Third Sector Added Value in Public Service Provision

A practical guide to social clauses in the public tendering of social services and people care
THIRD SECTOR ADDED VALUE IN PUBLIC SERVICE PROVISION.
A practical guide to social clauses in the public tendering of social services and people care

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Catalan Third Social Sector Institutions Committee
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Third Sector Added Value in Public Service Provision
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Presentation

Public Tendering and the Third Sector

The reading of a ten-point manifesto by the Management Board of the Catalan Third Social Sector Institutions Committee on 27 March 2009 successfully concluded the Second Social Services Congress held at l’Hospitalet. Two of those ten demands and undertakings must be highlighted: attaching priority to the struggle against poverty and exclusion and showing determination in deploying the new social services system. This approach was reinforced with a third idea: that in order to tackle these two challenges, great efforts are required by everyone and in particular, an alliance must be formed between public administrations and the third sector.

This idea is shared by the immense majority of politicians and institutions. But the truth is that institutional paralysis, certain laws and procedures and a lack of adequate instruments often do not favour this shared task, resulting in a significant difference between political discourse and everyday reality.

The paradox is even greater in the field of social services and people care. Historically speaking, organised civil society, which we shall refer to as the third sector, first detected and then responded to certain needs with regard to covering social care services. As time has gone by, some of these services have been taken over by the Welfare State and have acquired the status of citizen social rights and obligations for public authorities. However, what happens is that when public authorities activate the mechanisms to provide these services, they apply procedures that fail to attach priority or take into account the values of the social agents that are generated. The considerations and criteria regarding price and economic standing as imposed by the market come first, and consequently, these services are often awarded to companies from outside the social sector that see these services as simply a new business opportunity.

Fully aware of the importance of this fact on the future of the third sector and on improving user care, and in response to the requests that many people holding technical or political positions in political parties, administrations and institutions have presented to us, we have decided to analyse this problem and offer proposals to overcome these contradictions by including social clauses in public tendering processes for social services and people care which will measure the differentiating values that non-profit institutions provide society, rendering them more objective.

The aim is to provide a preliminary contribution resulting from many different and very much appreciated contributions which we trust will lead to debate and give rise to new future proposals on how to make progress in this direction.

We hope that this social clauses guide will prove to be a useful tool for all people and institutions from the public and third sectors that are interested in guaranteeing quality social services by investing all the available resources and getting the third sector and citizens, in general, involved in the provision of such services.

Carles Barba
President of the Catalan Third Social Sector Institutions Committee (2007-2009)

Àngels Guiteras
President of the Catalan Third Social Sector Institutions Committee
1. The Third Social Sector and the Provision of People Care
1. The Third Social Sector and the Provision of People Care

1.1. Objectives of this Publication, Target Audience and Methodology

Cooperation and state-assisted action between social agents and public authorities have always been the working tools of the Catalan Third Social Sector Institutions Committee since it was first created. Responding to social needs has in many cases been led by social institutions rather than public authorities, and for this reason, the third social sector has always naturally been the main ally of public administrations when it comes to managing and providing social services. It is only logical for it to continue to do so in the future. Among other things, this is because the third social sector contributes a series of values and represents a social asset that society cannot and could not do without.

Proving just how important the role of the third social sector is in social policies, the Third Social Sector Committee has been in recent years promoting legal recognition for it and has obtained explicit accreditation for the third social sector as an agent in the provision of social services in the Autonomous Statute of Catalonia and as a sector that is to be consulted for all socio-economic decisions that affect it. Similarly, with the Social Services Act 12/2007, the Third Social Sector Committee successfully won the inclusion of explicit wording mentioning the third social sector as a social services management collaborator.

Over the past few years, the Committee has been working to promote the quality and improve the management of social institutions, and place them in a better position for providing services in collaboration and through agreements with the different administrations. It has done this in close cooperation with its partner institutions, which are second-level federations that in some cases already have a longstanding history of performing internal work for the purpose of consolidating their members and negotiating with public administrations to improve the ways in which mutual cooperation and state-assisted services are achieved.

This publication entitled “Third Sector Added Value in Public Service Provision: A practical guide to social clauses in the public tendering of social services and people care” is one of the priorities established in the 2008-2011 First Strategic Plan for the Catalan Third Social Sector, promoted by the Catalan Third Social Sector Institutions Committee. This strategic plan indicates that within the scope of public tendering, the third social sector aims to ensure that social rights in all cases prevail over other considerations and that in order to move forward towards achieving full social rights, positive action must be promoted by public authorities to the third social sector by applying social clauses in tendering processes.

On the other hand, this mandate from the strategic plan took on considerable importance and urgency with the approval and entry into effect of the new Public Contracts Act, a new legal framework that, in the opinion of the Committee, opened up new and better perspectives for the consideration and insertion of social clauses based on the foregoing objective. To study these possibilities in greater depth, the Committee organised an event on 6 June 2008 at the ONCE (Spanish Organisation for the Blind) auditorium in Barcelona entitled “Public Services and the Third Social Sector within the Context of the New Public Contracts Act”, constituted by the M.P. Elisenda Malaret, the Catalan Generalitat Public Contractors director, Mr. Xavier Padrós and a State Lawyer, Mr. Jorge Ferran Dilla.

On a previous occasion, and for the purpose of promoting this line of action defined in the strategic plan, at the beginning of 2008 the Third Social Sector Institutions Committee had set up an internal work group in which many of its member entities participated. The reflections of this work group were expressed in a programmatic document entitled “Document of Basic Guidelines for the Third Sector and the Provision of People Care Services”, which was approved by the Committee’s General Assembly on 14 July 2008, and which is quoted in chapter 5.1.
Finally, based on this previous work, on 18 September 2008 the Committee’s Management Board decided to start the process of preparing a guide to social clauses and entrust the preparation thereof to an external consultant with the support of a follow-up committee formed by representatives of the member corporations.

At the same time, the Committee’s Management Board agreed to carry out the process of drafting this publication taking into account the opinions and contributions made by public authorities and other social agents involved in the public tendering of social services and people care. To do so, the Committee invited the most important public administrations in the country and the most representative trade union organisations in the social sector to take part in the process through workshops and specific work sessions with the participation of experts in social services and public tendering processes. From this standpoint, the result was highly satisfactory, not only because of the large number of people and entities taking part, but also due to the high level and number of contributions received.

Consequently, the final result is a practical guide to social clauses that the Catalan Third Social Sector Institutions Committee hopes will be of great use in the process of implementing the Catalan Social Services System in forthcoming years.

Objectives

The objectives of this practical social clauses guide is based on the main and, sometimes, exclusive role the third sector institutions has played in providing social services from the time they were established as well as in recent years. This role is provided for and acknowledged by the existing legal framework in Catalonia both as regards its function of collaborating with the provision of social services and as an instrument for participating in public life. In addition, the objectives of this social clauses guide is in keeping with the desire of the Generalitat to clearly promote the social objectives of the public contracts sector in accordance with the 2008-2010 Third Social Sector Support Plan approved by the Generalitat on 14 October 2008.

The general objective of this publication is to consolidate and strengthen the place that third social sector institutions have occupied until now in the management and provision of social services. At the same time, and as a specific objective, it aims to be a technical tool so that the public tendering of social services by the ministries of the Catalan Government and local authorities will provide for and pursue a social benefit above and beyond providing the service itself through special measures in favour of users’ social rights by promoting employment for people and groups with difficulties in achieving social and labour insertion in placing value on the social aspect of social policies; i.e., specifying the principle that public intervention has social responsibilities, especially in the social services sector, and must promote the attainment of social objectives within the framework of its interventions.

Target Audience

The end result is a guide that provides information, justifications and support intended for the following people and entities:

- Professionals working in public sector social services departments.
- Professionals working in public administration contracting departments.
- And political institutions and public offices responsible for managing, designing and developing social policies.

This guide is intended to be a practical instrument for all the above that will offer tools for inserting social criteria and arguments supporting their legality, social impact and usefulness.

Among other tools, this practical guide includes an innovative system of indicators that demonstrates the added value of third sector institutions when it comes to managing and providing social services. For this reason, this publication is also intended for managers and technical professionals of third sector institutions as a way to help them determine the added value of their activities using objective, measurable indicators.

Methodology

The preparation of the document "Third Sector Added Value in Public Service Provision: A practical guide to social clauses in the public tendering of social services and people care" has been led and promoted by the Catalan Third Social Sector Institutions Committee and drafted with the participation and assistance of the different agents involved in public tendering processes and the management and provision of social and people care services.

Firstly, a follow-up committee was set up which has met on six occasions to prepare the book and monitor the project. This team includes seven people designated by the Committee management and led by a member of the Management Board.
1. The Third Social Sector and the Provision of People Care

Secondly, the main agents related to the social services, people care and public tender sectors in the third social sector as well as outside sectors (public health and trade unions) were asked for their opinions:

- Generalitat de Catalunya Ministry of Economy and Finance
- Generalitat de Catalunya Ministry of Social Action and Citizens Affairs
- Catalan Association of Boroughs and Districts
- Catalan Federation of Boroughs
- Barcelona Provincial Council
- Barcelona City Council
- Catalan Social Action Consortium
- Barcelona Public Health Agency
- Comisiones Obreras (CCOO, The Workers’ Commissions)
- Unión General de Trabajadores (UGT, General Union of Workers)
- Unió Sindical Obrera de Catalunya (USOC, Catalan Workers Syndicate Union)

This consultation and participatory work was comprised of the following:

1. Two workshops to identify added value indicators for the third social sector set up by technical staff from the institutions forming the Third Social Sector Institutions Committee and members of the project follow-up committee.
2. Four in-situ participative sessions with professionals from the social services tendering and population care areas from nine public administrations.
3. Two in-situ, participative sessions with experts from the social services tendering and people care departments of the main trade union organisations of Catalonia.
4. Three in-depth interviews with professionals from the public tendering sector, in general, and the social services and people care sector, in particular.
5. Three interviews with politicians and people holding public office responsible for managing, designing and developing social policies.

1.2. The Third Social Sector: Purpose, Contributions to Social Services, Scope and Financing

1.2.1. The Purpose of the Third Sector

The third social sector acts as a generator of values that are essential to our society, such as equality, solidarity and justice for the most vulnerable segments of the population. The actions taken by the third sector go far beyond the provision of social services; they are an instrument for fostering civil and community values, facilitating participation, mutual trust, the capacity to reach agreement, tolerance toward others, solidarity and a long list of other values that consolidate a feeling of belonging and commitment to society, day after day.

The institutions belonging to the third social sector promote social cohesion and integration since they act as agents that create social networks, fostering volunteer work and citizen participation; in short, they undertake actions that attenuate the risk of social exclusion among vulnerable segments of the population, transforming our society into one that shows greater cohesion and offers more possibilities for integration.

Third sector institutions also carry out a very important task in terms of service provision: in fact, without the initiative and intervention of these institutions, many social sectors would be left unattended. The considerable presence of the third sector in this field and the fact that it establishes close contact with people also makes it an important tool for detecting new social needs, precisely due to its greater flexibility and proximity to users.
At the same time, the type of services provided by institutions operating in the third sector is extremely diverse as apart from specific social services, it offers many other services that cover different needs, in all cases using its social mission to guide its activity.

Consequently, the third sector also operates in the following fields:
- Education
- Health
- Employment
- Justice
- The Environment
- Citizen Participation
- Volunteer Work.

In addition, social institutions play other very important roles in our society since they help provide a voice and public projection for the interests and demands of citizens and population segments at risk of exclusion. In this respect, the sector acts as an agent of society, along with governments and enterprise, with the capacity to represent and liaison with public administrations; in other words, to act as a tool for fostering social dialogue.

### 1.2.2. Contributions of the Third Social Sector to Social Services

Thus, with respect to the contributions made by the third social sector to social services, the following five aspects can be highlighted:
- Identification of the needs of the population segments with which it works.
- Adaptation of the services to the needs of citizens.
- Representation and defence of the population segments with which it works.
- Implementation of services that are customised to meet user demands.
- Ongoing evaluation and monitoring of services in order to incorporate new needs and adapt them to the new citizen demands.
The existing regulatory framework consolidates the idea that the third social sector must play an important role in providing citizen care. Firstly, article 24.4 of the Autonomous Statute of Catalonia makes explicit mention of the third sector as an agent of social services provision, and article 45.7 of the Statute refers to it as a sector that must be consulted on all socio-economic decisions that affect it.

Secondly, articles 77 and 78 of the Social Services Act 12/2007 explicitly acknowledge the third social sector as a collaborator in social services management. Specifically, article 78 establishes the following:

Lastly, Act 39/2006, on promoting personal autonomy and care for dependent persons, makes reference, in articles 28, 3.1, 16.2 and 4, to the role played by the third sector in providing services. Article 16.2 sets forth the following:

All the above regulatory provisions from the last three years have meant a great historic leap forward for the Welfare State in terms of the acknowledgement of rights and the provision of social services: the third sector is also one of the critical agents in the consolidation of this model.

On the other hand, the Catalan Third Social Sector Support Plan for 2008-2010, approved in October 2008 as a commitment of the Generalitat to ensure the consolidation of the third sector as the main ally of public authorities in the provision of services to disadvantaged citizens must be emphasized. This Plan has contributed an approach based on consolidating and reinforcing the sector, focuses on human resources as the principal sector tool, and at the same time, provides for areas of participation by the sector that will promote dialogue.

Despite the limitations imposed by European Community authority on the European third social sector, the treatment of this sector in European law has gradually acquired more relevant content. The White Paper issued by the European Commission on European governance proposes a series of important measures to guarantee the participation of third sector organisations in drafting European policies that will help open up and ensure the transparency of these policies. Lastly, the references to the right of association and participative democracy made in the Lisbon Convention establishing a European Constitution outlines a favourable legal framework for the development of the European third sector.

Among the most recent community law and jurisprudence related to the authority of the EU on social matters, there is the Lisbon Convention of 2007:

- **Social clause**: “In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion and a high level of education, training and protection of human health.” (Art. 9 of the Treaty on the Functioning of the EU).

- **Initiative of citizens**: “Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.” (Art. 10.3 of the EU Treaty).

- **Charter of Fundamental Rights**: “The Union acknowledges the rights, liberties and principles set forth in the Charter of Fundamental Rights [...] which shall have the same legal value as Treaties.” (Art. 6 of the EU Treaty).

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1.2.4. The Scope of the Third Social Sector

In recent years, the third social sector has gained significant importance, so much so that it has come to be recognized as a relevant social agent from an economic perspective, as a jobs creator and a tool for providing care to the citizens of Catalonia. This evolution and maturity has led to its consolidation, through the Third Social Sector Institutions Committee, as an agent of society, with its own voice and representative capacity. According to the 2009 Annual Study of the Third Social Sector in Catalonia, the Catalan third social sector has the following quantitative dimensions:

- An increase in social needs and the complexity of these needs, caused by population ageing, the development of new emerging social needs and changes in the family model.
- Greater commitment by public administrations to social policies which has led to a significant increase in public budgets allocated for this purpose in recent years.
- The increase in the budget allocated by the Generalitat to the third social sector: in 2006, it stood at € 745,5 M, which represents an increase of 22% over 2002.
- Funding in 2006 by the Generalitat de Catalunya for 2,304 non-profit entities more than in 2002, representing an increase of 45%.
- Changes in the family model: in 1981 more than 9.9% of all households in Catalonia were headed by a single parent, whereas in 2001 this figure had risen to 20.9%. Likewise, households headed by single mothers with children increased from 5.2% in 1981 to 7.6% in 2001.
- The growing incorporation of women into the labour market: in 2003 the female employment rate stood at 49.1%, but that figure rose to 52.8% during the second quarter of 2007.
- The arrival and settling in Catalonia of more than 1 million immigrants in the past decade, with all the challenges that this involves for inclusion and social cohesion.
- The growth of social services as an opportunity to increase economic activity and generate employment.

All the above has led to a strong increase in the third social sector from 2003 to present, particularly in terms of jobs created as this figure has doubled since 2003, from 52,000 to more than 100,000 professionals, accounting for 2.8% of the occupied population.

Number of organisations
- Approximately 7,500 organisations (associations, foundations, cooperatives and social insertion companies).

Workers with contracts
- More than 100,000 professionals, accounting for 2.8% of the occupied population.

Economic volume
- More than € 5,500 M, representing 2.8% of the Catalan GNP.

Volunteers
- More than 245,000 volunteers, accounting for 4.13% of the population over 16 and more than 2.1% of the Catalan population.

Beneficiaries
- They provide care for 1.7 million people.

Since the last study, the White Paper on the Third Civic/Social Sector, was conducted; in other words, from 2002 until now, the third social sector has recorded strong growth, due to:

- An increase in social needs and the complexity of these needs, caused by population ageing, the development of new emerging social needs and changes in the family model.
- Greater commitment by public administrations to social policies which has led to a significant increase in public budgets allocated for this purpose in recent years.

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1. The Third Social Sector and the Provision of People Care

1.2.5. The Third Social Sector and the Provision of Social Services and Public Tendering

Since the 1960s and 1970s, civil society and the third social sector have played a key role in providing social services and implementing integration and participation policies. During those years, the most vulnerable groups were provided for by associations, relatives or parent associations, as public social policies practically did not exist.

As of the 1980s, both the Generalitat and local authorities started to set up social policy and social service tools, based on public investment and support through the subsidization of social services activities carried out by third sector institutions: this model represented the acknowledgement of the third sector, which was able to improve its resources through investment grants during that period.

Despite the considerable increase in public resources, the amounts of those grants for social services did not always cover the real service costs, and all too often, institutions were forced to generate revenue with contributions from the users themselves (co-financed) or through society’s capacity to generate resources within the same sector.

One example of this evolution over the past five years is the budget allocated in 2007 to the third social sector by the Generalitat totalling €841.3 M, representing an increase of 13% over 2006. Social service providers received more than €246 M from the Generalitat for the procurement of their services.

### Distribution of the number of institutions broken down by target population group

<table>
<thead>
<tr>
<th>Group</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug Addicts</td>
<td>278</td>
<td>4</td>
</tr>
<tr>
<td>Women</td>
<td>1,179</td>
<td>15</td>
</tr>
<tr>
<td>The Elderly</td>
<td>1,057</td>
<td>14</td>
</tr>
<tr>
<td>Children and Young People</td>
<td>1,405</td>
<td>18</td>
</tr>
<tr>
<td>Disabled People</td>
<td>1,122</td>
<td>15</td>
</tr>
<tr>
<td>Immigrants</td>
<td>793</td>
<td>10</td>
</tr>
<tr>
<td>Population at risk of Exclusion</td>
<td>356</td>
<td>5</td>
</tr>
<tr>
<td>Healthcare</td>
<td>542</td>
<td>7</td>
</tr>
<tr>
<td>General and other</td>
<td>913</td>
<td>12</td>
</tr>
<tr>
<td>Total (groups of beneficiaries)</td>
<td>7,645</td>
<td>100</td>
</tr>
<tr>
<td>Total number of institutions</td>
<td>7,503</td>
<td></td>
</tr>
</tbody>
</table>

### Budget Allocated by Generalitat de Catalunya to Procurement of Social Services (2002-2007)

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (in millions of euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>246.2</td>
</tr>
<tr>
<td>2006</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>192</td>
</tr>
<tr>
<td>2004</td>
<td>156.7</td>
</tr>
<tr>
<td>2003</td>
<td>142.3</td>
</tr>
<tr>
<td>2002</td>
<td>104.5</td>
</tr>
<tr>
<td>2001</td>
<td>83.8</td>
</tr>
</tbody>
</table>

Between 2002 and 2007, the budget allocated to third sector institutions by the Generalitat de Catalunya increased from €83.8 M to €246.2 M. The 2003-2004 and 2006-2007 periods saw the most spectacular growth, 35% and 28%, respectively. This growth is what makes it possible to identify the beginning of an important trend: a switch from grants to state-assisted services.

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6 2009 Catalan Third Social Sector Yearbook.
At the same time, local contributions to third sector financing are so significant that many social services are directly managed by local authorities. Consequently, in 2008, 31% of the financing for the Catalan third social sector was local. 8

The passing of Social Services Act 27/2007 and Dependents Act 39/2006 brought about a radical change in the definition of social services as a subjective right to which the needy are entitled. Hence, the portfolio of services included in the Social Services Act clearly modified the approach to establishing the beneficiaries of social services and the authorities' obligation to provide them, despite the fact that certain services were still co-financed by users.

This led to a radical change in 2008 as the grant model for social services institutions was changed to a model under which the Generalitat and local authorities purchase vacancies and social services on the market through public procurement procedures.

These changes have coincided in time with the passing of the European Union Directive EC 2006/123 on free competition with respect to services, known as the Bolkestein Directive, which establishes the bases for eliminating legal and administrative barriers in building an internal market in Europe. Directive 18/2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts was transposed into Spanish law with the passing of Acts 17 and 18/2004 and the Public Contracts Act 30/2007. In fact, this Act outlines social clauses for public contracts, in recognition of those specified in the third social sector for the provision of the social services and of the added value this sector provides in terms of the generation of social capital. This publication is dedicated to analysing these social clauses.

Notwithstanding, it must be taken into consideration that tendering for social services management is not always a rule that must be followed. This is because the tendering regulations themselves (as we shall see later on in this document) offer alternatives such as restricted procedures or negotiated procedures for cases where due to the type of service for which bids are requested, there is only one non-profit operator in the territory where the vacancies are contracted with sufficient material and human resources to provide the service.

1.2.6. Catalan Third Social Sector Institutions Committee

The Committee is a social agent that represents the Catalan third social sector, acting as a political interlocutor between public administrations and society. It brings together more than 3,000 Catalan non-profit institutions with different legal forms to fight for participation, citizenship and social rights.

The mission of the Catalan Third Social Sector Committee is to influence Catalan social policy so as to improve the welfare of people and achieve their complete social integration. It also provides the backbone of the sector to reinforce it, uniting institutions and obtaining recognition for their actions by economic sectors, public administrations and Catalan society as a whole.

The Committee was set up in 2003 following the initiative of its member entities, within the context of the preparation of a "White Paper on the Third Civic/Social Sector". It is now comprised of the most important second-level institutions in the sector, grouping thousands of entities that attend to a wide range of population groups: children and family, young people, immigrants, the elderly, the mentally, physical and sensory handicapped, drug addicts, people with difficulties finding a job, the homeless, etc.

The following federations of institutions currently form part of the Third Social Service Sector Committee:
1. Càritas Catalunya
2. ECOM Confederation
3. Comitè Català de Representants de Persones amb Discapacitat (Catalan Committee of Representatives of People with Disabilities) (COCARM)
4. Coordinadora de Comunitats Terapèutiques i Pisos de Reinsersió per a Drogodependents de Catalunya (Coordinator of Therapeutic Communities and Apartments for the Reinsertion of Drug Addicts of Catalonia)
5. Coordinadora de Tallers per a Persones amb Discapacitat Psíquica de Catalunya (Catalan Coordinator of Workshops for the Mentally Handicapped)
6. Creu Roja (Red Cross)
7. Entitats Catalanes d’Acció Social (Catalan Social Action Entities) (ECAS)
8. Moviment Laic i Progressista (Civil and Progressive Movement) (MLP)
9. Federació d’Associacions Americanes de Catalunya (Federation of American Associations of Catalonia) (FASAMCAT)
1. The Third Social Sector and the Provision of People Care

In accordance with its dual mission, the Committee has carried out activities such as the following in recent years:

a) Actions with respect to social policies:
   ➔ Proposals regarding social rights and recognition for the third sector which have been incorporated into the Statute.
   ➔ Active participation in the process of drafting the new Social Services Act.
   ➔ Obtaining approval for the Catalan Plan of Support for the Third Social Sector for 2008-2010 by the Generalitat.
   ➔ Signing of the National Immigration Pact.
   ➔ Signing of the National Research and Innovation Pact.
   ➔ Participation in preparing and approving the National Associations and Volunteers Pact.
   ➔ Request to prepare and activate the Catalan Action Plan for Social Integration.
   ➔ Contribution to increasing the percentage of personal income tax allocated to social activities and awareness campaigns from 0.52% to 0.7%, and defending the proposal to reform the system in order to improve the access of Catalan institutions to those funds and allow them to be controlled by the Generalitat.
   ➔ Drafting of government proposals and defending such proposals before political parties in the event of electoral disputes.
   ➔ Achieving a system of multi-annual agreements for social institutions.

b) Actions to strengthen and improve the sector:
   ➔ Drafting and approval of the First Strategic Plan for the Third Social Sector in Catalonia, 2008-2011.
   ➔ Drafting and publishing of the First Catalan Third Social Sector Yearbook in 2009.
   ➔ Signing of the Quality Charter, a series of undertakings made by the sector to guarantee quality and transparency.
   ➔ Achieving greater social recognition and the inclusion in the Committee of various councils and institutions.
   ➔ Conducting studies and organising various internal seminars on subjects of common interest to the institutions.
The Committee is a member of the European and Spanish networks of entities for the prevention of poverty and social exclusion (European Anti-Poverty Network), and as such, works towards achieving social cohesion and full inclusion of all vulnerable population segments or those at risk of exclusion.

Among other activities, the Committee organises a congress every two years so that the whole sector may gather together. The last meeting was held on 26 and 27 March 2009 at La Farga de l’Hospitalet trade fair venue, and was attended by almost 1,300 people. Under the motto “Un sector al servei de les persones” (A sector at the service of citizens), and with almost 200 presentations and sessions and the presence of many institutions and other places to meet and exchange ideas, the non-profit entities working for the most vulnerable segments of the Catalan population reflected upon their role within the context of the economic crisis and the implementation of new social laws. The meeting was also attended by research centres, universities, professional bodies, other entities from the Catalan and Spanish third social sector and the main leaders and representatives of national political, trade union and social institutions.

At this Congress, the second one organised so far, the draft of this publication “Third Sector Added Value in Public Service Provision: A practical guide to social clauses in the public tendering of social services and people care” was presented as part of a conference given by Mr. Xavier Padrós, director general for Public Contracts of the Generalitat; Mrs. Àngels Guiteras, member of the Management Board and coordinator of the publication; Mr. Joan Subirats, director of the Catalan Government and Public Policies Institute and Mr. Ricard Valls, a consultant and collaborator in the drafting of this publication.

1.3. The Added Value of the Third Social Sector

1.3.1. The Distinguishing Features of the Third Social Sector

A recent international study reveals the following features that distinguish the third social sector:

- A focus on the needs of the people using the services:
  - The institutions tend to act in accordance with what is required by users.
  - They have fewer operational and political constraints than public administrations.
  - Their staff (professionals and volunteers) works with greater commitment, enthusiasm and generosity in identifying and detecting changing needs.
  - The institutions are in many cases founded by people with hands-on experience in the aspects that they wish to deal with.
  - The institution is deeply rooted in the community and local environment.

- Knowledge and experience in working with more complex needs and tackling complex social situations.

- The ability to be flexible and at the same time offer their services in a unified manner:
  - They are able to rally sources of financing and different resources in order to create services that respond to the specific needs of citizens and communities.

- Their capacity to win users’ trust:
  - Normally, due to being involved in different problematic issues, users believe that third sector institutions are more trustworthy than public administrations.

- Experience and independence in order to innovate.

Public administrations are more and more inclined to believe that the involvement of the third social sector in providing social services offers more benefits than the quality of the service provided, and this concept is understood as added value or collateral value.

These benefits or advantages are:

- Citizen involvement in making improvements in their community.
- The development of volunteers’ skills and experience.
- An increase in mutual trust within the community and between different communities, that is, the creation of social capital.

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One example of added value: The Red Cross has discovered that the volunteers taking part in its home care service were extremely efficient in reducing the sensation of social isolation; on repeated occasions, service users mentioned this isolation as their main concern upon being discharged from hospital. The quality of the care and time dedicated by the volunteers were seen as being crucial in this sense.

What does social capital mean? Social capital measures the sociability and mutual trust of certain people and the aspects that make it possible for the cooperation between them to prosper and each person’s use of the opportunities that arise from these social relations.

We should mention three aspects with regard to social capital:
- When referring to sociability, this should be understood as the ability to work together, to cooperate and execute an action as a group.
- In recent years, three main sources of social capital have emerged: mutual trust, effective laws and social networks.
- Apart from the potential differences in the manner in which these attributes are defined and measured, social capital is always directed at factors that bring people together as individuals in a certain society, and the way in which this brings opportunities for collective action and the welfare of the group.

According to the definition given by the OECD in The Well-being of Nations, social capital is working with the laws, values and shared points of view, thereby facilitating cooperation within a group and between different groups.

Social capital is mainly determined by the existence of an active and participative third sector. To evaluate and measure social capital, the following dimensions are taken into account:
1. Social participation (e.g., volunteer work: frequency and intensity).
2. Civic participation.
3. Social networks and social support.
4. Trust and reciprocity.
5. Community vision.

1.3.2. The Twelve Values that Distinguish this Sector
The institutions that operate in the third social sector share a series of values, even though each one applies them in accordance with its own mission, characteristics and priorities. These values are included in the Quality Charter of the Catalan Third Social Sector Institutions Committee:

A. Values related to people:
- Human dignity.
- Defending rights.
- Solidarity.
- Professionalism.
- Volunteer work.

B. Values related to society:
- Democratic commitment.
- Social participation.
- Cooperation.
- Transparency.
- Social responsibility.
- Initiative.

C. Values related to organisations:
- Committed to serving people.
- Participation and decentralisation.
- Transparency.
- Efficacy and efficiency.
- Continual improvement.
- Control over the global nature of their mission.

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All the above values are characteristic values that define the third social sector, but only some of them are included in this study since they represent the essence of those entities and set them apart from other actors in the social services field, such as for example, service companies.

The following process has been used to identify these differential values:
2. Workshop for reflection: work session with the project monitoring committee.

This process led to the identification and definition of twelve differential values for the Service Sector: four are related to people, five to society and three to organisations.

**PEOPLE-RELATED VALUES**
- Human dignity.
- Education on social rights.
- Solidarity.
- Volunteer work/relational proximity.

**SOCIETY-RELATED VALUES**
- Social involvement.
- Democratic participation.
- Networking.
- Social initiative.
- Local roots.

**ORGANISATION-RELATED VALUES**
- Priority attached to people and mission above and beyond profit.
- The absence of profit.
- Participation.
A Definition of the Twelve Values that Distinguish the Third Social Sector

A. PEOPLE-RELATED VALUES
1. Human dignity. Respect for the dignity of people in all aspects, through social promotion and the participation of each individual in how they live their lives with the right to choose.
2. Education on social rights. The continuous detection of social rights and information, awareness and defence of those rights, particularly for people or groups at risk of exclusion.
3. Solidarity. The social integration of people, allowing them to make decisions about their own personal situations, needs and opinions, in an attempt to provide each person with what they are entitled to as citizens.
4. Volunteer work/relational proximity. The professionals, volunteers and collaborators of the institution carry out their tasks and perform their services and/or other additional tasks at their own will, without being asked to do so, in order to provide better services to users/beneficiaries. It also includes the liberty, autonomy, self-management, responsibility and decision making of the professionals, volunteers and collaborators that work for the institutions.

B. SOCIETY-RELATED VALUES
5. Social involvement. The third social sector takes on and exercises the function of a social agent that is increasingly more visible, representing the most vulnerable people and population groups and defending their rights.
6. Democratic participation. The third social sector works towards vitalising social structures to foster the participation of people and organisations in finding a response to the needs of society.
7. Networking. The third social sector facilitates the coordination and creation of synergies between existing initiatives and activities with different agents and in different fields, in an attempt to achieve interaction between people and organisations.
8. Social initiative. The institutions operating in the third social sector become motors for the transformation and improvement of social policies and services, by changing emerging social problems and demands into positive responses.
9. Local roots. The third social sector arises from within its own territory, based on a profound association and adaptation to the idiosyncrasy and needs of each specific region.

C. ORGANISATION-RELATED VALUES
10. The priority attached to people and mission above and beyond money. The constant detection of new needs and innovation in the face of new emerging realities above and beyond profitability.
11. The absence of profit; the reinvestment of profits and surpluses obtained by the organisation in the fulfilment of its mission.
12. Participation. The involvement of the people in the organisation in planning, evaluating and improving their actions.
2. Tendering of People Care Services and Social Clauses
2. Tendering of People Care Services and Social Clauses

2.1. Public Tendering of Social Services and People Care: The Awarding Procedure

The new Public Contracts Act 30/2007 has led to a significant change in the tendering procedure with respect to the above law, and the relationship between public administrations and the service sector, based on subventions.

To begin with, this new Act 30/2007 not only affects public administrations in a strict sense, but also all other public bodies such as consortiums, foundations and regional institutions that are controlled by public administrations.

Apart from various changes with regard to the contract procedures, Act 30/2007 has resulted in certain public administrations taking into consideration the price tendered without including the respective VAT amount at the time of assessing the different economic proposals submitted.

Given that service sector institutions usually carry out their activities without applying VAT, they have no right to deduct the VAT paid on their purchases of goods and services. Therefore, they become net end consumers of that VAT and are thus, unable to apply tax relief for the VAT paid in their costs.

This new practice is a negative measure for the third social sector with respect to companies, since companies are able to apply lower prices, thanks to the fact that they recover part of the VAT paid when purchasing goods and services.

Due to the importance of the implications of VAT on the prices of social and personal service provision tenders, this guide to social clauses devotes a specific paragraph to this issue in section 5.2.

We shall not enter into an exhaustive description of the entire new and more complex tendering process here, but simply focus on the following:

- Providing a series of clear guidelines so that third sector institutions can obtain better guidance with respect to the new provisions of Act 30/2007 as regards tendering procedures.
- Providing administrations and institutions with a clear understanding of the type of procedure and the way in which social clauses can be included in the public procurement of services for the population.

The existing provisions regulating the manner and procedure for awarding public contracts makes a distinction between "minor contracts", which can be awarded directly without having to be published; and other contracts, which are awarded in accordance with open or restricted procedures or in exceptional cases, through a negotiated procedure or competitive dialogue.

A distinction is also drawn between contracts subject to harmonised regulation and those that are not.

A. Minor contracts:

In tendering, "minor contracts" are contracts for services or the provision of public services with prices of less than 18,000 euros, not including VAT.

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Article 122.

3. Minor contracts may be awarded directly to any organisation that is able to carry out the work and has the necessary professional qualifications to execute the contract, in compliance with the provisions of article 95. Minor contracts are contracts with a price of less than 50,000 euros, in the case of works contracts; or 18,000 euros, in the case of other contracts, subject to the provisions of article 190 in relation to works, services and supplies centralised within the state scope.
These contracts may be awarded directly by the contracting body with no need for publica-
tion, provided that the successful bidder has sufficient capacity to execute the work and
the necessary professional qualification as recorded in the Electronic Registry of Bidding
Companies (ERBC), which will be discussed in section 2.2.8.

In this case, the contract file is streamlined and requires only the approval of the expense by
the respective administration and the incorporation of the invoice, after the services have
been provided. However, the term must not exceed one year with an explicit prohibition on
extending that term.

The Generalitat Government and some local authorities have introduced specific measures
to promote contracting certain types of services and provisions considered to be minor con-
tracts due to their amounts, which shall be analysed later in section 2.2.3.

**B. Contracts that are subject to harmonised regulation and contracts that are not:**

Contracts subject to harmonised regulation include those which, due to the nature of the
contracting body, type and amount, are subject to European directives with regard to the
laws and publication of the contract. Therefore, in these cases, the applicable laws are
the European directives and the contract must be published in the Official Journal of the
European Union (OJ).

However, services that are normally considered social services remain outside the objective
scope of “contracts subject to harmonised regulation”.

**C. Concerning the awarding of public services management contracts:**

**C.1. Minor contracts:**

They may be awarded directly to any company or organisation, considering the provisions of
section 2.2.3 with respect to tendering through the system of restriction to social entities.

**C.2. Other contracts:**

Public service management contracts that fail to meet the necessary conditions for being con-
sidered “minor contracts”, are awarded through the following procedures:

**2.1.1. Practical Application of the Awarding Procedures**

The law establishes that public tenders are normally awarded through the open or restricted
procedure, with the negotiating and competitive dialogue procedures being reserved for
certain cases in which there are technical justifications for using this procedure.

**General Rule: Open and Restricted Procedures:**

**OPEN PROCEDURE**

**Article 141. Scope of the Open Procedure.**

In an open procedure, all companies interested may submit a proposal, with an express prohibition on negotiating
the contractual terms with the bidders.
2. Tendering of People Care Services and Social Clauses

The general rule is that a contract is awarded through an open or restricted procedure depending on the amounts and type of service.

The procedures must be published in the respective official journal in each case, depending on the administration contracting the service and the amount, under the conditions established in article 126 of Act 30/2007.

As a general rule, the term for submitting the proposals is fifteen days for open procedures and ten days for restricted ones.

**Negotiated Procedure:**

The negotiated procedure can only be used in the following cases:

1) If the bids or proposals submitted in open, restricted or competitive dialogue procedures are found to be irregular or unacceptable, after being analysed. Consequently, it should be kept in mind that negotiated procedures are often the result of previously-initiated procedures in which the submitted proposals fail to achieve the contractual objective for one reason or another.

2) As an exception, a negotiated procedure can be applied to contracts in which it is not possible to determine the price beforehand.

In both these cases, the contracting body must publish the respective announcement, except when all the bidders are included that had participated in the negotiations through the open procedure.

3) If, after monitoring an open or restricted procedure, no offer or candidate has been presented.

4) If due to technical reasons or reasons having to do with the protection of exclusivity rights, the contract can only be entrusted to a third social sector organisation or institution.

As we shall see later on, this is standard practice in the tendering of social services, when the contract object includes certain services that can only be offered by certain types of institutions or there is only one entity with sufficient physical and human capital to provide certain services within a territory. This could well be the case of the tendering of support services for families with mentally handicapped members, when there is only one entity that meets the necessary requirements to provide this service.

5) If due to an urgent need, the contract must be rapidly executed.

6) If the contract is declared secret or reserved.

In addition, in the case of public service management contracts, the negotiated procedure can be used in the following cases:

a) In the case of public services for which it is not possible to promote competition in the bid. This would be the case of a contract for vacancies in a home for the handicapped if there is only one institution in the territory with the necessary physical and human resources to provide this service with the required standard of quality.

b) Management services contracts with a first-establishment expenses budget that is estimated at less than 500,000 euros and a term that is less than five years.

When the estimated value is over 60,000 euros, the contracting body must publish the respective announcement.

7) Those related to the provision of healthcare services arranged with outside resources, arising from a cooperative agreement with public administrations or a framework agreement, provided this has been awarded subject to the applicable laws.

**Competitive Dialogue Procedure:**

This type of procedure is only applicable to especially complicated contracts, understood as those where the contracting body is not objectively capacitated to define the necessary resources or objectives, and for cooperative contracts between the public and private sectors, as outlined in article 11 of Act 30/2007.
This introduction to the tendering process shows that from a legal standpoint, there are many possibilities for using the restricted tendering procedure within the scope of social services provided by third sector institutions.

Specialisation or lack of competition are the basic arguments for this, but we shall also see how social clauses can be used in cases where an open procedure is necessary, and consequently, the way in which competition and the price of the services are sometimes determined. This could be counterproductive in the medium term for the Administration and for the citizens receiving the social and personal care services, since the price is not always a guarantee that the service provided to the citizens is adequate.

2.2. Evolution of the Measures Taken to Promote Social Objectives in Public Tendering: Social Clauses and Reservations

In recent years, public administrations have made a great effort to ensure greater cohesion between the policies and international commitments they adopt and their own internal procedures. One of the main indicators of this cohesion is the criteria used in public tendering processes and in particular, social clauses.

Social clauses in public procurement involve the insertion of certain criteria into public procurement processes by incorporating aspects that have to do with social policy into the contract as pre-requisites (admission criteria), as rating elements (scoring) or as obligations (demand for execution). This inclusion makes public tendering an effective tool for reducing social inequality.

2.2.1. Competitive Tendering: Insertion of Conditions Beyond the Price

The inclusion of social aspects in tendering processes as admission criteria, award criteria during the evaluation phase or obligation criteria during the execution phase is a practice carried out by different administrations in Spain and Catalonia. Below is a description of some of these, provided for informational purposes only.

We must emphasize that Act 30/2007 allows for the use of the negotiated procedure for contracting social services with a third sector institution, without having to have recourse to the open tender procedure as long as the use of this procedure can be justified.

With respect to public social services management contracts, the following are justified reasons for using the negotiated procedure:

a) To guarantee access to social services for the whole Catalan territory, on a fair and just basis. In many cases the only operators in a position to provide social services such as social care for handicapped people within a specific territory are third sector institutions. This type of service contract is necessarily related to the existence of specific facilities for providing the service and in most cases, these facilities are owned by just one particular association or foundation.

Also, as has already been mentioned, the case may arise where the specialisation required by the contract procedure can only be provided by third sector social institutions. This could be the case of most services providing care for children or services to guarantee the social integration of people at risk of exclusion.

This practice is quite usual for public health and education tenders, in which the availability of certain facilities is essential to providing the service described in the contract and there are no other operators in the territory that have or could have such facilities in the short and medium term.

b) To provide services with an allocated first-establishment expenses budget of less than 500,000 euros and a term of less than five years.

In this respect, Public Contracts Act 30/2007 specifies the following:

This article specifies the following:

Article 156. Public Services Management Contracts.

Apart from the cases provided for in article 154, the negotiated procedure can be used to award public service management contracts in the following cases:

a) For public services with respect to which it is not possible to promote competition in the tender.

b) In service management contracts with a first-establishment expenses budget that is estimated at less than 500,000 euros and with an estimated term of less than five years.

c) Those related to the provision of medical assistance arranged with outside resources, arising from a cooperative agreement between public administrations or within a framework agreement, provided it has been awarded subject to the provisions of this Act.
The laws regulating tender award criteria are as follows:

**Article 134. Tender Evaluation Criteria.**

1. For the purpose of evaluating the proposals and determining the best offer in economic terms, criteria must be used that are directly linked to the purpose of the contract, such as quality, price, the method used to review the remuneration associated with using the work or providing the service, the execution term or service-provision term, the cost of use, the environmental characteristics or those that are related to meeting social demands that respond to the needs, as defined in the contractual specifications, for the particularly vulnerable population segments to which the users or beneficiaries of the contracted services belong, the profitability, technical value, aesthetic or functional characteristics, availability and cost of replacement parts, maintenance, technical assistance, after-sales service and other similar services.

When only one awarding criterion is used, this must be that of the lowest price.

2. The criteria serving as a basis for awarding the contract are determined by the contracting body and listed in the announcement published, in the specific administrative clauses specifications or in the descriptive document.

3. Assessment of more than one criterion is applicable in particular, when awarding the following contracts:
   a) Those where the projects or budgets have not been established beforehand and must be presented by the bidders.
   b) In cases where the contracting body considers that the definition of the provision can be improved on by using other technical solutions, to be proposed by the bidders by submitting changes or reducing the execution term.
   c) Those where the contracting body, institution or entity provides auxiliary materials or resources to execute the contract for which special guarantees are required by the contractors regarding proper use.
   d) Those where the use of especially advanced technology is required or where the execution is especially complex.
   e) Public service management contracts.
   f) Supply contracts, unless the products to be purchased are properly defined as being standard without the possibility of modifying the delivery terms or make changes of any kind in the contract; and therefore, the price continues to be the only decisive factor for awarding the contract.
   g) Service contracts, unless the service provision is properly defined in technical terms and it is not possible to modify the delivery terms or make changes of any kind in the contract; and, therefore, the price is the only decisive factor for awarding the tender.
   h) Execution contracts that could have a significant effect on the environment, when the awarding of which must include the evaluation of measurable environmental conditions, such as the least environmental impact; the efficient use and savings of water, energy and materials; the environmental life-cycle cost; ecological procedures and production methods; the generation and management of waste or the use of recycled or reused materials, or ecological materials.

4. When taking more than one criterion into consideration, and when it is necessary to establish the related weighting attributed to each aspect, which can be expressed by attaching a sufficiently wide range of values. If the awarding procedure is divided into different phases, an indication must also be given as to which of these phases the different criteria apply, and the maximum score threshold that is to be met by the bidder in order for it to continue in the selection process.

If, for duly justified reasons, it is not possible to weight the chosen criteria, these shall be numbered in descending order of importance.

5. The chosen criteria and their weighting must be indicated in the tender announcement, if it is published.

6. The specifications or contract may be subject to penalties pursuant to the provisions of article 196.1, in cases of breach or faulty compliance in providing the service affecting the characteristics that have been considered in defining the award criteria, or if the essential contractual nature is attributed to the strict observance of those characteristics for the purposes of article 206.h).

Based on this article, there are many examples of the inclusion of additional criteria other than price for the specific purpose of evaluating the quality or social requirements of the contract. It is important to stress that in the technical clause definition phase, other criteria should be included apart from the price; or, the evaluation of the price could be in proportion to the purpose of the contract, in order to prevent an auction process or impossible bids that would end up damaging the provision of services for citizens in one way or another.

The following are just some examples of how the application of criteria beyond the price is used within the scope of social services and services for citizens:

- **Social quality clauses in public procurement bodies in Catalonia.** For some years now, administrations have been incorporating social clauses into their tendering processes (but not specifically in social services tendering processes) in the various contract awarding phases.

- **The Seville City Council has approved a series of general administrative specifications for social quality, in the form of a declaration that enforces compliance with special social quality conditions when executing public works and services contracts for all companies awarded contracts that include these specifications.**

- **Social quality clauses in the A Coruña City Council.** The A Coruña City Council has included clauses to favour the recruitment of workers in at-risk situations and also clauses to guarantee the balance of professional and family life in all its large tendering procedures.

- **Social quality clauses in the Regional Government of Valencia.** Through Decision 1/2003 of 21 March 2003, the Regional Government Administrative Contracts Board of Valencia has recommended introducing different social clauses into the different types of contracts, depending on the contract phases.

- **Social quality clauses in the Region of Navarre.** In the works contract for the installation and execution of prefabricated classrooms on the Haritz-Berri Farm in Ilundain, the Regional Government of Navarre included clauses for recruiting workers at risk or in a situation of exclusion.
It should be said that in the Basque Country, the new Social Services Act 12/2008 of 5 December 2008 provides for the inclusion of positive discrimination measures in agreements with non-profit entities:

**Art. 72.1:**
Social clauses, positive discrimination measures and other tendering criteria: Public administrations shall incorporate social clauses into the procedures for awarding management services for the Catalogue of Services and Benefits provided by the Basque Social Services System. Such clauses shall, among other things, refer to compliance by the entity of the requirement of providing continuous care, during the specified term based on the type of service provided, to people, families and/or groups with similar needs as the people for whom the service or the centre, the management of which is being awarded, is intended; and special consideration shall be given to its prior presence in the area where the services are to be provided.

On the other hand, Basque law also includes the option of reaching multi-annual services management agreements without following the tendering procedure. The objective of this measure is not so much to change the tendering procedure but rather to ensure that the Basque Government can formalise grants through multi-annual agreements. Therefore, it opens up a new alternative for financing the management of services by institutions that avoids the complexity of the public procurement process:

**Art. 65.1:**
When establishing agreements and there are similar conditions of efficacy, quality and costs, public administrations shall give priority to non-profit institutions dedicated to providing social services.

Finally Basque law attempts to establish criteria of positive discrimination in favour of non-profit entities that are in line with the objectives of this publication by the Catalan Third Social Sector Committee:

- In addition, independently of the legal form of the institution, positive discrimination criteria or measures shall be applied to all those institutions that meet the following requirements, among others:
  - Those that allocate the economic results of their activity to the ongoing improvement of the services and centres included in the contract.
  - Those that improve the ratios established in the Portfolio of Services and Benefits of the Basque Social Services System.
  - Those that contribute to reducing costs associated with the provision of the service or management of the centre through a combined use of resources with other services or centres.
  - Those that articulate the participation of the people affected, through mutual assistance activities and voluntary social activities.
  - Those with management bodies comprised of more than 40% of women.

The same law provides for the inclusion of social clauses as criteria in tendering:

**Art. 71:**
1. If the Basque public administrations do not decide on the direct management of the services included in the Catalogue of Services and Benefits provided by the Basque Social Services System, they can use the option of indirect management of the same if, due to their nature or innovative character, it is not possible to use the contracts system.
2. The indirect management of the centres and services in the catalogue must be adapted to the provisions for publicly tendered management contracts in the regulatory provisions of public administration contracts. These contracts shall be formalised through programme contracts based on the terms outlined for those contracts in article 68.

**Art. 72:**
Social clauses, positive discrimination measures and other tendering criteria: Public administrations shall incorporate social clauses into the procedures for awarding management services for the Catalogue of Services and Benefits provided by the Basque Social Services System. Such clauses shall, among other things, refer to compliance by the entity of the requirement of providing continuous care, during the specified term based on the type of service provided, to people, families and/or groups with similar needs as the people for whom the service or the centre, the management of which is being awarded, is intended; and special consideration shall be given to its prior presence in the area where the services are to be provided.

Thus, the Social Services Act 12/2008 of the Basque Country established the legislative precedent for admitting social clauses in the tendering of social services and people care, and guarantees special legal coverage to them, in accordance with the Public Contracts Act 30/2007.

Furthermore, the introduction of social clauses into public procurement processes is a growing practice throughout Europe. Below are some of the most important of these.
2. Tendering of People Care Services and Social Clauses

European Union. Eurocities Campaign: CARPE Project
The Eurocities campaign for responsible consumption aims to generate awareness in European cities and ensure that they become responsible consumers. As part of this campaign, the CARPE (Cities as Responsible Purchasers in Europe) Project has conducted research into identifying the necessary mechanisms for adopting social and environmental criteria in procurement practices in European cities. The result is the CARPE Guide to Responsible Procurement, which among others, implements detailed guidelines on social procurement. This text focuses on social procurement as a practice used in public tenders to improve social cohesion and, based on that perspective, identifies and develops social clauses in relation to the following criteria:

- Promotion of employment.
- Support for the social economy.
- Maintenance of employment conditions.
- Promotion of equal opportunities and accessibility.

Great Britain. Report by the Public Administration Commission
The report drafted by the Public Administration Commission of Great Britain, in June 2008, explicitly acknowledges the virtues of the third social sector as a social services operator in reforming public services in Great Britain.

This report also raises a more controversial issue. Although it explicitly acknowledges the differential values of the third social sector, it also roundly affirms that no conclusive evidence exists of the impact of this added value in the provision of services to users, and raises doubts as to whether these values are exclusive to third social sector organisations as opposed to companies.

Great Britain. Survey on the Application of Social Clauses
In 2007, the UK Office of the Third Sector conducted a survey through its website on the application of social clauses in order to provide information and foster debate on this issue. The survey was addressed to different sectors of public administration (central government, local and regional authorities, etc.) and a wide range of non-profit institutions.

The survey dealt with aspects such as barriers to applying social clauses, the instruments that should help enable and focus the application of these clauses, etc.

France. Guide to Public Procurement and Persons At Risk or in a Situation of Exclusion
The Legal Affairs Department of the French Ministry of Economy, Finance and Industry prepared this procurement guide within the framework of the Economic Public Procurement Observatory (2007). The main objective was to facilitate the implementation of social clauses in French public markets, especially clauses that would allow persons suffering from unemployment or exclusion or people with difficulties in finding a job to find employment and become integrated professionally and socially.

This document arose as the result of a previous analysis of real or alleged obstacles, and the conviction that more reliable and precise legal information could attenuate those barriers. Both public “purchasers” and bidders need legal and technical advice to help them define these clauses and control their execution. Consequently, we could say that the ultimate objective of this guide is to make the legal dimension of social clauses accessible to everyone.

Scotland. Report on Community Benefits in Public Procurement
This 2008 report presents the results of the research carried out by the Scottish Ministry for Public Procurement and the Community Benefits in Public Procurement Pilot Programme (CBIP) in Scottish communities.

Among the issues dealt with is a series of instruments for applying social clauses in public procurement and procedures for achieving maximum community benefits. It also identifies good practices for various institutions and measures their impact.

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2.2.2. Preference of Contracts Awarded to Third Sector Institutions

As already mentioned above, Act 30/2007 and Directive 2004/18 establish a series of measures that allow contracting administrations to establish social clauses or preferences when awarding contracts to third social sector institutions in equal conditions regarding price and quality as in the business sector.

Firstly, Additional Clause Six 1 establishes that specific administrative clause specifications may give preference in equal conditions to companies where more than 2% of the staff is comprised of people with disabilities. Thus, it is a measure aimed at promoting the integration of the disabled in the normal employment market, and facilitating their recruitment by private enterprise.

Additional Clause Six 2 goes even further by extending preference in awarding contracts based on equal conditions and quality to insertion companies and third sector institutions with an objective to foster the recruitment of people at risk of exclusion.

The preferential measures in the awarding process are based on the need to provide access to the employment market for people at risk of exclusion or with special difficulties due to different reasons. They respond to a period when the employment situation was quite different to the existing one, and the focus of public employment policies was directed at the inclusion of groups with special difficulties in finding employment. Additional Provision Six 2 literally reads as follows:

Therefore, it must be kept in mind that the beneficiaries of preferential awarding are all third sector institutions that work for social inclusion and the insertion of vulnerable segments of society into the labour market.

Despite the good intentions of Additional Provision Six, the reality of public tenders is that due to the type of scoring systems established, both in regard to the price and other technical valuation and additional improvements criteria, ties between two bids practically do not exist and, so, these preferential measures become elements that are impossible to apply when awarding contracts.

2.2.3. Reserved Tenders: Special Employment Centres, Social Insertion Companies and Third Sector Institutions

For many years now, public administrations have been requiring companies with more than 50 workers to give at least 2% of their jobs to people with disabilities or alternatively that:

- They donate an amount that would equal the salaries of the people with disabilities up to that 2% limit to these entities.
- They establish a commercial or civil contract with special work centres or disabled self-employed workers, for the:
  1. Supply of raw materials, machinery or any other goods needed for the normal operation of the organisation.
  2. Provision of other accessory benefits apart from the organisation's normal activity.

1. Similarly, preference may be established in awarding contracts, under the same conditions as those that are economically more advantageous, to proposals submitted by organisations dedicated specifically to the promotion and insertion of persons at risk of social exclusion into the employment market, as regulated by additional provision nine of Act 12/2001 of 9 July 2001, on Urgent Reform Measures for the Employment Market to Increase Employment and Improve Employment Quality, and value shall be placed on the formal commitment of bidders to offer no less than 30 percent of their jobs to people belonging to the following groups, whose situations must be demonstrated by the competent public social services:
   a) People receiving minimum insertion benefits or any other benefit of the same or a similar nature in accordance with the name used in each territorial region.
   b) People who cannot access the benefits referred to above due to not having resided for sufficient time in the territory or being included in the population census, or due to the constitution of the unit receiving the benefit or due to expiry of the maximum legal term for receiving the benefit.
   c) Young people over eighteen and less than thirty years old, who have been attended to by institutions providing care for minors.
   d) People with drug or alcohol problems undergoing rehabilitation or social reinsertion processes.
   e) Prison inmates whose penitentiary situation allows them to access employment and also ex-convicts and prisoners on conditional release.
   f) People with disabilities.

2. In the same manner and under the same conditions, this preference may be established when awarding contracts related to social or assistance benefits for proposals submitted by legally-established non-profit institutions, provided that their purpose or activity is directly related to the contractual object, as outlined in their respective bylaws or founding regulations, and they are listed in the respective official registry. In this case, the contracting body may request that these entities present a detailed list with a breakdown of the tender price, based on their costs.
2. Tendering of People Care Services and Social Clauses

Additional Provision Six of Act 30 /2007 establishes preference in awarding contracts to third sector entities under equal conditions with other contracts and Provision Seven establishes the number of contracts reserved for special work centres (SWC) in the contract-awarding procedure, or for reserving their execution within the framework of work programmes, specially for those SWCs and insertion companies where at least 70% of the staff is comprised of people with disabilities who cannot exercise their professional activities under normal conditions and for any third sector entity when contracting social or assistance services.

Recently, new measures have been introduced to promote the contracts reservation procedure for third sector entities, which shall be analysed below:

→ Firstly, the reservation of small contracts with the Generalitat Government in favour of social entities for certain activities. This practice is also followed by various local authorities.
→ Secondly, a more recent and new measure reserving the contracting of “accessory and/or complementary services” to third sector entities in the contractual clauses. This entails an obligation of the private organisation awarded certain public service contracts to contract certain services during the execution phase of the contract that are complementary to the principal public services contract from special work centres.

Reserved contracts[^19] is one of the most widely extended practices in Catalonia through which a percentage of the total annual public contracts for supplies and services are reserved for social entities. To achieve this, the negotiated procedure without publication is used given the amount, i.e., for small contracts. These reservations were introduced in article 35 of Act 31/2002, of 30 December 2002, amended by article 19 of Act 7/2004, of 16 July 2004, and by article 19 of Act 17/2007, of 21 December 2007 as an instrument for promoting and managing certain public policies of a social nature.

In 2007, the Generalitat Government set the objective of achieving 8,006,982 euros in reserved contracts. This objective was more than accomplished since by 31 December 2007, contracts reserved for social services finally amounted to 8,335,564 euros, 104.10% of the objective initially set. In 2008, the amount obtained was 84.23% in comparison to the initial forecast.

However, this reservation procedure, included in additional provision two of the Public Contracts Act 30/2007, is the subject of a restrictive interpretation since it only applies to small contracts amounting to less than € 18,000, not including VAT.

### Evolution of the Objectives Established by the Generalitat de Catalunya on Reserved Contracts in order to Promote Social Services in euros

<table>
<thead>
<tr>
<th>Year</th>
<th>Objective to be achieved</th>
<th>Objective achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>6,000,000 €</td>
<td>6,813,657 €</td>
</tr>
<tr>
<td>2006</td>
<td>7,000,024 €</td>
<td>7,691,627 €</td>
</tr>
<tr>
<td>2007</td>
<td>8,006,982 €</td>
<td>8,335,564 €</td>
</tr>
<tr>
<td>2008</td>
<td>7,328,099 €</td>
<td>8,700,000 €</td>
</tr>
</tbody>
</table>


2.2.4. Social Clauses in the Execution Phase: Provision of Auxiliary Services

The new Public Contracts Act 30/2007 provides for a new option to include social clauses in all types of contracts, such as accessory services to the principal contract.

This means that during the publication phase, the administration can request that the management of certain accessory services to the principal contract be provided by third social sector institutions. This possibility is open to all types of contracts and, for example, would mean that in the construction or operation of a public service, such as a hospital or a road, certain services such as laundry services for the hospital or road paint maintenance must be subcontracted to a third social sector organisation.

As an example of this accessory service provision model, the Ministry of Social Action and Citizenry has recently included new model special administrative specifications clauses to govern public social services management contracts that are to be awarded through the open procedure, for concession and state-assisted types, reserving accessory services to third social sector organisations.

This new type means that any organisation awarded a public services management contract by the Ministry may be asked, as a condition for awarding the contract, to comply with the obligation to subcontract certain services included in public services management during the execution phase, such as residences for the Catalan Institute of Social and Assistance Services, to special work centres, insertion companies or other third sector institutions working to achieve the integration of people at risk of social exclusion.

Services that can be included as accessory benefits when awarding the contract are as follows:

- Food
- Industrial and household laundry
- Catering and restaurants, including groups
- Packaging and filling
- Packaging and filling, including signs, silk-screening and textile printing
- Data processing, design and advertising, including document digitizing, website design and data recording
- Gardening, including garden maintenance and implantation
- Copying, reprography and printing
- Handling, including industrial handling and mailing
- Cleaning buildings and public spaces
- Waste collection and recycling
- Textile: corporate uniforms, protective gear and the collection of second-hand clothes
- Transport, courier and moving services

The basis for these clauses is set forth in article 102 of the Public Contracts Act 30/2007:

**Article 102. Special Conditions on Contract Performance.**

1. Contracting bodies may establish special conditions on the performance of the contract provided they are compatible with European Community law and are indicated in the tender announcement and in the specifications or contract. These performance conditions may refer in particular to environmental considerations or social considerations for the purpose of promoting employment among people with special difficulties in finding jobs, eliminating inequalities between men and women in terms of employment, preventing unemployment, promoting on-the-job training or other purposes established in reference to the coordinated strategy for employment, defined in article 125 of the Treaty establishing the European Community, or guaranteeing respect for basic employment rights in the production chain, through demanding compliance with the fundamental conventions of the International Labour Organisation.

2. The specifications or contract may establish penalties, in accordance with what is set forth in article 196.1, for non-compliance with these special conditions on performance, or they may be attributed the nature of essential contractual obligations for the purposes set forth in article 206.g). If non-compliance with these conditions is not specified as grounds for terminating the contract, it may be considered a serious offence in the specifications or in the contract under the terms established by law for the purposes of the provisions of article 49.2.e).

In any case, the successful bidder shall be responsible for ensuring that there are special employment centres that can provide these services in the geographic area where the facility subject to the tender is located.
Specifically, the bidding specifications establish the following new annex:

### ANNEX 6
(Envelope B)

**Subcontracting acceptance commitment form (one commitment must be completed for each service to be subcontracted)**

Mr./Mrs. .................................................., bearing national identity document number .............................., assumes all responsibility for declaring, for and on behalf of ................................................................., bearing tax number ............................., that the organisation he/she represents is:

___ An employment insertion centre for people with disabilities, social and employment insertion organisation regulated by Act 27/2002, of 20 December 2002, on legislative measures for regulating social and employment insertion

___ A non-profit entity, the purpose of which is to integrate people at risk of social exclusion

And, as a subcontractor, undertakes to execute the accessory services corresponding to .................................................. for the contract .................................................. (file number ....../...), in the case that the organisation/entity .................................................. submitting its bid is awarded the contract.

(place and date)
Signature of the subcontractor’s legal representative

This measure, if applied by all the Catalan Government ministries and local authorities, could have a strong impact on improving employment opportunities for people with disabilities from special work centres and insertion companies.

Consideration shall also be given to the agreement passed by the Barcelona City Council at its plenary session in October 2008 intended to provide a new boost to social and environmental tendering. The government measures include the following:

- **Mechanism**: the establishment of a reservation of a percentage of public tenders for certain works and contractual objects in supply and service contracts, through negotiated procedures without publication, due to the amount or through small contracts.
- **Amount**: From 2009 on, the Barcelona City Council —including its regional bodies, public corporations and municipal entities, with full or mainly municipal capital— shall achieve a global amount that is no less than five million euros and no more than 20% of the contract price for the previous year, in small contracts or contracts awarded through negotiated procedures.

Additional provision six of the Public Contracts Act (see page 113) states that contracts for the provision of social or assistance services can preferably be awarded to non-profit entities provided the proposals are equal in their terms to the most advantageous ones as regards the criteria used as a basis for awarding the contract; in other words, they will be given preference in the case of organisations with equal scores.

This provision is also included in the Act with respect to entities staffed by more than 2% with people with disabilities, social promotion and insertion entities and companies promoting fair trade products.

The Government Contracts Consultation Board of the Region of Aragon (Report 17/2008) declared that it was in favour of the possibility of expanding the category of social services contracts reserved for non-profit entities when the region approves its own government contract regulations. In any case, this expansion must be aimed at achieving an improvement in the provision of public service, while also encouraging the necessary competition between these social initiative entities.

Furthermore, the Report says that if this type is regulated, agreement must be reached to ensure that the price of the contracts does not exceed a certain limit so as to avoid undesirable distortion in competition. Likewise, in line with the principle of transparency, the calls for tenders and the contracts awarded based on this reserve must make express reference to this configuration.
The Report literally reads as follows: 20
IV. On the possibility of using the reserved contracts option.
As already stated in section II of this Report, EC institutions admit and encourage social criteria since public contracts are not an end in and of themselves, but rather a power at the service of other purposes in the general interest (such as stability in employment, the environment, social integration) and do not in any way restrict or limit competition, making the higher values currently included in the ECT (art. 2) much more effective, as the European Commission recalled in its Communication of 15 October 2001. This is what is set forth in the provisions of article 19 of Directive 2004/18, with respect to permitting the existence of contracts reserved in favour of social entities, thereby limiting participation to these entities or allowing for the execution of these contracts by certain companies within the framework of protected employment programmes, if most of the workers affected are people with disabilities who, due to the nature or seriousness of their disabilities, are unable to exercise their professional activities under normal conditions. Likewise, in an appropriate teleological interpretation, it seems logical to understand that entities that promote the integration of people at risk of social exclusion can benefit from this reserve. The Public Contracts Act Justification of Reasons also emphasizes the same: “Incorporating the provisions of Directive 2004/18/EC into its own terms, without reservation, … the main changes affect the planning of mechanisms that allow social and environmental considerations to be introduced into public contracts. They are configured as special conditions for executing the contract or criteria for evaluating the bids that make for a structure that permits the inclusion of guidelines adapting the contracts to new ethical and social requirements such as inserting requirements in the service for ‘fair trade’ with underdeveloped countries or developing countries as is outlined in the European Parliament Decision on Fair Trade and Development [2005/2245 (InI)]. This would make it possible for the public demand for goods and services to be adapted to the real availability of natural resources, the articulation of a new awarding procedure and competitive dialogue that is designed for highly complex contracts in which the final decision regarding the object can only be obtained through interaction between the contracting body and the bidders”.
From the above, it can be inferred that nothing prevents the Region of Aragon from reserving certain contracts in the social services area, through the implementation of legal provisions, for social initiative entities provided that the purpose is to improve the provision of public services and that an appropriate competitive spirit is ensured among these social initiative entities. In any case, it seems advisable that, if such a mode were implemented, the price of the contracts should not exceed a certain limit in order to prevent an undesirable distortion as regards competition. Likewise, through the principle of transparency, tender and awarding announcements for the contracts subject to this reserve shall make express reference to this configuration.

2.2.6. Social Clauses, Free Competition and Competition in State Jurisprudence 21
Public contracts have the duty and obligation to safeguard the basic principles of free competition and non-discrimination; but at the same time, they may include other principles and objectives of a social nature. Not only is it lawful to combine these, but it is also coherent with the governing principles of effective order as it optimises the contractual budget for end activities while making progress in social cohesion; in addition to being synergic, by assuming a multiplying effect, and also profitability in economic and community terms.

Positive discrimination makes sense when certain people or groups need special protection and, at the same time, it can be fully justified because they differ from traditional companies in terms of purpose and results, as they have a scope that is broader than economic profitability, and also because of their civic and social nature, which contributes to a collective benefit. A series of unanimous rulings on this matter is quoted below:

> In its rulings 128/1987 of 5 May and 16 July 1983 the Constitutional Court determined that:

> "The principle of equality allows for unequal treatment in situations that are already unequal" and "the action of public powers in applying a remedy to the situation of certain social groups that are at a clear disadvantage as regards employment cannot be considered as infringing the principle of equality".

> Other rulings by the contentious-administrative chamber of the Supreme Court:

> "Not all inequalities are necessarily discrimination as the scope of equality under the Law does not impose an absolutely equal treatment." "Equality before the Law does not impose the need for completely equal treatment provided inequality in legal treatment has an objective and reasonable justification." "Equality before the Law does not mean equal treatment and the abstraction of all differentiating factual elements." The infringement of the principle of equality arises only in situations of equality, but when there is no objective and reasonable justification for the inequality." "In equal circumstances, they warrant legal consequences that are also equal, but not all inequalities in legal treatment with respect to regulating a specific matter mean an infringement of the principle of equality, but only those with no objective and reasonable qualification and therefore that which prohibits the principle of equality are inequalities that can be classified as artificial, arbitrary or unjustifiable".

For that reason the Third Social Sector Institutions Committee has proposed to the Generalitat de Catalunya that, making use of its legislative powers and within the community and Spanish legal framework, it promote a white paper for the approval of the Catalan Parliament modifying the cases outlined for reserved contracts referred to in article 35 of Act 31/2002 of 30 December 2002, on tax and administrative measures and extend them to include social or assistance contracts provided by non-profit entities, without prejudice to this option being included in the Catalan Public Administrations Contracts Draft Bill.

And finally, a Ruling of the Constitution Court of 17 July 1997 says:

“The actions of public powers to thus remedy the situation of certain social groups that are defined and placed in clearly disadvantaged positions as regards employment due to reasons stemming from tradition and deeply-rooted habits in society that are difficult to eradicate cannot be considered as infringing the principle of equality, even though a more favourable treatment is established for them as the aim is to provide treatment that is different for situations that are effectively different. From this perspective, the protective measures for groups of workers who are subject to especially unfavourable conditions in finding employment or keeping their employment cannot be considered as being opposed to that principle of equality, but on the contrary, they are aimed at eliminating existing situations of discrimination”.

2.2.7. The Benefits of Inserting Social Clauses into Public Tenders for Social Services and People Care

Contrary to the widely-held perception existing in some public administration sectors, the application of social clauses does not entail an additional cost, duplicate subventions or make it necessary to establish new, specific budgetary items; but rather, due to the intervention of the third social sector, it has a direct impact on improving services and indirectly, has a positive impact for society as a whole which we can summarise as follows.

The benefits for each group involved in providing services to people are as follows:

For Service Users

a. The third social sector principles of action are to attend to the needs of the people, above and beyond obtaining corporate benefits.
b. Users are able to receive a more comprehensive service since they also receive other services from the same entity, which creates synergies and leads to more personalised attention.
c. Service users participate in the definition of the services they receive and, thus, receive more personalised attention.
d. The care received by the users is based on the principles of proximity to their families and to their surroundings.
e. Users receive a higher quality service, since the human resources of the third social sector are more stable and there is less staff rotation.

For Public Administrations

a. As already mentioned, they entail no extra costs; on the contrary, the third sector provides greater added value to society by investing its profits in the same entity, in its human resources and in the society in which it operates.
b. They provide social services with insertion tools that improve the capacity and effects of these mechanisms.
c. The fact that third social sector entities recruit people at risk of exclusion means real savings in terms of minimum insertion income, unemployment benefits or specific economic aid.
d. The complementary nature of the services provided by the entities and networking generates greater synergies and higher service quality.
e. The expenses of providing people care is reduced due to the network of relations and coordination with other public services such as health, education, employment or leisure.
f. The proximity and links of the third sector in the field facilitate dialogue with municipalities, participation by associations and the creation of social capital.
g. The decisions of the third social sector are taken within a local scope of proximity, and not directed by the profit-based vision of companies which is often far too distant.
h. Third social sector entities are here to stay: they do not disappear in the event of changing socio-economic circumstances.
i. The economic activity of the third social sector also creates income for the administrations themselves in terms of social security payments, personal income tax, corporate tax and VAT.
Yet these advantages and added value for service users, the contracting administrations and for society are exclusive and characteristic of the third social sector, with respect to other operators and companies that provide social services and care to citizens.

The Olof Palme Foundation in Stockholm and the Engrunes Foundation in Barcelona analysed the economic difference of a person in a situation of exclusion for all administrations as per the total cost of the resources allocated to that person and the income that person could add to public funds once integrated into the labour market. The cost for the public sector in the first case is around twelve thousand euros, and in the second case, the income from VAT, personal income tax and social security amounts to between three thousand six hundred and six thousand euros. As a result, each excluded person who finds employment means a reduction in cost and a benefit of approximately eighteen thousand euros, which is a forceful argument from an objective standpoint, for encouraging public administrations to design and implement active employment policies.

For the Society as a whole
a. They are key players in social cohesion in municipalities and in our society.
b. They perform the function of generating awareness in society as to their mission and the needs of their surroundings.
c. They promote people’s participation in their own projects as volunteers or members, and they are active agents in the social sphere of the municipality and society.
d. They are rooted in the territory and its needs.
e. They incorporate people at risk of exclusion in the municipality as employees, in coordination with the municipal social services.
f. They defend the rights of the most vulnerable segments of society.

2.2.8. Electronic Registry of Bidding Companies (ERBC)
An important point that non-profit institutions must consider in relation to the introduction of social clauses is the Electronic Registry of Bidding Companies or ERBC.

The public tendering process is undergoing a period of change in which the digitization of its processes is making positive progress, but there are still many non-profit entities that are not included in this process.

The ERBC is an electronic administrative registry controlled by the Administrative Contracts Consultation Board that contains information on organisations that wish to establish contracts with public administrations.

The objective of the ERBC is to create competition among organisations in public contract awarding procedures. The ERBC is actually where organisations must deposit the documents they have to submit for the different public tendering procedures, which means that submitting this documentation once saves them the bother of having to submit it again for future bids.

Although entry in the Registry is voluntary, it is necessary to access the social reserve process and for this reason, non-profit entities are advised to register, since:
1. It is valid for the different public administrations: companies registered in the ERBC can participate in tenders arranged by the Generalitat de Catalunya Government and tenders arranged by different local authorities and other Catalan public authorities, if agreed and stated in the respective bidding specifications.
2. It makes it easy for the technicians of the contracting bodies to call the companies and institutions registered to participate in tenders: it contains additional information on the different organisations registered so the contracting bodies and boards may have useful information in the call for tenders and the selection processes in negotiated procedures, based on the amount and for small contracts.

3. Third Social Sector Added Value Indicators System
3. Third Social Sector Added Value Indicators System

3.1. Definition and Classification

The third social sector added value indicators system aims to be a comprehensive evaluation tool for measuring the added value contributed by third social sector entity activities to people, society and the organisations themselves. It is therefore a system which, in line with the social clauses in tenders, seeks to show the added value that social entities contribute in the management and provision of services in an objective, quantifiable way. While aware that the added value of the third social sector goes beyond the indicators developed, the belief is that third social sector organisations need a tool that will help them to objectify this added value.

In defining the indicators, it must be kept in mind that the third social sector represents a highly complex and diverse reality in which a large variety of organisations co-exist (foundations, associations, religious institutions, etc.).

For that reason, an extensive list of indicators has been developed in which each organisation is identified by some indicator; however, in no case does it claim to be a precise list that must be complied with by all organisations. Consequently, the importance of this system is the accumulative factor or sum of the different indicators, and not compliance with each indicator separately.

The third social sector added value indicators system defined is comprised of 34 indicators, divided up into three main groups of indicators:

Not only must these indicators be objective, but they must be applicable to third sector organisations and as much as possible, be expressed in precise quantifiable variables that show the added value of the sector.

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### 3. El sistema d’indicadors del valor afegit del Tercer Sector Social

#### 3.1. Definició i classificació

El sistema d’indicadors del valor afegit del Tercer Sector Social, es可以说 是一个全面的评估工具，用于衡量第三社会部门实体活动对人、社会和组织的贡献。因此，这是一个系统，遵守招标的和社会条款，旨在展示社会实体在管理和服务提供方面所做出的客观、可量化贡献。虽然意识到第三社会部门的附加值超出了开发的指标，但相信第三社会部门组织需要一个工具，帮助他们客观化这一附加值。

在定义指标时，必须考虑第三社会部门是一个高度复杂和多样的现实，其中存在多种组织（基金会、协会、宗教机构等）。

由于这个原因，开发了一个包含多个指标的广泛列表，每个组织都通过某个指标来识别；然而，没有一个列表声称是精确的列表，必须由所有组织遵守。因此，此系统的意义在于累积因素或各个指标的总和，而不是每个指标的遵守。

第三社会部门附加值指标系统定义包含34个指标，分为三个主要组的指标。

不仅这些指标必须客观化，还必须适用于第三部门的组织，并且尽可能地以精确的可量化变量表示该领域的附加值。
Consequently, the practical application and use of these indicators is different for each type of indicator and we could say that they have an important and necessary role in demonstrating the added value of the third social sector.

As shown in the following scheme:

**Use of the indicators**

1. The global sector indicators are a set of variables that are the same for all institutions operating in the third sector, and for these institutions, they are tools that will help strengthen the visibility and image of the third sector.

2. The institution indicators are a set of variables for each institution which, depending on its nature, circumstances and preferences, is able to select the indicators that best represent it:  
   - The integration of these indicators into the institution’s management report will make it possible to strengthen and make some of its differential features more objective and make its technical solvency as a service-providing entity known.  
   - Some of these indicators may also be included by the entity as improvements to the proposals it submits.

3. The project indicators are a set of variables that refer to specific social service projects.  
   - In procuring people care services, public tendering bodies may include technical clauses that can be verified through the indicators.  
   - The institution may include in its projects the indicators that best adapt to the object of the tendering procedure that is submitted in each case.

Below is a good example of how an organisation can incorporate the institution-related indicators (those which best adapt to its identity and characteristics) in its management report:

**Foundation for the Elderly**

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Valoractual</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Volume of people with awareness regarding values and social rights</strong></td>
<td>730 people who have been made aware</td>
</tr>
<tr>
<td><strong>Volunteers in the organisation</strong></td>
<td>45,148 hours of volunteer work</td>
</tr>
<tr>
<td>(25 full-time volunteers per year)</td>
<td>(25 full-time volunteers per year)</td>
</tr>
<tr>
<td><strong>Number of workers with a high academic level</strong></td>
<td>100%</td>
</tr>
<tr>
<td><strong>The organisation’s policy as regards attaching priority to people and having a mission that goes beyond obtaining profits</strong></td>
<td>YES</td>
</tr>
<tr>
<td><strong>Volume of its social nucleus</strong></td>
<td>491 members and donors</td>
</tr>
</tbody>
</table>
## Third Social Sector Values Indicator System

### Sector

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.1</td>
<td>Third social sector budget volume</td>
</tr>
<tr>
<td></td>
<td>1.2</td>
<td>Importance of private funds in the third social sector budget</td>
</tr>
<tr>
<td></td>
<td>1.3</td>
<td>Economic volume contributed by the social nucleus</td>
</tr>
<tr>
<td></td>
<td>1.4</td>
<td>Third social sector user volume</td>
</tr>
<tr>
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### Project

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</table>
3.2. Ten Global Third Social Sector Indicators

The ten indicators defined for the whole sector are:

<table>
<thead>
<tr>
<th>Type</th>
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<tbody>
<tr>
<td>Sector</td>
<td>1.1</td>
<td>Third social sector budget volume</td>
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<td></td>
<td>1.2</td>
<td>Importance of private funds in the third social sector budget</td>
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<td></td>
<td>1.3</td>
<td>Economic volume contributed by the social nucleus</td>
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<td></td>
<td>1.4</td>
<td>Third social sector user volume</td>
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<td>1.10</td>
<td>Importance of the third social sector social nucleus</td>
</tr>
</tbody>
</table>

1.1 Third Social Sector Budget Volume
Description: Quantification of the absolute budgetary values for all third social sector institutions in Catalonia.
Calculation formula: ∑ of annual budgets for all third social sector institutions in Catalonia.
Measuring unit: Millions of euros.
Current value: € 5,500 M.
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.2 Weight of private financing in the Third Social Sector budget
Description: The percentage of funds that all the Catalan third social sector institutions obtained from membership fees, regular donations, foundations, user fees and payments for services represent with respect to the total budget volume of the third social sector.
Calculation formula: (∑ private funds from all Third Social Sector organizations / ∑ total funds from all Third Social Sector organizations) x 100.
Measuring unit: %.
Current value: 51%.
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.3 Financial volume contributed by the social base in the Third Social Sector budget
Description: Sum of direct economic contributions made by members/volunteers/donors.
Calculation formula: (∑ of funds from member fees / donors and private donations) / (∑ of the total private funds) x 100.
Measuring unit: %.
Current value: 34% of private funding.
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.
3. Third Social Sector Added Value Indicators System

1.4 Volume of Third Social Sector Users
Description: Number of persons receiving services from Catalan third social sector organisations.
Calculation formula: \( \sum \) of the number of users of Catalan third social sector organisation services (estimate made in the White Paper on the Third Social Sector).
Current value: 1,700,000 users.
Measuring unit: Numerical.
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.5 Financial volume of the contribution from the social base per user
Description: Direct economic contribution provided by the social nucleus to each third social sector user.
Calculation formula: Economic volume contributed by the social nucleus / total sector users.
Measuring unit: Euros per user.
Calculation of current value:
Financial volume contributed by the social base: € 953.7M
Total sector users: 1,700,000 people
Current value: (953,700,000 / 1,700,000) = € 561 / user
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.6 Weight of the Third Social Sector in the Catalan economy
Description: Annual budgeted volume of all institutions in the Catalan third social sector with respect to the Catalan GDP.
Calculation formula: Budgeted volume of the Catalan third social sector / Catalan gross domestic product.
Measuring unit: % Catalan GDP.
Current value: 2.8% of Catalan GDP.
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.7 Third Social Sector Occupation Volume
Description: Number of people hired by all the Catalan third social sector institutions.
Calculation formula: \( \sum \) of the number of persons recruited (equivalent to full-time) for all the institutions of the Catalan third social sector.
Measuring units: Number of workers.
Current value: 100,093 workers.
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.8 Volume of Third Social Sector volunteer hours
Description: Number of volunteers (dedicating part of their time) in all the Catalan third social sector entities.
Calculation formula: \( \sum \) of the number of people voluntarily devoting their time to working with third social sector entities in Catalonia.
Measuring unit: Hours per user and year.
Calculation of current value:
Number of volunteers = 245,000
Total weekly volunteer hours = 2,321,375
Current value = (2,321,375x52 weeks) / 1,700,000 = 71 hours/user and year
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.

1.9 Number of Volunteers with respect to the Catalan Population
Description: Percentage of the number of volunteers in relation to the total Catalan population.
Calculation formula: Volume of volunteers / volume of Catalan population.
Measuring unit: %.
Current value: >4.13% of the Catalan population aged sixteen and over (6,010,762 persons).
Information source: 2009 Catalan Third Social Sector Yearbook.
Frequency in obtaining data: biennial.
3.3. Eleven Organisation Indicators

The eleven organisation-related indicators defined are:

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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<tr>
<td>2.2</td>
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</tr>
</tbody>
</table>

2.1 Ratio of Users in a Situation of Social Exclusion

Reference value: Human dignity (people-related values).

Description: Volume of users/beneficiaries of actions carried out by organisations that are in a situation of social exclusion with respect to the total volume of users/beneficiaries of the organisation. People in a situation of social exclusion are considered to be those who comply with the social exclusion criteria established by the 2008 VI Report on Social Exclusion and Development in Spain (schedule included in section 3.6).

Calculation formula: \( \frac{\sum \text{of users in a situation of social exclusion}}{\sum \text{of total users}} \times 100 \)

Measuring unit: %.

Information source: Reports on the organisation's projects.

Frequency in obtaining data: Every year.
2.2 Volume of People who are Aware of Social Values and Rights
Reference value: Education on social rights (people-related values).
Description: Number of participants in actions taken to generate awareness and knowledge about social rights carried out by the organisation.
Calculation formula: Σ of the number of participants in actions in favour of social rights.
Measuring unit: Persons.
Information source: Activities reports.
Frequency in obtaining data: Every year.

2.3 Volume of Own and Accessible Services
Reference value: Solidarity (people-related values).
Description: Number of services provided by the organisation (not arranged exclusively with the Administration) that are free or low in price in relation to the cost for the user/beneficiary. Example: monitoring service after receiving other services in children who have reached the legal age.
Calculation formula: Σ of the number of services that are free or low-price.
Measuring unit: Number of services.
Font d’informació: Information source
Frequency in obtaining data: Every year.

2.4 Volunteer Work in the Organisation
Reference value: Volunteer work – relational proximity (people-related values).
Description: Volume of hours devoted by volunteers in the organisation itself and/or in its activities.
Calculation formula: Σ of the number of hours dedicated by volunteers from the organisation.
Measuring unit: Hours.
Information source: Organisation management report and documents accrediting active work by volunteers.

2.5 Indefinite Term Employment Rate
Reference value: Volunteer work – relational proximity (people-related values).
Description: Relationship between number of indefinite contracts in the organisation and the number of people on the organisation’s staff in the most recent year.
Calculation formula: (Σ of the number of indefinite contracts / Σ of the total number of contracts in the organisation) x 100.
Measuring unit: %.
Information source: Information from the organisation’s HR departments and from the temporary employment index in Catalonia (Generalitat de Catalunya Ministry of Employment/Idescat).
Frequency in obtaining data: Every year.

2.6 Volume of the Organisation's Social Nucleus
Reference value: Social involvement (society-related values).
Description: Volume of the social nucleus (members, volunteers and donors) of the organisation.
Calculation formula: Σ of members, volunteers and donors.
Measuring unit: Number of persons.
Information source: Organisation’s management report and/or other documents from the organisation.
Frequency in obtaining data: Every year.

2.7 Participation and Networking
Reference value: Democratic participation (society-related values).
Description: Number of third social sector networks of which the organisation is a member and with which it actively collaborates through work groups or other similar mechanisms.
Calculation formula: Σ of the number of third social sector networks to which the organisation belongs.
Measuring unit: Third social sector networks.
Information source: Organisation's management report.
Frequency in obtaining data: Every year.
2.8 Priority Attached to People and Mission Beyond Obtaining Profits in the Organisation’s Policy

**Reference value:** Priority attached to people and mission beyond obtaining profits (organisation-related values).

**Description:** The existence of a section of the organisation bylaws that demonstrates it attaches priority to people and its social mission above and beyond obtaining profits and that it is also an organisation that does not belong to a business corporation.

**Calculation formula:** Acquiescence/negation.

**Measuring unit:** Yes/no.

**Information source:** Bylaws and regulatory provisions.

**Frequency in obtaining data:** Every year.

2.9 Innovative Actions Rate

**Reference value:** Priority attached to people and mission beyond obtaining profits (organisation-related values).

**Description:** Number of direct users/beneficiaries of the innovative actions of the organisation. (Innovative actions are understood to be those that respond to new demands or use new procedures to produce improvements within the organisation itself, its users or society in general.)

**Calculation formula:** $\sum$ of number of direct users of the innovative activities.

**Measuring unit:** Users/beneficiaries.

**Information source:** Organisation management report and/or activities report.

**Frequency in obtaining data:** Every year.

2.10 Transfer of Knowledge

**Reference value:** Priority attached to people and mission beyond obtaining profits (organisation-related values).

**Description:** Number of formal results in research performed by the organisation over the most recent three years (publications in sector magazines and/or formal reports at congresses, events, etc., not including publications and/or reports made through the organisation’s own communication media).

**Calculation formula:** $\sum$ of the number of publications + $\sum$ of number of formal reports.

**Measuring unit:** Publications and/or reports.

**Information source:** Organisation management report and documents accrediting it endorsing those publications and/or reports.

**Frequency in obtaining data:** Every year.

2.11 Social Return

**Reference value:** Absence of profit (organisation-related values).

**Description:** Volume of profits of the organisation applied to detecting new social needs, innovation and improvement of services, and/or staff professionalization compared to the total profits of the organisation.

**Calculation formula:** Volume of social return profits / total profit volume.

**Measuring unit:** %.

**Information source:** Organisation’s economic report and activity reports.

**Frequency in obtaining data:** Every year.
### 3.4. Thirteen Project Indicators

The thirteen project indicators defined are:

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<td></td>
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<td>Local social return</td>
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</tbody>
</table>

#### 3.1 Community Dimension of the Project

**Reference value:** Human dignity (people-related values).  
**Description:** Total number of activities open to the community included in the project and/or total number of activities carried out by users/beneficiaries in the community.  
**Calculation formula:**  
\[ \sum \text{of the total number of project activities open to the community.} \]  
\[ \sum \text{of the total number of community activities included in the project.} \]  
**Measuring unit:** Number of activities.  
**Information source:** Documentation accrediting the technical specifications with a detailed definition of the method and technical approach used in the project; accreditation of user participation in community activities issued by the organisations carrying out those activities.

#### 3.2 Volume of People At Risk or in a Situation of Social Exclusion Hired to Execute the Project

**Reference value:** Human dignity (people-related values).  
**Description:** Number of people who are at risk or in a situation of social exclusion (people who belong to the groups described in additional provision six of Public Contracts Act 30/2007) that the organisation has promised to recruit and/or subcontract to execute the project.  
**Calculation formula:**  
\[ \sum \text{of the number of workers belonging to groups at risk or in a situation of exclusion.} \]  
**Measuring unit:** Workers.  
**Information source:** Organisation management report, employment agreements signed with people at risk or in a situation of social exclusion in the most recent two years, and documents accrediting the technical specifications with a detailed definition of the method and technical approach used in the project.
3.3 User Participation in Designing and Improving the Service
Reference value: Solidarity (people-related values).
Description: Volume of hours of meetings with users/beneficiaries to design, define and improve the service included in the project that the organisation has promised to execute.
Calculation formula: ∑ of the number of hours of meetings that the organisation has undertaken to hold with users/beneficiaries.
Measuring unit: Number of hours.
Information source: Documents accrediting the technical specifications with a detailed description of the method and technical approach used in the project (participation protocols, etc.).

3.4 Complementary Nature of the Services
Reference value: Solidarity (people-related values).
Description: Volume of complementary/additional services to meet the needs of the people for whom the project is intended (due to the content or target population; for different members of one family) carried out by the organisation or which it undertakes to execute as part of the project.
Calculation formula: ∑ of the number of complementary services to the project that the organisation carries out or undertakes to carry out as part of the project.
Measuring unit: Services.
Information source: The organisation’s portfolio of services and documents accrediting the technical specifications with a detailed list of the services it provides or undertakes to provide.

3.5 Volunteer Work in the Project
Reference value: Volunteer-relational proximity (people-related values).
Description: Volume of hours of direct or indirect attention to users carried out by the volunteers that the organisation undertakes to provide.
Calculation formula: ∑ of the number of hours of service provided by the volunteers.
Measuring unit: Number of hours.
Information source: Organisation’s management report and documents accrediting the technical specifications with a detailed list of volunteers providing the service.

3.6 Information and Social Awareness about the Purpose of the Project
Reference value: Social involvement (society-related values).
Description: Volume of activities for achieving local diffusion (conferences, meetings, etc.) and providing information and generating awareness about the purpose of the project the organisation undertakes to execute during its development.
Calculation formula: ∑ of the number of information and awareness activities.
Measuring unit: Number of activities.
Information source: Documents accrediting the technical specifications with a detailed list of the activities executed by the organisation, or those it undertakes to execute.

3.7 Democratic Participation in the Project
Reference value: Democratic participation (society-related values).
Description: Application of methods and mechanisms to ensure dialogue and the participation of the agents involved (contracting body, professionals providing the service, users and volunteers) in implementing the project.
Calculation formula: Acquiescence or negation by reviewing the formal documents of the organisation.
Measuring unit: Yes/no.
Information source: Documents accrediting the technical specifications with a detailed definition of the method and technical approach for implementing the project.

3.8 Participation with the Administration in Identifying New Needs
Reference value: Democratic participation and networking (society-related values).
Description: Participation in local or district work groups, etc. (within the pertinent territorial boundaries) in order to identify new needs in the object of the project, which the organisation undertakes to do while developing the project.
Calculation formula: Acquiescence or negation, through a review of the formal documents of the organisation.
Measuring unit: Yes/no.
Information source: Documents accrediting the technical specifications with a detailed definition of the method and technical approach for implementing the project.
3.9 Volume of Networking Agreements
Reference value: Networking (society-related values).
Description: Number of third social sector agreements for providing the service covered by the contract.
Calculation formula: $\sum$ of the number of agreements with other organisations from the social third sector.
Measuring unit: Number of agreements.
Information source: Documents accrediting the technical specifications with a detailed definition of the method and technical approach for implementing the project.

3.10 Knowledge of Local Territory
Reference value: Roots in the territory (society-related values).
Description: The organisation must prove it has knowledge of the territory where the project is to be carried out (quarter, district, town, city, borough, etc.) through having executed one or more projects in that territory within the last three years.
Calculation formula: Acquiescence or negation, through a review of the organisation's formal documents.
Measuring unit: Yes/no.
Information source: Organisation management reports.

3.11 Adaptation to the Local Socio-Cultural Identity
Reference value: Roots in the territory (society-related values).
Description: Existence of specification adaptations of the project to the cultural reality of the territory where it is developed.
Calculation formula: Acquiescence/negation.
Measuring unit: Yes/no.
Information source: Documents accrediting the technical specifications with a detailed definition of the method and technical approach for implementing the project.

3.12 Transfer of Knowledge in the Project
Reference value: Priority attached to people and mission above and beyond profit (society-based values).
Description: Conducting research with a formal result (publication in a sector magazine and/or formal report at congresses, events, etc.) that the organisation undertakes to carry out while developing the project.
Calculation formula: Acquiescence/negation.
Measuring unit: Yes/no.
Information source: Organisation's management report and documents accrediting the technical specifications with a detailed definition of the method and technical approach for implementing the project.

3.13 Local Social Return
Reference value: Roots in the territory (society-related values).
Description: Volume of activities in the project or in other projects that the organisation undertakes to finance and/or develop (own funds) in the territory.
Calculation formula: $\sum$ of the number of own activities carried out by the organisation in the territory that the organisation undertakes to finance and/or develop.
Measuring unit: Number of activities.
Information source: Organisation's management reports.
3.5. When to Insert Social Criteria in Tendering: Tendering Process Phases

The incorporation of social criteria into contracts is a complex issue and one that is recognised by the different legal provisions that implement it.


"Whereas 46: [...] a contracting authority may use criteria aiming to meet social requirements, in response in particular to the needs - defined in the specifications of the contract - of particularly disadvantaged groups of people to which those receiving/using the works, supplies or services which are the object of the contract belong."

According to the Public Contracts Act:

1. For the purpose of evaluating the proposals and determining the most advantageous economic offer, criteria must be used that are directly linked to the purpose of the contract, such as quality, price, the method used to review the remuneration associated with using the work or providing the service, the execution term or service-provision term, the cost of use, the environmental characteristics or those that are related to meeting social demands that respond to the needs, as defined in the contractual specifications, for the particularly vulnerable population segments to which the users or beneficiaries of the contracted services belong, the profitability, technical value, aesthetic or functional characteristics, availability and cost of replacement parts, maintenance, technical assistance, after-sales service and other similar services."

The following chart shows the different phases of the tendering procedure in which it is possible to incorporate social criteria.

1. Identification of Needs and Suitability of the Contract

The aim is to define the service to be contracted. Public institutions can only sign contracts that are necessary to complying with and achieving their goals. Public authorities define the contract object freely, respecting community law and the principles of the free circulation of goods and services.

This phase may be crucial to applying social clauses in public contracts, since according to European community laws and directives on this matter, the awarding and contract execution criteria must be directly linked to the contract purpose and be in proportion to it. For this reason, not only is it possible to introduce social criteria into this phase of the procedure, but extremely advisable, since it validates the subsequent inclusion of evaluation criteria or execution conditions of a social nature.
2. Contract File  
**Legislative reference:** article 93 of Public Contracts Act 30/2007.

The contract file refers to the whole contract purpose and the need to execute the contract by the respective public body must be justified.

During this phase, the need or advisability of the contract purpose for public objectives must be explained. Therefore the aim is to explain why a public administration considers the incorporation of social criteria will form part of the contract as the main or accessory purpose of that contract, and why these characteristics will be incorporated into the execution conditions, technical specifications or evaluation criteria.

3. Specific Bidding Specifications  
**Legislative reference:** article 99 of Public Contracts Act 30/2007.

The specific bidding specifications must include the agreements and conditions that define the rights and obligations of the parties to the contract.

4. Technical Bidding Specifications  
**Legislative reference:** article 101 of Public Contracts Act 30/2007.

They represent the technical characteristics that must be objectively defined and complied with.

The contracting administration takes into account the exclusion criteria and those of professional, technical and financial standing in selecting the most suitable bidders whose proposals are to be evaluated.

Having defined and justified the contract purpose, the technical characteristics to be complied with by the bidders are fixed, to ensure their proposals are in keeping with the contract requirements. They must be measurable parameters that constitute a series of minimum criteria for the acceptance or rejection of the proposal.

To avoid constituting an unjustified obstacle to competition and trade, the criteria inserted must be linked to the purpose of the contract, i.e., they must be detailed in full in the contractual documents, and guarantee equal access for all potential bidders.

When referring to predefined standards, proposals that do not match the standard, but can be demonstrated to be equivalent must be included in the procedure. Bidders may use any means to prove their equivalence with the standard and the Administration is responsible for proving that this equivalence does not exist (art. 61 of Directive 2004/18/EC).

During this phase, the proposal evaluation criteria are also decided, in particular the price and other evaluation criteria to be applied during the awarding phase. Therefore, this is another critical time in the process to include social clauses.

5. Tendering  
**Legislative reference:** articles 122 to 134 of Public Contracts Act 30/2007.

The awarding phase is executed using the open or restricted procedure or in exceptional cases, the negotiated or competitive dialogue procedure. This procedure will include the necessary publication by means of a prior informative announcement for the purpose of publishing contracts that are to be awarded within the next twelve months. To execute the tender, a reasonable timeframe must be established for submitting proposals and calling for bids, depending on the complexity of the contract in question.

This is a formal phase that determines the deadlines for submitting the proposals.

As already mentioned, in certain cases after the tendering phase using the open or restricted procedure, the tendering laws in the social services field allows for the negotiated procedure to be used if there are no other suppliers of social services in the territory that can provide the social services established in the contract. However, this option should always be justified by the contracting body.
6. Selection and Awarding Phase


To evaluate the proposals and determine the most advantageous bid in economic terms, criteria must be used that are directly linked to the contract purpose, such as quality, price, the formula used to review remuneration associated with using the work or providing the service, the execution term or release of the service, the cost of use, the environmental characteristics, or those that are related to satisfying social demands that respond to needs, as defined in the contract specifications, for the especially disadvantaged segments of the population to which the users or beneficiaries of the services to be provided belong, profitability, technical value, aesthetic or functional characteristics, availability and cost of spare parts, maintenance, technical assistance, after-sales service or other similar criteria. When only one awarding criterion is applied, it must be the lowest price.

7. Formalising the Contract


Contracts signed by public administrations must be formalised in an administrative document. However the contractor may request that the contract to be recorded in a public instrument.

8. Contract Execution


Once the best proposal has been selected and the contract awarded, the execution phase begins. The contracting body may establish special conditions for executing the contract provided they are compatible with current law, and are included in the bidding specifications, call for tenders or in the respective contract.

9. Monitoring and Evaluation

In this phase, the administrations must ensure that the successful bidder fulfils its obligations for the execution phase during which it may request certain services to be contracted from third sector organisations.

The change from a financial model through subventions to a system of contracting vacancies or public services represents a significant change in the social services field.

The subventions model, as a contribution of interest to the administration, which partially financed a service, did not require any monitoring of the contract execution, which often only went as far as justifying the expense.

On the other hand, the existence of concerted arrangements in the social services field means that the third sector is the provider of services by delegation and on behalf of the public administration contracting those services, and therefore this monitoring role, which focused more on the qualitative part of the service during the contract execution phase, will in the future take on more decisive importance.

As concerted arrangements entail the provision of public services by a third party, this new monitoring and evaluation role is beneficial to the third social sector as the sector can demonstrate its added value in terms of the indicators set forth in this guide to social clauses and on the other hand, it will lead to the control and evaluation of compliance with certain improvements that are often provided by, but not intrinsic to trading companies, such as volunteer work.

This monitoring and evaluation phase should also allow companies that provide public services to subcontract third sector organisations for accessory services, as mentioned in section 2.2.4.

Although social clauses can be inserted in many public procurement processes, we will only refer to social clauses in the public tendering of social services; and therefore, all aspects that refer to works, execution and the operation of different services, etc. will be excluded. A series of social clauses is defined below that could be incorporated into social service contracts, including:

⇒ A description and justification.
⇒ The contract process phases in which they can be introduced. It should be said that social clauses incorporated as criteria for evaluation/awarding purposes refer to the development of the service covered by the contract and not to more generic aspects such as the technical solvency of the bidder.
⇒ The indicators that make it possible to verify compliance.

3.6.1. Six Social Clauses

**Social Clause 1: Adjusting services to the needs of the population groups receiving them**

The contract conditions must be formulated in such a way that the services covered by the contract are implemented, guaranteeing the best and most suitable response to the needs of the groups receiving them. For this reason, the administrative bidding specifications must take into account not only compliance with the basic technical characteristics of the service, but other characteristics that have to do with the configuration and provision of the service, as well as other parallel activities to the service that could have a positive impact on its implementation, such as:

⇒ The accessibility of a service to people with disabilities.
⇒ For service contracts covering certain groups (immigrants, young women who are unemployed, etc.), the capacities of the bidders to respond to the specific needs of the groups may be considered by evaluating, for instance, the complementary nature of the services offered by the companies or bidders.
⇒ In addition, for service contracts covering specific groups, the participation of the people in this group in the development of the service may be considered so as to guarantee the services are adapted to the needs of the groups receiving them.

**Social Clause 2: Favouring quality employment**

The contract terms must be formulated in such a manner that the contracting body considers not only an acceptable price, but other aspects such as the quality-price ratio or the promotion of quality services; and therefore, better employment conditions for workers. Some of these quality employment conditions are:

⇒ Professional qualifications, experience, motivation and training of the organisation’s staff, which is essential to achieving a quality service. If an organisation has a well-qualified staff with the option of promotion, this is because it provided satisfactory jobs and adequate salaries. Low absentee rates will give rise to motivated employees who are happy with their working conditions.
Proximity in the scope of social services is thought to be an added value because it favours the individualisation of the processes of intervening and adapting to the real needs of the people and to the social and territorial realities of the area where they live. It also permits the mobilisation and reinforcement of the resources available in the territory. Even so, it should be said that this is not a question of favouring local companies when awarding public contracts, but rather of evaluating certain aspects of proximity in providing the services in certain social services contracts.

The contract conditions may be formulated in such a way that it attaches value to the benefits provided to society by the third sector and non-profit organisations. The positive evaluation of these organisations makes sense when certain people or population groups need special protection and it is also justified because they are different from traditional companies in terms of their purpose and results, with a scope that is broader than mere economic profitability and also due to their civic and social nature, which contributes to the good of society as a whole.

### Social Clause 4: Proximity to the local community

Proximity in the scope of social services is thought to be an added value because it favours the individualisation of the processes of intervening and adapting to the real needs of the people and to the social and territorial realities of the area where they live. It also permits the mobilisation and reinforcement of the resources available in the territory. Even so, it should be said that this is not a question of favouring local companies when awarding public contracts, but rather of evaluating certain aspects of proximity in providing the services in certain social services contracts.

### Social Clause 5: Inclusion of benefits for society

The contract conditions may be formulated in such a way that it attaches value to the benefits provided to society by the third sector and non-profit organisations. The positive evaluation of these organisations makes sense when certain people or population groups need special protection and it is also justified because they are different from traditional companies in terms of their purpose and results, with a scope that is broader than mere economic profitability and also due to their civic and social nature, which contributes to the good of society as a whole.
3. Third Social Sector Added Value Indicators System

3.6.2. Criteria for Assessing and Assigning Scores to the Social Clauses Based on the Service Type

In accordance with current law, the weighting of the award criteria defined for each contract has no established maximum or minimum limits; and therefore, each body responsible for awarding a contract must determine the relative importance attached to each criterion. As regards the weighting of different criteria, the law only specifies the following:

1. More importance must be attached to criteria that can be evaluated by applying formulae (established in the specifications).
2. A value must be established for each criterion with the appropriate extent.

The score must agree with the nature of the service provision and not be a deciding factor with respect to the total scale in order to avoid attributing an unconditional freedom of choice to the awarding body. In accordance with jurisprudence, social criteria that are established as award criteria must have a relative weight of 20-25% in the total scale.

Despite this, considering the importance that social criteria have in the design and provision of social services, it is considered possible and appropriate that bodies contracting social services attach relative importance to the purely economic criterion:

- Purely economic criterion must account for no more than 10% of the total award criteria score, bearing in mind that this model is already being applied by some bodies that contract social services (see chapter 6: Good Practices).

The contracting body may include participation in the administrative clauses as a positive characteristic that is intrinsic to the service and/or the organisation developing it, which may have a favourable repercussion on its design and execution.

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In addition, social clauses have a relative importance depending on the type of social service in the contract. For this reason, and for the purpose of facilitating the future introduction and scoring of social clauses in social services tendering processes, specific priorities have been attached to these social clauses for each of the different types of social services as a guide. The two classification categories are as follows:

- **Service Type**: six service types are considered, taking into account the broadest definition for them. These six service types have been defined based on the 2008-2009 Portfolio of Social Services of the Ministry of Social Action and Citizenry, bearing in mind the need to reduce the list of services as much as possible. For this reason, certain service types have been ruled out because they were not at all representative (in terms of volume and/or budget) and other similar services have been combined to form a single service (although they are provided for different groups and in different centres and with different resources).

- **Social Clauses**: six social clauses as defined on the preceding pages.

The score established describes the priorities, so that the first is assigned the highest value and the sixth, the lowest.

**Approximate score system for social clauses depending on the type of service**

<table>
<thead>
<tr>
<th>Type of service</th>
<th>Adapting the services to the needs of the groups receiving them</th>
<th>Promoting quality in working conditions</th>
<th>Promotion of the employment for certain groups</th>
<th>Proximity to the local community</th>
<th>Inclusion of benefits for society</th>
<th>Promoting participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advisory and support services</td>
<td>1st</td>
<td>3rd</td>
<td>6th</td>
<td>2nd</td>
<td>4th</td>
<td>5th</td>
</tr>
<tr>
<td>Home care services</td>
<td>1st</td>
<td>2nd</td>
<td>4th</td>
<td>3rd</td>
<td>5th</td>
<td>6th</td>
</tr>
<tr>
<td>Day centre services</td>
<td>1st</td>
<td>4th</td>
<td>3rd</td>
<td>2nd</td>
<td>5th</td>
<td>6th</td>
</tr>
<tr>
<td>Residential centre services</td>
<td>1st</td>
<td>4th</td>
<td>3rd</td>
<td>2nd</td>
<td>5th</td>
<td>6th</td>
</tr>
<tr>
<td>Labour insertion services</td>
<td>2nd</td>
<td>4th</td>
<td>1st</td>
<td>3rd</td>
<td>6th</td>
<td>5th</td>
</tr>
<tr>
<td>Community social services</td>
<td>5th</td>
<td>4th</td>
<td>6th</td>
<td>1st</td>
<td>3rd</td>
<td>2nd</td>
</tr>
</tbody>
</table>
4. Ten Final Conclusions
4. Ten Final Conclusions

The publication “Third Sector Added Value in Public Service Provision: A practical guide to social clauses in the public tendering of social services and people care” was published almost 2 years after the publication of Public Contracts Act 30/2007 implemented by European Directive 2004/18 concerning the coordination of awarding procedures for public works, supplies and service contracts. Among other aims, the objective is to consolidate a services market on a European scale. The following are the main conclusions that can be drawn from “Third Sector Added Value in Public Service Provision”:

1. The new Public Contracts Act 30/2007 establishes a set of principles, guidelines and articles that have the following purposes, among others:
   - Firstly, it acknowledges the need for public tendering processes to be based on social, economic and environmental sustainability criteria.
   - Secondly, it establishes a special, particular place for applying social clauses in public tendering procedures to the benefit of third sector or non-profit organisations.

For that reason, “Third Sector Added Value in Public Service Provision” considers that public administrations at all levels must be coherent in applying these criteria and inserting social clauses in contracts for providing social services and people care.

2. Within this scope, and in accordance with the evolution of the legal framework for public tendering, public administrations have promoted and applied different measures in recent years:
   - Direct awarding, due to the lack of alternative bids or the specialisation of the service to be provided.
   - The inclusion of social clauses in specific technical contract specifications, in such a way that price is not the only criteria to be considered.

3. The Catalan Third Social Sector Institutions Committee has promoted this publication entitled “Third Sector Added Value in Public Service Provision” for the purpose of demonstrating the added value contributed by the third sector to society when providing social services and people care, in an objective and empirical way, using a system of indicators.

It is a new initiative and in line with the current trends and objectives of the European Union and Anglo-Saxon countries; and for this reason, within the context of the new Public Contracts Act 30/2007, the Catalan Third Social Sector Institutions Committee has attempted to continue with its effort to provide tools for administrations and the third sector itself in order to apply social clauses and objectively measure the added value contributed by the sector.

4. The initiative of “Third Sector Added Value in Public Service Provision” is also justified due to the emergence of other factors in recent years:
   - The evolution of the financial model for social services, which has changed from subvention to concerted arrangements and the procurement of services and vacancies.
   - The growing entry of private enterprise into the area of social services and people care within the current context of the significant increase in public expenditure in social services.
   - The risk of price becoming the only or dominant criterion for the procurement of social services by public administrations, and that it will eventually take priority over added value provided to users and society by organisations operating in the third sector.

   The inclusion of social clauses in contracts as criteria or requirements for executing projects for works, services or supplies, to ensure that certain services or supplies are in all cases provided by third social sector organisations.
There are eleven organisation-related value-added indicators that demonstrate the added value of each non-profit organisation. During the tendering phase, these value-added indicators serve to show the technical solvency of the organisation and the ratio of users in a situation of social exclusion, the accessibility and complementary nature of certain services for the same user profile, the number of indefinite employment contracts, knowledge transfer and in particular, the reinvestment of the profits obtained by the organisation in society.

There are thirteen project-related value-added indicators that should also be considered in tendering procedures as evaluation criteria or proposal improvements, and which must be incorporated into the specific technical clauses of the contracts.

There are six social clauses that have been identified and classified as contributing qualitative evaluation criteria for proposals from organisations operating in the third sector:

- Adaptation of the services to user needs.
- Promotion of quality employment.
- Promotion of employment in certain population segments at risk of exclusion.
- Proximity to the local community in which the service is provided.
- Inclusion of additional benefits for society in managing the project or service.
- Promoting participation in managing the project or service.

The new Public Contracts Act 30/2007 has also led to some public administrations considering the price without including the respective amount of VAT when evaluating the different economic proposals submitted. Insofar as third sector organisations carry out activities that are usually exempt from VAT, they have no right to deduct the VAT paid on their purchases of goods and services; and therefore, they become end consumers of that VAT and thus, are unable to deduct the VAT paid on their costs.

In the opinion of the Catalan Third Social Sector Institutions Committee, this new practice puts the third sector at a disadvantage with respect to companies, since companies can offer lower prices given the fact that they can recover part of the VAT paid on their purchases of goods and services.
5. The Third Social Sector Committee Position on Social Clauses and VAT in Tendering
5. The Third Social Sector Committee Position on Social Clauses and VAT in Tendering

5.1. The Third Social Sector Committee Position on Social Clauses

**Document of Basic Guidelines for the Third Sector and Service-Provision for the Population** (approved by the Catalan Third Social Sector Institutions Committee General Assembly on 14 July 2008)

1. The Third Social Sector Institutions Committee believes that the fundamental differential value contributed by third social sector organisations in the provision of public services is the absence of profit and their tradition in providing services of this type to citizens.

2. This absence of profit and this tradition give rise to two additional important differential values:
   a. The reinvestment of profits in society.
   b. The promotion of participation and social cohesion.

3. Based on the above, with respect to tendering processes for the provision of services for the population, priority should be given to the concerted arrangement of services, through the full implementation of the current contracts act, given our tradition of service provision and secondly, with respect to service provision through contracts, we demand the incorporation of the following social clauses:
   a. With respect to the admission criteria:
      → The prior verification of whether the tender process is the correct and/or necessary method in each case.
      → An administrative evaluation of the legal or lucrative nature as a differentiating element that is beneficial for the service to be provided, and for society in general.
      → The rating of social solvency through consideration of the objective social values contributed by non-profit organisations, with each administration specifying the social priorities to be considered. In this respect, the presence of volunteers, the participation of organisations in the representative bodies (as knowledge and generation of social value) or the quality of employment for groups with special difficulties and standard groups could be considered, among others.

   b. With respect to the award criteria:
      → Measuring the social objectives of the projects through indicators.
      → Price should only be considered in the case of equal scores for other criteria and in any case, the price factor must account for no more than 10% of the total score, and the proportional scoring of price reductions and economic feasibility.
      → To prevent unfair treatment and respect the intentions of the tax laws (VAT exemption for non-profit organisations), it should be kept in mind that the VAT for non-for-profit organisations is zero; and therefore, the final prices must be considered with VAT included no matter what type of service is being provided or who provides the service. Comparison of the different bids should in all cases be made with VAT included.
      → The contract terms must be at least two years.
      → Payment conditions must comply with the law and, therefore, administrations should pay before sixty days. Any breach of this requirement should automatically give rise to the application of late interest without the need to make any specific request.
      → The price review clauses in the contracts must provide for changes in costs due to reviews of collective bargaining agreements.

   c. With respect to follow-up and control criteria:
      → The entire approved technical and economic project must be signed.
      → Monitoring and control must be exercised over the development of the technical projects and the objectives pursued.
      → All breaches must be reported, and proof must be presented of the social conditions that may be required along with technical reports.
      → Monitoring and control must be based on the execution of the activity rather than on administrative and bureaucratic verifications.
5.2. VAT in Public Contracts and Non-Profit Institutions

Social organisations that carry out VAT-exempt activities face a specific problem arising from the fact that they cannot deduct the VAT paid on their purchases of goods and services, and are thus treated as final consumers. This situation is aggravated by the interpretation that is often applied to public contracts laws, wherein the economic proposals are evaluated by taking into account the price not including VAT.

VAT on Social Activities in Spain

For reasons of public interest, the Value-Added Tax Act 37/1992 (LIVA) determines a series of activities that are VAT-exempt including the following, among others:
- Healthcare activities: hospital services or medical assistance (private and public); the provision of blood, fluids, tissues and elements from the human body; the transportation of sick people.
- Teaching activities for all educational grades and levels, provided by educational centres. This also includes the transportation of students and meals.
- Social assistance activities provided by public or social centres
- Social and cultural activities carried out by social organisations.
- Sports activities provided by social organisations.

With respect to the above list, it should be said that some exemptions are general in nature, and in others the exemption only applies if they have been provided by "social organisations". The requirements to be met by private organisations in order to be considered social organisations are listed in article 20.3 of the LIVA, and are as follows:
1) There shall be no lucrative intent, and if applicable, all profits obtained must be dedicated to developing activities of an identical nature.
2) The positions of Chairman, Sponsor or Legal Representative shall not be remunerated and such officers may have no interest in the economic operating results either for themselves, or through another party.
3) The members, commoners and those taking part in the organisations or their relatives up to a second degree of kinship may not be the main beneficiaries of VAT-exempt operations or enjoy special conditions.

This exemption regime is established in such a manner that the organisations must expressly ask the Tax Authorities to grant it. The fact that this exemption must be requested has led many to think that it can be waived. Notwithstanding, the Administration understands that this exemption cannot be waived and once recognised by the Tax Authorities, it shall remain in effect for as long as the requirements this recognition is based on continue to exist, as it is assumed that the recognition procedure is simply to verify compliance with the requirements that apply to the tax benefit, and its effects continue to exist as long as all the requirements and legal conditions that define the exemption are met.

Effects of the VAT Regime on Exempt Organisations

VAT exemption as applicable to organisations that provide social assistance services and are recognised as social establishments means they have no right to deduct the VAT paid on purchases of the goods and services needed to perform their activities. This means they are at a disadvantage in comparison to other organisations as the VAT paid and not deducted represents an extra cost in their profit and loss accounts.

This exemption effect can be seen in the following section:

Exempt organisation:
Since organisations providing services that are exempt cannot deduct the VAT paid on their purchases, they must book them as costs. This means that the final price not including VAT is higher than what it would be without that exemption. The following diagram shows an example, in figures, of a situation where there is a purchase equalling 100 and the organisation incorporates a margin of 50:

Non-exempt organisation:
On the contrary, for organisations subject to the ordinary regime, the VAT can be deducted so that the cost is comprised only of the price not including VAT, which makes it possible for their delivery price without VAT to be lower even though the price including VAT is actually higher:
The Third Social Sector Committee Position on Social Clauses and VAT in Tendering

From the above, it is clear that with the same inputs and additions, the price not including VAT for exempt organisations is higher; but despite this, the cost for the contracting administration is higher in the case of a non-exempt organisation.

This effect is contrary to what was initially intended by European law and its transposition by the Spanish state. This law established a regime of exemptions to favour non-profit organisations in providing their social services where the VAT was not a cost for the recipient of the services.

Recently, the Council of State criticised this situation in several decisions as it has concluded that the current VAT law means that exempt organisations are treated as final consumers insofar as they cannot deduct the VAT they have paid.

Problem Posed by VAT in Public Tendering

The entry into effect of Public Contracts Act 30/2007 and the interpretation made with respect to partially-exempt organisations in some cases, means that:

1. The value to be considered by the Administration in tendering processes is the full price not including VAT.
2. This value not including VAT is being applied for the purpose of determining the limit for participation in public tenders (maximum tender budget) and also for evaluating the bids submitted.

This method puts exempt organisations at a disadvantage since they cannot deduct the VAT paid; and therefore, their costs are higher than those of organisations that must pay the tax and are not exempt.

The effect of the above in public tendering is the following:

<table>
<thead>
<tr>
<th>Effect based on:</th>
<th>Effect based on:</th>
<th>Exempt organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Same price including VAT</td>
<td>Increased profit</td>
<td>Lower cost</td>
</tr>
<tr>
<td>Same price not including VAT</td>
<td>Less profit</td>
<td>Higher cost</td>
</tr>
</tbody>
</table>

The interpretation that the price to be compared must include VAT coincides with the regulation outlined in article 88. U. section 2 of the LIVA Act 30/2007, which establishes that when delivering and providing services, the beneficiaries of which are public corporations “it shall in all cases be held that the taxpayers of this tax have included the Value-Added Tax when formulating their economic proposals, even if this is done verbally...”. The application of the criterion based on which the prices to be considered do not “include VAT” leads to the following distortions:

1. When setting the tender limit as the total price not including VAT, this puts exempt organisations at a disadvantage from the start since the higher cost they pay in VAT on their purchases means that the price of the services they offer must be higher than the price offered by non-exempt organisations, who have deducted the VAT paid. This makes them less competitive when participating in tenders, even though their final price including VAT is actually lower. Thus, to participate in tenders on an equal footing, the final prices must be compared with VAT included as was the usual practice with tenders previously. As an alternative, for this purpose, exempt organisations could reduce their prices by the amount of the VAT payments made in their inputs.

2. In addition to comparing costs using unequal criteria (again, exempt organisations have the higher cost of the VAT paid), awarding a tender based on the prices before applying VAT entails the application of a restrictive criterion that is not provided for in the Public Contracts Act, which is negative discrimination.

3. Furthermore, by considering the tender limit without VAT, it may be more difficult for exempt organisations to participate in the tenders which means proposals that might be more favourable for the public institutions as they are not subject to VAT are excluded.
4. The treatment of prices that include VAT is also a criterion provided for by the VAT Act which establishes that proposals for providing services to public institutions must always be regarded as including VAT, and that the tax must not lead to an increase in the tender price.

5. The Administration must award the contracts to the bidder with the "most economically advantageous bid". Considering this, as far as the Administration is concerned, the full price paid constitutes a cost (both principal and VAT). When awarding a contract, the full price to be paid must be considered, without prejudice as to whether or not it corresponds to VAT, otherwise this would constitute a breach of the Public Contracts Act.

6. When awarding public contracts, social considerations must be made when evaluating the bids. The criteria regarding limit and awarding that exclude VAT not only constitute a breach of the positive discrimination aspect that is intended by the VAT law; but also, as explained above, give rise to negative discrimination against social organisations.

7. Along these same lines, the European Communities Court of Justice understands that exemption is aimed at reducing the cost for the users of social services of general interest. Thus, in the Ruling C-498/03 of 26 May 2005, it declared that "[...] those exemptions, which serve to guarantee a more favourable treatment in terms of VAT in the provision of certain services of general interest in the social sector, are intended to reduce the cost of those services and make them more accessible to the individuals who can benefit from those exemptions”.

8. Another negative consequence for the Administration is that exempt organisations allocate their profits to carrying out social activities that would otherwise have to be assumed by public authorities.

9. In the same sense, the fact is that these organisations perform a social function with two sides: the social nature of the services they provide to the community and the creation of jobs that are often given to population segments at risk of exclusion.

Conclusions
Evaluating prices without VAT in public tendering is a method that:
1) Constitutes negative discrimination against exempt organisations which is not provided for by Act 30/2007 or Directive 2004/18/CE, and what is more, they outline this when trying to differentiate between prices with and without VAT.

2) The comparison of prices without VAT goes against the awarding principle, according to which it is necessary to make the most favourable economic bid in order to win the tender.

3) It is contrary to the spirit that governs the creation of VAT exemptions since the purpose is to reduce the cost of these services as indicated in the VAT Act (both internally and in the EC) and the interpretation resulting from the jurisprudence of the European Communities Court of Justice.

Based on all the above, it must be concluded that the practical application of the public contracts law places exempt organisations at a disadvantage since they must add VAT as a cost. This means that non-profit organisations that perform social functions suffer negative discrimination and what is even more paradoxical; this also leads to higher costs for the contracting Administration.

Consequently, in this respect the Catalan Third Social Sector Institutions Committee considers that the previous interpretative criteria should be applied whereby the tender limits and award criteria are based on prices with VAT, i.e., the most advantageous economic bid as is established in the Public Contracts Act.
6. Addendums
6. Addendums

6.1. Model Best Tendering Practices and Social Clauses for the Different Phases of the Tendering Process

Best practices for the tendering process phases.

A) Contract Definition Phase:
Adigsa, a public corporation of the Ministry of the Environment and Housing, establishes the following social clauses in bidding specifications:

→ Purpose of the contract and execution conditions. The uniqueness of this case lies in the fact that the social clause established is included in the contract purpose. Adigsa takes advantage of a significant contractual volume to favour the social and labour insertion of people with difficulties finding jobs by inserting this social clause as a compulsory requirement during the contract execution phase. This way, it requires a commitment by the bidder and in practice, this leads to reserving jobs for people at risk or in a situation of social exclusion.

B) Award Criteria, Improvements and/or Criteria of Preference in Awarding the Contract:
The Pamplona City Council incorporated social clauses into the award criteria of a home assistance service contract such as recruiting people from groups with difficulties finding employment and bidders who were non-for-profit organisations.

→ Award criteria where the economic proposal received a maximum score of 15 points, whereas other criteria including social clauses were awarded the remaining 85 points: the type of organisation (maximum of 20 points), recruiting people with difficulties finding employment (maximum of 25 points), service improvements (maximum 25 points), training programmes and other social attention and/or labour conditions (maximum of 15 points).

The Barcelona City Council, in its specific administration specifications for a special administrative contract to provide support to families affected by male violence, included:

→ A preference in awarding the contract for the proposals submitted by non-profit organisations with a legal status, provided their purpose or activity is directly related to the contract purpose.

→ The following automatically assessable award criteria: a commitment to take part in municipal work groups on the subject of this contract procedure, and a commitment to organise talks to generate awareness among the interested population on the subject of the tender procedure (3 and 2 points, respectively, out of a total score of 45 points).

The Barcelona Provincial Council, in its specific administrative specifications for a contract providing services for the Action Plan for the Elderly in municipalities of the province of Barcelona, included:

→ A maximum score of 51 points for the following automatically assessable award criteria: extending the minimum technical equipment (maximum of 24 points), an economic improvement in the tender unit prices (maximum of 17 points), and an increase in the number of meetings for coordinating the work team (maximum of 10 points).

→ A maximum score of 49 points for the following award criteria, which are dependent on a value judgement: work plan, strategy, method (maximum of 27 points); a coordination system between organisation/organisation receiving the services and social action services (12 points) and the design of an evaluation indicators system (10 points).

26 http://www.lamegi.org/recursos/pamplonadescripcion.pdf
27 Specific administrative clauses of the special administrative contract providing support to families against male violence (released by the participation and Associations Services Directorate).
28 Specific administrative clauses of the Barcelona Provincial Council services contract for the Programme to promote actions for the elderly in the municipalities of the province of Barcelona.
http://www.diba.cat/licitacions/fitxers/serveis_231008.pdf
The Barcelona City Council, in its specific administrative specifications for a special contract for controlling information points and care for women (IFCW) existing in the ten municipal districts[^29], included:

- A preference in awarding the contract for the proposals presented by non-profit organisations with a legal status, provided their purpose or activity is directly related to the contract purpose.
- An awarding criterion that was dependent on a value judgement and had to do with the quality of employment conditions: the number of measures adopted to achieve staff loyalty (maximum of 5 points out of a total score of 32 points).

The Catalan Ministry of Social Action and Citizenry, in its contracts for the management of homes and day centres for dependent elderly persons and contracts for the provision of residential services for the disabled, incorporated various award criteria that accounted for 13.6% of the total score (the economic proposal received a score of 9%).

- Human resources: measures to favour balancing family and professional life (0.5 points), an absentee prevention programme and monitoring absenteeism at work (0.5 points), proposals for finding jobs through the municipal social inclusion job bank (0.5), proposals for agreements regarding apprenticeships with teaching centres related to the care field (0.5 points) and specific recycling and training, if necessary.
- Work organisation: annual training programme, with a detailed schedule of areas, the length of the courses and number of hours of training for each worker (1 point); mechanisms for worker participation, the collection of suggestions, improvement groups, assemblies, etc. (0.8 points).
- A programme for improving quality: satisfaction surveys directed at users and their relatives: the evaluation of the results (0.5 points).
- Participation: mechanisms for individual and group participation by users and their relatives: processes and activities (1 point); a programme proposal for interaction with the surrounding area: the number of external collaborations and contents (0.5 points); volunteer programme: objectives, content and activities (0.5 points).
- Objective: aids and channels for dissemination and the content of external information about the service such as leaflets, websites and reports concerning the contract (0.5 points).

The local council of Burlada, in its specific administration specifications for awarding a home care service, applied the following award criteria[^30]:

- Social economy companies or non-profit organisations (maximum of 20% of the points).
- Companies where at least 30% of the staff is considered to be part of vulnerable population segments (maximum of 25% of the points).

The Region of Madrid added the following administrative specifications in awarding a contract for the management of a home and supervised flats for chronically mentally disabled people:

- A preference in awarding the contract, under equal circumstances with the most advantageous economic proposals to companies that, although not obliged by law, were able to prove that at least 2% of their staff were disabled workers and also to companies specifically engaged in job promotion and the insertion of people at risk of social exclusion, with a formal commitment to offer 30% more jobs to people in the situation referred to in section 2 of additional clause six of the Public Contracts Act.
- A maximum score of 25 points for companies presenting the following improvements: a greater number of continuous training hours for the centre staff (maximum of 12 points) with respect to the minimum established in the specifications, the implantation of a quality system based on the EFQM model for management of the object of the contract (maximum of 8 points) and a commitment to employ disabled people (maximum of 5 points).

The Department of Housing and Social Affairs of the Basque Government, in its specific administrative specifications in a contract for the provision of the work required for the Biltzen intercultural and integration service, incorporated:

- For the economic bid, a maximum score of 10 out of 100, whereas the technical quality of the project was awarded a maximum score of 50 points and the work method received the remaining 40 points[^32].

[^29]: Specific administrative clauses of the special administrative contract for the management of information points and care for women (IFCW) in the 10 municipal districts. http://w3.bcn.es/V61
[^31]: Specific administrative clauses for the tender procedure for the management of a residence and supervised flats for chronically mentally disabled people from the Region of Madrid. http://www.madrid.org/cs
[^32]: Specific administrative clauses for the provision of the necessary works for attending to the Biltzen intercultural and integration service. http://www.euskadi.net
The Department of Housing and Social Affairs of the Basque Government, in a contract for the design of a campaign to generate awareness among the adult population on alcohol consumption, added the following to its administrative specifications:

- A preference in awarding the contract, under equal conditions with the most advantageous economic bid, to organisations with a large percentage of disabled staff (<2%), companies dedicated to the promotion and labour insertion of people in a situation of social exclusion and companies recognised as organisations in favour of fair trade in contracts whose object is to offer fair trade alternatives, and in the case of contracts related to the provision of social services or assistance, non-profit organisations (in applying that preference, priorities given to the companies that comply with the greatest number of characteristics).

The Region of Madrid, in its specific administrative specifications for a contract for the management of a labour rehabilitation centre for chronically mentally disabled persons in the north of the Region of Madrid, added the following:

- Two awarding preferences, under equal conditions with the most advantageous proposals: a) for organisations that, although not obliged by law, had a staff with people with disabilities accounting for more than 2%; b) for organisations dedicated specifically to the promotion and labour insertion of people at risk of social exclusion, evaluating their formal commitment to offer no less than 30% of their jobs to people from such groups (section 2 of additional values six of the Public Contracts Act).

- A maximum score of 25 points for projects presenting the following improvements: an improvement in staff training programmes (maximum of 12 points) with respect to the training established in the specifications: 6 points for every 10 hours of continuous training for people providing service in the contracted centres; a commitment to employ disabled people (maximum of 5 points): 3 points for full-time contracts and 2 points for part-time contracts.

C) Performance Conditions:
The Department of Housing and Social Affairs of the Basque Government, in its contract for the design of a campaign to generate awareness among adults about alcohol consumption, added the following to its administrative specifications clauses:

- Special conditions for performance of a social nature: the obligation of the contractor to include the gender perspective and prevent sexist discrimination in the use of language and image, and provide equal opportunities for men and women in the content of its training courses (if these are developed).

The Seville City Council (and all its offices, regional bodies, municipal companies and other institutions in which the council holds a majority share) incorporated social clauses on the quality of employment in all its public works and services contracts amounting to more than 150,000 euros and with an estimated execution term equal to or more than nine months. These clauses are obligations of a special nature, and included as special conditions for performance of the contract:

- Labour insertion of people with difficulties finding employment: the successful bidder undertakes to hire at least 10% of its staff from among unemployed population segments with special difficulties in accessing employment, with respect to the total number of staff required to execute the contract.

- Access of women to employment in equal conditions: all successful bidders must have a certain percentage of women in the case of an unbalanced staff structure (<40% of the staff), and throughout the performance of the contract, are obliged to hire at least one new female worker or transform a part-time employment contract into a full-time contract.

- Stability in terms of employment: during the performance of the contract, the successful bidder must comply with and prove compliance with the requirement that at least 30% of its staff has signed a full-time contract.

- Promoting actions to facilitate balancing family and professional life: successful bidders must carry out actions to generate awareness, train and guide their workers throughout the execution of the contract.

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33 Specific administrative clauses for the design of a campaign to provoke awareness among the adult population about the consumption of alcohol. http://www.euskadi.net

34 Specific administrative clauses for a contract for the management of a labour rehabilitation centre for chronically mentally disabled persons in the northern Region of Madrid.

35 Specific administrative clauses for the design of a campaign to provoke awareness among the adult population about the consumption of alcohol. http://www.euskadi.net

6.2. Model Social Clause Specifications by Service Type: Home Care Services, Educational Residence and Activity Centre Management and Labour Reinsertion Centres

Below are three model specifications, provided for guidance and based on real contract specifications. They include some of the social clauses defined in this publication. We have eliminated specific references to ensure they cannot be identified. The purpose of these examples is to show the specific application of social clauses in tenders for some of the most common social services:

1. The management of home care services.
2. The comprehensive management of residential centres that provide education for children and/or adolescents.
3. The comprehensive management of vocational rehabilitation centres for people with chronic mental disabilities.

1) Management of Home Care Services

OPERATING SPECIFICATIONS GOVERNING A CONTRACT FOR THE MANAGEMENT OF A HOME CARE SERVICE FOR BASIC SOCIAL SERVICES OF... THROUGH THE ORDINARY, OPEN PROCEDURE.

CLAUSE xx. BID EVALUATION CRITERIA

Total score for all criteria: up to 95 points.

1. Automatically assessable ........................................................................ up to 60 points.
   Technical issues up to 40 points.
   Economic issues up to 20 points.
2. Depending on a value judgement ......................................................... up to 35 points.

1. The criteria linked to the contract purpose that are automatically evaluated and will serve as a basis for the contract award, in decreasing order of importance, are as follows:

TECHNICAL ISSUES, up to 40 points.

→ User participation in designing and improving the service: the number of hours of meetings with users/beneficiaries to design, define and improve the service covered by the project the organisation undertakes to provide; up to 14 points, at a rate of 0.10 points per hour of meetings.

→ Complementary nature of the services: volume of complementary/additional services based on the needs of the beneficiaries (by content or target public) the organisation provides or undertakes to provide in the project; up to 13 points, at a rate of 2.5 points per complementary service.

→ Volunteer work in the project: volume of direct or indirect hours of service to users provided by volunteers the organisation undertakes to provide; up to 13 points at a rate of 0.10 points per hour of volunteer work.

ECONOMIC ISSUES, up to 20 points.

An improvement in the economic proposal will be evaluated based on the following formula:

Where:
R = result of the points obtained.
PRP = percentage of reduction on the net maximum price of the contract (18.8818 euros/hour of personal home care and 15.7318 euros/hour of house cleaning).
PMR = maximum percentage of reduction in the score (6%).

The maximum percentage of reduction in the score in each area is set at 6% of the tender price per hour of service.
2. The criteria linked to the contract purpose that depend on a value judgement and will serve as a basis for awarding, by decreasing order of importance, are as follows:

**TECHNICAL ISSUES, up to 35 points.**

Technical service project, understood as a project involving the organisation and management of Home Care Services in relation to the area for which it is proposed. It must be no more than 50 pages, written on one side, and it must be correctly paged and indexed. One original and two copies must be submitted, one of these in CD-ROM format.

Only those aspects that complement the technical specifications and entail an innovation with respect to the organisation described in these service operation specifications will be evaluated. The different aspects to be evaluated are as follows:

- **Quality management project**, indicating the mechanisms for controlling and evaluating the management of the service, care provided to customers and training and consolidation of the staff (with a special indication of the professionals carrying out the task in the social and educational mode), .............................................................. up to 5 points.
- **Participation with the Administration in identifying new needs**: participation in municipal and district work groups (from the respective territory) with a view to identifying new needs as related to the object of the project that the organisation is committed to developing in the project, .............................................................. up to 5 points.
- **The management, method and functioning of the service**, ............... up to 5 points.
- **A full description of the technological improvements directed at the coordinators/technicians for their tasks of monitoring users in their homes and in the coordination areas that will allow information to be obtained automatically and in real time**, ............... up to 5 points.
- **For a detailed description of a deontological code**, ........................... up to 5 points.
- **Transfer of knowledge**: execution of research work in reference to the Home Care Service with a formal result (publication in sector magazines and/or formal reports at congresses, events, etc.) which the organisation undertakes to execute during the development of the project .............................................................. up to 5 points.

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2) **The Comprehensive Management of a Residential Centre providing Education for Children/Adolescents from a Town in xxx**

**FORM CONTAINING SPECIFIC ADMINISTRATIVE CLAUSES FOR GOVERNING MANAGEMENT CONTRACTS FOR PUBLIC SERVICES, CONCESSION AND AGREEMENT MODES, TO BE AWARDED THROUGH THE OPEN PROCEDURE.**

Objective criteria for awarding a comprehensive management contract for the centre xxx in the town of xxx with a capacity for xx residential vacancies for providing education to children and/or adolescents, reporting to the General Child and Adolescent Directorate of the Ministry of Social Action and Citizenry.

The evaluation criteria to be applied when evaluating the bids, up to a maximum of 100 points, are:

1. **Work Method**

   The maximum score is 54 points. Value is placed on providing a list and a description of the contract services based on the breakdown set forth in the following sub-criteria, always in accordance with what is included in the technical specifications.

   **1. Definition and organisation (up to 17 points).**

   **1.1 General and specific objectives: these correspond to the mission and purpose of the protection.**

   - totally: 3,5
   - to a great extent: 2,5
   - to a certain extent: 1,5
   - to a small extent: 0,5
   - not at all: 0

   **1.2 Basic and optional services: the minimum staff required is coherent and complementary programmes exist. Staff qualifications are appropriate.**

   - totally: 3,5
   - to a great extent: 2,5
   - to a certain extent: 1,5
   - to a small extent: 0,5
   - not at all: 0
1.1.3 Own and accessible services: develops services (not agreed exclusively with the Administration) that are free or low-price in relation to their cost, for users/beneficiaries. Example: monitoring services following the provision of other services for children who are now of age.
   → 3 services or more: 3,5
   → 2 services: 2,5
   → 1 service: 1
   → None: 0

1.1.4 Definition of the mission: it is realistically oriented towards the institutional assignment.
   → Totally: 3,5
   → To a great extent: 2,5
   → To a certain extent: 1,5
   → To a small extent: 0,5
   → Not at all: 0

1.1.5 Organisation: its formulation is based on a structure that is adequate for achieving the mission and objectives, and the roles and functions are defined and differentiated.
   → Totally: 3,0
   → To a great extent: 2,5
   → To a certain extent: 1,5
   → To a small extent: 0,5
   → Not at all: 0

1.2 Human resources (up to 17 points).
1.2.1 Staff training programme. Presentation of centre training plan.
   → The training plan guarantees workers at least 30 hours of training a year ........... 7 points.
   → The guaranteed training is 30 hours a year ................................................ 5 points.
   → The guaranteed training is 15-30 hours a year ......................................... 3 points.
   → The guaranteed training is less than 15 hours a year .............................. 0,5 points.

1.2.2 Employment promotion for certain groups: value is attached to the bidder's commitment to promote employment in population groups with special needs: people at risk or in a situation of exclusion. Up to a maximum of 10 points is awarded for the contribution of one or several full or part-time jobs in accordance with the following schedule:
   → 3 points for every full-time job.
   → 2 points for every part-time job.

1.3 Overall operation (up to 25 points).
1.3.1 Centre education project.
   → Updated and flexible in meeting the requirements of the DGCCA (General Directorate of Care for Children and Adolescents) ................................................ up to 4 points.
   → Approved but currently pending review ................................................... 1,5 points.

1.3.2 Individual care plan (ICP) and process for preparing and applying it.
   → Formulation of the ICP as a dynamic process, described and evaluated in accordance with the needs of children/adolescents ........................................... up to 4 points.
   → Presentation of the ICP ......................................................................... 1,5 points.

1.3.3 Operational or internal regime regulations.
   → Updating, issuing of ICP and response to the DGCCA criteria.................... up to 4 points.
   → Approved but pending review ................................................................. 1,5 points.

1.3.4 Networking.
   → Number of third sector networks to which the organisation belongs and with which it collaborates actively through work groups or other similar mechanisms ...... up to 4 points.

1.3.5 Participation with the Administration in identifying new needs.
   → Commitment to take part in municipal and district work groups... (from the respective territory) in identifying new needs with respect to the project object ........ up to 4 points.

1.3.6 Community dimension: total number of activities open to the community included in the project and/or total number of activities carried out by users/beneficiaries of the project in the community.
   → Number of activities offered to the community/total number of activities ≥75% .... 5 points.
   → Number of activities offered to the community/total number of activities 25-50% ... 2,5 points.
   → Number of activities offered to the community/total number of activities <25% ..... 0 points.
2. Economic Proposal.
The maximum score is 30 points. The score is awarded to the economic proposal receiving the maximum score. Other proposals receive a score that is proportional to the most economically advantageous offer as determined by applying the following formula:
SCORE = most economically advantageous bid x maximum bid score

3. Additional Improvements.
The maximum score is 11 points. If necessary, other improvements proposed will be evaluated that improve the requirements established in the technical specifications depending on their usefulness in providing the service. Specifically, the contribution of complementary residential programmes will be considered — that do or do not allow for more staff, which in any case, will be other than the figure of teacher — that are not parallel to the current authorised network of social services, social and health services or health services. Likewise, other contributions may be considered that improve the service provision when developing the contract such as the educational level of the workers in the organisation, or democratic participation in the project. In addition, other contributions may be considered that will improve this service in the future, for instance, the number of innovative activities in the social services field carried out by the bidder or the transfer of knowledge with respect to the services it provides and/or the people receiving those services.

3) The Comprehensive Management of an Employment Insertion Centre for the Chronically Mentally Disabled
SPECIFIC ADMINISTRATIVE SPECIFICATIONS THAT MUST GOVERN PUBLIC SERVICES MANAGEMENT CONTRACTS, AGREEMENT MODE, AUTHORISED EMPLOYMENT REHABILITATION CENTRES FOR CHRONICALLY MENTALLY DISABLED PERSONS IN XXX, FOR AWARDING VIA THE OPEN PROCEDURE, BASED ON MULTIPLE CRITERIA.

Objective criteria for awarding the contract.

Bidders will provide accreditive information and documents in relation to all aspects that can be evaluated based on these criteria. Contractual obligations shall include the bidders’ commitment to improvement if they are awarded the contract that has given rise to the awarding of the score. Failure to present the accreditive documents or the commitment signed by the bidder shall lead to exclusion of the bid.

1. Evaluation of the management project. Maximum score: 35 points.
The technical project presented by companies or bidders for the management of the services covered by this contract will be evaluated taking into account whether the proposal for organisation and operation considered entails the full, coherent, methodological and organisational implementation of the project beyond what is established in the technical specifications, as the basis for the organisation and operation of the service for users. Projects that are merely a reproduction of the contents and technical aspects set out and established in the technical specifications will not be evaluated or rated. Based on this, the following main elements of the technical management projects presented by the bidders will be evaluated, up to a maximum of 35 points:

1.1 Overall organisation of the operation of the centres (maximum: 12 points).
Up to 12 points will be awarded depending on the best degree of adaptation, specification and technical coherence in the overall organisation of the centres described in the contract, including aspects of coordination with other specific and community resources.

This score will be awarded based on the following:
- Greatest degree of adaptation, specification and technical coherence in the overall functional organisation: ................................................................. up to 10 points.
- Greatest degree of adaptation, specification and technical coherence in aspects of coordination with other specific and community resources: .............................................. up to 2 points.

1.2 Programming and development of the specific care activities described in the technical specifications (maximum: 10 points).
Up to 10 points will be awarded, based on the greatest degree of adaptation, methodological development, protocolization and technical coherence of the activities to be carried out in the centres described in the contract:
- Greatest degree of adaptation and methodological development: ............ up to 5 points.
- Greatest degree of protocolization and technical coherence: ................... up to 5 points.

1.3 Programming and development of social, family care activities and activities related to the environment (maximum: 10 points).
Up to 10 points are awarded, based on the greatest degree of adaptation, specification, development and technical coherence in programming social care, family care and environment-related activities.
This score will be given based on:

- The greatest degree of adaptation and specification of social and family care activities: ................................................................. up to 6 points.
- The greatest degree of adaptation, development and technical coherence in programming activities related to the environment: ................................................................. up to 4 points.

1.4 Other complementary technical aspects that have an effect on the quality of the services provided and the proper operation thereof: ................................................ up to 8 points. Mainly, aspects related to adapting the services to the needs of the people receiving them will be considered.

2. Economic proposal. Maximum score: 35 points.
This section evaluates the bidders' economic proposal. Up to 35 points are awarded for offering a price that is lower than the one indicated in the administrative specifications. These points are assigned to the bid with the lowest price of all those admitted in the tender. Based on that bid, the highest financial reduction is determined, and this is awarded the maximum score. The other scores will be awarded proportionally.

For the purpose of the provisions of article 136 of the Public Contracts Act 30/2007, of 30 October 2007, a reduction in the entire proposal accounting of more than 10 units based on the mathematical average of the reduction percentages for all the proposals submitted will be considered irregular or disproportionate.


3.1 The commitment of proximity with the local community. Up to a maximum of 12 points will be given for improvements proposed by the bidders beyond the terms set forth in the technical specifications, in adapting the programmes covered by the agreement to the social and territorial setting where they are implemented. Up to 12 points will be awarded based on the following:
- 4 points for each local dissemination activity (conferences, meetings, etc.) aimed at spreading information and awareness about the purpose of the project that the bidder undertakes to implement.

3.2 Commitment to the insertion of certain segments into the labour market. Maximum score: 13 points.
Value will be placed on the commitment to support the integration of people with special needs into the labour market made by bidders through their offer of jobs to be filled by:
- people at risk or in a situation of social exclusion;
- people with disabilities, preferably from contract target group, either in the centre itself or in any other job that can be offered by the bidders.

Up to a maximum of 13 points will be awarded for offering one or several jobs on a full-time basis or part-time basis, as follows:
- 3 points for each full-time job offered.
- 2 points for each part-time job offered.
6. Addendums

6.3. A Compilation of Applicable EC, National and Catalan Laws

Public administrations are subject to national and European community public contracts laws, and in the case of Catalonia, to the Catalan laws.

EC Laws
With respect to community laws, the following currently apply:
- Commission Communication of 15 October 2001, on public procurement and the integration of social considerations.
- Directive 17/2004/EC.
- Directive 18/2004/EC.

The main guidelines of community law on the use of social clauses are:
1. They shall be admitted as selection criteria provided they are a means of proving the organisation’s technical capacity.
2. They shall be admitted as criteria for determining the most advantageous economic proposal provided they contribute an economic benefit and are directly linked to the contract purpose.
3. They shall be admitted as execution conditions provided they have no direct or indirect discriminatory effect on the bidders.

EC Provisions
Interpretative Communication of the Commission on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement.

SUMMARY
- The aim of this Communication, which follows on from the Commission’s communication on “Public Procurement in the European Union” of 11 March 1998 [1], is to clarify the range of possibilities under the existing Community legal framework for integrating social considerations into public procurement. This communication also figures among the actions announced in the Social Policy Agenda adopted by the European Council of Nice in December 2000 [2].

2000 1. The Agenda is part of the integrated European approach set out in Lisbon whose goal is economic and social renewal. It seeks in particular to provide a dynamic and positive interaction between economic, employment and social policies, which mutually reinforce one another.

1. COM(98) 143.
- The introduction of other possibilities and, in particular, of practices that go beyond the current system of the public procurement directives would require intervention by the Community legislator.
- All relevant national rules in force in the social field, including those implementing relevant Community rules in the field, are binding on contracting authorities in so far as they are compatible with Community law. Such rules include, in particular, provisions on workers’ rights and on working conditions.
- Non-compliance with certain social obligations may in some cases lead to their exclusion. It is for Member States to determine in which cases this should arise.
- It is especially during the execution of the contract, that is, once the contract has been awarded, that public procurement can be used by contracting authorities as a means of encouraging the pursuit of social objectives. Contracting authorities can require the successful bidder to comply with contractual clauses relating to the manner in which the contract is to be performed, which are compatible with Community law. Such clauses may include measures in favour of certain categories of persons and positive actions in the field of employment.
- The public procurement directives also offer various possibilities for taking account of social considerations that relate to the products or services required, in particular when drawing up the technical specifications and selection criteria.
- Public purchasers are free to pursue social objectives in respect of public procurement contracts not covered by the public procurement directives, within the limits laid down by the general rules and principles of the EU Treaty. It is for Member States to determine whether contracting authorities may, or must, pursue such objectives in their public procurement.


37 Portal providing access to European Union Law. http://eur-lex.europa.eu/LexUriServ
Contracts must be awarded on the basis of objective criteria which ensure compliance with the principles of transparency, non-discrimination and equal treatment and which guarantee that tenders are assessed in conditions of effective competition. As a result, it is appropriate to apply the objective criteria only: “the lowest price” and “the most economically advantageous tender”.

To ensure compliance with the principle of equal treatment in the award of contracts, it is appropriate to lay down an obligation - established by case-law - to ensure the necessary transparency to enable all bidders to be reasonably informed of the criteria and arrangements which will be applied to identify the most economically advantageous tender. It is therefore the responsibility of contracting entities to indicate the criteria for the award of the contract and the relative weighting given to each of those criteria in sufficient time for bidders to be aware of them when preparing their tenders. Contracting entities may derogate from indicating the weighting of the criteria for the award of the contract in duly justified cases for which they must be able to give reasons, where the weighting cannot be established in advance, in particular on account of the complexity of the contract. In such cases, they must indicate the descending order of importance of the criteria.

Where contracting entities choose to award a contract to the most economically advantageous tender, they should assess the tenders in order to determine which one offers the best value for money. In order to do this, they must determine the economic and qualitative criteria for the award of the contract. The determination of these criteria depends on the object of the contract since they must allow the level of performance offered by each tender to be assessed in the light of the object of the contract, as defined in the technical specifications, and the value for money of each tender to be measured. In order to guarantee equal treatment, the criteria for the award of the contract must enable tenders to be compared and assessed objectively. If these conditions are fulfilled, economic and qualitative criteria for the award of the contract, such as meeting environmental requirements, may enable the contracting entity to meet the needs of the public concerned, as expressed in the specifications of the contract. Under the same conditions, a contracting entity may use criteria aiming to meet social requirements, in particular in response to the needs - defined in the specifications of the contract - of particularly disadvantaged groups of people to which those receiving/using the works, supplies or services which are the object of the contract belong.

Contracting entities may lay down special conditions relating to the performance of a contract, provided that these are compatible with Community law and are indicated in the notice used as a means of calling for competition or in the specifications. The conditions governing the performance of a contract may, in particular, concern social and environmental considerations.

Contracts should be awarded on the basis of objective criteria which ensure compliance with the principles of transparency, non-discrimination and equal treatment and which guarantee that tenders are assessed in conditions of effective competition. As a result, it is appropriate to allow the application of two award criteria only: “the lowest price” and “the most economically advantageous tender”.

To ensure compliance with the principle of equal treatment in the award of contracts, it is appropriate to lay down an obligation - established by case-law - to ensure the necessary transparency to enable all bidders to be reasonably informed of the criteria and arrangements which will be applied to identify the most economically advantageous tender. It is therefore the responsibility of contracting authorities to indicate the criteria for the award of the contract and the relative weighting given to each of those criteria in sufficient time for bidders to be aware of them when preparing their tenders. Contracting authorities may derogate from indicating the weighting of the criteria for the award in duly justified cases for which they must be able to give reasons, where the weighting cannot be established in advance, in particular on account of the complexity of the contract. In such cases, they must indicate the descending order of importance of the criteria.

Where the contracting authorities choose to award a contract to the most economically advantageous tender, they shall assess the tenders in order to determine which one offers the best value for money. In order to do this, they shall determine the economic and quality criteria which, taken as a whole, must make it possible to determine the most economically advantageous tender. The determination of these criteria depends on the object of the contract since they must allow the level of performance offered by each tender to be assessed in the light of the object of the contract, as defined in the technical specifications, and the value for money of each tender to be measured.
In order to guarantee equal treatment, the criteria for the award of the contract should enable tenders to be compared and assessed objectively. If these conditions are fulfilled, economic and qualitative criteria for the award of the contract, such as meeting environmental requirements, may enable the contracting authority to meet the needs of the public concerned, as expressed in the specifications of the contract. Under the same conditions, a contracting authority may use criteria aiming to meet social requirements, in response in particular to the needs - defined in the specifications of the contract - of particularly disadvantaged groups of people to which those receiving/using the works, supplies or services which are the object of the contract belong.

Article 26. Conditions for Performance of Contracts. Contracting authorities may lay down special conditions relating to the performance of a contract, provided that these are compatible with Community law and are indicated in the contract notice or in the specifications. The conditions governing the performance of a contract may, in particular, concern social and environmental considerations.

The Act incorporates new aspects that are directly related to the insertion of social clauses:
1. The insertion of the various social clauses into the definition of the contract purpose:
   - The technical specifications will be defined considering criteria of universal accessibility and design for all citizens such as those defined in Act 51/2003 on equal opportunities, non-discrimination and universal accessibility for people with disabilities.

2. Prohibitions on contracting. These include:
   - Infringements of workers’ rights.
   - Serious infringements regarding labour insertion and equal opportunities and non-discrimination with respect to people with disabilities.
   - Very serious infringements in social affairs, including infringements related to occupational risk prevention.
   - A breach of special performance conditions regarding social matters in the contract, if this is specified as grounds for the cancellation of the contract.

3. Solvency:
   - A declaration regarding the annual average staff employed in the organisation [...], except in supply contracts.

4. Award criteria:
   - The incorporation of the mention of social aspects, but conditioning their inclusion as award criteria when they respond to needs defined in the contract specifications, such as corresponding to especially vulnerable population segments to which the users or beneficiaries of the services to be provided belong.
   - In the event of tenders with abnormal or disproportionate prices, the affected party must justify that its bid has taken social, environmental and tax provisions into account.
   - Preferential clauses for awarding the contract under equal conditions (DA 6): contracting companies with a staff that includes people with disabilities or people at risk of social exclusive and non-profit organisations.

Spanish Law
The Spanish law on contracts is a reference for all contracts formalised by the various public administrations of the Spanish State; and therefore, determines the legal framework for social clauses in public contracts in Catalonia.

The Public Contracts Act 30/2007, of 30 October 38 is the new basic law on contracts. With respect to its effects in Catalonia, two fundamental aspects must be highlighted:
   - It admits regional implementation options, in particular in relation to the preparation and performance of the contracts.
   - It incorporates provisions regarding social considerations linked to public contracts into the different phases of the contract cycle.

5. Special conditions on the performance of the contracts (article 102):
Requirements for establishing these conditions in the contracts:

- They must be compatible with Community law;
- They must be indicated in the tender announcement, in the specifications or the contract.

They may refer, in particular, to social considerations for the purpose of:

- Promoting employment among people with specific difficulties or who are unable to find jobs.
- Eliminating inequalities between men and women in terms of job opportunities.
- Preventing unemployment.
- Promoting on-the-job training.
- Other purposes.

The specifications or contract may:

- Establish penalties for non-compliance with these conditions.
- Make them compulsory contractual conditions that must be met, and establishing that, in the event non-compliance with these conditions, the contract may be terminated.
- Non-compliance is considered to be a serious infringement (for the purpose of the prohibitions on contracting).

**Spanish Provisions**

Article 49. Prohibitions on contracting.
1. All those involved in the following circumstances shall be prohibited from entering into public contracts:

a) Having been condemned through a firm ruling for committing illicit association, corruption in international economic transactions, exercise of undue influence, bribery, fraud and extortion, crimes against the inland revenue and Social Security fund, crimes against workers’ rights, misappropriation and similar conducts, crimes related to the protection of the environment, or special disqualification in exercising a profession, trade, industry or commerce. The prohibition on entering into public contracts includes individuals, corporate bodies, administrators or representatives who, during their term of office or representation, are in any of the aforementioned situations due to actions taken on behalf of or for the benefit of the aforementioned corporate bodies, or who are responsible for carrying out the conditions, qualities or relations that qualify them as actively involved in such criminal activities.

b) Subject to a firm sanction due to serious infringements regarding market discipline, professional matters or with respect to labour integration and equal opportunities and the non-discrimination of people who are disabled or due to serious infringement of social


1. As far as possible, technical specifications shall be defined considering criteria of universal accessibility and design for all citizens as defined in Act 51/2003 of 2 December 2003, on equal opportunities, non-discrimination and universal accessibility for people with disabilities, and if the contract purpose affects or could affect the environment, by applying sustainability and environmental protection criteria in accordance with the definitions and principles regulated by articles 3 and 4, respectively, of Act 16/2002 of 1 July 2002, on integrated pollution prevention and control. If it is not possible to define the technical specifications taking into account universal accessibility criteria and design for all citizens, this circumstance must be sufficiently reasoned.

2. The technical specifications must allow access for bidders in equal conditions without creating unjustified obstacles for opening up public contracts to the competition.

Article 102. Special conditions on contract performance.
1. Contracting bodies may establish special conditions on the performance of the contract provided they are compatible with European Community law and are indicated in the tender announcement and in the specifications or contract. These performance conditions may refer in particular to environmental considerations or social considerations for the purpose of promoting employment among people with special difficulties in finding jobs, eliminating inequalities between men and women in terms of employment, preventing unemployment, promoting on-the-job training or other purposes established in reference to the coordinated strategy for employment, defined in article 125 of the Treaty establishing the European Community, or guaranteeing respect for basic employment rights in the production chain, through demanding compliance with the fundamental conventions of the International Labour Organisation.

2. The specifications or contract may establish penalties, in accordance with what is set forth in article 196.1, for non-compliance with these special conditions on performance, or they may be attributed the nature of essential contractual obligations for the purposes set forth in article 206.9. If non-compliance with these conditions is not specified as grounds
6. Addendums

for terminating the contract, it may be considered a serious offence in the specifications or in the contract under the terms established by law for the purposes of the provisions of article 49.2.e).

Article 103. Information regarding obligations related to taxes, environmental protection, employment and employment conditions

1. Awarding authorities may indicate the obligations related to taxes, environmental protection, employment conditions and occupational risk prevention that apply to the work carried out in the project or the services provided during contract execution.

2. The awarding authority providing the information referred to above shall request that the bidders or candidates in a contract-awarding procedure declare when preparing their bids that they have considered the obligations arising from the applicable provisions regarding employment protection, employment conditions and occupational risk prevention and environmental protection. This is subject to application of the provisions of article 136 on verification of bids that include abnormal or disproportionate values.

Additional Clause Twenty-One. Guarantee of accessibility for people with disabilities.

Within the scope of public contracts, the admissible methods of communication, the design of instrumental elements and the implementation of procedural steps must be determined taking into account universal accessibility criteria and design for all citizens as defined in Act 51/2003 of 2 December, 2003, on equal opportunities, non-discrimination and universal accessibility for people with disabilities.


1. For the purpose of evaluating the proposals and determining the most advantageous economic offer, criteria must be used that are directly linked to the purpose of the contract, such as quality, price, the method used to review the remuneration associated with using the work or providing the service, the execution term or service-provision term, the cost of use, the environmental characteristics or those that are related to meeting social demands that respond to the needs, as defined in the contractual specifications, for the particularly vulnerable population segments to which the users or beneficiaries of the contracted services belong, the profitability, technical value, aesthetic or functional characteristics, availability and cost of replacement parts, maintenance, technical assistance, after-sales service and other similar services.

When only one awarding criterion is used, this must be that of the lowest price.

2. The criteria serving as a basis for awarding the contract are determined by the contracting body and listed in the announcement published, in the specific administrative clauses or in the descriptive document. When determining award criteria, more weight should be given to those that refer to characteristics of the contract object that can be assessed with figures or percentages obtained by simply applying the formulas established in the specifications. For tenders subject to an open or restricted procedure where, through the application of formulas, the assessable criteria are automatically attributed a lower score than what would correspond if the criteria were rated based on a value judgement, a committee should be formed with a minimum of three members. They should be experts from outside the contracting body with appropriate qualifications. This committee would be responsible for assessing the offers in accordance with these latter criteria, or the evaluation should be entrusted to a specialized technical body, duly identified in the specifications.

Evaluating offers in accordance with quantifiable criteria by simply applying formulas should be done after first assessing the other criteria to which these formulas do not apply, and this process should be documented. The regulations implementing this law should determine the circumstances and conditions under which a prior assessment should be made public as well as the manner in which proposals must be submitted in order to make this separate evaluation possible.

3. Assessment of more than one criterion is applicable in particular, when awarding the following contracts:

a) Those where the projects or budgets have not been established beforehand and must be presented by the bidders.

b) In cases where the contracting body considers that the definition of the provision can be improved on by using other technical solutions, to be proposed by the bidders by submitting changes or reducing the execution term.

c) Those where the contracting body, institution or entity provides auxiliary materials or resources to execute the contract for which special guarantees are required by the contractors regarding proper use.

d) Those where the use of especially advanced technology is required or where the execution is especially complex.

e) Public service management contracts.

f) Supply contracts, unless the products to be purchased are properly defined as being standard without the possibility of modifying the delivery terms or make changes of any kind in the contract; and therefore, the price continues to be the only decisive factor for awarding the contract.
g) Service contracts, unless the service provision is properly defined in technical terms and it is not possible to modify the delivery terms or make changes of any kind in the contract; and, therefore, the price is the only decisive factor for awarding the tender.

4. When taking more than one criterion into consideration, and when it is necessary to establish the related weighting attributed to each aspect, which can be expressed by attaching a sufficiently wide range of values. If the awarding procedure is divided into different phases, an indication must also be given as to which of these phases the different criteria apply, and the maximum score threshold that is to be met by the bidder in order for it to continue in the selection process.

If, for duly justified reasons, it is not possible to weight the chosen criteria, these shall be numbered in descending order of importance.

5. The chosen criteria and their weighting must be indicated in the tender announcement, if it is published.

Additional Provision Six. Contracts with organisations with a staff that includes disabled people or people in a situation of social exclusion, and with non-profit organisations.

1. The contracting bodies may indicate in their specific administrative specifications, preference in awarding contracts to proposals presented by public or private entities which, at the time of accrediting their technical solvency, employ disabled workers accounting for more than 2 percent of their workforce, provided these proposals are equal to the most favourable one as regards the criteria serving as a basis for awarding the contract. If different bidders have equal scores in terms of the most favourable proposal prove that disabled workers account for more than 2 percent of their staff, preference is given to the bidder with the highest percentage of disabled workers working full time.

2. Similarly, preference may be established in awarding contracts, under the same conditions as those that are economically more advantageous, to proposals submitted by organisations dedicated specifically to the promotion and insertion of persons at risk of social exclusion into the employment market, as regulated by additional provision nine of Act 12/2001 of 9 July 2001, on Urgent Reform Measures for the Employment Market to Increase Employment and Improve Employment Quality, and value shall be placed on the formal commitment of bidders to offer no less than 30 percent of their jobs to people belonging to the following groups, whose situations must be demonstrated by the competent public social services:

a) People receiving minimum insertion benefits or any other benefit of the same or a similar nature in accordance with the name used in each territorial region.

b) People who cannot access the benefits referred to above due to not having resided for sufficient time in the territory or being included in the population census, or due to the constitution of the unit receiving the benefit or due to expiry of the maximum legal term for receiving the benefit.

c) Young people over eighteen and less than thirty years old, who have been attended to by institutions providing care for minors.

d) People with drug or alcohol problems undergoing rehabilitation or social reinsertion processes.

e) Prison inmates whose penitentiary situation allows them to access employment and also ex-convicts and prisoners on conditional release.

f) People with disabilities.

3. In the same manner and under the same conditions, this preference may be established when awarding contracts related to social or assistance benefits for proposals submitted by legally-established non-profit institutions, provided that their purpose or activity is directly related to the contractual object, as outlined in their respective bylaws or founding regulations, and they are listed in the respective official registry. In this case, the contracting body may request that these entities present a detailed list with a breakdown of the tender price, based on their costs.

4. The contracting bodies may indicate in their specific administrative clauses preference in awarding contracts that are intended to guarantee fair trade as an alternative to the proposals presented by entities recognised as fair trade organisations provided the proposals are equal in terms to the most advantageous one as regards the criteria used as a basis for awarding the contract.

Additional Provision Seven. Reserved contracts.

Participation in contract-awarding processes can be reserved for special work centres or the execution thereof may be reserved for them within the framework of protected employment programmes if at least 70 percent of the workers affected are disabled, and due to the nature or seriousness of their disabilities, they cannot exercise a professional activity under normal conditions. This provision must be mentioned in the tender announcement.
6. Addendums

Catalan Law
The Autonomous Statute of Catalonia establishes the authority of the Generalitat with respect to Catalan public administration contracts:

Article 159.3
The Generalitat is competent as regards the following in relation to public administration contracts in Catalonia:

a) Exclusive authority regarding the organisation and competence in respect of contracts with Catalan public administration bodies and over the regulations for the execution, amendment and cancellation of public contracts in all matters not affected by article 149.1.18 of the Spanish Constitution.

b) Shared authority in all matters that are not the exclusive competence of the Generalitat in paragraph a).

Social reserve in Catalan law is governed by the following provisions:

→ Article 35 of Act 31/2002 of 30 December 2002, on tax and administrative measures.


This first Act of 2002 provides more content on the issue of social clauses, within the framework of Generalitat administrative contracts and the subsequent reforms and measures for promoting social objectives in public contracts, through the inclusion of social and employment insertion clauses.

Article 19 of Act 7/2004 amends article 35 of Act 31/2002, the first point of which is changed to read as follows: "[...] the ministries, regional bodies and public corporations under the Generalitat are obliged to reserve certain administrative contracts for works, supplies and services for employment insertion centres for disabled persons, social and labour insertion companies regulated by Act 27/2002 of 20 December 2002 [...], or non-profit organisations, the objective of which is the labour or social integration of people at risk of social exclusion". Point 2 of this amended article 35 establishes the contractual objectives eligible for this reservation (works and services for the conservation and maintenance of real estate, courier services, graphic arts, restaurants and the collection and transport of waste, and also auxiliary services and supplies), whereas point 5 requires that the organisations referred to in point 1 must first be listed in the Generalitat Register of Bidders. Lastly, point 6 imposes a quantitative limit on the social reserve that can be applied by each ministry so that the fixed price cannot exceed 20% of the price contracted in the previous year, through small contracts or negotiated procedures that are intended to provide the services defined in section 2 of this article.

Catalan Provisions
Articles of Act 31/2002 of 30 December 2002, on tax and administrative measures

Note: the text of this article includes the amendments made by article 19 of Act 7/2004 of 16 July, 2004 on tax and administrative measures, and Act 17/2007 of 21 December, 2007 on tax and financial measures.

Article 35. Promotion of social objectives in contracts

1. Under the terms established by this article, Generalitat ministries, regional bodies and public entities must reserve certain administrative contracts for works, supplies and services for labour insertion centres for disabled persons, social and labour insertion companies regulated by Act 27/2002 of 20 December 2002, on legislative measures for the regulation of social and labour insertion companies or non-profit, the objective of which is the labour and social integration of people at risk of social exclusion, provided they comply with the requirements set forth by applicable Spanish and Catalan laws and their objective or activity, in accordance with their regulatory provisions, bylaws or founding regulations, is directly related to the purpose of the contract.

2. The contractual objects eligible for reserve are works and services for the conservation and maintenance of real estate; courier services, correspondence and distribution, graphic arts, laundry, restaurant and the collection and transport of waste, and auxiliary services and supplies for the operation of the Administration. Notwithstanding the above, the contracting bodies may extend the reserve to other contractual objects, depending on the adaptation of the services to the unique characteristics of the centres, companies and entities to which reference is made in this article.

Reserved contracts are exclusively those awarded as small contracts or through a negotiated procedure due to their price, in accordance with the limits established by the law for public administration contracts. With the same quantitative limits that apply to negotiated procedures, the contracting bodies may not use the centralised contract system procedures if they intend to award any of the services referred to in section 2 using the social reserve system.

Reserved contracts are in all cases subject to the legal regime established by the regulatory provisions governing public contracts and no provisions or definitive guarantees shall be required in any case.

Organisations referred to in section 1 that wish to be awarded a contract in compliance with the measures regulated by this article shall first be registered in the Generalitat Electronic Register of Bidding Companies, under the regulatory conditions that are determined (amended by act 17/2007 of 21 December 2007, on tax and financial measures).

The Catalan Government must establish, at the start of each year, the economic amount of the social reserve that must be applied by each ministry, including all associated or related public bodies or corporations. The established amount may not exceed 20% of the price contracted through small or negotiated contracts in the previous year based on the amount of contracts with the object of providing the services referred to in the first indented line of section 2.

The organisations that operate under the Catalan local authorities may apply the social reserve established by this article under the terms established by the respective decision during the corporation’s plenary session.
### 6.4. Foessa Social Exclusion Indicators for Calculating Excluded Population Receiving Care from Social Institutions

<table>
<thead>
<tr>
<th>Exclusion categories</th>
<th>Dimensions</th>
<th>Aspects</th>
<th>Number</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic</td>
<td>Participation in production</td>
<td>Employment</td>
<td>1</td>
<td>Households where the primary wage earner has been unemployed for one year or longer.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>Households where the primary wage earner has marginal employment: door to door salesman, peddling, non-qualified domestic workers, temporary farm labourers, people collecting cardboard, distributing propaganda, beggars.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td>Households where the primary wage earner has marginal employment: with no social security coverage (irregular employment).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4</td>
<td>Households with no members who are able to work or with members entitled to receive pensions, sick leave benefits or unemployment benefits from the INEM.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td>Households with people who are unemployed and who have received no vocational training during the past year.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>6</td>
<td>Households where all active members are unemployed.</td>
</tr>
<tr>
<td></td>
<td>Participation in social product</td>
<td>Income</td>
<td>7</td>
<td>Extreme poverty: income of less than 30% of the average equivalent family income (€3,360/year).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>8</td>
<td>Households with no assets considered basic by more than 95% of society (water, hot water, electricity, evacuation of waste water, full bathrooms, kitchen, washing machine, and fridge) due to the fact that they cannot afford it.</td>
</tr>
<tr>
<td></td>
<td>Political rights</td>
<td>Political participation</td>
<td>9</td>
<td>The right to elect one’s political representatives and to be elected: households where there are members aged 18 and over with non-EC nationalities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>10</td>
<td>Effective capacity to be respected and to influence when making group decisions: not participating in elections due to a lack of interest and not holding membership in any citizen's association.</td>
</tr>
<tr>
<td></td>
<td>Social rights: access to SPS</td>
<td>Education</td>
<td>11</td>
<td>Households with minors between the ages of 3 and 15 who do not attend school.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>12</td>
<td>Households where no one between the ages of 16 and 64 is educated: between 16 to 44, who have not finished secondary education or advanced secondary education; between 45 and 64, with less than 5 years of schooling.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>13</td>
<td>Households with a person aged 65 or over who cannot read or write.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>14</td>
<td>Inadequate housing: hovels, basement, shacks, prefabricated or similar.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>15</td>
<td>Serious construction defects, in a state of ruin, etc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>16</td>
<td>Damp, dirt and odours (unhealthy).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>17</td>
<td>Overcrowded homes (&lt;15 m/person).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>18</td>
<td>Precarious ownership (provided free by other people or institutions, re-let, squats).</td>
</tr>
</tbody>
</table>

---

<table>
<thead>
<tr>
<th>Exclusion categories</th>
<th>Dimensions</th>
<th>Aspects</th>
<th>Number</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Political (citizenship)</strong></td>
<td>Social rights: access to SPS</td>
<td>Housing</td>
<td>19</td>
<td>Degraded neighbourhood.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>20</td>
<td>Architectural barriers with disabled persons in the home.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>21</td>
<td>Excessive home expenditures (income – home expenditures &lt; extreme poverty threshold).</td>
</tr>
<tr>
<td></td>
<td>Social conflict, social anomie</td>
<td>Health</td>
<td>22</td>
<td>People with no healthcare coverage.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>23</td>
<td>People frequently going hungry in the last 10 years or currently.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>24</td>
<td>All the adults are disabled, have chronic illnesses or serious health problems that cause severe limitations on carrying out everyday activities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>25</td>
<td>Households with dependent persons (people who need help or care from others to carry out everyday activities) and do not receive it.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>26</td>
<td>Households with sick people who have not used medical services in the past year.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>27</td>
<td>Households where the members have stopped buying medicine or stopped following treatments or diets due to financial problems.</td>
</tr>
<tr>
<td><strong>Social links, social relations</strong></td>
<td>Social conflicts</td>
<td>Family conflicts</td>
<td>28</td>
<td>Someone in the home has been mistreated or physically or psychologically abused in the last 10 years.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>29</td>
<td>Households with very poor, poor or bad family relations.</td>
</tr>
<tr>
<td></td>
<td>Anti-social behaviour</td>
<td></td>
<td>30</td>
<td>Households with people who have or have had problems with alcohol, other drugs or gambling in the last 10 years.</td>
</tr>
<tr>
<td></td>
<td>Criminal behaviour</td>
<td></td>
<td>31</td>
<td>Girls who are or about to be single teenage mothers.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>32</td>
<td>Households with people who have or who have had legal problems in the last 10 years (with a criminal record).</td>
</tr>
<tr>
<td></td>
<td>Social isolation</td>
<td>No family support</td>
<td>33</td>
<td>People with no relatives in their home and who have no support in situations of illness or difficulty.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Conflicts with neighbours</td>
<td>34</td>
<td>Households that have poor or very poor relations with their neighbours.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Institutionalised</td>
<td>35</td>
<td>Households with people in institutions: hospitals and psychiatric wards, centres for drug-addicts, minors, penitentiary centres or day care centres and centres for women.</td>
</tr>
</tbody>
</table>
6. Addendums

6.5. Bibliography and References

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