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Local Action Plan on Socially Responsible Public Procurement in the City of Marina de Cudeyo, Spain



AYUNTAMIENTO DE
Marina
de Cudeyo



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Local Roundtable in Marina de Cudeyo

The Municipality of [Marina de Cudeyo](#) located in the autonomous community of Cantabria, Northern Spain, is a partner in the “Community Resilience through Social Procurement” project, known as 'CO-RESP.' This project, funded by the Single Market Programme (SMP COSME), aims to bolster the local economy by maximising the use of 'Socially Responsible Public Procurement' (SRPP) to generate employment opportunities for persons with disabilities and other vulnerable groups. It focuses on coordinating the exchange of best practices and fostering inter-regional collaboration among social economy actors and regional/local authorities at the European level.

As part of the project deliverables, the Municipality of Marina de Cudeyo, in its role as the local authority and with the support of the partnership, hosted a Local Roundtable in Gajano, Cantabria, on November 23rd, 2023. The purpose of this event was to bring together relevant local and regional stakeholders, including social economy organizations, enterprises, public authorities, experts, etc. The objectives of these Roundtables were as follows:

- Sharing and Discussing Good Practices identified during the Social Economy Mission (Work Package 2).
- Gathering feedback from local and regional stakeholders, as well as experts, on the needs and plans for utilizing the lessons learned from socially responsible public procurement at the local level.

The Roundtable Table was attended by local authorities of the city, including the Mayor Pedro Pérez Ferradas, the European Projects Office of the Government of Cantabria as regional representative, and inclusive enterprises and social economy organisations such as AMICA Association, AMPROS, Asociación de Empresas Cántabras de Inserción (ACEI) and Agrupación de Cooperativas y Sociedades Laborales de Cantabria (ACEL).

The meeting provided space for reflection on the experience of the project and the practices identified. Essentially, the participants debated on building capacity and raising awareness among public servants in the municipality of Marina de Cudeyo about SRPP. Additionally, different perspectives argued on how to design and apply the examples and experiences in the region, together with the reflection on conclusions and recommendations gathered throughout the CO-RESP project, good practices shared during the Social Economy Mission in Gleisdorf, the [Declaration](#) and the [Report on SRPP](#), to maximise the use and impact of SRPP in Marina de Cudeyo contracts and tenders.

Marina de Cudeyo's commitment with the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), is reflected by the general guidelines and principles taken into consideration

by the municipality in its operation, including the design and preparation of public contracts and tenders:

- Hire persons with disabilities in a greater extent that the minimum required by Spanish law.
- Promote a greater participation of women in the labour market and the reconciliation of work and family life;
- Combating unemployment, in particular among vulnerable groups, such as youth unemployment, which in turn affects women, and long-term unemployment;
- Promote on-the-job training;
- Ensure safety and health protection in the workplace;
- Compliance with sectoral and territorial collective agreements.

These principles were highlighted during the workshop, together with particular examples of good practices of socially responsible procurement conducted by the municipality in the last years (commented in the previous section), with the aim of generating debate among participants and speakers. Social economy organisations, aware of the national legislative framework and updated with the CO-RESP project objectives, had the opportunity to contribute with their perspectives and needs, as well as to express their concerns and suggestions on how to maximise the use of SRPP in Marina de Cudeyo, prioritising the potential measures to include in the city's action plan specially when it comes to the division of contracts into lots (Art. 46 of Directive 2014/24/EU) and primarily on areas such as services, support and catering.

Context

At the national level, socially responsible public procurement (SRPP) is primarily addressed in Law 9/2017 of November 8, Public Sector Contracts Law (LCSP), which fully transposes Directives 2014/23/EU and 2014/24/EU of February 26, 2014. In Spain, the practices of SRPP and the inclusion and use of social and environmental clauses in public procurement procedures predates the mentioned Directive 2014/24/EU and the LCSP of 2017.

The Spanish model incorporates social criteria across all levels whenever they are related to the contract's object, with the introduction of 'Reserved Contracts' for Special Employment Centers¹ of Social Initiative and Insertion Companies. In this regard, the current legal model of SRPP has several advantages. As LCSP serves as the foundation, covering all territorial and administrative levels, SRPP is decentralised, allowing for more development, depth, and experiences with SRPP application.

Overall, there is a high awareness in many public and private administrations and institutions (NGOs, associations, foundations) regarding the use and implementation of social clauses in public procurement. There is a strong commitment from public authorities, political leaders, and administrations to include social clauses in public procurement procedures.

Considering the Public Procurement regulatory framework, the starting point is the recognition of the specific characteristics of Social Economy agents in Public Procurement participation:

- At the European level, considering their social mission and reinvestment constraint, recognised characteristics in the Social Enterprise Initiative, the Action Plan for Social Economy 2021-2027, and the Council Recommendation on the development of framework conditions for the social economy.
- Nationally, considering Spain as the first European country with legislation on Social Economy (Social Economy Law 2011) and the Spanish Social Economy Strategy 2023-2027, which establishes the need to include social clauses according to public procurement regulations and measures taken in the execution of the Public Procurement Plan. The Strategy incorporates in its Axis 1, 'Visibility and Institutional Participation of the social economy,' Action Line 15, promoting a Social Inclusion Seal to encourage greater participation of social economy entities.
- At the regional level, the Government of Cantabria has not enacted a law to regulate SRPP but has developed an autonomous provision (Decree 75/2019) for the inclusion of social criteria

¹ Sheltered employment companies that promotes the integration of persons with disabilities into the labour market.

and clauses, including general guidelines for their incorporation into the procurement of the entire institutional public sector. The general goal is to ensure a 10% 'Contract Reservations' for Social Initiative CEEs and Insertion Companies. This measure was expected to be fulfilled from June 2023, with no data yet available on its effective compliance.

Based on the internal analysis conducted at the Local Table, the starting point of the public legal framework has been identified:

- Spain is below the threshold of the European measure (EU27) by awarding between 25% and 50% of its procedures solely based on price or cost. This framework has room for improvement with a legislative adaptation of the regulatory framework at the European level.
- The national public procurement platform—unavailable in Cantabria—does not provide easily accessible and reliable data and information on contracts awarded based on MEAT (Most Economically Advantageous Tender) and including social criteria. The weight or relevance of SRPP criteria in the awarding cannot be directly ascertained.
- There are administrative limitations on the use of social criteria in the awarding. Specifically, evaluating offers based on performance is not allowed, and they must be linked to the contract's object, which is not always easy to achieve.
- Spanish legislation tends to be restrictive in interpreting the Public Procurement Law (LCP). Various social clauses and criteria are often rejected for being deemed incompatible if not closely related to the contract's object or if they do not provide added value to previously contracted services.

In this context, the obligation remains quite generic, and its specific application depends on each administration when preparing procurement procedures. They may limit themselves to establishing generic conditions that do not achieve social objectives, instead of including specific clauses or conditions. Generic criteria are often included due to the challenge of justifying links between the contract's object and the social clauses or criteria used, which could lead to the contract's suspension.

Social Procurement in Marina de Cudeyo

At the local level, the Marina de Cudeyo City Council has incorporated various generic clauses into its Procurement Specifications for the award of contracts, in line with the municipality ambition to contribute to the use of SRPP and strengthening the regional Social Economy ecosystem:

Home Teleassistance Service:

Special condition: Ensure safety and health protection at the workplace and compliance with applicable collective agreements, both sector-specific and territorial.

Occupational Risk Prevention Service:

Social-type special condition: Personnel directly involved in contract execution must be employed indefinitely in over 50% of the workforce during the contract's execution. Compliance with subcontractor payment regulations established in the contract law is also required.

Telecommunications Service:

Condition: The awardee must, within one month from contract formalization, provide a plan or program analysing and proposing specific environmental, ethical, and social management measures.

Supply of Accounting and Municipal Register Management Software:

Condition: The bidder must demonstrate the implementation of an environmental management system certificate.

While the Public Procurement has been introduced with a generic framework, three services have considered social clauses:

Insurance Policies Service:

Condition: Promote the employment of individuals with special difficulties in labour market insertion, particularly people with disabilities or at risk of social exclusion.

Home Assistance Service:

Condition: Personnel expenses must adhere to the latest applicable collective bargaining agreement in the sector. The awarded company must maintain the working conditions of the contracted staff throughout the contract's validity, including potential contract extensions; failure to comply may lead to contract termination.

Cleaning of Municipal Buildings and Facilities Service:

Priority given to hiring individuals with functional diversity, women, young people under 30, people with disabilities through insertion companies. Additionally, promotion of product recycling, use of reusable packaging, and support for eco-friendly products.

As it is evidenced in these examples, Public Procurement has been implemented with a generic framework, but certain services have incorporated specific social clauses to address social and environmental considerations.

Local Action Plan

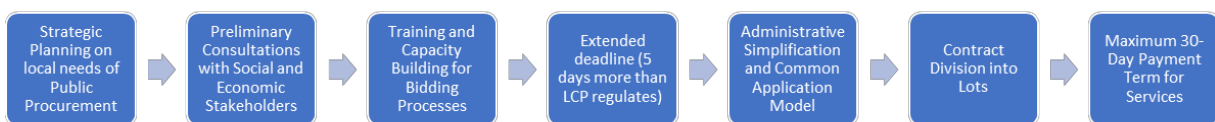
Given the aforementioned national, regional, and local legal frameworks, projects facilitating access to Public Procurement in Marina de Cudeyo have been identified such as the Social Procurement and Socially Responsible Public Procurement guide targeted to enterprises and public authorities, respectively.

The [reference guide](#), elaborated by AECEMCO (Asociación Empresarial de Centros Especiales de Empleo) and financed by the national Ministry of Labour – DG Labour and Social Economy, is part of a campaign to develop specific measures in the Spanish “Social Economy Strategy 2017-2020”, which has been included as one of the main actions in the “Action plan for 2030 Agenda, towards a Spanish Sustainable Development Strategy”. The guide, titled “A new tool for strategic public procurement”, has the objective to promote and maximise the use of SRPP and strategic procurement by providing guidelines and good practices among the public sector, as well as tools to ease the process to technical staff and public representatives in local entities, aggregation of municipalities, autonomous entities and local public enterprises. It analyses the national framework and provides tools to get the most of its possibilities to use SRPP, such as [ContrataSocial](#), a digital platform specifically focused to conform minor contracts and designated invitations to participate in open tenders.

During the local working group session involving stakeholders from the Social Economy sector, initiatives were scrutinised concerning the integration of entities into Responsible Public Procurement. The following were singled out as exemplary instances of success:

One of the notable local examples in our country is the Valladolid City Council, which has implemented the ‘Instruction 1/2018 for the promotion of socially responsible – strategic, honest, and sustainable – public procurement at the Valladolid City Council and in local public entities’. This strategy regulates all administrative procurement procedures and encourages the participation of small and medium-sized enterprises (SMEs) in public procurement. The overarching goal is to achieve efficient, transparent, socially responsible, and sustainable procurement practices.

Furthermore, another objective of the strategy is 'socially efficient procurement,' as it incorporates social clauses, ethical criteria for public procurement, sustainability considerations, and environmental criteria. The aim is to promote a procurement approach that not only meets the necessary administrative standards but also addresses social and environmental responsibilities.



Source: Own creation Based on “ Making Socially Responsible Public Procurement Work: 71 Good Practice Cases. European Commission, 2020.”²

² https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/provision-comprehensive-care-homeless-people_en.

Key Measures

In light of the experience and discussion in the Local Roundtable, and in order to support and promote the use of SRPP, Marina de Cudeyo identifies the following key measures to be addressed:

- Promoting inter-regional cooperation with neighbouring cities and actively debating and circulating promising practices on SRPP, with special attention to those leading to the creation of job opportunities for persons with disabilities and disadvantaged groups.
- Promoting and encouraging the engagement of the Cantabrian Federation of Municipalities (FCM) to initiate dialogue forums with other municipal entities in the region on SRPP and the employment of persons with disabilities.
- Analysing direct services where social economy organisations can be involved during the preparation of Annual Budgets. Given its small size, efforts will be made to request service quotes within the 'Minor Contracts' category (15,000€ + VAT).
- While the Valladolid City Council's Instruction serves as a local reference, the Marina de Cudeyo's Town Hall recognises the need for qualified personnel and a larger public workforce to fully adopt this model. Due to resource constraints, the town hall cannot commit to this working model entirely. However, it aims to facilitate direct interaction with the technical staff of the municipality, exploring the possibility of dividing service contracts into lots.
- Improving the management of policies related to the implementation of the SRPP principles by providing training and up-skilling of public servants.
- Enabling, and promoting inclusion of persons with disabilities by actively cooperating with social economy organisations employing persons with disabilities and DPOs, to promote employment opportunities and inclusion of persons with disabilities, in line with the United Nations Convention on the Rights of Persons with Disabilities, European Pillars of Social Rights and the Disability Strategy.
- Promoting and participating in cross-European projects, meetings, and conferences on SRPP and employment of persons with disabilities to further gather information on recent trends and promising practices.