



Ministry of JUSTICE



Specification for Social Enterprise (SE) Consortia Building programme (Technical Assistance funded)

1. Background

- 1.1 The National Offender Management Service (NOMS) was granted status as a national co-financing body in January 2009 with a remit to deliver a programme of work across England. The focus of the programme is to enhance participant employability and increase their opportunities to access mainstream provision.
- 1.2 NOMS Co-Financing (CFO) Programme will provide support to approximately 110,000 offenders by December 2014. The Co-Financing Programme is supported by money from the European Social Fund (ESF) and then matched with complimentary delivery through NOMS contracted out provision. Estimated total programme value is in excess of £275m. Delivery is via a prime or consortia contractor model, with specialist delivery provided by sub-contractors or partners.
- 1.3 As part of the delivery requirement, each prime provider must have a social enterprise element and there should be a strong link between the main programme and the additional work commissioned via Technical Assistance.

2. Policy Context

- 2.1 This procurement initiative has a number of contexts and drivers:
 - ESF 2007-13 Programme and NOMS ESF Co-financing Programme
 - EU Sustainable Development strategy (2006) and ESF Cross Cutting Theme requirements (2007-2013 programme)
 - HM Government Small and Medium Enterprise (SME) review and strategy (Feb 2011)
 - HMG Big Society and Public service reform narrative (Open Public Service Bill, Localism Bill)
 - 'Legal Aid, Sentencing and Punishment of Offenders' Bill
 - Feedback from SE programme of regional consultation events
 - 'The Green Deal'
- 2.2 The NOMS CFO Social Enterprise Programme has a number of themes, but is fundamentally about improving the ability of the social enterprise sector to participate in current and future delivery.

2.3 The government is committed to removing pre-qualification processes for contracts under £100,000 but this is unlikely to impact on CFO procurement as the lots have been and will probably remain substantially above that level. The only opportunities therefore for SME social enterprises to participate would be either as part of a substantive consortium able to meet the prime provider thresholds or more likely as a sub contractor.

2.4 The current CFO phase 2 contracts (worth in total £89m) have 419 sub contractors/partners, of which only 36 (8.5%) are currently identified as social enterprises. This relatively low level of representation, together with the anecdotal evidence collected at NOMS CFO Programme regional events and more informal consultation indicates that some structural intervention is necessary in order to achieve programme objectives.

2.5 In launching the government's strategy for SME's the prime minister stated:

Today we are announcing big changes to the way government does business. It will provide billions of pounds worth of new business opportunities for small and medium-sized enterprises, charities and social enterprises.

"We need to make the system more open to new providers, more competitive between suppliers and more transparent for the taxpayer. This is vital as we get to grip with our deficit – helping us tackle waste, control public spending and boost enterprise and growth.

"It will also help modernise our public services, opening them up to the forces of competition and innovation and give our great charities and social enterprises the opportunity to deliver services too."

2.6 The EU Sustainable Development (SD) Strategy also contains the key principle:

INVOLVEMENT OF BUSINESSES AND SOCIAL PARTNERS

Enhance the social dialogue, corporate social responsibility and private-public partnerships to foster cooperation and common responsibilities to achieve sustainable consumption and production.

2.7 The UK ESF programme 2000-2006 developed a range of SD actions:

- (i) providing opportunities to allow everyone to fulfil their potential (social inclusion);
- (ii) environmental protection and enhancement through the delivery of projects (environment); and
- (iii) providing skills that businesses both demand and require – now and in the future (economy/labour market).

- 2.8 Building on this, the current programme requires all CFO contractors to promote SD through supporting two key elements:
- (i) Social Inclusion: helping individuals overcome barriers in the labour market; and
 - (ii) The economy: by increasing the supply and quality of workers in the labour market.

Whilst not mandatory, it is good practice to encourage sub contractors to adhere and promote these principles.

- 2.9 Against this background there are also other priorities such as the 'working prisons' agenda which requires significant commercial employment activity within prisons but with ideally relevant training that's in demand within the community; the Green Deal aims to create 100,000 jobs whilst also helping the UK meet its carbon reduction targets; enterprise zones created to drive economic growth also offer opportunities for social enterprise to combine environmental, social inclusion and economic objectives.
- 2.10 The Big Society narrative or concept anticipates increasing community led action and delivery to address social and economic priorities; combined with the Localism objectives of seeking to create a diverse market place of providers combined with potential mutualisation of public service delivery there is a clear underpinning case for supporting the ability of the social enterprise sector to develop and deliver an offer within a criminal justice context but which also has wider socio-economic and environmental benefits. This also reflects the ESF mainstreaming of SD agenda, where actions and outcomes achieve a wider benefit.
- 2.11 Because social enterprises generate economic activity as a means to achieve wider social value, they are well placed to support this agenda – more so than voluntary sector or other categories of civil society.
- 2.12 This opportunity is designed to enable the sector to organise into entities or structures that can, through working with NOMS CFO and others help to deliver these policy objectives.

3. NOMS Co-Finance Technical Assistance

- 3.1 NOMS CFO has secured additional Technical Assistance funding from ESF to develop a number of elements to increase the effectiveness of the Co-financing Programme, which will deliver services to offenders to increase access to mainstream opportunities up to 2014. One of these elements includes a programme of work designed to develop the social enterprise market place to better enable such organisations to participate in the current and future Co-finance programmes.

3.2 Social enterprises (SE's) are companies that trade for a social purpose (reinvesting surplus in social objectives defined in their Memorandum/articles of association). The range of business sectors in which they operate is diverse and this makes SE's particularly attractive to NOMS CFO in terms of potential skills and employment contexts. The mixture of both training and wider intervention services together with employment opportunities within real trading environments sets the sector apart from voluntary, charity and other 'providers'. There is also often a wider community benefit to the activities delivered by SE's (beyond those experienced by the participants) and this is a factor that this procurement opportunity will seek to focus and build on.

3.3 Many SE's are relatively small in size - the latest survey data¹ suggests that 77% have a turnover of less than £1m and 36% turnover less than £0.1m. As such, most find it difficult to engage with government procurement opportunities that often have significantly higher thresholds. At sub contract level, there is also a limit to the number and range of organisations that a particular prime contract can support.

4. Primary Objective

4.1 This opportunity is therefore designed to test how enterprises and other organisations can work together to create a 'value' or 'supply chain' that can offer offenders the opportunity to gain skills and employment (supported by other multi-pathway interventions). These value or supply chains should also create environmental and social benefit beyond that experienced by the participants themselves and which is offered through a single contract to the Authority or one of its prime providers. The primary objective is to create new SE consortia² models that will be able to better participate in current and future tendering opportunities.

4.2 In order to achieve and be able to demonstrate this additional or social value it is unlikely that a single organisation will be able to deliver alone. Potential consortia models will need to demonstrate how multiple partners (or elements of the chain) offer specialist services or capacity or trading environments; each will also need to demonstrate as part of compliance with the Agreement, the additional value they are creating within the community or area in which they are/will be operating.

4.3 The focus of this procurement is the development of the SE market place and the ability of small and medium sized enterprises to participate in wider CFO and other programmes. Potential consortia models will need to demonstrate how they are supporting this development and incorporating partners from the sector. Potential consortia models will also need to evidence the strength of the SE offer in their proposal and the number of organisations involved.

¹Fightback Britain: A report on the state of social enterprise, Social Enterprise UK
www.socialenterprise.org.uk/policy-campaigns/research

² A consortium is a group of separate businesses or business people joining together and cooperating to complete a project, work together to perform a contract or conduct an on-going business.

- 4.4 For the purposes of this Specification a social enterprise is an organisation that **at least** meets the criteria required to achieve the Social Enterprise Mark³ (though having the Mark itself is not a requirement) or similar. Potential consortia must be able to evidence the ability to meet this minimum requirement. It is not a requirement that all members of a consortium are social enterprises; grant funded, statutory or other types of organisation can be members (and lead members if that model is chosen) but the offer should have a strong and demonstrable SE core.
- 4.5 The funding available is not designed to cover the cost of delivering a specified range of outcomes but is intended to enable the participating bidders to organise, capacity build, raise finance or undertake other business development to strengthen their collective ability to undertake contracts for NOMS CFO and others. In demonstrating the strength of the proposal to undertake this development work, there should be a clear delivery model defined in the bid that is an articulation of the contributions and added value of the relationships between the various members.
- 4.6 To reiterate: this opportunity is about enabling small and medium sized enterprises or organisations develop (or participate in the development of) a vehicle that will enable them to be in a better position to access contracts for the delivery of services.
- 4.7 There are no set requirements in terms of:
- size of the consortium (in both scale of and number of members)
 - model of governance/legal structure – this can be whatever is thought appropriate by the members, though the Authority will contract with only one organisation or entity. The proposed consortium must be able to demonstrate robustness of their proposed management systems and compliance .
 - Trading history – it is accepted that any new entity will not have its own history and the aim of this opportunity is to be inclusive so there are no predetermined thresholds in terms of history or scale.
- 4.8 In designing a delivery model, the following should be considered:
- The consortium should aim to be sustainable and not built on the assumption that NOMS CFO will provide on going funding; an offer that can be attractive to other commissioners, CFOs or similar is likely to be stronger. One that includes trading activity as a means of generating resources and employment/skill contexts is also likely to more robust in the longer term
 - The immediate offer/model *to which any funding received through this opportunity is allocated* should:
 - have a resettlement focus (that is, be related to skills/employment and other pathways to reducing re-offending);

³ See www.socialenterprisemark.org.uk/the-mark/get-the-mark/ to download the criteria

- demonstrate an understanding of and alignment to the main NOMS CFO programme and ESF requirements including the key eligibility criteria that participants must be Resident in the UK with permission to work, 16 years of age or older, serving a custodial sentence (with up to 3 years left to serve) or a community sentence
- but should not seek to replace existing funding streams (from whatever source).

4.9 Whilst bidders will be able to construct proposals based on the particular communities/business categories/objectives within which they operate, this opportunity also has ‘sustainable development’ as a context. This is defined by the EU as:

Sustainable development means that the needs of the present generation should be met without compromising the ability of future generations to meet their own needs.

It is about safeguarding the earth's capacity to support life in all its diversity and is based on the principles of democracy, gender equality, solidarity, the rule of law and respect for fundamental rights, including freedom and equal opportunities for all.

To that end it promotes a dynamic economy with full employment and a high level of education, health protection, social and territorial cohesion and environmental protection in a peaceful and secure world, respecting cultural diversity.

EU sustainable development strategy

4.10 This broad definition provides a useful framework within which work with offenders (and its impact on the wider community) can be designed. Bids should outline, in the context of one or more of the objectives contained in the strategy, how the offer/model could potentially have a wider social impact.

4.11 The Authority will be undertaking a parallel programme of work focused on the measurement of social value and bidders will be expected to participate. This is separate to any evaluative work that will be undertaken by the authority for ESF purposes. Bidders will not be expected to fund any evaluation or social value related work themselves (other than in committing resources to interacting with the work commissioned by the authority).

5. Timescales and funding

5.1 The Grant Agreement period will commence December 2012 and will be up to December 2014.

The lots available are:

England (excluding South West):

Lot 1: 1* x £250,000	This is for proposals that have national coverage
Lot 2: 2* x £150,000	These are for proposals that are at a regional level
Lot 3: 8* x £50,000	These are for 'local' proposals

South West (including Cornwall)

NB: The funding for the following two lots is ring-fenced and, therefore, proposals must have South West (including Cornwall) coverage only.

Lot 4: 2* x £100,000

Lot 5: 2*⁴ x £50,000

- 5.2 For the purposes of this opportunity, 'National' means multi-region (though not necessarily all regions); 'region' is one of the former 'Government Office' areas but could include more than one without having to bid for the national Lot (for example 'South East' and 'West Midlands') - for Lot 4 this applies to the South West region (including Cornwall) only; 'Local' means sub regional and could be at county, borough or even ward level - for Lot 5 this must be based in the South West (including Cornwall region). For clarity, Lots 1, 2 and 3 can be inclusive of the South West region, but this coverage must represent only part of the proposal; proposals for Lots 4 and 5 must only be based in the South West (including Cornwall) region due to the nature of the funding available for these Lots.
- 5.3 Additional technical/specialist support and advice will be made available to consortia via their chosen lead organisation at different stages of the procurement process to enable them to strengthen and clarify their offer. The support will be universally available to all successful bidders at the respective stages within the same value lot.
- 5.4 During phase 1 (April – June) and prior to the return of the first RFP, the authority will organise a range of local workshops and networking opportunities. These will provide input/briefings from sector specialists to help bidders develop their model/thinking. Those seeking potential consortium members can also use the online networking service developed by Social Firms UK on behalf of NOMS CFO:
www.justbuy.org.uk and click on 'More than the Sum'
- 5.5 Presentations from the speakers at the four launch events (including the specialist guest speakers) are available at:
www.co-financing.org click on 'procurement'

6. Key Requirements

⁴ * Number of Grant Agreements to be awarded for the lot.

Potential consortium models must be able to demonstrate:

1. The viability of creating a value or supply chain that will result in a legally constituted consortium established as a social enterprise. Bidders must also ensure that they can evidence the ability to incorporate social enterprise partners in their proposed consortia models as well as evidence of engagement and commitment from identified partners. Potential consortium models will be required to provide an implementation plan and project plan for the duration of the Grant Period detailing realistic timescales, key stages and milestones, proposed stages for progression of agreements and commitments, engagement with key partners and/or stakeholders, as well as any other relevant considerations.
2. That they have utilised the access to technical support (for example legal, governance, financial, HR) that will be provided by the Authority to assist in the development of their consortia, or utilised their own alternate support to evidence the viability of their proposals. Potential consortium models must outline their management and governance processes and procedures, including how any identified key risk and issues will be managed both at implementation and during the Grant Period, as well as appropriate contingency arrangements. Such arrangements must clearly demonstrate how all members of the potential consortium will fulfil the obligations of the Grant Agreement.
3. That they have developed and can offer referral routes that will deliver skills, employment and where included other support (across the reducing re-offending pathways) for offenders and which can also demonstrate a wider impact within the communities or societies within which they are operating or delivering. Such impact may be financial, social, economic, re-generational, environmental or other impact that, for example fits with the EU's definition of sustainable development.
4. The effectiveness of their model through accepting referrals from CFO providers, probation trusts or prisons in sufficient numbers relevant to the scale of the offer outlined in the bid and through subsequent outcomes related to skills and employment.
5. The ability to participate in and contribute to the shared learning around evidencing social value in a way that will help test the approach envisaged by the Public Services (Social Value) Bill. Potential consortium models will be required to participate in any events/meetings or other experience/learning processes that the Authority may implement including those related to the social value work.
6. That the proposed consortium is capable of funding their defined model through trading activity, social finance, contracts with CFO prime providers or funding obtained through other potential stakeholders (for example local or health authorities or housing associations) as a consequence of or in relation to the wider social impact that can be achieved. Potential consortium models shall be required to provide a full breakdown of anticipated costs for the lifetime of the Grant Period including preferred

percentages for advance payment upon award, retention at programme end pending reconciliation and quarterly payments. The breakdown must clearly show each item of expenditure, the quarter in which the cost is incurred and, if not 100%, the proportion of the cost to be covered by this Grant. There is also a requirement to demonstrate the mechanism for transferring money to other consortium members, including the anticipated amounts to be paid to each member.

7. Compliance with ESF regulations and the conditions of the Grant Agreement. Potential consortium models shall be required to comply with the Authority's monitoring and audit processes as detailed in the Grant Agreement, including both at lead agency level (if appropriate) as well as to other members of the consortium, as required.

7. Key Outcomes of this procurement

The outcome for this procurement will therefore be:

1. 15 legally constituted consortiums with which the Authority or its providers can contract (through a single contract with each consortium) to support the delivery of objectives and outcomes outlined in their bids.
2. Up to a further 30 consortiums that are at or approaching a legally constituted form and which could progress to offer services to the Authority or its prime providers or those of other government departments.
3. An unlimited range of other groupings that will have explored opportunities for consortia formation and that could, in some cases, progress to that status outside of the programme.
4. Access to technical support (for example legal, governance, financial, HR) provided to a significant range of social enterprises or groups of enterprises to assist in the development of their consortia.
5. 15 cohesive (but potentially multi-faceted) referral routes that will deliver skills, employment and where included other support (across the reducing re-offending pathways) for offenders and which can also demonstrate a wider impact within the communities or societies within which they are operating or delivering. Such impact may be financial, social, economic, regenerational, environmental or other impact that, for example fits with the EUs definition of sustainable development.
6. Consortia to demonstrate the effectiveness of their model through accepting referrals from CFO providers, probation trusts or prisons in sufficient numbers relevant to the scale of the offer outlined in the bid and through subsequent outcomes related to skills and employment.
7. 15 consortia capable of funding their defined model through trading activity, social finance, contracts with CFO prime providers or funding obtained through other potential stakeholders (for example local or health authorities or housing associations) as a consequence of or in relation to the wider social impact that can be achieved.

