Environmental provisions in the procurement directives

Green Public Procurement

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EIPA 2019

1. **What is “Green” Procurement in the EU?**

2. **Why “Green” Procurement?**

2. Environmental criteria: What’s in the directives?

3. Life-cycle costing as a new approach

1. What is Green Procurement?

- “a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life-cycle when compared to goods, services and works with the same primary function that would otherwise be procured”.

European Commission

2. Why Green Procurement?

Government expenditure on works, goods and services represents around 14% of EU GDP, accounting for roughly EUR 1,8 trillion annually.

- “ By using their purchasing power to choose goods, services and works with a reduced environmental impact, they can make an important contribution towards local, regional, national and international sustainability goals.”

Handbook on Green Public Procurement 2016

- GPP can be a major driver for innovation, providing industry with real incentives for developing green products and services.
- This is particularly true in sectors where public purchasers represent a large share of the market (e.g. construction, health services, or transport).

Why? Reducing costs….

- Purchasing energy-efficient or water-saving products for example, can help to significantly reduce utility bills.

  - "The City of Regensburg used GPP for the procurement of utilities, helping to save EUR 10 million on energy and water costs over a 15 year period."

Climate Change Policy EU Objectives 2030

- a 40% (or more?) cut in greenhouse gas emissions compared to 1990 levels
- at least a 32% share of renewable energy consumption
- at least 32,5 % energy savings compared with the business-as-usual scenario

What else?

Buying timber products from legally harvested regions (fight against deforestation)

Improve the health conditions of workers, users of buildings, etc. by using non-toxic cleaning products,

-excluding harmful substances from the list of building materials,

-improving environmental conditions and animal welfare by purchasing organic food in canteens.

Important products

Transport sector: cars, busses, trams

- buses on natural gas (hydrogen)

Energy: e.g. electricity

IT: energy efficient computer, monitor, etc.

buildings (materials, energy standards, etc.)

cleaning products and services,

food (green canteen initiatives)

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EU GPP Criteria – Technical Documentation

Cleaning products and services (currently under revision)

- Technical background report
- EU GPP criteria (published in 2012)

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Combined Heat and Power (CHP)

- Technical Background Report
- EU GPP criteria (published in 2010)

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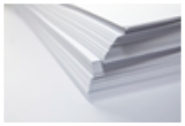
(pdf ~150K)

Copying and graphic paper



- Technical background report
- EU GPP criteria (published in 2008)

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Electrical and Electronic Equipment used in the Health Care Sector

- Technical Background Report
- EU GPP criteria (published in 2014)

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Electricity

- Technical background report
- EU GPP criteria (published in 2012)

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Food and Catering services (currently under revision)

- Technical background report
- EU GPP criteria (published in 2008)

bg cs es da de et el en fr it lt lv hu mt nl pl pt ro sk sl fi sv

Furniture (currently under revision)

- Technical background report
- EU GPP criteria (published in 2008)

bg cs es da de et el en fr it lt lv hu mt nl pl pt ro sk sl fi sv

Gardening products and services

- Technical background report
- EU GPP criteria (published in 2012)

bg cs es da de et el en fr it lt lv hu mt nl pl pt ro sk sl fi sv

Imaging Equipment

- Technical Background Report
- EU GPP criteria (published in 2014)

bg cs es da de et el en fr it lt lv hu mt nl pl pt ro sk sl fi sv

Indoor lighting

- Technical Background Report
- EU GPP criteria (published in 2012)

bg cs es da de et el en fr it lt lv hu mt nl pl pt ro sk sl fi sv

NEW **Office Building Design, Construction and Management**

- Technical Background Report
- EU GPP criteria (published in 2016)

Office IT equipment (currently under revision)

- Technical background report
- EU GPP criteria (published in 2012)

New and old documents

Commission Handbook: Buying green! (2016 update)\

- This handbook outlines the possibilities to pursue GPP under the 2014 Procurement Directives

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DG Environment Homepage

ENVIRONMENT

European Commission

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Green Public Procurement

Europe's public authorities are major consumers. By using their purchasing power to choose environmentally friendly goods, services and works, they can make an important contribution to sustainable consumption and production - what we call Green Public Procurement (GPP) or green purchasing.

Although GPP is a voluntary instrument, it has a key role to play in the EU's efforts to become a more resource-efficient economy. It can help stimulate a critical mass of demand for more sustainable goods and services which otherwise would be difficult to get onto the market. GPP is therefore a strong stimulus for eco-innovation.

To be effective, GPP requires the inclusion of clear and verifiable environmental criteria for products and services in the public procurement process. The European Commission and a number of European countries have developed guidance in this area, in the form of national GPP criteria. The challenge of furthering take- up by more public sector bodies so that GPP becomes common practice still remains. As does the challenge of ensuring that green purchasing requirements are somewhat compatible between Member States - thus helping create a level playing field that will accelerate and help drive the single market for environmentally sound goods and services.

Latest News

16 August

New Buying Green! Handbook now available in all EU languages

The new edition of the European Commission's Buying Green! Handbook has now been translated in all the 23 EU's languages.

The documents in different languages are available here.

Buying Green! **New edition (2016) available here:**

Subscribe to our monthly News Alert here.

GPP Helpdesk

A Helpdesk service is available to disseminate information about GPP and to provide answers to stakeholders' enquiries. You can find more information here.

The important aspects

1. Definition of the subject matter
2. technical specifications
   - the use of Eco-label specifications
   - variants
3. Selection of candidates:
   - exclusions
   - use of EMAS/ISO schemes
4. Award and environmental aspects

Most important: subject matter

The Directives are less concerned with " what" than with "how" you procure

Work contracts: best possibilities with respect to the design and conceptual work (clear instructions on energy efficiency, materials etc.)

Service contracts: prescribe a mode of performing (cleaning with certain products, transport on natural gas)

Supply contracts: organic food, (more tricky, respect of non-discrimination, case by case assessment)

Subject matter:

“Supply of electricity from renewable energy sources to all public utilities of the city of Avigliana”

(*City of Avigliana, Italy*)

Describing green technical specifications?

Article 42(3) of Directive 2014/24/EU

- (a) in terms of performance or functional requirements, including environmental characteristics, provided that the parameters are sufficiently precise …

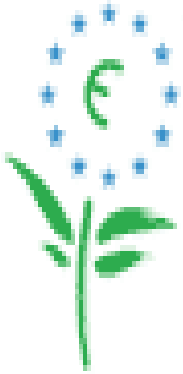
You may require that:

- a computer does not consume more than a certain amount of energy per hour;
- a vehicle does not emit more than a certain quantity of pollutants
- specify the production processes or methods for a good, service or work

Green technical Specifications?

Article 43 ‘Labels’

- “Where contracting authorities intend to purchase works, supplies or services with specific environmental, social or other characteristics they may,… require a specific label as means of proof that the works, services or supplies correspond to the required characteristics…



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ECO-Label:

European Eco-label (regulation No 1980/2000), more
300 products (according to product groups)

national (Blauer Engel,D, Nordic Swan)

private (e.g. TCO, S, sustainable forestry, etc.)

organic farming (new logo EU)

Use of ECO-Label

Article 43

“ contracting authorities shall not require the label as such but may define the technical specification by reference to those of the detailed specifications of that label …

“ Contracting authorities requiring a specific label shall accept all labels that confirm that the works, supplies or services meet equivalent label requirements.”

Relation to the characteristics

Technical specifications need to relate to characteristics of the particular work, supply or service being purchased– and not to the general capacities or qualities of the operator.

- Case 225/98 Commission v France in which technical specifications defined solely by reference to classifications set out in French legislation were found to be indirectly discriminatory.

Technical Specificiations – Best Practice

The City of Kolding, Denmark, incorporates eco-labels into all its procurement actions.
The applicable criteria from the eco-labels are inserted directly into technical specifications and/or award criteria.

1. It is stated that a copy of the eco-label certificate is seen as full verification that the criteria are met, but also that alternative documentation will be accepted.
2. Recent tenders using eco-label criteria include cleaning products, copy paper, uniforms, laundry services (for the detergent used), printing services (for the paper used), tissue paper, and fleet management (for the lubricants used).

Technical Specificiations – Best Practice

"The use of substances harmful to the environment shall be limited, specifically:

- The critical dilution volume toxicity (CDV tox) < 5000l/100g of product
- The product must not contain phosphorus
- The product must not contain APEO and its derivatives, EDTA or NTA
- *…<Further environmental requirements also included>…"*

European Commission, Office of Infrastructure and Logistics, tender for window cleaning services

Conditions for Performance

Article 42(3) of Directive 2014/24/EU and Article 60(3) of Directive 2014/25/EU

- The directives explicitly allow contracting authorities to apply specifications based on performance or functional requirements
- A performance-based/functional specification will describe the desired result and outputs in terms of quality, quantity, and reliability…

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Performance – Best Practice

Selection criteria "training of cleaning personnel":

"The bidder is required to attest

that all staff involved with the contracted services have received the appropriate and necessary professional training (from a technical, safety **and environmental point of view**).

.... Moreover, the cleaning personnel must be trained and informed about the methods, the dosage and the safety precautions pertaining to cleaning detergents, their packaging and preparation/conditioning, as well as the waste disposal (waste separation and evacuation). …"

European Commission, Office of Infrastructure and Logistics, tender for window cleaning services

Performance – Best Practice

In Malta, the national body responsible for schools (Foundation for Tomorrow's Schools – FTS) required that a new school building be energy self-sufficient through the use of on-site renewable energy production.

Tenderers were able to present different solutions for achieving this goal. Certain minimum requirements, for example on energy and water efficiency, were also included in the specification.

Additional points were awarded for even better performance during the award stage. The winning bidder installed solar panels and wind turbines, producing a total of 35,000kWh over the first ten months of the contract.

Exclusion – violation of environmental law

Contracting authorities can exclude an operator where they can demonstrate by any appropriate means that it has under EU or national law. violated applicable environmental obligations

- The directives also allow exclusion for violation of a limited list of international environmental conventions (Basel convention and others)

  - Article 57(4)(a) of Directive 2014/24/EU

Suitability and EMAS

Under the directives contracting authorities may require evidence of the environmental management system which an operator has in place for any contract, provided this is proportionate and related to the subject-matter.

Equivalent certificates must be accepted…

Article 62(2) of Directive 2014/24/EU; Article 81(2) of Directive 2014/25/EU.

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EMAS – Best Practice

Lithuanian Roads Authority (LRA) looks for environmental capacity

When tendering contracts for the construction of roads and highways, the LRA asks for evidence of ability to apply environmental management measures. This is assessed as part of the technical capacity criteria, and EMAS, ISO 14001 or other equivalent certification or evidence is accepted.

Suitability and EMAS

Case Law: Evropaïki Dynamiki v European Environment Agency (Case T-331/06 of 8 July 2010)

- 10% of the marks at award stage were based on the 'General environmental policy of the company‘,
- highest marks to a company which had a third-party certified environmental management scheme

Court: While third-party certification cannot generally be required, it may be treated as strong evidence of a company's environmental standards.

Award of the contract

You may allocate points during the award stage to recognise environmental performance beyond the minimum requirements set in the specifications.

Adopting a life-cycle costing approach reveals the true costs of a contract. Considering energy and water consumption, maintenance and disposal costs in your evaluation may indicate that the greener option is also the cheaper option over the full life-cycle.

Labels and other forms of third-party evidence can help you to assess how well a tender performs against your chosen award criteria, and to verify tenderers' claims.

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Award of the contract - Best practice

Green and healthy cleaning services, Tuscany

In a tender for cleaning services, the Environmental Protection Agency of Tuscany (ARPAT) assessed the tenders according to the most economically and environmentally advantageous offer. 40 points were allocated to price and 60 points for quality. Quality criteria included employing green cleaning techniques, reduced packaging, environmental product performance (share of products complying with ISO Type I labels or equivalent) and the quality of environmental training programmes.

Life Cycle Costing in Article 68 Directive 2014/24/EU

Life-cycle costing (LCC) means considering all the costs that will be incurred during the lifetime of the product, work or service:

- Operating costs, including energy, fuel and water use, spares, and maintenance
- End-of-life costs, such as decommissioning or disposal
- may also include the cost of externalities…

Life-cycle costing - Best practice

Saving on lifetime maintenance costs in Germany

The City of Detmold launched the procurement of a new bus station in 2012. As part of its initial research and market consultation, a sustainability analysis was carried out based on the expected lifetime of the development of at least fifty years. This determined which techniques were most suitable for the project. The open tender then resulted in the use of photocatalytic concrete, which converts air and surface run-off pollutants into harmless salts. This decreases the need for maintenance and reduces costs and environmental effects of cleaning.

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Externalities: Life-Cycle Costing in Article 68

The costs for society of specific environmental impacts, such as those linked to climate change or acidification of soil or water.

Calculation?

- is based on objectively verifiable and non-discriminatory criteria;
- the data required can be provided with reasonable effort by normally diligent economic operators

Mandatory Life-cycle costing

Externalities in LCC: The Clean Vehicles Directive

The Clean Vehicles Directive makes it mandatory for contracting authorities to take energy and environmental impacts into account when purchasing road transport vehicles – either in the specifications or the award criteria. The Directive provides a methodology for the monetisation of these impacts, for the purpose of assessing operational lifetime cost. This model allocates a monetary value to several types of emission – carbon dioxide (CO_2), nitrous oxide (NO_x), non-methane hydrocarbons (NMHC) and particulate matter.[97] The lifetime emissions of each vehicle tendered may then be given a cost, which should be added to other direct costs such as purchase price, fuel costs and maintenance.

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In a nutshell

“Green” Procurement to reach EU and national environmental objectives – can be cheaper as well

Directives allow the use of labels, EMAS, life-cycle costing

Externalities as a new approach

Best Practice

- http://ec.europa.eu/environment/gpp/index_en.htm
- http://www.procuraplus.org/index.php?id=5551
- http://www.topten.eu/

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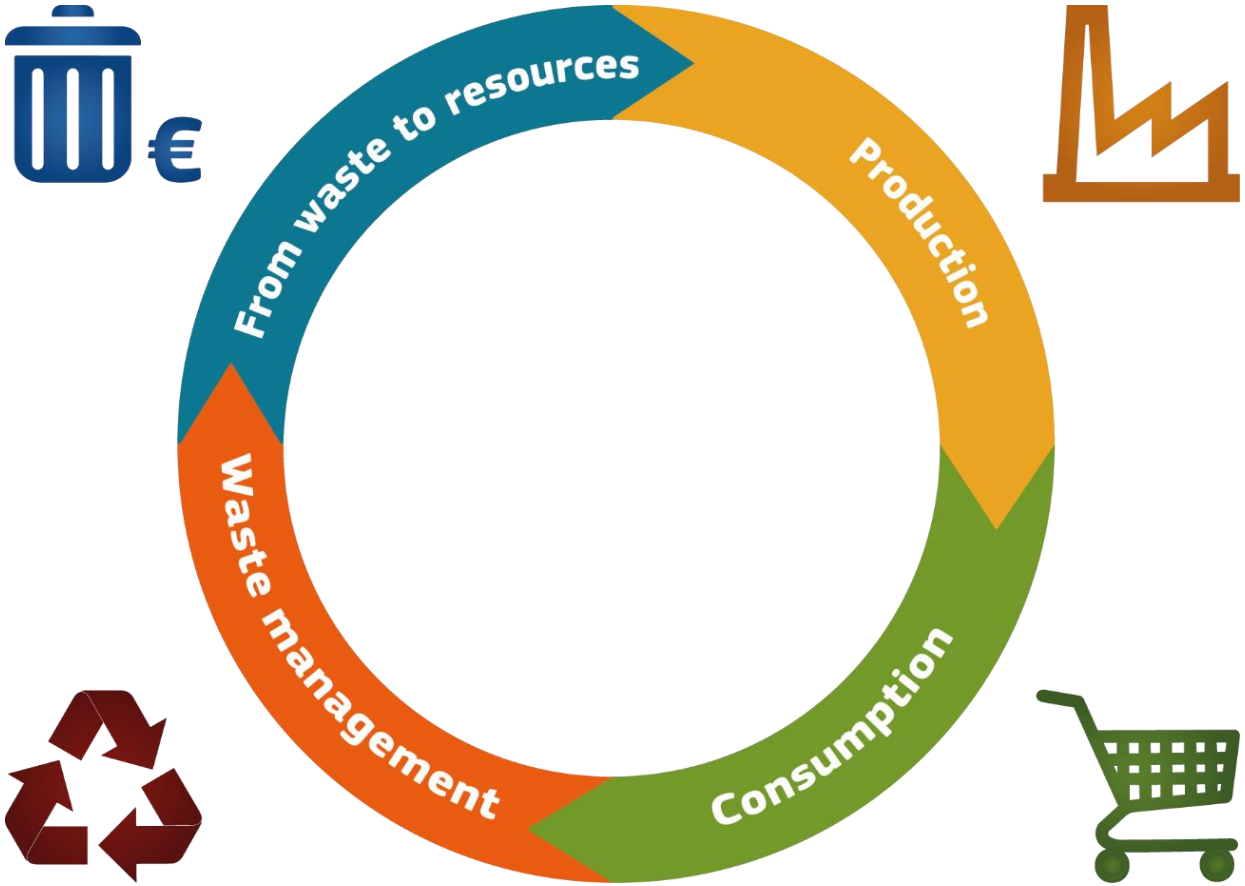

Brussels, 2.12.2015
COM(2015) 614 final

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Closing the loop - An EU action plan for the Circular Economy

What is “circular procurement”?

- **Circular procurement can be defined as the process by which public authorities purchase works, goods or services that seek to contribute to closed energy and material loops within supply chains,**
- **whilst minimizing, and in the best case avoiding, negative environmental impacts and waste creation across their whole life-cycle.**

(DG Environment 2017)

Objectives

- **A common EU target for recycling 65% of municipal waste by 2030; recycling 75% of packaging waste by 2030;**
- **reduce landfill to maximum of 10% of municipal waste by 2030;**
- **concrete measures to promote re-use and stimulate industrial symbiosis - turning one industry's by-product into another industry's raw material;**
- **Economic incentives to put greener products on the market and support recovery and recycling schemes**

Principles

- **actions to keep resources in the economy,**
- **retain the value of these resources,**
- **which will contribute towards delivery of a sustainable, low carbon, resource efficient and competitive economy.**

New documents

Circular Economy, 2017

Replacing vehicle fleets with a car sharing service in Bremen, Germany

In 2013, after an initial pilot period, Bremen's Senate Department for Environment, Construction and Transport managed to reduce its CO_2 emissions from business-related travel while also lowering costs by replacing its own fleet of vehicles with membership to a local car-sharing service. The Department previously owned (or leased) a fleet of 11 cars, but the utilisation rate was low, with most cars used less than three hours a day. By switching to a local car-sharing service with an online booking system, Bremen has access to a more flexible and efficient fleet of vehicles, including electric vehicles, and saves on costs in terms of servicing, parking fees and staff management time.[10]

Source: DG Environment

Other examples

- Berlin (DE): New Life Science Laboratory built with recycled concrete
- Wales: New office building: refurbishing and reuse of office furniture
- NL: Using technical specifications and award criteria to require recycled textiles
- BE: Using „cradle to cradle“ certification for cleaning products

CIRCULAR PROCUREMENT MODELS

1. System level

- → Product service system
- → Public Private Partnership
- → Cooperation with other organisations on sharing and reuse
- → Rent/lease
- → Supplier take-back systems including reuse, recycling, refurbishment and remanufacturing

2. Supplier Level

- → Supplier take-back system
- → Design to disassembly
- → Reparability of standard products
- → External reuse/ sale of products
- → Internal reuse of products

3. Product

- → Materials in the product can be identified
- → Products can be disassembled after use
- → Recyclable materials
- → Resource efficiency and Total Cost of Ownership
- → Recycled materials

(Source: SPP Regions Best Practice Report)

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Best Practice

- http://ec.europa.eu/environment/gpp/index_en.htm
- http://www.procuraplus.org/index.php?id=5551
- http://www.topten.eu/

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