

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

Public procurement for a better environment

TABLE OF CONTENTS

1.	Introduction	2
1.1.	Potential benefits of Green Public Procurement (GPP)	2
1.2.	Policy background.....	2
1.3.	Action at the European level	3
1.4.	Obstacles to the take-up of GPP.....	3
2.	Objectives.....	4
3.	A common definition for GPP.....	4
3.1.	In terms of the procurement process	4
3.2.	In terms of environmental performance	5
4.	Common GPP criteria	5
4.1.	Process for setting common criteria	5
4.2.	Priority product and service groups.....	6
5.	GPP targets	6
5.1.	Target for GPP in the renewed Sustainable Development Strategy.....	6
5.2.	A 100% target for GPP in the implementation of EU funding mechanisms.....	7
5.2.1.	Procurement by Member State authorities using EU funds	7
5.2.2.	Procurement by the European Commission	7
6.	Mandatory measures.....	8
7.	Guidance.....	8
8.	GPP and innovation.....	8
9.	Green private procurement.....	9
10.	Indicators for GPP – monitoring and benchmarking.....	9
11.	Conclusion and way forward.....	10

1. INTRODUCTION

1.1. Potential benefits of Green Public Procurement (GPP)

Each year European public authorities spend the equivalent of 16% of the EU Gross Domestic Product on the purchase of goods and services, such as buildings, transport services, office equipment, cleaning and catering services. Public procurement can shape production and consumption trends and a significant demand from public authorities for "greener" goods will create or enlarge markets for environmentally friendly products and services. By doing so, it will also provide incentives for companies to develop environmental technologies¹.

A more sustainable use of natural resources and raw materials would benefit the environment as well as the overall economy, creating opportunities for emerging "green" economies². Such a shift could also boost the competitiveness of European industry by stimulating innovation in eco-technologies – which have been recognised as a high-growth sector where Europe is already a world leader. Studies have confirmed that there is considerable scope for cost-effective green public procurement (GPP) - in particular in sectors where green products are not more expensive than the non-green alternatives (taking into account the whole life cost of the product).³ As "greener" goods are defined on a life cycle basis, GPP will affect the whole supply chain and will also stimulate the use of green standards in private procurement.

1.2. Policy background

The potential of GPP as a policy instrument has been increasingly recognised, and over recent years there has been growing political commitment at national, EU and international levels. In 2002, the OECD adopted a Recommendation on green public procurement. As a follow-up to the Johannesburg World Summit on Sustainable Development (September 2002), a Marrakech Task force on sustainable procurement was created with the aim of spreading sustainable (green) public procurement practices. Sustainable procurement policies have been launched in many OECD countries (USA, Japan, Canada, Australia, and South Korea) as well as in rapidly developing countries (such as China, Thailand, and Philippines).

Within the EU, the potential of GPP was first highlighted in the 2003 Commission Communication on Integrated Product Policy where Member States were recommended to adopt national action plans for GPP by the end of 2006. The new European legal framework⁴ for public procurement has clarified how public purchasers can include environmental considerations in their procurement processes and procedures. Most recently, the renewed EU Sustainable Development Strategy (June 2006), set the policy objective for 2010 of bringing

¹ An environmental technology is any technology designed to prevent or reduce the environmental impacts, at any stage of the life cycle of products or activities.

² UNEP Year Book 2008

³ <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=528&ArticleID=5748&I=en>

⁴ Whole-life cost should cover the purchase price and associated costs (delivery, installation, commissioning...), operating costs (including energy, spares, maintenance) and end-of-life costs such as decommissioning, removal and disposal.

⁴ Directives 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, and 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.

the average level of EU green public procurement up to the standard currently achieved by the best performing Member States.

This Communication is part of the Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP), which establishes a framework for the integrated implementation of a mix of instruments aimed at improving the energy and environmental performances of products.

1.3. Action at the European level

The basic concept of GPP relies on having robust environmental criteria for products and services. A number of national criteria and national approaches to GPP have been developed. However, as the use of GPP increases, the criteria used by Member States should be compatible to avoid a distortion of the single market and a reduction of EU-wide competition. Having a single set of criteria would considerably reduce the administrative burden for economic operators and for public administrations implementing GPP. Common rules would be of a particular benefit to companies operating in more than one Member State as well as SMEs (whose capacity to master differing procurement procedures is limited).

Environmental criteria do exist at the European level – for e.g. under the EU Eco-label⁵; the Energy Star Regulation⁶; the Ecodesign for energy-using products Directive⁷; and the proposal for a Directive on the promotion of clean and energy efficient vehicles⁸. The more in-depth development and setting of such criteria is a core element of Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy. The Action Plan aims, in particular, to expand the scope of the Ecodesign Directive to cover non energy-using products. In addition to the minimum mandatory requirements, it also introduces environmental performance benchmarks. For these GPP could act as an incentive to ensure their increased take-up.

1.4. Obstacles to the take-up of GPP

To date, the potential of GPP has only partially been exploited. At the beginning of 2008 only 13 Member States had adopted national action plans (twelve more Member States are working towards the adoption of a plan or a strategy)⁹. The main obstacles to increased take-up are:

- A limited number of environmental criteria for products / services – and where these do exist there are often insufficient mechanisms, such as databases, to publicise them.

⁵ Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community Eco-label Award Scheme, currently being revised

⁶ Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy –efficiency labelling programme for office equipment; Whilst the Energy Star is a voluntary label, the Regulation makes the use of the underlying requirements mandatory for central government authorities and Community Institutions in public procurement contracts falling within the scope of the Public Procurement Directives

⁷ Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products

⁸ COM (2007)817 final of 19.12.2007; the proposal would establish a harmonised methodology for calculating the lifetime cost of pollutant emissions and fuel consumption (external costs) of vehicles and would require contracting authorities and public transport operators to use this methodology when calculating the overall price of a vehicle for procurement decisions http://ec.europa.eu/transport/clean/index_en.htm

⁹ Detailed information on the state of play and content of national GPP action plans can be found at the GPP website on Europa: http://ec.europa.eu/environment/gpp/national_gpp_strategies_en.htm

- Insufficient information on whole-life costing of products and the relative costs of environmentally friendly products / services.
- Low awareness of the benefits of environmentally friendly products and services.
- Uncertainty about legal possibilities to include environmental criteria in tender documents.
- The lack of political support and resulting limited resources for implementing / promoting GPP (improved training is particularly necessary).
- The lack of a coordinated exchange of best practice and information between regions and local authorities.

2. OBJECTIVES

The general objective of this Communication is to reduce the environmental damage caused by public sector consumption and to use GPP to stimulate innovation in environmental technologies, products and services.

The specific objectives of this Communication are to address the obstacles to the uptake of GPP that have been identified in section 1.4.:

- a process for setting common GPP criteria;
- information on whole-life costing of products;
- legal and operational guidance;
- political support through a political target, linked to indicators and future monitoring

3. A COMMON DEFINITION FOR GPP

3.1. In terms of the procurement process

Public procurement is essentially a process and the definition proposed by the Commission for GPP is the following:

"...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."

Environmental criteria are needed to identify greener goods, services and works. Until such criteria are widely available the Commission supports a broad definition of GPP, covering also procedures where environmental elements are included as award criteria.

The above definition covers all public procurement procedures, above and below the thresholds defined by the European public procurement Directives. In all cases, environmental specifications, selection and award criteria and contract clauses would need to be formulated in full compliance with EU public procurement legislation.

3.2. In terms of environmental performance

The process-oriented definition of GPP is insufficient to allow objective benchmarking and target setting. For this to be possible it needs to be linked to compliance with clear GPP criteria. Such criteria would preferably be EU-wide criteria, in order to avoid market distortions and reduced competition as a result of differing national GPP criteria.

Where these criteria do exist for goods, services or works, GPP could be defined as follows:

- the meeting of these criteria is a mandatory requirement for successful bidders; or
- goods meeting the criteria would benefit from a significant weighting for environmental performance - typically 15% or more of the award criteria.

Until common EU-wide harmonised GPP criteria have been adopted, compliance with targets should be assessed - at national level- against compliance with national GPP criteria, where these exist.

4. COMMON GPP CRITERIA

4.1. Process for setting common criteria

The Commission will set-up a formal process of cooperation with the Member States in view of identifying easily applicable common GPP criteria. This process will take full account of existing and on-going work within the framework of the SCP. Work will focus on "priority" product and service groups, identified as having the highest potential for GPP (section 4.2).

The GPP criteria will be based on EU wide environmental criteria where those exist. Examples of such criteria are: the EU Ecolabel criteria; the Energy Star energy efficiency requirements for office equipment; the advanced performance benchmarks which will be developed under the implementing measures in the framework of a revised Ecodesign Directive; and the proposed methodology for internalising external costs in the proposal for a Directive on the promotion of clean and energy efficient vehicles.

Where, for the same product, these European criteria distinguish between various levels of environmental performance, the GPP criteria will also distinguish between core and advanced criteria.

This will allow Member States and contracting authorities to gradually improve levels of GPP, and to give clear signals to the market place to continuously improve the environmental performance of products and services. For product groups which are only covered by ecolabel criteria, the process will –similarly- seek to identify core and advanced GPP criteria, the core criteria being based on the ecolabel criteria which are easiest to comply with, whereas the advanced criteria would consider all ecolabel criteria that can be considered relevant for defining a given product.

Where no European criteria exist, GPP criteria will be based on national or other databases of environmental criteria and discussed with stakeholders from industry and civil society.

Criteria will be formulated in a way so as to facilitate their understanding by (public) purchasers and bidders and to ease their inclusion in public tender documents, in full compliance with Public procurement legislation.

The common GPP criteria will be used as a basis for target setting and benchmarking, to stimulate EU-wide take-up. Distinction between core and advanced criteria will allow also for the benchmarking of best performing Member States, as compliance with targets could be based upon compliance with advanced GPP criteria.

4.2. Priority product and service groups

The Commission has identified ten "priority" product and service groups for GPP. Prioritisation is based on the importance of the relevant product/service group in terms of the scope for environmental improvement; public expenditure; potential impact on the supply side; example setting for private or corporate consumers; political sensitivity; existence of relevant and easy-to-use criteria; market availability and economic efficiency.

The priority sectors are:

1. Construction (construction products, operational and end-of-life aspects of buildings, on-site performance of works contracts)
2. Food and catering services
3. Transport and transport services
4. Energy
5. Office machinery and computers
6. Clothing, uniforms and other textiles
7. Paper and printing services
8. Wood and wood products
9. Cleaning products and services
10. Medical and laboratory services

5. GPP TARGETS

5.1. Target for GPP in the renewed Sustainable Development Strategy

The renewed Sustainable Development Strategy set a formal GPP target, that by year 2010, the average level of GPP should be the same as the current (i.e. 2006) level of the best performing Member States.

Several front-running Member States in the field of GPP have set ambitious GPP targets: the Dutch government has set a 100 % Sustainable Procurement target to be reached by 2010; the Austrian Government has identified different targets to be met by 2010 for 5 product groups: IT: 95 %, electricity : 80 %, paper: 30 %, cleaning products: 95 %, vehicles: 20 %. In France,

20 % of total annual renewal of vehicles purchased by central government should consist of "clean" vehicles, 20 % of new constructions should be compliant with HQE standards or equivalent and 50 % of all wood products should be legally sourced and sustainable by 2010. In the UK, the Sustainable Procurement Action Plan is closely linked to a series of sustainable operations targets for the Government office estate, including a pledge to go carbon neutral by 2012 and to reduce carbon emissions by 30 per cent by 2020.

A recent study on GPP performance across EU Member States has provided the Commission with clear indications on the current level of GPP in the best performing Member States, which is the baseline for the target set in the renewed Sustainable Development Strategy. On this basis, the Commission proposes that, by the year 2010, 50 % of all tendering procedures should be green, where "green" means "compliant with agreed common GPP criteria as referred to in Section 4.1. The percentage would be expressed in both number and value of green contracts as compared to the overall number and value of contracts concluded in the sectors for which common GPP criteria have been identified.

Only once common EU wide harmonised GPP criteria have been established, will it be possible to objectively benchmark the situation between Member States and propose more detailed targets. The Commission is currently developing a method for calculating exact levels of GPP, which will focus on compliance with common GPP criteria and will be based on an analysis of a representative sample of tendering procedures.

5.2. A 100% target for GPP in the implementation of EU funding mechanisms

5.2.1. Procurement by Member State authorities using EU funds

Every year billions of euros are spent under the EU's Cohesion Policy for regional development and economic and social cohesion throughout Europe. For the 2007-13 programming period (with a total budget of €308 billion), sustainable development was reconfirmed as one of the most important principles of the Cohesion Policy.¹⁰

Many other EU funding programmes exist, such as for instance the Seventh Framework Programme (FP7), which bundles research-related EU initiatives. It set aside a maximum overall amount for Community financial participation of EUR 50 521 million for the period 2007 – 2013.

Where these funds are spent directly by public authorities and the latter carry out procurement procedures to implement the funded projects, the Commission considers that GPP should be incorporated. A focussed action on mandatory GPP for the implementation of EC funded projects would create an important incentive for the uptake of GPP, as those projects cover an important part of total public procurement expenditure.

5.2.2. Procurement by the European Commission

The European Commission will gradually implement GPP in its general public procurement training sessions and introduce the recommended criteria, which have been developed in the framework of the Training Toolkit on GPP (Section 7), in its tendering procedures, wherever appropriate.

¹⁰ Article 17 of the General Provisions Regulation for the Cohesion Policy 1083/2006/EC

6. MANDATORY MEASURES

The impact assessment for this Communication has shown that the largest economic and environmental gains would be obtained through the introduction of mandatory measures for GPP. Mandatory harmonised criteria would have the greatest impact on the supply side and avoid fragmentation of the internal market.

The Action Plan for Sustainable Consumption and Production and Sustainable Industrial Policy will provide a system for promotion of energy efficient and environmentally performing products through fiscal incentives and public procurement. In particular, the Labelling Directive will oblige public authorities to procure products above a selected level in the range of the labelling categories, subject to compliance with existing Internal market and competition rules.

7. GUIDANCE

The Commission intends to highlight existing legal and operational guidance on GPP and to add to it where necessary. Although this is mainly directed at contracting authorities wishing to apply a GPP policy within their organisation, Member States should include it in their national GPP policies as it will facilitate implementation. The guidance includes:

- Legal and operational guidance for implementing GPP since legal uncertainty over certain issues still acts as a barrier to harmonized uptake of GPP.
- Procurement practices for more efficient procurement to promote the cost-effectiveness of GPP as a way of purchasing goods or services.
- GPP Training toolkit. The Commission services have developed a web-based GPP Training Toolkit, directed at purchasers, policy-makers, managers, and consultants. The Toolkit will be translated into all EU languages. The Commission will cooperate with the Member States to ensure EU-wide dissemination through existing national and regional cooperation platforms.

The details of the guidance are set out in a separate Staff Working Document accompanying this Communication.

8. GPP AND INNOVATION

GPP is a powerful instrument for stimulating innovation and encouraging companies to develop new products with enhanced environmental performance. The Commission will seek to fully tap into this potential of GPP through various actions:

- EU-wide dissemination of the recent guide on "Public Procurement for Research and Innovation"¹¹ and of the legal and operational guidance for contracting authorities (that will be included in a future Communication on pre-commercial procurement);

¹¹ More information at: http://ec.europa.eu/enterprise/innovation/documents_en.htm and at: http://ec.europa.eu/invest-in-research/policy/pub_procurement_en.htm

- establishing an EU voluntary system for third party verification of the performance claims of new technologies which would ease the verification of compliance with environmental specifications set out in tender documents;
- identifying "lead markets"¹² and using GPP to foster the development and market take-up of new products and services.¹³

9. GREEN PRIVATE PROCUREMENT

The definition and criteria used for identifying and promoting "greener" goods are based on a life cycle approach and cover elements which affect the whole supply chain, ranging from the use of raw materials and production methods to the types of packaging used and the respect of certain take-back conditions. These criteria can equally inform private procurement practices. Member States and Community Institutions are encouraged to strengthen this link between Green public and private procurement¹⁴.

10. INDICATORS FOR GPP – MONITORING AND BENCHMARKING

Two types of indicators can be used to assess the "level of GPP".

Quantitative indicators can be used to assess the uptake and progress of the policy, by comparing the level of GPP (expressed in numbers and values of green tendering procedures) with the overall level of public procurement. To assess the impact on the supply side, the Commission proposes additionally to calculate the value of green contracts as compared with the overall value of public procurement contracts.

The Commission is currently developing a method for calculating those indicators, which would be based on an analysis of a representative sample of tendering procedures in the Member States. To guarantee uniform monitoring and benchmarking, the monitoring exercise will focus on the priority product groups and the corresponding GPP criteria referred to in Section 4.

In 2010, the Commission will monitor the GPP situation in the Member States, using the above methodology and taking as a reference compliance with the GPP criteria which will have been established (Section 4.1). This exercise will be repeated every five years.

Impact-oriented indicators allow the assessment of the environmental and financial gains delivered by GPP. The Commission is currently seeking to develop such indicators, which would be based on an assessment of the environmental impact of green products as compared to the impact of non green versions, multiplied by the number of green products purchased. The purpose would be to integrate such an impact related indicator in regular monitoring exercises.

¹² COM(2007)860 of 21 December 2007

¹³ More information in the Commission Communication "Putting knowledge into practice" (COM(2006) 502 at: http://cordis.europa.eu/innovation/en/policy/communications/innov_comm.html)

¹⁴ A good example of this link to private procurement can be found in the "Mayor of London's Green Procurement Code" at: <http://www.greenprocurementcode.co.uk/>

11. CONCLUSION AND WAY FORWARD

The Commission is committed to promoting GPP because it is effective in promoting the take up by the market of the cleanest products and services. This results in more sustainable consumption but also promotes eco-innovation and with it the competitiveness of the EU economy.

The Commission proposes that the Member States, the European Parliament and the Council should:

- endorse the common definition, the method for setting common GPP criteria, the political target, and the recommended tools for more and better green public procurement,
- implement these through national GPP strategies and increased cooperation, and in particular when implementing EU funding mechanisms;
- support on-going work aimed at proposing complementary mandatory measures to ensure harmonized development of GPP criteria and targets and maximize political support for GPP.