

Outlook – Green Public Procurement in the European Union and Germany

Overview, legal framework, targets and process (Day 1)



Green Public Procurement

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Overview

- 1 Definition & Legal Framework
- 2 Process & Targets
- 3 Priority Sectors & Products
- 4 Green Selection Criteria & Verification mechanisms
- 5 Process of evaluation of GPP tenders & Life-Cycle Costs (LCC)

What is GPP?



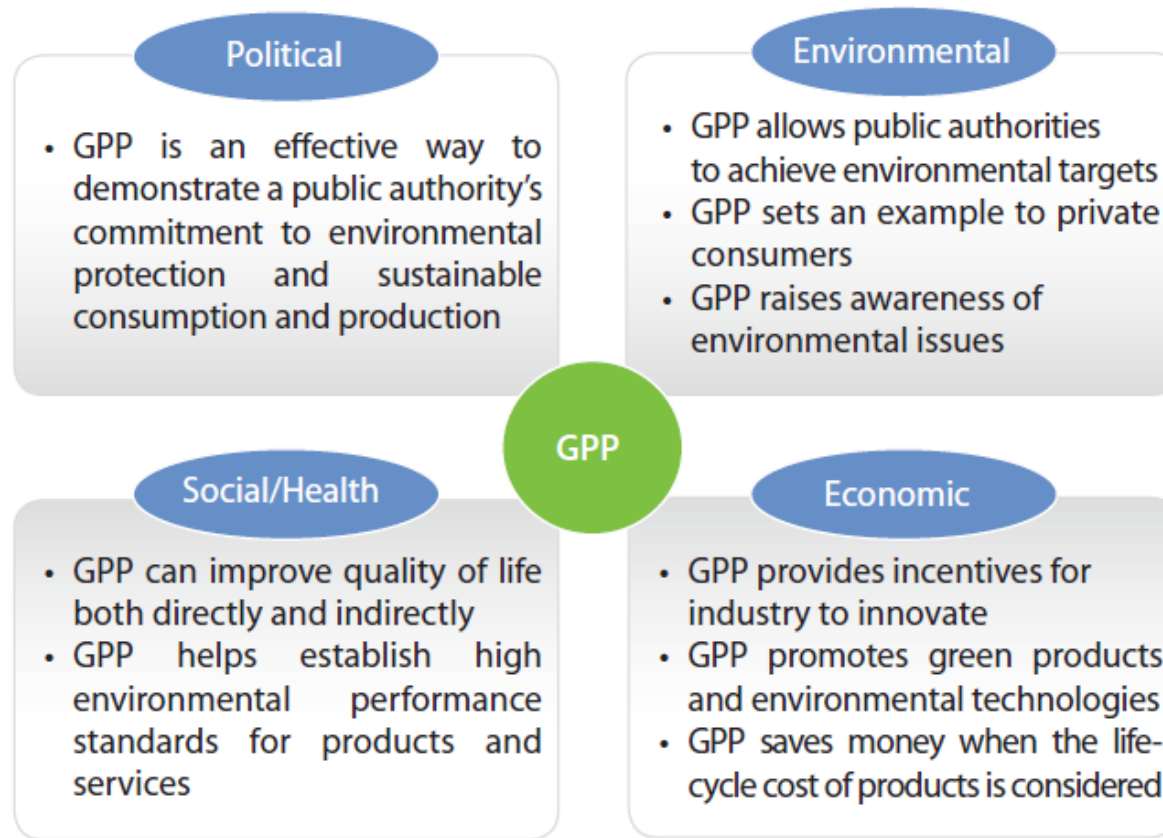
*“Green Public Procurement (GPP) is a process whereby public authorities seek to procure goods, services and works with a **reduced environmental impact throughout their life cycle** when compared to goods, services and works with the same primary function that would otherwise be procured.”*

(COM (2008) 400 Public procurement for a better environment)

Public authorities are major consumers in Europe: they spend approximately 2 trillion euros annually, equivalent to some 17% of the EU’s gross domestic product.

Benefits of GPP?

The benefits of GPP are manifold:



EU public procurement directives

EU Directives and policies

Legislation/policy	Relevance
Treaty on the Functioning of the European Union	Provides the basis for EU procurement regulation and sets out fundamental principles
Directive 2004/18/EC on the award of public works contracts, public supply contracts and public service contracts	Public sector procurement directive
Directive 2004/17/EC on the procedures of entities operating in the water, energy, transport and postal services sectors	Utility sectors procurement directive
Regulation (EC) No 1177/2009 amending Directives 2004/17/EC, 2004/18/EC and 2009/81/EC of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts	Sets monetary thresholds for the application of the EU Procurement Directives for contracts for goods, services and works
Public procurement for a better environment COM (2008) 400	Provides guidance on how to reduce the environmental impact caused by public sector consumption and how to use GPP to stimulate innovation in environmental technologies, products and services.
Staff Working Document accompanying COM (2008) 400 SEC (2008) 2126	Provides useful guidelines for public authorities on the definition and verification of environmental criteria, tools for stimulating GPP and examples for a number of product groups. It also offers legal and operational guidance.
Action Plan for Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP) COM (2008) 397	Provided a strategic framework for EC activities in support of GPP, as well as measures including updates to the Ecodesign Directive, EU Ecolabel Regulation, EMAS Regulation and Energy Labelling Directive
Pre-commercial Procurement: Driving innovation to ensure sustainable high quality public services in Europe COM (2007) 799	Introduces a new methodology for the procurement of research and development services
Interpretative Communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives 2006/C 179/2	Provides an interpretation of the Treaty principles and other law applicable to below-threshold contracts, concessions etc.

EU public procurement directives

In 2004, the Council and the European Parliament adopted two directives aimed at clarifying, simplifying and modernising existing European legislation on public procurement.

- Directive 2004/18/EC covers public works contracts, public supply contracts and public service contracts.
- Directive 2004/17/EC covers the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

EU public procurement directives (2)

The 2004 Directives contain specific reference to the possibility of including environmental considerations in the contract award process.

More detailed provisions in directive 2004/18/EC permit:

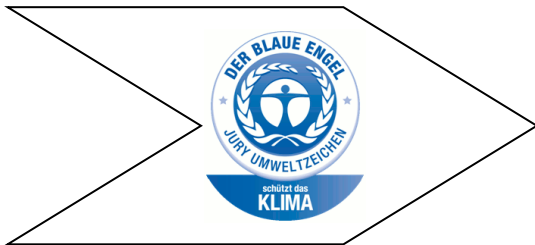
- the inclusion of environmental requirements in technical specifications (Article 23(3)b);
- the use of eco-labels (Article 23(6));
- setting social and environmental conditions for the performance of contracts (Article 26);
- requiring economic operators to demonstrate they have met their environmental obligations (Article 27);
- requiring economic operators to demonstrate they can perform a contract in accordance with environmental management measures (Articles 48(2)f and 50); and
- applying award criteria based on environmental characteristics (Article 53).

EU public procurement directives (3)

New EU-Directive n° 2011/438 passed in January 2014

Article 41 (use of eco-labels):

- From now it is possible to ask for social and ecologic labels in a tender document (not possible before!)

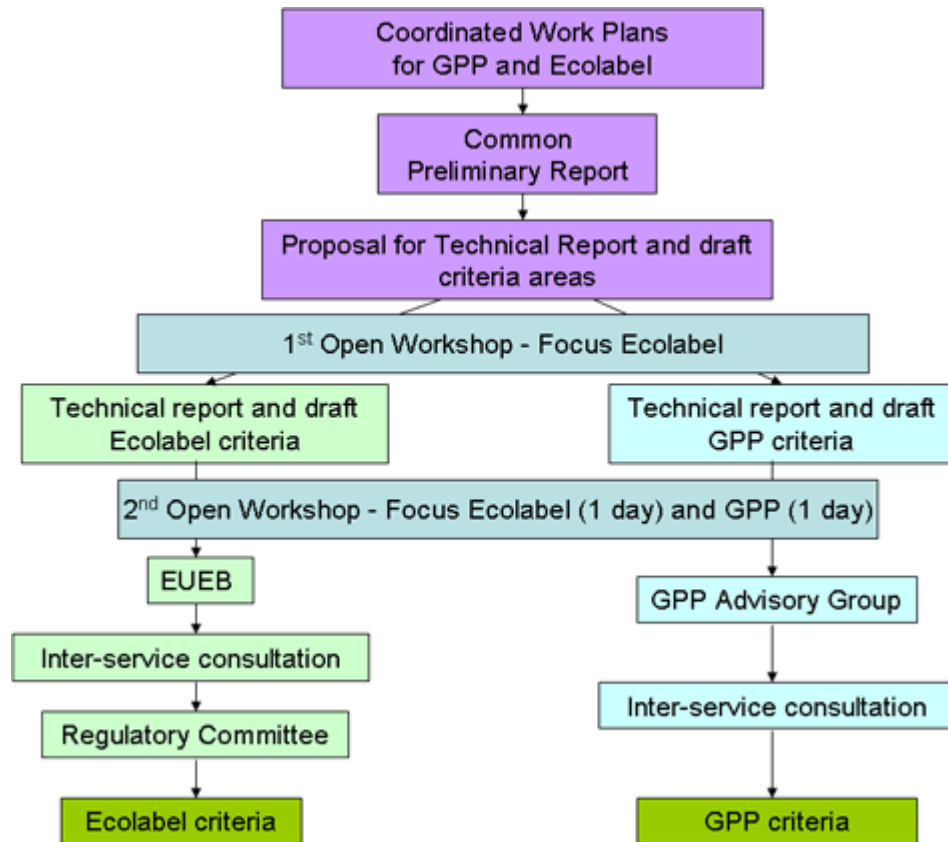


Green Public Procurement

- However, alternative verification methods must be allowed
- The bidder must prove the equivalence of the verification
- It is possible to state within the specifications:
 - „Procurement of a computer that holds the eco-label Blue Angel (RAL-UZ 78). Compliance can also be proven by other suitable verification methods.“

Process for Setting Criteria

Standard procedure for development and revision of EU GPP criteria



Setting Priorities

Identification which product, service and works sectors to prioritise

Three main factors

- Environmental impact
- Budgetary importance
- Potential to influence the market

Further Factors

- Political priorities
- Market availability of environmentally preferable alternatives.
- Cost considerations (all costs throughout the life-cycle)
- Availability of criteria
- Visibility and other practical considerations.

Common EU GPP Criteria - Products

Criteria have been developed covering 18 product/service groups:



- Copying & graphic paper
- Cleaning products & services
- Office IT equipment
- Construction
- Transport
- Furniture
- Electricity
- Food & Catering services
- Textiles
- Gardening products & services
- Windows, Glazed Doors & Skylights
- Thermal insulation
- Hard floor-coverings
- Wall Panels
- Combine Heat & Power (CHP)
- Road construction & traffic signs
- Street lighting & traffic signals
- Mobile phones

Product sheets, technical reports and the *Buying Green!* handbook are all available on the GPP website: ec.europa.eu/environment/gpp

GPP Work Programme for 2014

GPP Work Programme for 2014



Product groups for the development of GPP/Ecolabel criteria (as of January 2014)

Revision/New	Product group	Status	Lead	Target completion date
N	Heating systems	In progress	JRC	2nd quarter 2014
N	Office Buildings*	In progress	JRC	2nd quarter 2014
N	Medical Electrical Equipment*	In progress	SEMCo	2nd quarter 2014
R	Indoor/ outdoor paints and varnishes	In progress	JRC	2nd quarter 2014
R	Textiles	In progress	JRC	2nd quarter 2014
R	Office lighting	In progress	Industry	Mid 2014
R	Computers and laptops	In progress	JRC	Autumn 2014
R	Roads*	In progress	JRC	End 2014
R	Furniture	In progress	JRC	Autumn 2014

Explanations:

All criteria, except those with a * will be developed for GPP and Ecolabel.

JRC = European Commission Joint Research Center

SEMCo = Swedish Environmental Management Council

Implementation of GPP-Criteria in Member States

National Action Plans (NAPs)

- are the means by which EU-Member States implement GPP
- intended to address the environmental, and in some cases also social impacts of public procurement
- political support is extremely important in driving this area
- have now been adopted by a majority of the EU-28

National Action Plan or equivalent document adopted	22: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, UK
No existing NAP	6: Croatia, Estonia, Greece, Hungary, Luxembourg, Romania

Setting GPP targets

Clear targets are critical!

Targets may include:

- Overall procurement targets – e.g. 75% of procurement (by value and by number of tenders) should include GPP criteria by 2015. Targets can differ for national, regional, local levels.
- Product/service specific targets – e.g. by 2013 50% of meals served in school canteens should be organic, or by 2015 all cleaning services should use products meeting the EU Ecolabel criteria.
- Operational targets – e.g. all procurement staff will receive GPP training by 2013, or GPP guidance will be available to all staff on the authority intranet

It is important to have a clear, operational definition of what counts as green procurement.

Integrating (green) criteria in tender documents

Requirements on products/services/works purchased

Requirements on bidders

- Subject Matter
- Technical Specifications
- Award Criteria
- Contract Performance Clauses
- Selection Criteria

Verification mechanisms

Technical specifications have to be verified. Special attention should be paid on how the tenders' claims are verified.

- Set out the types of evidence of compliance in advance in the tender documents
 - By providing an indicative list and stating that other equivalent forms of evidence will also be accepted
- Examples:
 - Using Eco-Label Criteria:
 - products or services which carry that eco-label can be deemed to comply
 - Test results, a technical dossier or a declaration from the manufacturer can also prove compliance

Process of evaluation of GPP tenders

General rules for awarding a contract

- Award stage: evaluation of the quality of the tenders and comparison of costs
- Use of predetermined award criteria, published in advance, to decide which tender is the best.
- Two Options in the EU:
 - compare offers on the basis of lowest price
 - choose to award the contract to the ‘most economically advantageous tender’ (MEAT)

implies that other award criteria will be taken into account, as well as the price

Process of evaluation of GPP tenders

Additional award criteria under MEAT can include environmental criteria

List of examples in the directives:

- quality,
- price,
- environmental characteristics,
- technical merit,
- aesthetic and functional characteristics, etc.
- running costs, cost-effectiveness, whole life-cycle costs

Award Criteria - “Whole life cycle costing” (LCC)

The comparison of the different economic offers need not be based solely on the purchase price.

A more accurate approach is to consider the “whole life costs” related to the ownership of the product, taking into account:

- ▶ Purchase price
- ▶ Usage and maintenance costs (including energy and water consumption and other consumables such as ink or paper)
- ▶ Disposal or resale



Process of evaluation of GPP tenders

Determination of applied award criteria and how they are weight is up to each *contracting authority*. However, award criteria...

- ...must link to the subject matter of the contract (e.g. noise level of device)
- ...must not confer an unrestricted freedom of choice (e.g. objective basis for distinguishing between tenders)
- ...must be verifiable (e.g. by test procedures)
- ...must have been advertised previously (e.g. in the tender documents)
- ...must not be selection criteria (e.g. matters which have already been assessed at selection stage)
- ... must respect Community law

Thank you for your attention!

Do you have any questions?



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