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## SOCIAL ASPECTS IN NATIONAL PUBLIC PROCUREMENT

Anna Szymańska\*, Jarosław Szymanski\*\*

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#### ABSTRACT

**The purpose of the article.** Public procurement, which was originally aimed solely at reducing corruption, has been expanded to include additional elements that can have a broad impact on the socio-economic environment. One of these elements is social aspects, which can broaden the scale of effects obtained from the implementation of the order. The aim of the work is to quantitatively examine the changes taking place in the public procurement market in the use of social aspects, including social clauses. The study was conducted to confirm a growing interest in this element of procurement among public entities. The paper hypothesizes that in the years 2017–2023 there was a significant increase in the use of new procurement opportunities using social aspects. The research question is whether the lack of measurable incentives for contracting authorities limits the introduction of social aspects in public procurement.

**Methodology.** The paper discusses the principles of classifying social aspects of public procurement in years 2017–2023, taking into account social clauses in particular. The empirical part uses aggregated data obtained from documents published by the Public Procurement Office. In order to enable comparability of observations in individual years, an indicator analysis was used. Since data for 2024 was not available in official reports, the research was conducted on the basis of a 200-element random sample taken from all public procurements awarded by domestic entities in that year.

**Results of the research.** Analysis of published aggregated market data and data obtained from the sample taken indicate a limited increase in the use of social aspects in public procurement. Despite the even incidental use of social clauses, it can be stated that the situation in this area is gradually improving, as the average annual rate of change in the period under review showed a 16% increase in the number of such orders and a 33% increase in their value.

**Keywords:** public procurement, efficiency, offer evaluation criteria, social aspects, social clauses.

**JEL Class:** K49, G18, H12, H57.

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\* Professor, Faculty of Economics and Sociology University of Lodz, <https://orcid.org/0000-0003-4245-7802>, Corresponding Author, E-mail: [szymanska@uni.lodz.pl](mailto:szymanska@uni.lodz.pl)

\*\* PhD, Faculty of Economics and Sociology University of Lodz, <https://orcid.org/0000-0003-2166-145X>

## **Social Aspects in National Public Procurement**

Spending public funds, and the entities that spend them, are permanently burdened with a lack of trust in the scope of conducting rational financial management. The lack of trust is observed at the level of the individual taxpayer and public institutions supervising entities that have public funds at their disposal. This phenomenon concerns all market economies, in which entities with private ownership capital carry out orders placed by public entities. In order to limit the freedom to spend public funds in a situation where free market rules do not restrict the entity placing the order, administrative mechanisms for spending public funds were introduced. Administrative rules for granting orders financed from public funds were originally intended to limit the influence of the subjective assessment of the public entity in the selection of the contractor. The original purpose of legal regulations was to limit pathological phenomena, in particular those that may have the characteristics of corruption. Additionally, regulating the rules for spending public funds was to ensure equal access for all entities legally operating on the market, enabling them to develop within the framework of fair competition. In the public interest is the effective spending of public funds understood as achieving maximum effect with minimum expenditure and supporting the private sector, which through the fiscal system feeds public finances. In addition, it provides employment to citizens, which limits public expenditure on social protection of the community, while increasing the number of payers of social contributions. Until 2009, national and community legal acts focused on achieving the primary objective of public procurement. In 2009, with the implementation of the provisions of art. 26 of Directive 2004/18/EC indicating the possibility of potentially narrowing the circle of contractors based on social and environmental considerations, it was possible to achieve an additional, secondary objective in public procurement. The possibility of defining secondary objectives in public procurement was extended in art. 70 of Directive 2014/24/EU (repealing Directive 2004/18/EC) by introducing conditions covering economic, innovation-related, environmental, social or employment-related aspects.

Administrative mechanisms for selecting a contractor, despite observing the principle of competition, almost always limit market competition through the requirement to specify the conditions for participation in the procedure. Due to the lack of possibility to specify standardized conditions for participation in the procedure, they are determined individually each time based on the subject, scope, type and method of execution of the order. In connection with the above, doubts often arise as to the correctness of their determination. The fact of limiting market competition is visible in the case law of the National Appeal Chamber. A clash of interests between contracting authorities implementing statutory instructions and contractors applying for a public contract and subjectivity in assessing the correctness of determining the conditions for participation in the procedure may always occur. In the case of introducing statutory restrictions in the form of additional subjective criteria, a dispute through appeal is pointless due to the statutory right of the contracting authority. Observing the impact on competitiveness in the area of conditions for participation in the public contract award procedure in this

respect through case law is unfeasible. Due to limitations in the public procurement monitoring system, the only possibility of observing the procurement system in terms of the use of social aspects in procurement is to refer to data aggregated by the Public Procurement Office (UZP) or to develop data based on a random sample. Using statistical tools, an attempt was made to verify the hypothesis that in the years 2017–2023 there was a significant increase in the use of new opportunities for awarding contracts using social aspects. The research question was asked whether the lack of measurable incentives for contracting authorities limits the introduction of social aspects in public procurement. Due to the lack of available data for 2024, the assessment of practice in this area was carried out on the basis of a random sample taken from all public contracts awarded by domestic entities in 2024.

### **Social Aspects in Public Procurement**

The concept of social aspects in public procurement has been in force since 2009 and is the result of the amendment to the Public Procurement Law of 2004 (Journal of Laws 2019, item 1843). The change was introduced based on the provisions of EU Directive 2004/18/EC and enabled the award of public procurement contracts that take into account important social issues.

The national legislator introduced the potential possibility for public entities to obtain secondary objectives, in addition to the primary objective of implementing the subject of the contract (Kowalewska & Szut, 2012, p. 8). The concept of green procurement emerged and the Public Procurement Office adopted a new strategy defined as a new approach to public procurement (Uljasz, 2010, p. 8). Attempts were also made to analyze the relationship between the new approach to public procurement and its effectiveness (Nowicki, 2013, p. 10). In July 2015, the Council of Ministers issued Recommendations on the application of social clauses in public procurement by the government administration (Antykorupcja, n.d.), recognizing that public institutions are not only obliged to make public expenditures in accordance with the provisions of the Public Procurement Law while maintaining the best quality-to-price ratio, but should also support the implementation of public policies, including social policy.

In the public procurement nomenclature there is a parallel concept of social aspects, social clauses and social services.

Social aspects concern broad, additional rights for the ordering party, who is even authorized to limit the circle of potential contractors, which violates the principle of equal access to the order. It is permissible to reserve the order for, e.g., a sheltered workshop or a social cooperative. Social aspects concern both the reservation of the order for a selected group of contractors and allow for the introduction of appropriate non-price criteria for the evaluation of offers, in the form of, for example, additional points for the employment of professionally excluded persons. This means that the most advantageous offer does not have to be the cheapest offer. A contractor meeting the criteria based on social aspects gains a competitive advantage over an entity that does not intend to meet these criteria.

The fundamental difference in the catalogue of possibilities of applying social aspects is that some of them, referred to as social clauses, concern the condition of participation in the procedure. Failure to meet it eliminates the contractor from the possibility of participating in the procurement procedure. In some cases, meeting this condition is not possible for the applicant for the order. This concerns, for example, the requirement to have the status of a sheltered workshop. It is also possible to establish a condition for participation in the procedure that does not unconditionally limit competition, e.g., by requiring the employment of unemployed, young, disabled persons, persons under 30 years of age and persons over 50 years of age or the requirement to employ persons involved in the execution of the order on the basis of an employment relationship. In summary, social clauses constitute a fragment of social aspects aimed at excluding from the public procurement procedure entities that do not meet the condition set by the ordering party.

In Poland, in the opinion of the Public Procurement Office, social clauses are also considered to be reserved contracts provided for under the special regime for awarding contracts for social services and other specific services, awarded on the basis of art. 361 of the Public Procurement Law (Gov.pl, n.d.). The concept of social services was introduced by the Act of 22 June 2016 (Journal of Laws, 2016, item 1020) to the then applicable Public Procurement Law of 2004. In the current legal status (year 2025), it is defined by Chapter 4 of the Public Procurement Act. The position of the Office can be disputed due to the definition of social services. Social services appear at the moment when the ordered service is included in the catalogue of services enumerated in Annex XIV of Directive 2014/24/EU of the European Parliament and of the Council and Annex XVII of Directive 2014/25/EU. The catalogue of these services is closed and includes, among others, health, religious, hotel, security, restaurant and legal services. It follows that the recognition of a service as a social service depends solely on the subject of the contract and not on the intention of the contracting authority. Such services are distinguished from other services by lower administrative rigor, giving the ordering party greater freedom in conducting the procedure. The method of order execution, conditions of participation in the order and non-price criteria of offers do not affect the definition of the service as social. It is also possible to use social aspects in the form of, for example, conditions of participation in the procedure or non-price criteria of offers in the order for social services, which may build a position excluding the inclusion of social services in the range of social aspects.

In the UZP reporting, as contracts with social aspects, there also appears an aggregated group of contracts, to which are added the so-called green contracts, innovative contracts and those in which non-price criteria for evaluating offers were used, such as quality or deadline. Due to the obligation to use non-price criteria, this group constitutes about 25% of all awarded contracts, which effectively improves the statistics of the use of social aspects in public procurement.

Legal regulations concerning the public procurement market are very often amended. The repealed Act of 2004 - Public Procurement Law was amended on average, twice a year. The repeal of EU Directive 2004/18/EC by Directive 2014/24/EU and the limited readability of the frequently

amended legal act resulted in the entry into force of the new Public Procurement Law (PZP) in force from January 1, 2021 (Journal of Laws of 2019, item 2019). The Act places particular emphasis on the use of public procurement as a tool of social policy. In chapter 3, article 21 of the PZP, the concept of the State Purchasing Policy was introduced, which should take into account, among other things, the application of social and health aspects. The obligation to comply with the state purchasing policy was imposed on government administration units. Compared to the previous legal status, selected contracting entities were obliged to conduct the public procurement procedure in a way that, by discounting the implementation of the subject of the contract, will allow for obtaining socially beneficial secondary effects. For other public and sectoral contracting entities, the use of additional elements related to social aspects in the public procurement procedure is optional. This means that the lack of activity of the contracting entity in the above topic, giving up the possibility of obtaining secondary effects of the public procurement and, as a result, limiting itself to taking only actions leading to the implementation of the primary goal, does not affect in the slightest way the assessment of the work of the persons managing the entity.

### **Public Contracting Authority in Free Market Conditions**

In the market economies of modern democracies, two fundamentally different groups of entities operate. They include both individuals and legal entities, institutions and organizations that use material and legal resources to meet their needs, within the framework of the exchange of goods on the free market.

The first, dominant in terms of the number of participants, group consists of entities with private capital of various organizational structures. It includes individuals, not necessarily conducting business activity, legal entities defined in the Commercial Companies Code or companies operating under the principles specified in the Civil Code (Journal of Laws 2024, item 1061). A common feature of these entities is the ownership structure indicating directly or indirectly specific individuals. As a result, the financial result of such an entity translates to varying degrees into the financial revenues of individuals.

A common feature of these entities is the direct link between the financial result and the finances of a specific person or group of people and, consequently, the need for effective management in order to pursue their interests. The owners, in order not to suffer the consequences of improper management, are interested in obtaining maximum income with minimum expenses. Free market mechanisms verify the way of managing the entity and improper management is verified by the market.

The second group of entities includes public finance sector entities, state organizational units without legal personality, state or local government enterprises, legal persons established for the specific purpose of meeting needs of a general nature, not having an industrial or commercial character. These entities are listed in detail in art. 4 of the Public Procurement Law. In the public procurement nomenclature, they are referred to as classic contracting entities. In addition to classic contracting

entities, the legislator defined in art. 5 of the Public Procurement Law a second subgroup, referred to as sectoral contracting entities. According to the report of the President of the Public Procurement Law (Report of the President of the Public Procurement Office, 2023) in 2023, the number of classic contracting entities was 31,472. Data on the number of sectoral contracting entities has not been published for several years, the reports of the President of the Public Procurement Law from previous years reported that their number oscillated around 500.

The common feature of this group of entities is the lack or limited need for effective management of financial resources. This results from the limited impact of market mechanisms on the financial condition of the entity. The income of employees, including management, is not dependent on the financial result of the entity. Persons managing the entity are held accountable only for the implementation of the purpose for which the entity was established, which means that the entity's orientation towards effective spending of funds is limited. In domestic conditions, a spectacular example of this were investments related to the preparation of EURO 2012. The topic was widely commented on and left a mark on the mentality of people responsible for investments (Polskie Radio, 2012). Public attention and the assessment of the management of entities ordering construction works were focused solely on the effective award of the contract and not on the most effective possible method of its implementation.

An additional common feature is the guarantee of financial resources for operations directly from public sources. This applies even to a specific group of entities, which are public hospitals. These entities, whose founding entity may be, for example, a public university or a provincial government, generally operate on the basis of free market mechanisms and compete on the market with private entities in the area of healthcare. This market competition is apparent and results solely from the fact that private healthcare services participate in part of the limited financial resources transferred by the National Health Fund. It is difficult to talk about fair market competition in a situation in which a public entity is obliged to provide healthcare services in their full scope and the refusal to provide a medical service may involve criminal liability of the management of the entity. A private entity selects from the basket of services only services that are profitable for the entity. For this reason, among others, there are no private hematology departments. In connection with the above situation, a public hospital in a situation of lack of funds, regardless of whether it results from incorrectly priced medical procedures or improper management, can count on an additional financial stream in the form of various types of funding (Dziennik Łódzki, 2025), often multi-million (Gov.pl, 2025). While supporting public hospitals with additional funds is not a negative phenomenon, it does not affect the mobilization of the management of such entities to orient the administrative services towards optimal management of their resources.

The legislator also included sectoral ordering parties in the group under discussion. Entities which, due to their quasi-monopolistic position, can transfer the costs of irrational management directly to the economic environment in the form of, for example, an increase in the prices of energy supplies or

mining or transport services. In connection with the above, sectoral and classic ordering parties are obliged under the Public Procurement Law to apply administrative principles for the acquisition of goods and services, including construction works.

Their introduction results from the reduced concentration of public entities on the way of spending financial resources, which can lead to “waste of resources” (Brzozowska, 2011, p. 20). In a situation where a contract is awarded to a contractor who did not have to prepare an offer taking into account the competition's proposals, the so-called “corruption margin” may appear (Burguet & Yeon-Koo, 2004, p. 55), inflating the price of the contract. Thanks to the broad approach to public procurement, the efficiency of spending financial resources can be perceived not only as a direct reduction in price, but as a sum of benefits resulting from all, including long-term, changes in socio-economic life, such as e.g., lower energy consumption, toxic emissions, reduced social spending through the activation of disabled people. Difficulties in estimating the efficiency of public procurement are one of the basic and difficult to solve problems even in economies with extensive experience in public procurement (European Commission, 2011).

A particular example of the benefits of secondary public procurement was a project successfully implemented by the United States government.

In 1993, at the initiative of the US Environmental Protection Agency (EPA), the US government decided that only computer equipment that met the Energy Star label requirements would be purchased (European Commission, 2005). As the world's largest single purchaser of computers, it had a huge impact on the quality of the product. IT equipment manufacturers, motivated by the possibility of losing a significant part of the market for their products, introduced appropriate design changes in their products to meet the requirements of the standard.

The environmental benefits of implementing Energy Star by the federal government are quantifiable. In the US alone, they are estimated at four trillion kWh of electricity saved between 1993 and 2019 and greenhouse gas emission reductions equivalent to more than three point five billion tons of CO<sub>2</sub>, which is equivalent to the annual emissions of 750 million cars (Energy Star, 2020). This is 23 times more than the annual energy consumption (PSE, 2023) and more than 12.5 times more than the CO<sub>2</sub> emissions (UTK, n.d.) recorded in Poland in 2023.

Not every secondary effect can be estimated, but it can be assumed that any higher costs of order fulfillment are more than compensated by the implementation of additional goals. This issue is difficult to monitor due to the impossibility of converting all social benefits into money.

### **Analysis of Contracting Authorities' Decisions Regarding the Use of Social Aspects**

Decisions regarding public procurement are based, as previously mentioned, on the administrative principles described in the Public Procurement Law, which is based on the guidelines contained in European directives. The freedom of the entity placing the order is strictly limited by the

law. It should be noted, however, that like most legal regulations, the Public Procurement Law contains descriptions of obligatory and optional activities.

Observations of the public procurement system conducted from different perspectives show a certain regularity. Contracting authorities tend to construct the procedure in a way that burdens the administrative services responsible for the order as little as possible. Practice has shown that their most important task is to effectively award the order, because in practice only this aspect of the procedure influences the assessment of the persons conducting the procedure and the management of the unit. A negative assessment in this respect may result in personnel changes, loss of bonuses or other more or less burdensome consequences. Introducing additional optional elements in the procedure automatically introduces additional possibilities that make it difficult to conduct it effectively. This may result, for example, from extending the possibility of initiating an appeal procedure for a contractor introducing actions that extend the procedure or seeking to invalidate the procedure. Such behaviour is not incidental and results from the desire to postpone the order until the contractor's implementation potential, which is engaged by another contracting authority, is released. Additionally, introducing optional elements in the procedure, such as social aspects, does not translate in any way into the assessment and remuneration of the persons responsible and preparing the documentation of the procurement procedure. To sum up, the possibility of introducing additional optional elements in the procedure may potentially burden the contracting authority without in any way compensating for the additional involvement.

The phenomenon of preferring the simplest way to award a contract has been observed practically since the very beginning of the introduction of the public procurement system. The most striking example of striving to award a contract in the simplest possible procedure, apart from the abuse of the single-source procurement procedure, is the lack of consent of contracting authorities to use non-price criteria for the evaluation of offers. An attempt was made to eliminate the lack of application of non-price criteria for the evaluation of offers by introducing a statutory requirement for their use. In response, contracting authorities use a multi-criteria evaluation model built on the basis of criteria referred to as dead or apparent (Szymański, 2015, p. 318). These are the criteria that fulfill the statutory disposition, contribute practically nothing to the procedure for the evaluation of offers, leaving only the price on the basis of which the most advantageous offer is selected. The emergence of such a market response to statutory regulations was also confirmed by the Public Procurement Office (UZP, n.d.). It should be pointed out that through non-price criteria for the evaluation of offers, it is possible to introduce, among others, social aspects to the awarded contracts.

In the national public procurement system, monitoring of public procurement contracts is conducted to a limited extent. In the part concerning the application of social aspects of the Public Procurement Law, information on their application is obtained on the basis of annual reports on contracts awarded, which each public contracting authority sends to the office by March 1 of each year following the year to which the report relates pursuant to the provisions of art. 82 sec. 2 of the Public Procurement Law.



One of the attempts to directly examine the issue was a study conducted by the Supreme Audit Office based on a questionnaire sent to selected local government units (Supreme Audit Office, 2016, p. 59). The description of the selection of units on the basis of which information on the results of the audit was presented excludes the possibility of conducting an estimation in order to obtain information on the domestic public procurement market. The study was conducted on the basis of an audit conducted in 29 government administration units and selected local government units, and surveys submitted by local government units in the number of 1914. The conclusion resulting from the analysis of the surveys was that the scale of application of social clauses was negligible, and the conclusion from the conducted study was that the recommendations of the Council of Ministers, despite the actions taken by the Chancellery of the Prime Minister and the Public Procurement Office, did not result in an increase in the scale of their use (Supreme Audit Office, 2016, p. 11). The study did not authorize the presentation of quantitative data covering the domestic public procurement market and covered a fragment of social aspects.

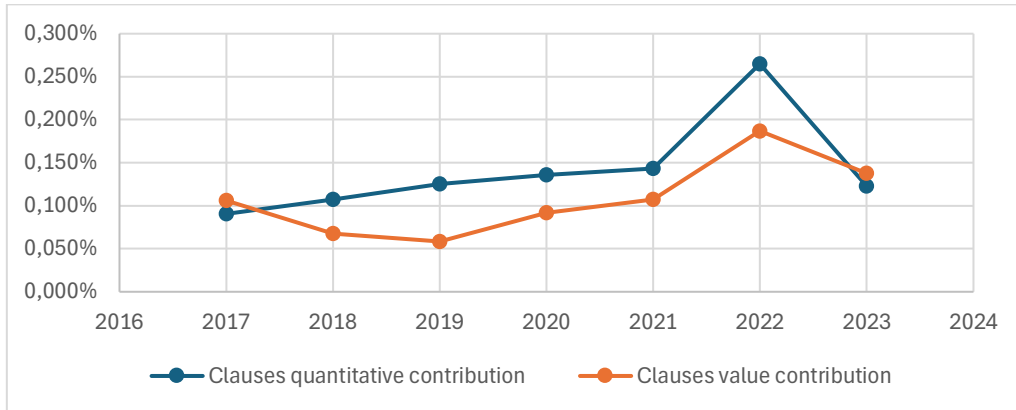
The analysis was based on available data published in annual reports on the functioning of the system. In order to fill the information gap resulting from the delay in the reporting system, the study was extended to the analysis of a random sample taken from all contracts awarded in 2024. Due to the high workload and scope of the data analyzed, the work in question was limited to taking a 200-item sample. The workload results from the need to review the contract notice, the corresponding contract award notice and often the need to verify data from the notices with the information contained in the Tender Specification (TTS). The time limitation results from difficulties in accessing the TTS of earlier procedures, which are often removed from tender platforms.

Due to the fact that the public procurement market, examined on an annual basis, oscillates both in terms of the value and the number of contracts awarded, the observation of changes taking place there through the prism of absolute values is very limited.

In order to achieve resilience to changes in the scale of the public procurement market in the period under review, structure indicators were determined for each year under review based on data obtained from the annual reports of the President of the Public Procurement Office. Access to archived data is limited due to the lack of access to data from 2017 and earlier years. Data from these periods is available only to people who previously conducted system analyses and archived the source documents on their own. Figure 1 presents the quantitative and value share of public procurements that include social clauses.

**Figure 1**

*Share of social clauses in public procurement contracts awarded in 2017–2023*

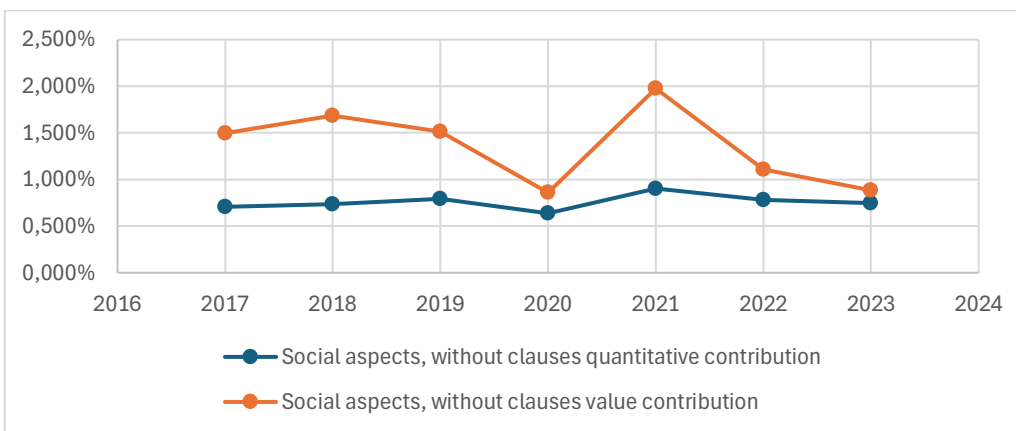


Source: own calculations based on data from the reports of the President of the Public Procurement Office on the functioning of the public procurement system in 2017–2023.

Figure 2 presents the share of contracts awarded in the years 2017–2023 containing social aspects, excluding social clauses. The indicated aspects do not apply to reserved contracts provided for under the special regime for awarding contracts for social services and other specific services, social and health services. They also do not apply to contracts, especially construction works, in which there is a reference in the description of the subject of the contract to accessibility for disabled persons. To sum up, Figure 2 presents contracts in which the basic contract is actually discounted, providing additional socially expected results, similarly to the case of social clauses. This may involve both the requirement to employ people who are professionally excluded and the stimulation of ecological behaviours that reduce the burden on the natural environment.

**Figure 2**

*Share of social aspects in public procurement contracts awarded in 2017–2023*

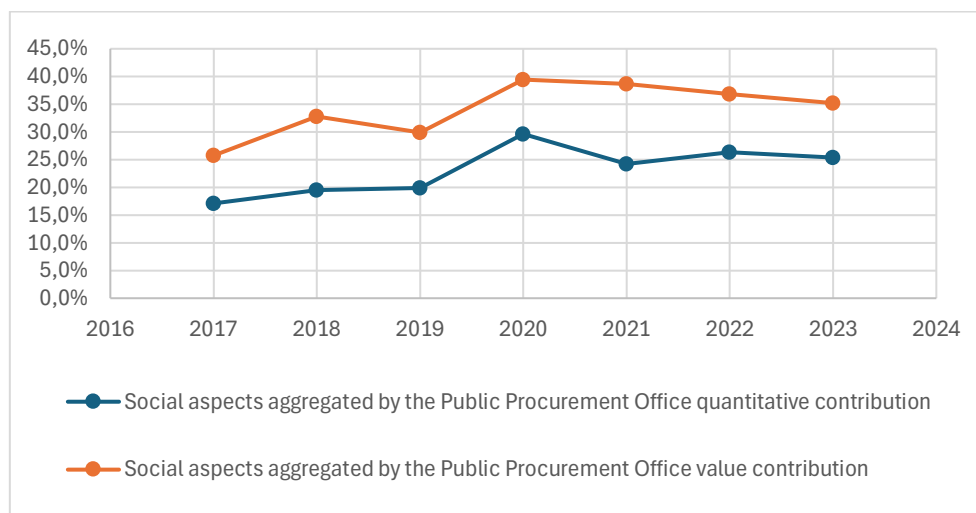


Source: own calculations based on data from the reports of the President of the Public Procurement Office on the functioning of the public procurement system in 2017–2023.

The data published by the Public Procurement Office also includes aggregated information at a very high level concerning contracts taking into account social aspects. This group, which of course contains social clauses, also includes contracts requiring the employment of the contractor's employees under an employment contract. This group includes contracts containing environmental and innovation aspects, as well as contracts taking into account accessibility requirements for disabled persons. It also included the contracts requiring a label confirming the compliance of the offered supplies, services or construction works with the required features of the contract being performed, specified in art. 104 of the Public Procurement Law. The largest part of this group are contracts awarded on the basis of art. 242 sec. 2, which specifies the types of non-price criteria for the evaluation of offers, including criteria concerning quality and technical parameters that may be defined as apparent criteria listed in art. 242 sec. 2 item 6. This group is particularly numerous due to the statutory indication in art. 246 sec. 1 of the application of non-price criteria. Without a doubt, such aggregation of orders and their treatment as orders with social aspects improves statistics in the scope of the use of social aspects. Figure 3 presents the dynamics of changes in social aspects defined by the Public Procurement Office.

### Figure 3

*Share of public procurement contracts with social aspects aggregated by the Public Procurement Office in public procurement contracts awarded in 2017–2023*



Source: own calculations based on data from the reports of the President of the Public Procurement Office on the functioning of the public procurement system in 2017–2023.

Considering that this group of orders includes, among others, procedures in which the offer evaluation criteria include the delivery date, after-sales service, implementation time or technical parameters, the group has the right to constitute a large share of all orders awarded.

Despite the almost incidental use of social clauses, it can be stated that the situation in this area is gradually improving, because the medium-term, in this case annual, pace of change in this area

showed a 16% increase in the number of orders and a 33% increase in their value. An analysis of orders in a broader sense, in which, in addition to social clauses, we take into account additional social aspects, which are most often read into the criteria for evaluating offers, seems unsatisfactory. Despite the sporadic occurrence of such orders, a positive change can be observed, indicating that on average the number of orders increases by 3.7% year by year. Unfortunately, no change in the medium-term increase in the value of orders awarded in this way was observed.

In the scope of contracts awarded in 2024, the study was conducted based on a random sample of 200 elements. Analysis of the selected procedures showed that social aspects were used in two cases. In one procedure conducted by the public health service, additional points were awarded in the criteria for evaluating offers for employing people who were over 50 years of age. The second case concerned a penitentiary, where, similarly, additional points were awarded in the criteria for evaluating offers for employing people incarcerated in the facility. Due to the too low structure indicator, its estimation was not carried out.

The introduction of social aspects to public procurement is possible in all types of procurement, which means that it applies to all sectors of the economy. However, it most often appears in construction works and services, where it manifests itself through supporting people who are professionally excluded. The introduction of social aspects to deliveries is almost incidental and in practice is limited to limiting the choice of supplier without referring to the ordered product. The natural ordering party that would directly discount social aspects in the orders they place are local government units, which in practice avoid introducing additional elements in the procurement procedures. Being a leader in the award of orders for construction works, they could significantly increase, for example, the activation of the unemployed.

### **Conclusion**

The legislator's difficulty in improving the efficiency of public procurement is the lack of objective tools that can measure this efficiency, which is partly due to the lack of broad use of quantitative methods in the analysis of the public procurement system (Starzyńska, 2016, p. 456).

To a limited extent, it is possible to observe the direction of changes in the system based on aggregated market data. However, it is difficult to precisely calculate the financial benefits resulting from the introduction of new possibilities for awarding public procurement contracts. Certain aspects, such as improving the situation of people who, despite exclusion, have re-entered the labor market, are financially immeasurable. The return resulting from the new approach to public procurement is socially expected and may, like the American Energy Star project, bring measurable social and economic benefits on a national scale.

Conducting analyses requires access to source data, which is becoming increasingly difficult in the case of public procurement. This concerns the limited functionality of searching the European public procurement database Tender Electronic Daily (TED, n.d.), which has recently been deprived of

a statistical search module. Despite objective limitations, using data collected by the Public Procurement Office from annual reports, it is possible to assess changes in the behavior of contracting authorities in the area of using social aspects. Annual information published by the Public Procurement Office collected according to the same methodology, despite the limitations of the method, allows for insight into the public procurement system.

Analysis of data on social aspects indicated limited interest of contracting entities in this element of public procurement. From our own study conducted on a random sample, despite the lack of possibility to estimate structure indicators, information on entities using social aspects turned out to be interesting. The study predicted that contracts with social aspects would be awarded mostly by local government units, which constitute a relatively large group of contracting entities, additionally focused on social protection of residents. The sample included proceedings conducted by the public health service and a penitentiary institution, i.e., entities that do not directly have, among others, the obligation to professionally activate the unemployed, pay social benefits, i.e., funds that can be limited with the proper use of social aspects in contracts. Without introducing motivation for contracting entities, with optional elements related to social aspects for most entities, the increase in such contracts will be limited. This is related to the conservative position of the contracting entity's employees. An attempt to introduce a statutory requirement to use social aspects may be met with circumvention of the regulations, as is the case with some non-price criteria. It can be stated that this is an element that the legislator should take into account again in amendments to the Public Procurement Law. It should be analyzed whether rigid restrictions and statutory orders, which are easily circumvented by contracting authorities, should not be changed into a system of incentives. Research should also be conducted to assess the financial benefits resulting from the use of social aspects.

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