



Why 'green' public procurement?

Public authorities are major consumers of goods and services. This renders them an important market player and gives them the power to substantially influence market demand. By integrating proper environmental criteria in the procurement procedure, they are able to stimulate the eco-market and motivate the industry to innovate. Their purchasing behaviour may have immediate effects on the environmental performance of a whole range of sectors, such as construction works, energy, telecommunications and transport. Furthermore, 'greening' public procurement serves higher political goals of the EU, set out by the Lisbon and Sustainable Development Strategies, for achieving sustainability and a competitive and knowledge-based society throughout the EU.

Greening the procurement process does not only benefit the environment but it also contributes to improving the image of the local government. Taking health and environmental aspects into account when spending public money reflects the general expectations of the citizens, and living up to these expectations would prove the credibility of citizens' representatives. In addition to these 'soft' benefits, green public procurement may also bring more 'tangible', economic gains, since environmentally friendly purchasing is linked to saving materials and energy as well as reducing waste and pollution, and thus, when considering the whole life-cycle of a product, is cost-efficient.

A green purchasing policy does not necessarily require structural changes by the contracting authority. What is needed is a much more systematic, behavioural change - the staff who prepare tenders, should be familiar with relevant environmental concerns and be able to integrate them in the appropriate stages of the procurement procedure.

How to 'green' public procurement?

The procurement procedure undergoes the following stages:

- defining the subject of the contract;
- defining the selection criteria;
- defining the award criteria; and
- defining the contract performance clauses.

Each of these stages offers possibilities for integration of environmental considerations in the relevant criteria. If an environmentally friendly outcome at the

end of the procurement procedure is contemplated, those opportunities should be examined when designing the tender. The criteria, however, should not be formulated in a discriminating manner, that would lead to a distortion of the market¹.

Defining the subject of the contract

The subject of the contract reflects the product, service or work that is to be purchased. This initial stage of the procurement procedure is crucial since it determines the modalities of the tender, and every successive stage builds upon it.

It should be noted that some products are easier to 'green' than others. Professional services, like general management or auditing seldom contain environmental criteria. A study, conducted by the consortium Take-5², has identified the following 9 product groups as suitable for 'greening':

- construction work;
- transport – buses, bus services, passenger cars;
- cleaning products/services;
- clothing;
- electricity;
- IT devices;
- food;
- paper; and
- furniture.

Before starting with a procurement procedure, the following issues should be considered:

- Is there a necessity for this specific product and are there any environmentally friendly alternatives (i.e. when purchasing new cars)?
- Are there other modes of obtaining the product than purchasing (leasing or renting would be less binding alternatives in the long term)?

Once the necessity for purchasing a certain product, service or work has been identified, the technical requirements, for the latter to comply with, need to be formulated. Article 23 of the Directive 2004/18/EC³ provides for those requirements to be based on technical standards, functional requirements or a combination thereof. Production or process methods might also be included in the product specifications.

Criteria developed in the context of different eco-labels⁴ might be a helpful guidance when defining environmental specifications of the contract subject. While public

¹ It is allowed, for instance, to choose as the subject of your tender organic food but not local organic food, since the latter is discriminatory and hinders the free movement of goods.

² Take-5 consists of five organisations across Europe: Virage Environment & Management (Netherlands), Centre for Environmental Studies (Hungary), Macroscopio (Italy), GlobaltoLocal (United Kingdom) and SYKE (Finland)

³ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

⁴ The best known multi-criteria eco-labels are the European "The Flower", the Scandinavian "Nordic Swan", the German "Blue Angel". For more information on different eco-labels, see also the Internet http://europa.eu.int/comm/environment/ecolabel/index_en.htm.

authorities, however, have the right to require for the purchased product to perform as an eco-labelled one, it is considered discriminatory to demand products to bear an eco-label. In order to use the eco-labels criteria in a non-discriminatory manner, it is mandatory to accept any tender that proves to equally meet those criteria.

In order to make sure that the technical or performance-based product specifications would result in a greener purchase, they should be clearly formulated, avoiding generalised requirements (such as *"the product should fulfil the requirement of a label X"* or *"it should be made of environmentally friendly materials"*)⁵. Attention is to be paid also when setting performance-based criteria - environmentally friendly results may be achieved by not as environmentally friendly means⁶.

How to get it started - the approach of Dunkerque, France

In order to get the green purchasing started and the staff interested in environmentally friendly products, the environmental department of the municipality of Dunkerque undertook a progressive approach, by concentrating at first only on a few eco-products. Starting with three items – cleaning products, paper and paint – the objective was to extend gradually the number of the product groups with ecological added value. The environmental department developed a methodology for the introduction of eco-products in its administration. It involves the following six steps:

- 1) Before using the call for tenders, the city studied the environmental criteria of the EU Eco-label for the concerned products and made a research on the availability of potential suppliers complying with some of the criteria.
- 2) The employees, involved with the product, were informed on the objectives and conditions of the change.
- 3) The identified suppliers were asked to provide samples of their products, so that the employees could test them.
- 4) The quality was assessed and compared to the conventional products.
- 5) Where the outcomes were satisfactory, calls for tenders were issued, with several Eco-label criteria included in the technical specifications.
- 6) Awareness raising through communication and outcomes dissemination.

The environmental department is responsible for initiating and following up the above actions, whereas one specific person within the department is in charge of the research, tests, initiating and supporting technical services on new projects.

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Defining the selection criteria

The next stage of the procurement procedure deals with the qualifications of the bidders, and more specifically with their technical and professional expertise and financial capacity. Directive 2004/18/EC provides for two types of criteria which allow for assessing the environmental competence of the tenderers:

- exclusion criteria, which would prevent companies having committed serious professional misconduct (i.e. have breached EU or national environmental law) to participate; and
- criteria setting the required technical and/or professional skills of the bidders. These criteria may be designed so as to include certain provisions for environmental competence of the candidates. Depending on the kind of the contract, proof for environmental competence can be provided by a

⁵ Bouwer, M. et al (2006): Green Public Procurement in Europe 2006 – Conclusions and recommendations, available at http://ec.europa.eu/environment/gpp/pdf/take_5.pdf

⁶ For instance, if a constant temperature of 20°C in the offices is demanded without any provisions as regards the energy source to be made. This may allow the contractor to opt for more polluting type of energy generation.

record of previous contracts or by certification of educational and professional qualification.

Article 48(2)(f) provides explicitly for an indication of the environmental management measures to be used as a selection criteria for public works and public service contracts, however only in appropriate cases. In order to justify the usage of this criterion, the subject of the contract should have immediate effects on the environment (i.e. construction activities in protected areas).

Contracts where environmental competence could be particularly relevant include waste management, construction, building maintenance and transport services.

Defining the award criteria

Public authorities may use two types of criteria for awarding their contracts:

- lowest price only;
- or most economically advantageous tender.

The second one represents a more comprehensive approach for assessment the merits of the tenders. It includes a number of sub-criteria, outlined and weighed in the tender documents so as to reflect the contractor's view on the 'most economically advantageous tender'. Environmental characteristics, especially when considering life-cycle costing⁷, may constitute an economic benefit, and, as listed also in the Directive, may be included as an award criterion.

There is a clear link between the initial technical specifications of the contract and the award criteria – the first lay down a compulsory minimum level of performance, whereas the second ones are set to assess the added value of the different eligible contracts. At this stage in the formulation of calls for tenders, public authorities have the opportunity, by giving a higher preference to the environmental characteristics of the product, to increase the green profile of their contract.

An important reference on the interpretation of award criteria is the decision of the Court of Justice in the so called 'Concordia Bus' case (C-513/99). A tender on bus services, issued by the Community of Helsinki, included a criterion on emission and noise levels, under which the bidders could score extra points if they could comply with it. The Court ruled that it was a legitimate means for assessing the merits of a tender, as long as it is connected with the subject matter of the contract.

Defining the contract performance clauses

Contracting clauses are used to specify how a contract should be carried out, whereas they have no relevance during the selection procedure. Since the contract performance clauses concern mainly the delivery of goods, the environmental aspects that might be integrated at this stage of the tender are linked to the way of transportation, such as:

- having the product delivered in a bulk rather than in smaller quantities;
- requiring that goods are delivered outside the peak traffic times; or
- requiring that the supplier takes care (recycles or reuses) the product packaging.

⁷ Costs, calculated on the basis of the whole life-cycle of a product, including resource extraction, production, operation and end-of-life costs.

It is generally allowed to require a specific mode of transportation but, again, it should not be discriminatory. The contract clauses may not penalise the tenderers on the basis of the distance they travel to deliver their goods, or demand means of transport which only one of the tenderers have access to.

Barriers to Green Public Procurement

The first step to overcome a barrier is to identify it. Possible constraints for greening public procurement might be a lack of political commitment or the existing internal structures and policies, but also lack of employees' awareness and training, availability of environmentally friendly products or information on national regulation and enforcement. In order to identify potential barriers within the organisation, a self-assessment matrix can be completed for and by different parts of the organisation involved in procurement. It would help to determine what organisational/attitudinal changes are needed to allow green procurement to succeed.

An effective approach, especially for smaller municipalities, to overcome market or financial barriers is joint procurement. It has several advantages, which are of interest to those who wish to promote green public procurement. It provides greater buying power through increased quantities demanded – making green products more affordable. It can provide administrative efficiencies compared to all public authorities tendering separately. It also helps pooling skills and expertise and is an ideal entry point for public authorities with no experience and skills in green public procurement.

Networking for green purchasing, Vorarlberg, Austria

Vorarlberg developed its green purchasing concept from the fact that purchasing in small municipalities is often just one among many other tasks of the employee in charge. To motivate and support the local authorities to 'green' their public procurement, the Environmental Agency of the State of Vorarlberg has followed a two-track approach. On the one hand it has produced a series of Eco-guidelines for integration of environmental aspects in public procurement process and assists local authorities in designing call for tenders. On the other hand, it took the initiative to establish a network of purchasers in order to foster the exchange of experience but also to facilitate the organization of training activities.

The members of the network (mainly purchasers of office material or officers for buildings) gathered to discuss desired content of eco-guidelines, exchange advice on how to apply the information and receive assistance by experts in workshops and seminars. The networking activities are supported by internet-based tools. Purchasers can also informally exchange information on economic benefits, experiences with suppliers and products or complaints by users.

More information (in German) is available at <http://www.umweltverband.at>

Where to find more information?

- What is permitted and what is not according to EU and National Procurement legislation - Tool F of the LEAP Tool kit provides a detailed account on important issues such as the use of eco-labels in specifications

www.leap-gpp-toolkit.org

- Guidelines for legal advice and green criteria: in Handbook on Environmental Public Procurement “Buying Green!”
http://ec.europa.eu/environment/gpp/guideline_en.htm
- Comprehensive information on legal context, green specifications for key commodities and examples with regard to GPP is available on
http://ec.europa.eu/environment/gpp/index_en.htm
- Guidance through the EU legal Framework linked to public procurement, providing instruments for identifying ‘green’ products and underpinned by a series of good practices on green public procurement from European cities
http://www.iclei-europe.org/fileadmin/user_upload/Procurement/PICOLight/Publications/Good_Practice_Guide/GPG_fullversion.pdf
- Guidelines for environmentally friendly procurement in the areas of building construction and office equipment (in German)
<http://www.umweltverband.at/index.php?id=beschaffung>

