development plans with a Local Development Framework. A Local Development Framework comprises a suite of planning policy documents published by an LPA. These include the development plan documents (broadly the Core Strategy and Development Management Policies) together with what are known as Supplementary Planning Documents (SPDs).

SPDs are planning policy documents which expand upon policies contained in the development plan documents. For example, an LPA will typically publish an SPD which sets out the types of planning obligations it will seek to impose under legal agreements entered into pursuant to Section 106 of the TCPA 1990 (Section 106 Agreements), and this may include planning obligations concerning the provision of training and local employment opportunities.



# 7.0 Legal, Policy and Process Advice for Development Control

## 7.1 Implementing Requirements in Planning Policies

The requirements concerning the provision of training and local employment set out in a LPA's planning policies may be imposed by an LPA when determining a planning application for development under the development control process.

Typically, the LPA will impose these requirements on a developer or a land owner of a development site through either:

- Conditions attached to a planning permission or
- Planning obligations imposed under a Section 106 Agreement

## 7.2 Planning Conditions

Planning permission may be granted subject to conditions. National planning policy requires conditions to be necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects. There is no reason why a planning condition containing requirements with respect to employment and skills cannot meet these tests; indeed, it is common to see a planning condition containing these requirements.

## 7.3 Section 106 Agreements

LPAs will often require that a Section 106 Agreement is entered into by the landowner immediately before the LPA issues planning permission for the development. The main purpose of a Section 106 Agreement is to mitigate what the LPA considers to be the impacts of the proposed development. Section 106 Agreements often, therefore, require payment towards or the provision of local infrastructure such as schools, roads or open space.

Government policy requires Section 106 obligations to be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. As with planning conditions, there is no reason why employment and training requirements cannot meet these tests.

## 7.4 Community Infrastructure Levy

In 2008 the Government introduced the Community Infrastructure Levy (CIL). This is essentially a tax on development to fund local infrastructure, and it was intended to replace the funding of local infrastructure through Section 106 Agreements. The amount of CIL to be paid will be calculated by reference to the net additional floor space a development will create.

The distinction between CIL and contributions in Section 106 Agreements concerns how and where the money is to be spent. CIL contributions are intended for off-site initiatives, pooled from a number of developers to fund something unrelated to the individual developments (e.g. a community training facility). Section 106 contributions or employment and skills commitments will be directly connected to the relevant development.

CIL may only be collected for the provision, improvement, replacement, operation or maintenance of "infrastructure", the meaning of which is set out in the Planning Act 2008. It includes local schools, other educational facilities, medical facilities, roads and open spaces.

The provision of employment and skills opportunities will not fall within the definition of "infrastructure" and, therefore, falls outside of the scope of CIL. The CIL regime therefore creates no obstacle to the imposition of employment and skills obligations in Section 106 Agreements which, along with planning conditions, will be the means of imposing such obligations in the planning process.

## 7.5 Types of Planning Obligations and Conditions

Requirements for the provision of training and local employment (whether they are provided for under a Section 106 Agreement or pursuant to a condition attached to a planning permission) usually take the following form:

- Obligations to employ local labour and provide Apprenticeships and training during the construction phase of the development
- A financial contribution to be paid to the LPA to be spent on the provision of construction industry training and providing employment opportunities within the administrative area of the LPA. Such an obligation may only be imposed in a Section 106 Agreement (and not, therefore, by condition)

For an example of the types of planning conditions and Section 106 obligations providing for the provision of training and local employment, please refer to Appendix F - Template planning obligations and Section 106 Agreement Clauses.

## 7.6 Local Opportunities

Whilst EU procurement procedures prohibit the concept of "local" employment opportunities to be expressly referred to in tender documents or contract conditions (as this concept cuts across the EU principles of freedom of establishment and non-discrimination), as LPAs are only responsible for their administrative area, employment and training obligations imposed under the planning regime will link the provision of training and employment initiatives to the area of the development. This is a key difference to be noted by local authorities when implementing their Employment and Skills Strategy.

# 8.0 Early Contractor Involvement

In addition to the employment and skills outputs obtained through the EU procurement process, a methodical approach to early contractor involvement can achieve contractor, subcontractor and supplier contributions in the delivery of employment and skills.

A number of clients have already achieved significant results through use of this approach, including local jobs and training opportunities, and other community benefits.

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

## 8.1 What is Early Contractor Involvement?

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

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

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

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

### 8.2 How does Early Contractor Involvement Work?



The benefits of the two stage approach are:

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

### 8.3 Early Contractor Procurement and the EU Regulations

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

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

### 8.4 Early Contractor Procurement and Standard Form Contracts

Early contractor procurement is dealt with in relatively few published contract forms.

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

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

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

### 8.5 Early Contractor Involvement in Practice

Improvement of employment and skills commitments through early contractor involvement has been tested on the “Trial Projects” programme implemented pursuant to the 2011 Government Construction Strategy. The Client-Based Approach has been combined with early contractor involvement through a Government-recommended procurement model known as “Two Stage Open Book”. Successful implementation of the Client-Based Approach was combined with Two Stage Open Book to improve employment and skills obtain outcomes plus savings and other improved value on the Ministry of Justice Trial Projects at “Cookham Wood” (<https://www.gov.uk/government/publications/procurement-trial-case-study-cookham-wood-prison>) and “North Wales Prison” (<https://www.gov.uk/government/publications/procurement-trial-case-study-new-prison-north-wales>), and on the “Property Services Cluster” Trial Project led by Hampshire County Council, Surrey County Council, Reading Borough Council and West Sussex County Council (<https://www.gov.uk/government/publications/procurement-trial-case-study-property-services-cluster-iese>).

Recommended processes and techniques drawn from the Trial Projects, including links to the Client-Based Approach, are available in “Procurement and Delivery Guidance Using Two Stage Open Book and Supply Chain Collaboration” produced by Cabinet Office in conjunction with King’s College London Centre of Construction Law (<https://www.gov.uk/government/collections/new-models-of-construction-procurement>).



# 9.0 Long Term Contracts and Supply Chain Collaboration

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

- Framework Agreements and/or
- Term Contracts

## 9.1 Use of Long-term Contracts

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

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

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

## 9.2 Framework Agreements and Term Contracts

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

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

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

## 9.3 How Does Supply Chain Collaboration Work Under Long-term Contracts?

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

The benefits of supply chain collaboration are the opportunities:

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

## 9.4 How are Long-term Contracts Relevant to Employment and Skills?

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

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

## 9.5 Long-term Contracts and the EU Regulations

The systems for supply chain collaboration do not likely conflict with the EU Regulations or any other aspect of EU procurement law. They are predicated on the assumption that any accepted proposals will include lower prices and improved value as well as enhanced employment and skills commitments, which are not perceived of as being substantial when in favour of the client and represent savings of efficiencies, for example.

## 9.6 Is There a Commercial Incentive for the Supply Chain?

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

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

## 9.7 Consortia

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

## 9.8 Supply Chain Collaboration in Practice

Improvement of employment and skills commitments through supply chain collaboration was also successfully tested on the Westminster Government's Trial Projects programme. For example, the Surrey County Council "Project Horizon" Trial Project (<https://www.gov.uk/government/publications/procurement-trial-case-study-report-highways-maintenance>) recorded agreement by the client, main contractor, sub-contractor and supplier of "improved Apprenticeship commitments...supplementing employment and skills commitments already agreed ....under an employment and skills plan made in accordance with the CITB Client-Based Approach".

Recommended processes and techniques for successful Supply Chain Collaboration, drawn from the Trial Projects and with links to the Client-Based approach, are included in the Guidance described in Section 8.5.

## 10. Inclusion of SME Contractors and Supply Diversity

SMEs form the core of the construction industry and are likely to employ a higher percentage of trainees and Apprentices than their larger competitors. However, clients are at risk of inadvertently excluding such small and diverse businesses by opting for a "bulk-buy" or a framework approach for their procurement needs and including increased skills and training requirements in respect of which SMEs are (by their nature) too small to compare favourably against larger competitors with established track records and more resources.

Furthermore, many SMEs see the EU Regulations as a barrier to participation in client procurement processes. Often, they will not have the available resources and experience of tendering for work under structured, formal procedures and as pre-set evaluation criteria often concentrate on capacity and effectiveness requirements, the results tend to lead to the appointment of larger firms.

Given this, the new EU Regulations include a number of Regulations that implement the recommendations made by Lord Young of Grafham (the Prime Minister's Enterprise Advisor) in his report of May 2013, "Growing your Business", designed at increasing access to the public sector marketplace by SMEs, reducing the administrative burden of participating in a regulated procurement process and increasing the cash flow throughout the supply chain tiers.

As highlighted in John McClelland's 2012 report, "Maximising the Impact of Welsh Procurement Policy", Welsh Government has "recognised for some years the important relationship between public procurement and the economy."

Welsh Government advocates a simple and consistent approach to the administration of procurements in order to encourage SMEs to bid. This can be achieved through using the SupplierEuropean Single Procurement Document Qualification Information Database (SQuID) (ESPD), which, as outlined in Section 5.2.3, enables clients to streamline the SQ process by using standardised questions. It also allows bidders to store and reuse standard answers to questions, so as to cut down the administration time. This is of particular benefit to SMEs who may have limited resources.

The Sell2Wales website enables procuring clients to advertise opportunities to a database of Welsh businesses. It also empowers SMEs to promote themselves to Welsh public sector bodies and search all tender notices that are relevant to their business and geographical area. The supplier forums enable companies to easily share best practice and know-how.

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

- Improving access to tender opportunities by advertising both contract opportunities and contract awards on the UK Government's Contracts Finder website, in SQuID, local and trade press and the client's website as well as the Official Journal of the European Union (OJEU)
- Simplifying the administrative processes involved in an OJEU procedure (i.e. what questions are asked in the SQ by use of a standard template SQ and abolishing SQs for "below-threshold" contracts), and presenting documents in clear and concise language
- Offering coaching or guidance notes to all tenderers on how to complete the documentation and how the process will run, and consider increasing the time-scales so they are long enough for the SMEs (who often have little or no administrative tender support) to respond
- Encouraging alternative routes into the market (i.e. SMEs acting as sub-contractors to larger firms) including using the Buyer Contractor Sub Contract Notice facility at [www.sell2wales.org.uk](http://www.sell2wales.org.uk)
- Encouraging SMEs to tender for larger contracts as part of a consortium

In order to boost the creation and development of SMEs, Welsh Government encourages the use of its Business Wales initiative, which provides support and advice in relation to:

- starting up a business
- running a business
- growing a business
- financing a business
- utilising grants and support

### Useful links:

Sell2Wales: [www.sell2wales.gov.uk](http://www.sell2wales.gov.uk)

Procurement Route Planner: <http://prp.wales.gov.uk>

SQuID: <http://prp.gov.uk>

Business Wales: [www.business.wales.gov.uk](http://www.business.wales.gov.uk)

Joint Bidding Guide: <http://prp.wales.gov.uk/jointbidding>

Community Benefits "Buyer's guide": Community Benefits": Delivery Maximum Value for the Welsh Pound



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# Appendix A

## Summary of the Employment and Skills Areas

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

### KPI 1: Work Experience Placements

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

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

#### This target relates to (data reporting lines)

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

**KPI Measure:** 1 completed work placement represents 1 outcome

#### Evidence:

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

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

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

### This target relates to (data reporting lines)

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

**KPI Measure:** 1 individual represents 1 outcome

### Evidence:

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



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

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

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

The key target groups for delivery of this outcome are

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

**KPI Measure:** 1 event represents 1 outcome.

### Evidence:

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





## KPI 4: Training Weeks on Site

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

This target relates to (data reporting lines)

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

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

**Suggested Evidence:**

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



## KPI 5: Qualifying the Workforce

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

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

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

**This target relates to (data reporting lines)**

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

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

**KPI Measure.** 1 Qualification /certification achieved represents 1 outcome

**Evidence:**

Completion certificates.

## KPI 6: Training Plans

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

**KPI Measure:** 1 new or annually renewed company training plan

**Evidence:**

A copy of the training plan with start and completion dates



## KPI 7: Case Studies Approved

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

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

**KPI Measure:** 1 Case Study approved represents 1 outcome

**Evidence:**

Copy of approved case study





## Appendix B Benchmarks

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

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

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

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



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

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

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

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



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

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

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

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

## 13.0 Judicial

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

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



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

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

15.0 Non-housing repairs and maintenance		band 1	band 2	band 3	band 4	band 5	band 6	band 7	band 8	band 9	band 10	band 11	band 12	band 13
		£1 - 3.5m	£3.6 – 6m	£6.1 - 10m	£10.1 - 15m	£15.1 - 20m	£20.1 – 30m	£30.1 - 40m	£40.1 – 50m	£50.1 – 60m	£60.1 - £70m	£70.1 – 80m	£80.1 – 90m	£90.1 - £100m
1	Work Placement - persons	2	4	5	7	9	10	13	15	15	16	16	17	17
2	Jobs created by NSAfC projects	0	1	3	6	6	8	8	9	11	11	12	12	14
3	Construction Careers Information, Advice & Guidance (CCIAG) Events	1	1	2	3	4	4	5	6	7	7	7	8	8
4	Training Weeks on site	50	106	179	279	391	558	782	1005	1229	1452	1676	1899	2123
5	Qualifying the Workforce – project workforce													
	Total of 5(a) plus 5(b)plus5(c) plus 5(d)	2	2	5	7	8	11	11	11	12	12	13	16	16
5(a)	Qualifications gained (equiv. NVQ2 and above)	0	0	2	3	3	5	5	5	6	6	7	8	8
5(b)														
5(c)	Industry certification gained	2	2	3	4	5	6	6	6	6	6	6	8	8
5(d)														
6	Training Plans	1	1	1	1	1	2	2	2	2	2	2	2	2
7	Case Studies	Project Specific – to be agreed pre-approval												

## 16. Highways maintenance

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

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

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



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

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

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

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

# Appendix C

## Template Employment and Skills Plan (ESP)

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

# Appendix D

## Part 1 Template Procurement Clauses

- 1.0 Contract Notice
- 2.0 Pre-Qualification Questionnaire
- 3.0 Invitation to Tender

### 1.0 Contract Notice

A standard Clause should be inserted in the Contract Notice (or the PIN if using it as a call for competition) to put contractors on notice that the contract documents are likely to include special Terms dealing with skills development, training and employment initiatives. This is required by Regulation 70 of the Public Contracts Regulations 2015. Therefore, the client should insert the following at Section II.2.2 of each Contract Notice:

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

### 2.0 Pre-Selection Questionnaire (SPQ)

The following questions can be inserted in the client’s SPQ. These should assist in assessing a contractor’s technical ability in relation to skills development training and Apprenticeship schemes.

*“Please detail your previous experience in implementing skills development, employment, Apprenticeship or training schemes on similar programmes or projects (in terms of value and scope of works/services to the proposed programme/project)”*

*Please also indicate if on previous contracts you have provided any of the following:*

- Support towards securing college places for workforce operatives
- Financial support towards studies for workforce operatives
- Financial support for professional qualifications or equipment
- National Vocational Qualifications (S/NVQ) qualifications or national equivalent through On Site Assessment
- Work experience placements for full-time students Support for existing Apprentices and/or recruitment of new Apprentices
- Training to achieve Construction Skills Certification Scheme (CSCS) Card qualification or national equivalent
- School engagement activities
- Professional advice, guidance and support and/or
- Employment and training events



And provide brief details of how you have achieved and implemented each initiative on a project specific basis whether pursuant to contractual commitment or otherwise. Have you failed to meet any agreed targets or commitments relating to any of the above and, if so, why?"

### 3.0 Invitation to Tender Template Clauses

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

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

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

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

#### Tender Action Point 1: Employment and Skills Plan

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

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

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

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

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

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

#### Tender Action Point 2: Employment and Skills Plan Method Statement

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

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

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

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

# Appendix D Part 2

## Example Evaluation Information

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

### 1.0 Example Scoring Table

### 2.0 Example Evaluation Matrix

## 1.0 Example Scoring Table

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

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

## Example Evaluation Matrix

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

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

- **Quality – 60%**

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

- **Commercial – 40%**

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

## Qualitative Evaluation

Quality Question Number	Description of Criteria and Sub-criteria	Weighting
1.	Acceptance of Contract Terms and Conditions	Pass/Fail
6.	Employment and Skills Minimum Benchmarks	Pass/Fail
2.	Design Proposal for: Phase 1 Phase 2	20% as split as follows: P1 – 12.5% P2 – 7.5%
3.	Construction Timetable	10%
4.	Approach to: Risk Completed Risk Register	10% split as follows: Risk Proposals: 5% Risk Register: 5%
5.	Sustainability	7.5%
6.	Employment and Skills Delivery Proposals as set out in: ESP Method Statement Added Value Proposals	12.5% split as follows: ESP: 6% Method Statement: 4% AVPs: 2.5%

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

# Appendix E

## Template Contract Clauses

### 1.0 Building Contracts

- ACA Standard Form of Contract for Partnering - PPC2000 (Amended 2013)
- NEC3 Engineering and Construction Contract (3rd Edition June 2005, Updated April 2013)
- JCT Design and Build Contract 2011

### 2.0 Bespoke Framework Agreement

The authors cannot accept liability for the use of these Clauses.

## 1.0 Building Contracts

### 1.1 ACA Standard Form of Contract for Project Partnering - PPC2000 (amended 2013)

For inclusion as a Special Term in the Project Partnering Agreement by reference to Clause 28 of PPC2000 (amended 2013).

Clause	
	<p><b>Employment and Skills</b></p> <p><i>In Appendix 1 the following definitions shall be inserted: “<b>Employment and Skills Strategy</b> – the Client’s Employment and Skills Strategy forming part of the Project Brief</i></p> <p><b>ESP</b> - the Project-Specific Employment and Skills Plan produced by the Constructor and forming part of the Project Proposals to be complied with and implemented by the Constructor in order to execute the Employment and Skills Strategy</p> <p><b>Method Statement</b> - the Project-Specific Method Statement produced by the Constructor and forming part of the Project Proposals which sets out in detail how the Constructor shall implement the ESP”</p>
28.1	
28.2	<p>Clause 14.1 shall be amended by the insertion of the following at the end of the Clause:</p> <p>“(xiii) Development and finalisation by the Constructor of the ESP and the Method Statement”</p>
28.3	<p>Pursuant to Clause 7.6 the Constructor shall comply with and implement the ESP and Method Statement in accordance with the Employment and Skills Strategy.</p>
28.4	<p>The Constructor shall nominate an individual to liaise with the Client Representative and provide the Client Representative with information as required to demonstrate the Constructor’s compliance with the ESP and Method Statement.</p>

28.5	<p>The Client Representative shall provide to the Constructor information it has available to enable the Constructor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy<sup>1</sup>.</p>
28.6	<p>The Constructor shall provide to the Client Representative on a monthly basis, in accordance with the Partnering Timetable and the Project Timetable<sup>2</sup>, a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills KPI and Targets contained in Appendix 8, and provide details of the various Employment and Skills activities delivered in the month. The Client Representative shall be responsible for monitoring the Constructor’s compliance with and implementation of the ESP and Method Statement, and such monitoring shall form part of the Client’s assessment of the Employment and Skills KPI and Targets<sup>3</sup>.</p>
28.7	<p>Insert in Clause 23.6 (Post-Project Completion Review), after the words, “KPI and Targets,” the following words: “(including the Employment and Skills KPI and Targets), and its compliance with and implementation of the ESP and the Method Statement”.</p>
28.8	<p>Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Constructor are included in the Price Framework<sup>4</sup>.</p>
28.9	<p>Insert new Clause 17.9:</p> <p>“Where any Change agreed or established in accordance with this Clause 17 has the effect of substantially increasing or decreasing the Agreed Maximum Price, the Constructor may propose a corresponding and proportionate amendment to the Employment and Skills Output figures contained in the ESP, the Method Statement and any relevant KPIs and Targets. The Client and the Client Representative shall consider any such proposal made by the Constructor and shall seek to agree any amendments with the Constructor.”</p>

### 1.2 NEC3 Engineering and Construction Contract 2005 (Updated April 2013)

Option Z Clause for inclusion in the NEC3 Engineering and Construction Contract 2005 (updated April 2013) (Note: NEC propose the alternative of equivalent wording in the Works Information).

<sup>1</sup> (PPC2000) The Client should ensure that the Project-specific information to assist the Constructor with the implementation of the ESP and Method Statement is contained in the Employment and Skills Strategy within the Project Brief.

<sup>2</sup> (PPC2000) To ensure regular monitoring of the Constructor’s achievement of the ESP, Method Statement, KPIs and Targets, dates for submission of progress reports should be included in the Partnering Timetable (in the form appended to the PPC2000 at Appendix 6) and in the Project Timetable annexed to the Commencement Agreement.

<sup>3</sup> (PPC2000) In order to effectively monitor and continually incentivise the Constructor’s achievement of the ESP and Method Statement, a suitable KPI and relevant Targets directly referring to both should be inserted into Appendix 8 (“KPIs and Targets”). Achievement of a KPI and Targets can be linked to a share of Profit in order to motivate the Constructor towards full implementation. Any KPI linked to termination must be referred to in the termination provisions at Clause 26 of the Partnering Terms.

<sup>4</sup> (PPC2000) The Client should be satisfied that the Constructor has included in the Price Framework all costs in relation to the implementation of the ESP and Method Statement.



## Z1 Employment and Skills

Z1.1 The following new definitions shall be added to Core Clause 11

*“11.20 The Employment and Skills Strategy is the Employer’s*

*Employment and Skills Strategy forming part of the Works Information*

*11.21 The ESP is the works-specific Employment and Skills Plan produced by the Contractor and forming part of the Works Information to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy*

*11.22 The Method Statement is the works-specific Method Statement produced by the Contractor and forming part of the Works Information which sets out in detail how the Contractor shall implement the ESP;”*

Z1.2 The Contractor complies with and implements the ESP and Method Statement in accordance with the Employment and Skills Strategy.

Z1.3 The Contractor nominates an individual to liaise with the Project Manager and provides the Project Manager with information as required to demonstrate the Contractor’s compliance with the ESP and Method Statement.

Z1.4 The Project Manager provides to the Contractor information it has available to enable the Contractor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy<sup>5</sup>.

Z1.5 The Contractor provides to the Project Manager on a monthly basis, in accordance with the relevant Key Dates<sup>6</sup>, a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills Key Performance Indicator contained in the [Schedule of Partners] [Incentive Schedule]<sup>7</sup>, and provides details of the various employment and skills activities delivered in the month. The Project Manager is responsible for monitoring the Contractor’s compliance with and implementation of the ESP and Method Statement, and such monitoring forms part of the Employer’s assessment of the employment and skills Key Performance Indicator<sup>8</sup>.

Z1.6 The Contractor and the Project Manager attend a meeting (convened by the Project Manager) after Completion to review the completed works and the Contractor’s performance against the Key Performance Indicators (including performance against the employment and skills Key Performance Indicator), and its compliance with and implementation of the ESP and Method Statement, and to consider the scope for further improvement on future projects.

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

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

<sup>7</sup> (NEC3) The conditions are drafted in the anticipation that a Key Performance Indicator to cover employment and skills is

included in relation to either Option X12 (Partnering) or Option X20 (Key Performance Indicators). The Key Performance Indicator should be set out either in the Schedule of Partners (in relation to Option X12) or the Incentive Schedule (in relation to Option X20).

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

Z1.7 Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Contractor are included in the [relevant contract pricing Option]<sup>9</sup>.

Z1.8 Where a compensation event set out in Clause 60.1 and agreed or established in accordance with Clauses 60 to 65 substantially increases or decreases the Price, the Contractor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the Method Statement and any relevant Key Performance Indicators. The Employer and the Project consider any such proposal made by the Contractor and seek to agree any amendments with the Contractor.

## 1.3 JCT Design and Build Contract 2011

Supplemental Provision 13 for inclusion in Part 2 of Schedule 2 of the JCT Design and Build Contract 2011.

### 13. Employment and Skills

13.1 Insert in Clause 1.1:

**“Employment and Skills Strategy:** *The Employer’s Employment and Skills Strategy forming part of the Employer’s Requirements*

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

**Method Statement:** *The Works-specific Method Statement produced by the Contractor and forming part of the Contractor’s Proposals which sets out in detail how the Contractor shall implement the ESP”*

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

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

13.4 The Employer’s Agent shall provide to the Contractor information it has available to enable the Contractor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy<sup>10</sup>.

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

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

13.5 Pursuant to Paragraph 11 of Part 2 of Schedule 2, the Contractor shall provide to the Employer’s Agent on a monthly basis, in accordance with the relevant dates set out in the Employment and Skills Strategy<sup>11</sup>, a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills performance indicator contained in the Contract Documents, and provide details of the various employment and skills activities delivered in the month. The Employer’s Agent shall be responsible for monitoring the Contractor’s compliance with and implementation of the ESP and the Method Statement and such monitoring shall form part of the Employer’s assessment of the employment and skills performance indicator<sup>12</sup>.

13.6 The Contractor and the Employer’s Agent shall attend a meeting (to be convened by the Employer’s Agent) after Practical Completion of the Works to review the completed Works and the Contractor’s performance against the performance indicators (including performance against the employment and skills performance indicator) and its compliance with and implementation of the ESP and Method Statement, and to consider the scope for further improvement on future projects.

13.7 Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Contractor are included in the Contract Sum Analysis<sup>13</sup>.”

13.8 Insert new Clause 5.8: “Where any Change agreed or established in accordance with this Clause 5 has the effect of substantially increasing or decreasing the Contract Sum, the Contractor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the Method Statement and any relevant performance indicators. The Employer and Employer’s Agent shall consider any such proposal made by the Contractor and shall seek to agree any amendments with the Contractor.

<sup>11</sup> (JCT) To ensure regular monitoring of the Contractor’s achievement of the ESP and Method Statement, dates for reviews should be included in the Employer’s Requirements.

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

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

## 2.0 Bespoke Framework Agreement

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

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

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

## Operative Clauses

1. Prior to commencement of a Project on Site, the Employment and Skills Manager shall be satisfied that the Programme-specific ESP and Programme-specific Method Statement have been sufficiently developed into a Project-specific ESP and Project-specific Method Statement respectively, to enable effective implementation on Site, including provision for monthly monitoring in accordance with Clause [5]<sup>15</sup>.
2. The Contractor shall comply with and implement the Project-Specific ESP and the Project-Specific Method Statement in accordance with the Employment and Skills Strategy.
3. The Contractor shall nominate an individual to liaise with the Employment and Skills Manager and provide the Employment and Skills Manager with information as required to demonstrate the Contractor's compliance with the Programme-Specific ESP, the Programme-Specific Method Statement, each Project-Specific ESP and each Project-Specific Method Statement.
4. The Employment and Skills Manager shall provide to the Contractor information it has available to enable the Contractor to comply with and implement the Project-Specific ESP and Project-Specific Method Statement, including the details listed in the Employment and Skills Strategy.
5. The Contractor shall provide to the Employment and Skills Manager on a monthly basis<sup>16</sup>, in accordance with the dates set out in the Employment and Skills Strategy a report outlining the achievements during the previous month against the Programme-Specific ESP and Programme-Specific Method Statement and the Employment and Skills KPI, and provide details of the various employment and skills activities delivered in the month. The Employment and Skills Manager shall be responsible for monitoring the Contractor's compliance with and implementation of the Programme-Specific ESP and Programme-Specific Method Statement, and such monitoring shall form part of the Client's assessment of the Employment and Skills KPI<sup>17</sup>.

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

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

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

6. The Contractor and the Employment and Skills Manager shall attend a meeting (to be convened by the Employment and Skills Manager) after Practical Completion of each Project to review the completed Project and the Contractor's performance against the KPIs (including performance against the Employment and Skills KPI) and its compliance with and implementation of the relevant Project-Specific ESP and Project-Specific Method Statement, and to consider the scope for further improvement on future Projects.
7. Any and all costs relating to compliance with and implementation of the Programme-Specific ESP and Programme-Specific Method Statement by the Contractor over the duration of the Programme and any and all amounts relating to the implementation of the Project-Specific ESP and Project-Specific Method Statement must be included in [Project pricing documents]<sup>18</sup>.
8. Where any variation to the Client's Brief has the effect of substantially increasing or decreasing the [contract sum], the Contractor may propose a corresponding and proportionate amendment to the Employment and Skills output figures contained in the ESP, the Method Statement and any relevant KPIs. The Client and Employment and Skills Manager shall consider any such proposal made by the Contractor and shall seek to agree any amendments with the Contractor.

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



# Appendix F

## Template Clauses for a Section 106 Agreement

The authors cannot accept liability for the use of these Clauses.

Definition	Meaning
Employment and Skills Strategy (ESS)	The Council's Employment and Skills Strategy set out in Schedule [ ] to this Agreement
Employment and Skills Plan (ESP)	The Development-Specific Employment and Skills Plan produced by the Owner/Developer as set out in Schedule [ ] to this Agreement to be complied with and implemented by the Owner/Developer in order to execute the Employment and Skills Strategy <sup>19</sup>
Key Performance Indicator (KPI)	The Key Performance Indicator as set out in Schedule [ ] to this Agreement
Method Statement	The Development-Specific Method Statement produced by the Owner/Developer as set out in Schedule [ ] to this Agreement which sets out in detail how the Owner/Developer shall implement the ESP

### Operative Provisions

1. The Owner/Developer covenants with the Council to comply with and implement the Council's employment and skills output figures contained in the Employment and Skills Strategy as applied to the approved construction costs of the Development and the work types comprising the Development.
2. <sup>20</sup>[The Owner/Developer covenants with the Council that at least [ ] months before the commencement of the Development on site it shall submit to the Council for the Council's written approval (to be given in its absolute discretion) an ESP and Method Statement demonstrating how the Owner/Developer will achieve compliance with and implementation of section 1 above.]
3. The Council covenants with the Owner/Developer that within 28 days of the submission by the Owner/Developer of the ESP and Method Statement the Council shall either approve the ESP and Method Statement in writing or suggest reasonable amendments thereto in writing.]
4. The Owner/Developer shall comply with and implement the approved ESP and Method Statement in accordance with the Employment and Skills Strategy.
5. The Owner/Developer shall provide the Council with information as required to demonstrate its compliance with the ESP and Method Statement.
6. The Council shall provide the Owner/Developer with such information as it has available to enable the Owner/Developer to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy.

<sup>19</sup> These template Clauses are drafted on the assumption that provisional forms of the ESP and Method Statement have been developed by the Owner/Developer and are to be finalised and approved in accordance with Clauses 1 and 2. The Council's Employment and Skills Strategy, along with the Owner/Developer's ESP and Method Statement should be appended as a schedule to the Agreement.

<sup>20</sup> Clauses 2 and 3 should be used only where the ESP and Method Statement are to be agreed following signature of the Section 106 Agreement.

7. The Owner/Developer shall provide to the Council on a monthly basis, in accordance with the relevant dates set out in the ESS<sup>21</sup>, a report outlining the achievements during the previous month against the ESP and Method Statement and the Employment and Skills Key Performance Indicator<sup>22</sup>, and details of the various Employment and Skills activities delivered in the month]. The Council shall be responsible for monitoring the Owner/Developer's achievement of the ESP and Method Statement, and such monitoring shall form part of the Council's assessment of the compliance with the Employment and Skills Key Performance Indicator.
8. The Owner/Developer and the Council shall attend a meeting (to be convened by the Council) after the completion of the Development to review the Owner/Developer's performance against the Employment and Skills Key Performance Indicator), the ESP and Method Statement and to consider the scope for further improvement on future Developments.
9. Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Owner/Developer are the responsibility of the Developer.
10. [Where any variation to the Development has the effect of substantially increasing or decreasing the construction spend provided for in the Developer's financial model, the Owner/Developer may propose a corresponding and proportionate amendment to the Employment and Skills output figures contained in the ESP, the Method Statement and any Key Performance Indicator. The Council shall consider any such proposal made by the Owner/Developer and shall seek to agree any amendments with the Owner/Developer.]

## Template Planning Condition

We set out below a Template Planning Condition which a Local Planning Authority (LPA) can insert into a Planning Permission as well as the Reason/Informative to that condition.

### Condition:

*No development shall take place until an ESP and Method Statement have been submitted to and approved in writing by the LPA. The ESP and Method Statement shall include details demonstrating how the development will achieve compliance with and implementation of the Local Authority's Employment and Skills output figures contained within the ESS contained in Policy [ ] as applied to the approved construction costs of the Development and the work types comprising the Development. The approved ESP and Method Statement shall be implemented in accordance with that approval unless subsequently otherwise approved in writing by the LPA.*

### Reason/Informative:

*To ensure that the Development provides for local Employment and Skills in accordance with the ESS contained in Policy [ ].*

*(NB. The Condition and the Reason/Informative above should contain the relevant Planning Policy reference of the LPA which contains the ESS. The ESS must be clearly set out in the policy providing sufficient detail to a developer so that it knows how to comply with the requirements. Otherwise there can be an issue as to the enforceability of the planning condition for being imprecise and vague.)*

<sup>21</sup> To ensure regular monitoring of the Owner/Developer's achievement of the ESP and Method Statement, dates for review should be included in the Employment and Skills Strategy.

<sup>22</sup> In order to effectively monitor and continually incentivise the Owner/Developer's achievement of the ESP and Method Statement, a Key Performance Indicator should be inserted into a schedule appended to the Agreement.

# Appendix G

## Template Clauses for Standardisation of PF2 Contracts (PF2)

These template Clauses are drafted for insertion into the Standardisation of PF2 Contracts (PF2) Guidance Clauses, to be entered into between the client and a Special Purpose Vehicle (SPV).

*(The authors cannot accept liability for the use of these Clauses)*

The following wording should read as an additional section 7.2 of the Standardisation of PF2 Contracts (PF2) guidance:

### 7.23 EMPLOYMENT AND SKILLS

7.23.1 The Contractor should comply with Cabinet Office requirements for Employment and Skills as set out below. Suitable Employment and Skills drafting is as follows:

Definition	Meaning
Construction Proposals	The proposals for the provision of the Facilities to satisfy the Facilities Output Specification, as set out in Schedule [] and as amended pursuant to the Terms of this Contract
Employment and Skills Method Statement	The Method Statement produced by the Contractor and forming part of the Construction Proposals which sets out in detail how the Contractor shall implement the Employment and Skills Plan
Employment and Skills Plan	The Employment and Skills Plan produced by the Contractor and forming part of the Construction Proposals to be complied with and implemented by the Contractor in order to execute the Employment and Skills Strategy
Employment and Skills Strategy	The Authority's Employment and Skills Strategy forming part of the Facilities Output Specification

### 7.23 Employment and Skills

- a. *During the carrying out of the Works, the Contractor shall comply with and implement the Employment and Skills Plan and the Employment and Skills Method Statement in accordance with the Employment and Skills Strategy.*
- b. *The Contractor shall nominate an individual to liaise with the Authority and provide the Authority with information as reasonably required in order demonstrating the Contractor's compliance with the Employment and Skills Plan and the Employment and Skills Method Statement.*
- c. *The Authority shall provide to the Contractor information it has available to enable the Contractor to comply with and implement the Employment and Skills Plan and the Employment and Skills Method Statement, including the details listed in the Employment and Skills Strategy.*
- d. *During the carrying out of the Works, the Contractor shall provide to the Authority on a monthly basis, in accordance with the relevant dates set out in the Employment and Skills Strategy, a report outlining the achievements during the previous month against the Employment and Skills Plan and the Employment and Skills Method Statement, and provide details of the various employment and skills activities delivered in that month.*
- e. *Following the Service Date, the Parties shall meet to review the Contractor's compliance with, and implementation of, the Employment and Skills Plan and the Employment and Skills Method Statement.*

# Appendix H

## Employment and Skills Strategy Workbook

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

### 1.0 Objectives

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

### 2.0 Coverage of the Employment and Skills Strategy

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

#### Projects through Development Agreements or Section 106 Agreements

#### Projects through Client Procurement

### 3.0 Scope of the Employment and Skills Plan (ESP)

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

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### 4.0 Development and Implementation Team

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

Individual	Role	Responsibility

### 5.0 Development and Implementation

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

Stage 1
---------

Stage 2
---------

### 6.0 Potential Obstacles and Potential Solutions

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

#### 6.1 Development of an Employment and Skills Strategy

Potential Obstacles	Potential Solutions

#### 6.2 Implementation of an Employment and Skills Strategy

Potential Obstacles	Potential Solutions

### 7. Programme

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

Milestone 1	Date
Description	

Milestone 2	Date
Description	



Note:

The above Employment and Skills Strategy Workbook can be expanded to include benefits wider than training and recruitment, as discussed in Community Benefits Guidance: Delivering Maximum Value for the Welsh Pound 2014 and the scope of which is summarized by the following diagram:



## Appendix I Case Study

### National Skills Academy for Construction

#### Heads of the Valleys Road upgrade

##### Overview of the Project

The project, which is being managed by Carillion, was awarded National Skills Academy status to support the delivery of training needs during the 7.8km upgrade of the existing Heads of the Valleys Road in Blaenau Gwent. It has been identified by the Welsh Government, Blaenau Gwent Council and CITB as a key opportunity to provide added value training and employment to the area, which has suffered low skills and high unemployment.

##### Background to the Skills & Employment Agenda

The first of its kind in Wales, the NSAfC project supports the regeneration of the Heads of the Valleys through direct employment, enhanced by structured education and training, as well as secondary employment and development opportunities through subcontracting to local businesses. Engagement with local schools also supports the curriculum and helps to promote the construction industry to young people.

Victoria Walsh, Local Manager for CITB Wales, which is the Sector Skills Council and Industry Training Board for construction, commented: "We are delighted to be working with Carillion to deliver Wales' first Skills Academy. This is part of the client-based approach that CITB is championing; delivering employment, training and apprenticeships through existing construction projects. We feel that this is vital in ensuring that the next generation of construction workers have the skills required to keep the industry buoyant and profitable. This NSAfC project is one of the many ways that we are helping to deliver gold standard apprenticeships that meet the needs of a high-tech, world class industry with outstanding career prospects."

Martin Gallimore, Project Skills Co-ordinator for Carillion, added: "We're really pleased to be involved with the first National Skills Academy for Construction (NSAfC) in Wales, as it gives us the opportunity to provide training opportunities to workers at all levels including working with young people in the local area and showing them the career opportunities that lie in the construction industry."

## Appendix J Glossary

Term	Meaning
<b>BAFO</b>	The submission of a contractor's Best and Final Offer at the end of the dialogue phase of a Competitive Dialogue procurement procedure.
<b>Client-Based Approach</b>	The Client-Based Approach is a National Skills Academy for Construction product and provides clients with clarity as to what is permissible in an EU-compliant procurement and comfort that their Employment and Skills requirements when procuring construction projects are proportionate and achievable.
<b>Employment and Skills Areas</b>	The Key Performance Indicators, as further defined in Appendix A.
<b>Employment and Skills Strategy</b>	The Client's project or Framework-Specific Strategy outlining the Client's Employment and Skills goals and key deliverables, to be included as a tender and contract document.
<b>ESP</b>	The contractor's Employment and Skills Plan created as part of the contractor's tender return, setting out how the Employment and Skills Strategy will be implemented. It is based on the template provided by the Client in the Employment and Skills Strategy and will become a contract document.
<b>LPA</b>	Local Planning Authority.
<b>Method Statement</b>	The contractor's detailed description of how the ESP will be implemented on site. It should be created as part of a tender return and become a contract document.
<b>NCSAG</b>	National Construction Skills Academy Group is an established body of contractor and client representatives from across the construction industry which form part of the governance structure of the National Skills Academy for Construction.
<b>OJEU</b>	The Official Journal of the European Union, where all procurements by Public Sector clients over the Public Contracts Regulations 2015 value thresholds must be advertised.

Term	Meaning
<b>Procurement Route Planner</b>	the Welsh Government, Value Wales website promoting best practice procurement in Wales with guidance and resources to support Welsh Government Policies.
<b>Sell2Wales</b>	Welsh Government's Sell2Wales portal which enables clients to advertise procurement opportunities and increase access for SMEs.
<b>SMEs</b>	Small and Medium Enterprises.
<b>PF2</b>	The Standardisation of PF2 Contracts, template Clauses for which are set out in Appendix G.
<b>SPDs</b>	Supplementary Planning Documents are Planning Policy documents which normally provide the Local Planning Authority's policies on a specific Planning issue.
<b>SPONSA</b>	The Skills Plans and Outcomes of the National Skills Academy, a management information system developed by CITB, which allows tracking of KPI's on a real time basis.
<b>SQuID</b>	The Supplier Qualification Information Database developed by Welsh Government to streamline the SQ stage of the tender process.
<b>TCPA 1990</b>	The Town and Country Planning Act 1990.

# Appendix K The Authors

## CITB

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

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

## Trowers & Hamblins LLP

Trowers & Hamblins LLP, the city and international law firm, was commissioned by CITB to provide legal input into the drafting of this National Skills Academy for Construction Client-Based Approach Guidance for clients, as well as the equivalent guidance for Central Government and contractors.

Trowers & Hamblins LLP has unparalleled expertise in the delivery of innovative and commercial EU procurement and state aid advice, acting for Local Authorities, registered providers, central Government, contractors, service providers and suppliers.

Rebecca Rees is a Partner in Trowers & Hamblins' Projects and Construction Department.

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

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

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