IRF Working Group Environment

Green Public Procurement in the European Union

Note

Background

The way resources are consumed in the EU is causing environmental damage at a rate that cannot be sustained. Many concerns have been raised about the increasing consumption and production patterns, both internationally and at the European level. If the world as a whole followed the EU's pattern of consumption, global resource use could quadruple within 20 years. Apart from the resulting environmental and health problems, this trend could threaten economic growth due to decreasing natural resources and the cost of addressing these issues.

Public authorities (central, regional and local levels) spend approximately 17% of EU GDP – or €2,000 billion – on goods, services and works each year. Much of this is spent in sectors with high environmental impacts, such as transport, buildings and food.

The 2006 "EIPRO – Environmental Impact of Products" study showed that products from these three areas of consumption (more precisely food and drink, housing and transport) together are responsible for 70-80% of environmental impacts of (private) consumption.

Member States have been encouraged to draw up publicly available National Action Plans (NAPs) for greening their public procurement. The NAPs should contain an assessment of the existing situation and ambitious targets for the next three years, specifying what measures will be taken to achieve them.

Definition

Green Public Procurement (GPP) is defined in the Communication (COM (2008) 400) "Public procurement for a better environment" as "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." GPP is a voluntary instrument, which means that individual Member States and public authorities can determine the extent to which they implement it. By using their purchasing power to choose goods and services with lower impacts on the environment, public authorities can make an important contribution to sustainable consumption and production.[i]

On the other hand, **Sustainable Public Procurement (SPP)** means that public authorities seek to achieve the appropriate balance between the three pillars of sustainable development - economic, social and environmental - when procuring goods, services or works at all stages of the project. GPP is often more easily accommodated than SPP within the existing legal and practical framework of procurement. The

Procurement Directives explicitly allow green requirements to be included at all stages of the procurement process (selection, specification, award criteria and contract performance clauses). The *Helsinki Bus* and *Wienstrom* cases confirmed the possibility to address environmental considerations through procurement, and provide important guidance on how this can be done within the Directives.[ii]

The concept of GPP has been widely recognised in recent years as a useful tool for driving the market for greener products and services and reducing the environmental impacts of public authorities' activities. GPP concerns both:

- **Contracting authorities**: National, regional or local authorities and so-called bodies 'governed by public law'. These are bodies established for the specific purpose of meeting needs in the general interest, but without an industrial or commercial character and for the most part financed, administered or supervised by public authorities. (see Article 1 of Directive 2004/18/EC)[iii]
- **Contracting entities**: All entities operating in so-called 'special sectors', namely: water, energy, transport and postal services. Even if the operating entities in those sectors are not necessarily any longer public authorities or bodies governed by public law, they provide public services and remain fairly dependant on public money. They are therefore often subject to similar, albeit less restrictive, rules. (see the preamble to Directive 2004/17/EC)

Policy and legislation

Public procurement in the European Union is subject to a number of sources of Community law:

- The Procurement Directives (2004/17/EC and 2004/18/EC) and Remedies Directive (2007/66/EC)
- The Treaties (Treaty on the Functioning of the EU and its predecessors)
- Case law of the Court of Justice of the European Communities
- Law applying to related areas such as State Aid and Competition [iv]

The European Commission has produced a series of guidelines. These go through the various stages of a public procurement procedure and explain how to best integrate environmental criteria at each stage:

(i) **Subject matter**
(ii) **Technical Specifications**
(iii) **Selection Criteria**
(iv) **Award Criteria**
(v) **Contract Performance Clause**

For the purpose of defining these green public procurement criteria (guidelines), the product group "ROADS" is split into two categories:

(a) Road construction, defined as the preparation and building of a road using materials, including aggregate, bituminous binders and additives that are used for the sub-base, road-base and surfacing layers of the road;

(b) Traffic signs, which have three elements: sign facings (containing the sign's message), substrates (the backing material onto which the facing is attached) and the fixing (the posts or frame onto which the sign is mounted).

Environmental Factors and Impacts:

The main areas for potential in reducing the environmental impact of **road construction** lie in: (a) Energy consumption, (b) Recycled content, and (c) Hazardous substances – volatile organic chemicals and heavy metals. The design of a road is impacted by a number of factors, including:

(i) Climatic conditions – temperature and rainfall in the proposed geographic location,
(ii) Geological conditions – the condition of the soil to be used as a sub-grade along the length of the planned road. This also has implications for drainage
(iii) The type and volume of traffic expected on the road, e.g. the weight of the vehicles,
(iv) Noise limitations – is the road located in an urban area?
(v) Skid resistance
(vi) Rolling resistance – this has impacts on fuel economy and exhaust emissions, particularly CO2
(vii) The intended lifespan of the road
(viii) Surface durability
(ix) The availability of materials, and
(x) The type of road, for example in-situ cold recycling may not be appropriate for major highways carrying significant traffic, but it may be more routinely used for minor roads, where its use can reduce time on site and thus reduce congestion caused by road construction work

For **traffic signs green procurement** criteria have been developed along the lines of

(i) Reduced raw material use
(ii) Energy efficiency in manufacture
(iii) Maximising product lifetime, durability and recyclability.

Life Cycle Phases of Roads and Traffic Signs:

- Extraction and Process of Raw Materials
- Manufacture of Materials
- Transport of Materials to the Site of the Road
- Road Construction
- Use Phase
- Maintenance
- End of Life

Cost Considerations

A study conducted by the European Investment Bank in 2006 found that road construction projects funded through public-private partnerships (PPP) exhibit higher up-front costs than traditional non-PPP projects. This occurs because PPP contracts combine the costs of construction, operation and maintenance, creating an incentive for the private sector partner to invest in materials and equipment at the construction stage that will ensure lower lifecycle operation and maintenance costs across the life of the road. This higher initial cost may therefore lead to lower overall costs across the life of the road

and less disruption for traffic due to less frequent repairs. This demonstrates the need to take decisions based on the life cycle cost of the project/construction works. Ideally therefore when two or more such options are available comparative life cycle analyses of the environmental effects and concomitant cost-benefit analysis of the whole life costs should be undertaken to understand where the balance of impacts lies and thus which of the options is the most suitable for the intended purpose. Care should be taken at all times to ensure the environmentally preferable solution does not negatively impact on the safety of the road.

Other relevant EU Legislation

- Construction Projects Directive (CPD) 89/106/EEC
- CEN TC 350: Based on Mandate 350
- CEN TC 35
- The REACH Regulation 1907/2006
- The Hazardous Waste Directive (HWD) 91/689/EC
- Waste Framework Directive 2008/98/EC
- The European Waste Catalogue (EWC)
- The Landfill Directive 1999/31/EC
- The Integrated Pollution Prevention and Control Directive (IPPC) 2008/1/EC
- The Water Framework Directive (WFD) 2000/60/EC
- The Chromium (VI) Directive 2003/53/EC
- Directive 2006/38/EC, amending Directive 1999/62/EC, on the Charging of Heavy Goods Vehicles for the Use of Certain Infrastructures
- The Classification, Packaging and Labelling of Dangerous Substances Directive 67/548/EEC
- The CLP Regulation (EC) No 1272/2008
- The EU Climate-energy Package
- UNECE Convention on Long-range Transboundary Air Pollution (CLRTAP)
- Environmental Impact Assessment Directive 85/337/EEC
- Future Legislation and Standards: Soil Framework Directive
- Examples of Member State Policy: Product Specific Restrictions, and Responsible Sourcing Standards

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[i] http://ec.europa.eu/environment/gpp/what_en.htm

[ii] GPP versus SPP. Source : http://ec.europa.eu/environment/gpp/versus_en.htm

[iii] **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.** Source : http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0018:en:NOT

[iv] Frequently Asked Questions. http://ec.europa.eu/environment/gpp/faq_en.htm#framework1