

DFID Labour Standards and Poverty Reduction Forum

23rd May 2007

Incorporating Labour Standards in Public Procurement

1. The subject for the May meeting of the Forum was the promotion of labour standards through public procurement. A background paper with discussion points was circulated in advance of the meeting.
2. **Stuart Bell, Policy Director at Ergon Associates**, introduced the background paper. He explained that the context and scope for introducing social factors in public procurement was governed by a framework of EU rules, notably the Public Procurement Directive 2004, which is based on free movement of goods and services and seeks to ensure non-discrimination against contractors on grounds of nationality. In addition, the UK government's value for money policy is paramount and the UK is committed to becoming a leader in sustainable procurement by 2009.
3. The 'Social Note' produced by the Office of Government Commerce (OGC) in 2006 identified a number of opportunities to include labour standards at different stages of the procurement cycle. At the stage of identifying need, authorities can require compliance with local employment laws by suppliers, and can make clear that they support compliance with ILO core labour standards. During the drawing up of specifications, authorities can exclude contractors who have violated labour laws or codes. However, labour conditions may only be included in the specification if they affect the quality of the good or service to be provided.
4. When a contractor or supplier has been selected, the contract can include ongoing performance conditions that require adherence to labour standards. Such conditionality can be enforced through requiring reporting by suppliers and through monitoring by the client. The private sector audit model was noted as relevant here. While there are costs associated with this, the public sector may have more scope for sharing information on suppliers, and thus sharing costs. It was also noted that, alongside the inspection model, there are increasing numbers of examples of collaborative projects that work with suppliers and with civil society to seek to address the underlying causes of labour abuses. Public authorities can either involve themselves in such initiatives or could encourage their suppliers or agents to participate.
5. It was suggested that public bodies should, as a first step, seek to prioritise items within their procurement spend for attention. A risk-based approach could be used to identify regions, issues or sectors of a supply chain where labour abuses may be most prevalent.

6. **Michael Dunnery, Head of Corporate Electronic Procurement Advisory Section at DFID**, set out the structure of DFID's own procurement. To put direct procurement into context, centrally, DFID issued contracts to the value of £148m in 2006/07. These contracts were made with a mixture of individuals, small and medium sized companies and larger corporate companies. Most are based in the UK with few having sub-contractors in developing countries.

7. Michael explained that CSR more broadly was already being integrated into DFID procurement with strengthened terms and conditions on discrimination, disability and environmental factors. In relation to labour standards, DFID has introduced a statement requiring potential suppliers' compliance with ILO core labour standards in the invitation to tender documentation.

8. Going forward DFID's Procurement Group will develop a Corporate Social Responsibility strategy which will include consideration of devolved procurement undertaken by DFID overseas offices. As regards the procurement of goods, DFID has started a dialogue with their three appointed procurement agents to explore how progress on CSR issues can be made, including on labour standards.

9. He identified the challenges for the future as introducing verification of statements by suppliers and monitoring against a background of limited resources.

10. **Tim Page, Senior Policy Officer at the TUC**, argued that the government already had a strong commitment to core labour standards as part of its poverty elimination strategy, as delivered by DFID. He saw 'smart procurement' as a key tool in helping DFID to achieve its overall goal. Smart procurement included identifying social clauses that were relevant to the delivery of a particular contract, rather than imposing a host of social conditions on all contracts.

11. The TUC's view was that European Directives already contained scope for consideration of social issues, and that the interpretation of the directives by the OGC had been unduly cautious. Tim suggested other EU states had procurement practices that were more favourable to the consideration of labour issues.

12. He suggested that the universality of the Declaration of Fundamental Principles and Rights at Work meant that requiring adherence to this by contractors would not be discriminatory. He also suggested that labour conditions could be considered at part of the identification of need where respect for labour standards is part of the core mission of the organisation (such as at DFID). He highlighted the possibility of reputational damage to government if labour abuses were found in public procurement supply chains – and emphasised the particular issue of the 2012 Olympics.

13. **Julie Bremner**, Procurement Policy Adviser at the Office of Government Commerce (OGC), explained the OGC's role across government as an agency of the Treasury. Its strategic plan, included sustainability principles. She identified key challenges of raising procurement skills, strengthening procurement capability and improving collaboration among procurement authorities. She reiterated the legal background and the OGC's view of the scope for including social issues in procurement, including the necessity of any labour conditions being relevant to the subject of the contract. She mentioned that new guidance on including Fairtrade as a procurement condition was to be issued by OGC.

Group discussion session

14. In group discussions the Forum considered: the incentives for promotion of labour standards in public procurement; lessons to be learned from experience of others; and who could champion this issue across government. The following points were made:

Incentives and opportunities

- The risk of 'exposure' of a problem in a departmental supply chain represents a reputational risk and a powerful incentive for further action. The role of civil society in applying pressure will be key.
- There is scope for clearer leadership and policy statements from government that labour standards should be considered in the procurement process. This should be complemented by advice from OGC couched in more positive terms than at present.
- Procurement officials felt that more specific, practical advice from OGC or other bodies would assist them in understanding how labour standards could be included in their work.
- There is clear scope for requiring contractor/supplier compliance with local labour laws as part of the initial needs assessment.
- At tender evaluation stage, procurement agencies can ask for evidence that suppliers have the capacity to comply with labour standards, and that the bid is costed to allow for payment of national minimum wage for example.

Learning from environmental aspects of sustainable procurement

- Supply chain mapping has already been taking place in some agencies and similar techniques can be used for labour issues.
- A risk-based approach to identify priority supply chain areas is already being used by the Environment Agency and can be applied to labour standards. This can be based on volume (spending levels) or risk.

Learning from private sector

- Government has been too isolated from the private sector dialogue on ethical supply chains so there is scope for more involvement.

- Procurement agencies should be considering working with suppliers as well as auditing them, as there are now well-known problems with the audit model and embedding continuous improvement in suppliers requires a collaborative rather than a top-down approach.
- There is a need for capacity-building at some suppliers to enable them to improve labour practices. Also the issue of how purchasing practices affect suppliers' ability to maintain decent standards should be looked at, including the possibility of providing 'carrots' for suppliers as well as 'sticks'.
- Existing suppliers and agents could be encouraged to join existing ethical trade initiatives.
- The resources necessary to launch an ethical trade programme do not have to be large. Much can be achieved with a few staff if a focused approach is used.

Role of DFID

- DFID could undertake a pilot project looking at one discrete item within its supply base in order to develop practical learning. This could be shared with other departments.
- DFID is well-placed to lead awareness-raising on these issues with other UK government departments, particularly as there is a move towards pan-government procurement as highlighted by the OGC.
- DFID also could have a role in raising the profile of ethical procurement and labour relations in terms of its advisory work with developing country governments.
- DFID-funded projects are already monitored regularly so there is scope for requiring labour standards monitoring as part of this.
- Where consultants are being used, they could be required to adhere to labour standards in their in-country activities and any suppliers or sub-contractors they use.

Other

- Training for procurement officials and agents was identified as an important area. A training module has been developed by the Chartered Institute for Purchasing and Supply (CIPS).
- The 2012 Olympics represent a major opportunity for focusing work on labour standards in procurement.

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