



SOCIAL CLAUSES IN WARSAW – 21 MONTHS OF APPLICATION

01.10.2015 – 30.06.2017



Table of contents

1. Potential barriers about using of clauses.
2. Participation of the Capital City of Warsaw in the project concerning the social clauses, financed by the ESF.
3. Use of clauses before the Regulation of the Mayor of the City of Warsaw.
4. The Regulation of the Mayor of the City of Warsaw concerning using of clauses in public procurement.
5. Use of clauses after the Regulation has been introduced.
6. Amendment the Public Procurement Law Act.
7. Schema of proceedings in the event of application a clause covered by an amendment of the law – "of employee " clause.
8. Cancellation of proceedings involving clauses.
9. Advantages of using of clauses.
10. What next? Planned changes.

Social clauses – potential barriers and anxieties concerning application

- limited knowledge of social clauses among public procurement practitioners,
- insufficient awareness of the benefits resulting from the use of clauses,
- the barely recognized market of potential contractors (insufficient promotion of social economy units),
- possibility of increasing the cost of public procurement,
- fear of canceling proceedings, extending the duration of proceedings, and supervising the execution of contracts with clauses.

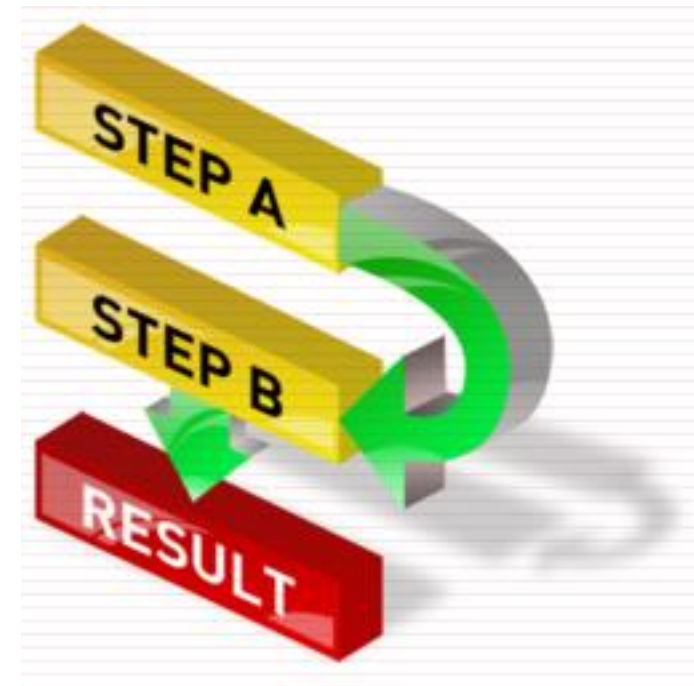
The project "Support Centre of Social Economy in the subregion of Warsaw"

- In the year 2015 City of Warsaw was a partner in the project "Center for the Support of Social Economy in the Warsaw subregion", co-financed by the European Union under the European Social Fund (sub-measure: 7.2.2 Support to the social economy).
- The leader of the project was the Civic Society Development Foundation and the other partners were: the Foundation for Social and Economic Initiatives and the BORIS Association.



The main tasks of the City of Warsaw in the project

- Development of the model contracting procedure for the municipality with the use of social clauses.
- Tasks done within the project:
 - I. Description of the procurement procedure of using social clauses – municipal regulations on the use of social clauses
 - II. Development of the guide about the use of social clauses



The main tasks of the City of Warsaw in the project

- III. Training about the practical use of social clauses (330 municipal clerks and subordinate units clerks)
- IV. Individual counseling – 91 cells/units
- V. E-learning training for employees of the City of Warsaw



**Klauzule społeczne
w zamówieniach publicznych**

**Poradnik dla pracowników
Urzędu m.st. Warszawy, urzędów dzielnic i jednostek
organizacyjnych m.st. Warszawy**

Biuro Pomocy i Projektów Społecznych Urzędu m.st. Warszawy

Warszawa, kwiecień 2017

Wydanie drugie, poprawione i uzupełnione



Social clauses before Regulation

Using of social clauses:

- **Social Welfare Centre in Wola District – 2014 and 2015**
 - catering services,
- **Welfare and Social Projects Department, 2015**
 - the transport of people with disabilities in Warsaw and the surrounding area,
 - graphic desing and the provision of calendars,
- **Śródmieście District Office, 2014**
 - protection of property and individuals.



Regulation No. 1243/2015 of Mayor of Warsaw

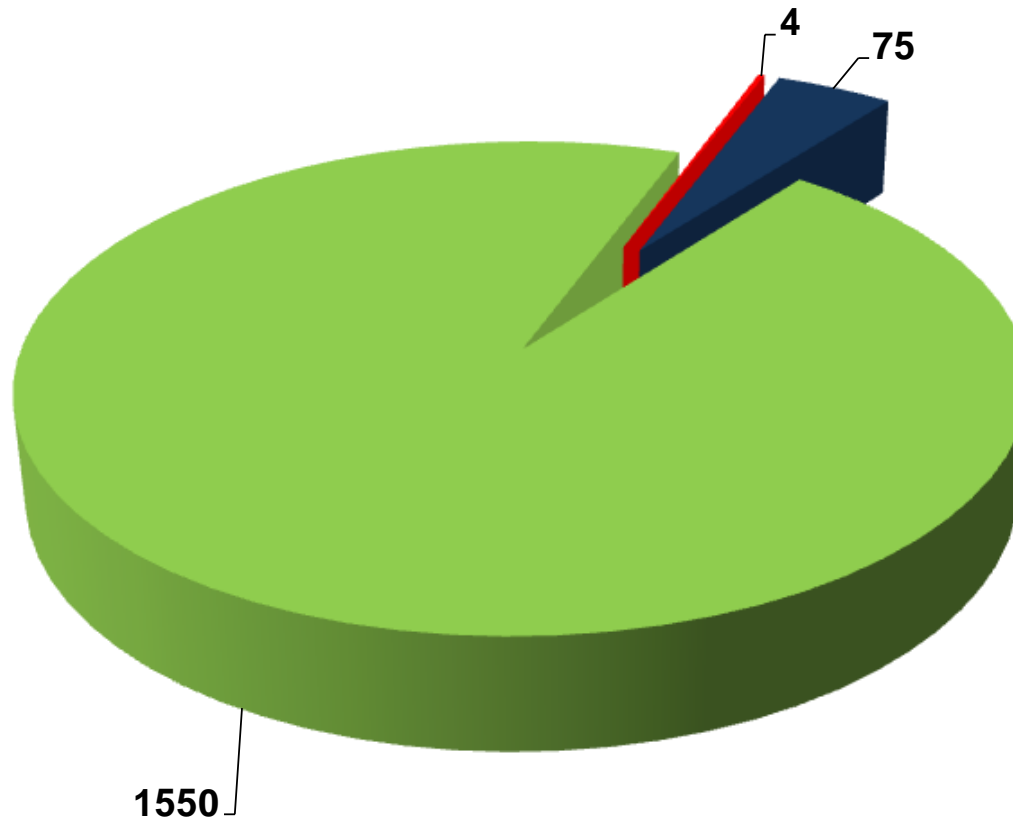
From 1st October 2015 the use of social clauses is mandatory for orders over 30 thousand euro in following categories:

1. food and catering services,
2. care services,
3. services related to maintaining of cleanliness and cleaning of interiors,
4. winter and summer cleaning of streets and sidewalks,
5. maintaining of green areas,
6. construction works.



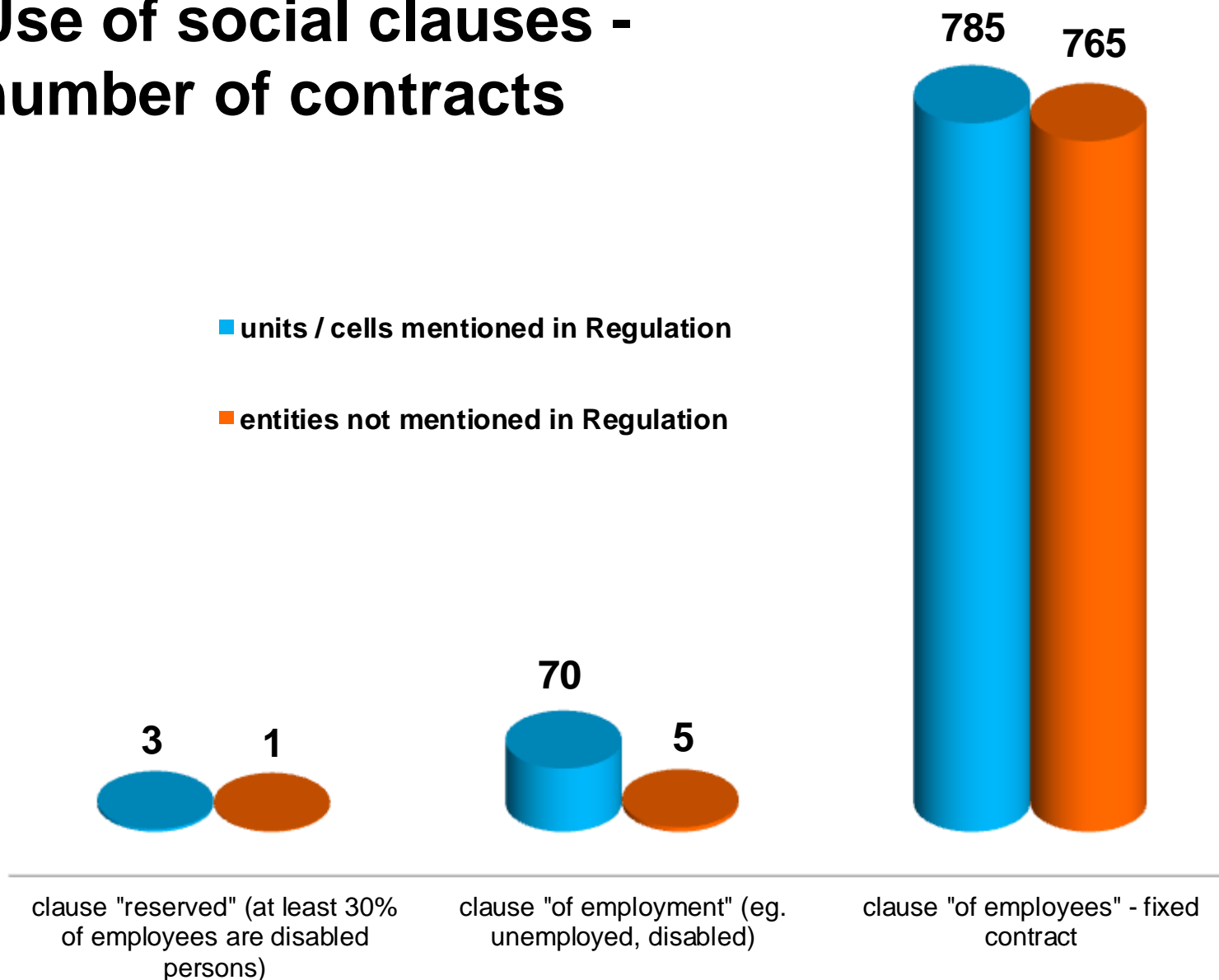
Social clauses in City of Warsaw

- clause "reserved" - at least 30% of employees are people with disabilities
- clause "of employment" - eg. the unemployed, people with disabilities
- clause "of employees" - fixed contract



* A few of units / cells have conducted proceedings with 2 social clauses

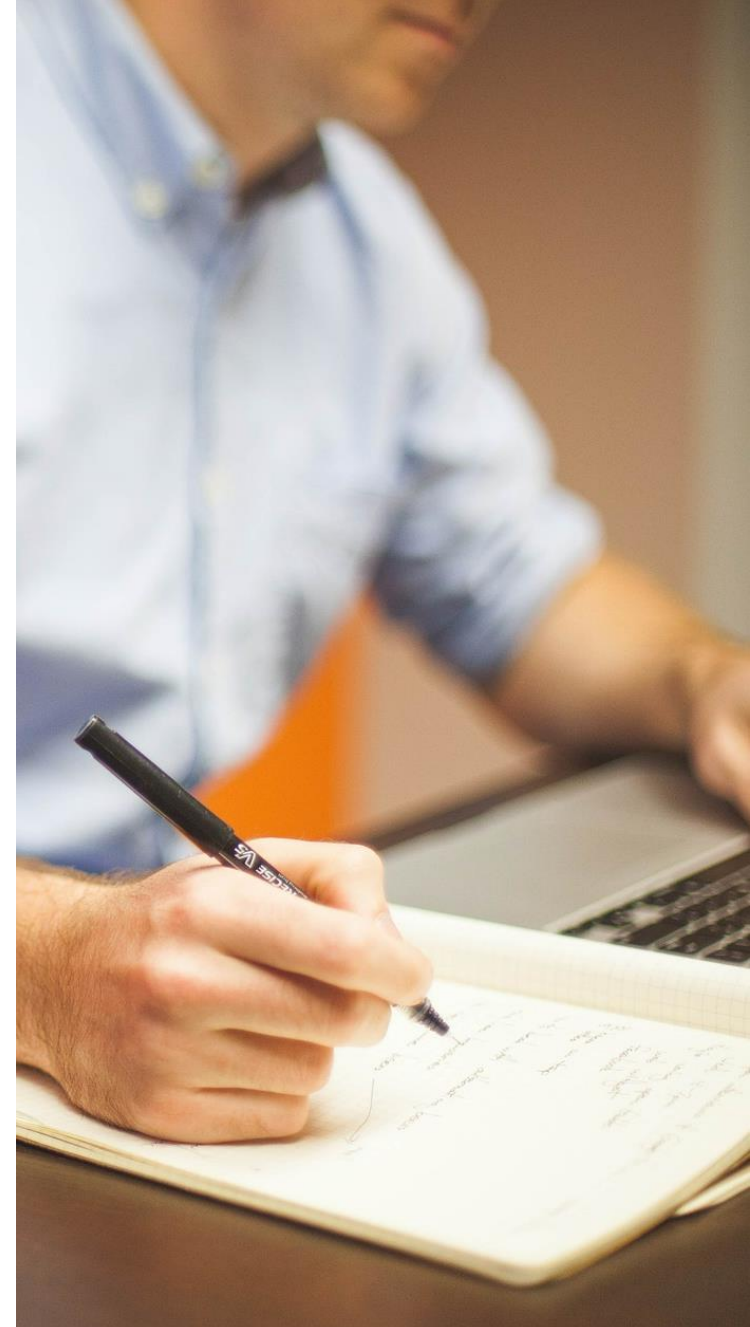
Use of social clauses - number of contracts



Use of social clauses

from 01.10.2015 to 30.06.2017:

- **1 582 contracts** were signed / value of **308 516 445 euro** (and **137 009 270 euro** - long-term contract signed by Public Transport Authority).
- **The most commonly used clause: fixed contract.**
- Nearly **6 400 people** have been involved in the implementation of contracts under a fixed contract.



Use of social clauses in Warsaw

Social clauses were frequently used in proceedings concerning:

- repair and maintenance services,
- care services and catering for clients of social welfare centres,
- services of protection of objects and property,
- cleaning services.



Amendment of the Public Procurement Law Act

- On 28th July 2016 the amendment of the "Public Procurement Law" came into force.
- The amendment introduces an obligation to specify in the description of the subject of a service or works contract the requirement of employment of persons by a contractor or subcontractor based on an employment contract, if the conditions of the employment relationship specified in the "Labour Code" Act are fulfilled.



Use of social clauses in Warsaw clause „of employees” – fixed contract

Step 1: get acquainted with the law, the guide and the Regulation of the President of the Capital City of Warsaw concerning the application of social clauses



Step 2: in the case of service and works contracts, evaluate on a compulsory basis the subject matter of performance of the contract with regard to activities requiring employment on the basis of a contract of employment



Step 3: perform the procedure and select the contractor.



Step 4: conclude an order fulfillment contract. Before signing the contract, verify compliance with the clause on the basis of a declaration of the tenderer.



Step 5: once the contract has been signed, enter it into the Central Contracts Register, remembering to mark the details of the clause applied.



Step 6: monitor the performance of the contract and compliance with the requirements of the clauses

Use of social clauses in Warsaw

Czy umowa została zawarta w trybie ustawy Prawo zamówień publicznych? <input type="checkbox"/> - zaznacz jeśli umowa została zawarta w trybie ustawy Prawo zamówień publicznych.	
Czy umowa została zawarta z przedsiębiorcą innym niż osoba fizyczna, będącym operatorem telekomunikacyjnym, dostawcą mediów albo ubezpieczycielem? <input type="checkbox"/> - zaznacz jeśli umowa została zawarta z przedsiębiorcą innym niż osoba fizyczna ...	
Czy umowa współfinansowana ze środków UE? <input type="checkbox"/> - zaznacz jeśli umowa jest współfinansowana ze środków UE.	
Klauzule społeczne	
<input type="checkbox"/> nie dotyczy	
<input type="checkbox"/> brak	
Klauzula społeczna:	<input checked="" type="checkbox"/> 22 ust. 2 ustawy Pzp
	<input checked="" type="checkbox"/> 29 ust. 4 ustawy Pzp
	<input checked="" type="checkbox"/> 29 ust. 3a ustawy Pzp
- zaznacz jeśli umowa zawiera klauzulę społeczną	
Liczba osób, które wykonawca zobowiązany jest oddelegować/zatrudnić w ramach zastosowanej klauzuli społecznej: <input type="text" value="0"/>	
<input type="checkbox"/> niepełnosprawni	
<input type="checkbox"/> bezrobotni	
Kategoria/kategorie osób, które wykonawca zobowiązany jest oddelegować/zatrudnić w ramach zastosowanej klauzuli społecznej: <input type="checkbox"/> młodociani	
<input type="checkbox"/> inni, o których mowa w przepisach o zatrudnieniu socjalnym	
Liczba osób, które wykonawca zobowiązany jest oddelegować/zatrudnić na podstawie umowy o pracę w ramach zastosowanej klauzuli społecznej: <input type="text" value="0"/>	
<input type="checkbox"/> niepełnosprawni	
<input type="checkbox"/> bezrobotni	
<input type="checkbox"/> pozbawieni wolności lub zwalniani z zakładów karnych	
Kategoria/kategorie osób, które wykonawca obejmuje społeczną i zawodową integracją: <input type="checkbox"/> z zaburzeniami psychicznymi	
<input type="checkbox"/> bezdomni	
<input type="checkbox"/> uchodźcy	
<input type="checkbox"/> osoby do 30 roku życia oraz po ukończeniu 50 roku życia pozostające bez zatrudnienia	
<input type="checkbox"/> członkowie mniejszości etnicznych i narodowych	
Procentowy wskaźnik zatrudnienia osób należących do jednej lub więcej kategorii, o których mowa w art. 22 ust. 2, nie mniejszy niż 30%: <input type="text" value="0"/> %	
Tryb postępowania: <input type="text" value=""/> - zaznacz tryb postępowania	
Dane wykonawcy/wykonawców:	

Use of social clauses in Warsaw

The proceedings with the use of social clauses were frequently revoked due to:

- high prices,
- a lack of submitted bids,
- a lack of bids fulfilling the requirements.



Advantages of using social clauses

- stabilisation of the professional situation of workers employed on the basis of an employment contract rather than on the basis of civil-law contracts,
- stimulating the employment of people at risk of social exclusion (maintaining of employment and creating new jobs) which translates directly into their social and professional integration,
- supporting social economy units, facilitating their access to public procurement by gaining competitive advantage.

What next? Planned changes.

- update of the manual on the application of social clauses
- modification of the Regulation of the Mayor of Warsaw concerning social clauses (the obligation to use clauses for new organizational departments/units)

October 2017

THANK YOU



Tomasz Pactwa – Director of Welfare
and Social Projects Department, City
of Warsaw