



GREEN PUBLIC PROCUREMENT

The Government of Malta has recently issued new criteria in relation to public procurement.

On 21 November 2011, the Minister for Finance, the Economy and Investment jointly with the Parliamentary Secretary responsible for the Environment launched a plan for green public sector purchasing.

Green Public Procurement (GPP) criteria were launched through a Green Public Procurement Action Plan aimed at achieving a target of 50% greening of purchases made by the public sector by 2015.

These new requirements apply to all public tenders regulated by the Public Procurement Regulations (Legal Notice 296 of 2010), for all tender types (supply, works or services), issued as from 1 January 2012. Moreover, these requirements apply to tenders irrespective of their value (departmental or above EU threshold).

This newsletter gives a brief outline of the main target areas and their specific requirements.

Sustainable public procurement

Resource scarcity and rising costs of energy and raw materials have been motivating efforts geared towards finding ways of producing more or the same, with less resources. Sustainable procurement and sustainable supply chains are therefore becoming increasingly important.

As major buyers in the economy, governments can play a major role in leading by example and setting procurement requirements, which would encourage a change towards sustainable consumption and production patterns.

There have been a number of developments in the area of public procurement in the last couple of months, both at a European Union (EU) and national level. Public procurement in the EU accounts for approximately 16% of the Gross Domestic Product of Member States and is considered a major influence in markets, consumption and production trends.

The Europe 2020 strategy (the European strategy for smart, sustainable and inclusive

growth issued in Q1 of 2010), places significant emphasis on public procurement as a market-based instrument which can contribute towards the achievement of the Strategy's three priorities: smart, sustainable and inclusive growth¹.

In response to calls for action in the area of public procurement, the European Commission launched a Green Paper on the modernisation of public procurement in the beginning of 2011². This paper targets improvements in the following key areas:

- efficiency and simplification of procurement procedures
- better access for SMEs and start-up businesses for example through the promotion of increased number of lots and turnover caps
- strategic use of public procurement to achieve the Europe 2020 targets by influencing the "what to buy" and "how to buy" through Green Public Procurement (GPP), promotion of innovation and sustainable action plans to include social criteria
- effective and sound procedures

The Green Paper, developed by the Commission, sets out its proposals for a reform in the EU public procurement policy. Following the consultation process carried out, the Commission is now at the stage of issuing its legislative proposals.

Local developments

Looking at the local developments in this area, two key developments are worth noting. On the one hand, the improvements in efficiency through the launch of e-procurement and on the other hand, the launch of the Green Public Procurement Action Plan that introduces GPP targets for certain product categories.

The Department of Contracts (DoC) has recently launched its electronic procurement portal

¹ Communication from the Commission: Europe 2020: A strategy for smart, sustainable and inclusive growth. COM(2010)(2020)

² Green Paper on the modernisation of EU public procurement policy: Towards a more efficient European Procurement Market. COM(2011) 15 final.



(www.etenders.gov.mt). This portal can be currently used for tenders issued by the Department of Contracts but will eventually be made applicable to all Contracting Authorities. DoC and MITA have recently published the first electronic-only tenders.

The anticipated advantages of e-procurement for economic operators relate mainly to time and cost savings, as well as the flexibility of working. Tenderers may build their submission using the electronic tool offline and submit it once complete.

The structure of the submissions will make the evaluation of tenders more efficient and should result in a shorter evaluation/award time.

Although e-tenders make it easier for competitors in other countries to submit tenders for Government work, similar initiatives in other countries allow Maltese entities to bid for work abroad with reduced expenses.

What is green public procurement?

Green public procurement introduces criteria for the purchase of environment-friendly goods and services and aims to ensure the purchase of low-carbon, environment-friendly goods and services by Government.

The Action Plan published by Government sets mandatory targets for four product groups as from 2012.

Product/Year	2012	2013	2014
Copying and graphic paper	100%	100%	100%
Office IT equipment	100%	100%	100%
Textiles	100%	100%	100%
Gardening products & services	100%	100%	100%
Wall panels, thermal insulation, cleaning products & services	80%	90%	100%
Other construction, transport, mobile phones, electricity, furniture, food & catering	10%	20%	30%

Product categories with GPP targets

A target of 100% means that all public expenditure and all public contracts relating to the particular product or service group will be compliant with GPP criteria. Therefore, compliance with these targets would be

mandatory for contracting authorities while in the case of targets set below 100%, the targets would not be mandatory but are strongly encouraged to reach the target portion of the total procured. The applicable criteria for each product are set out in guidance sheets available online on the local GPP website. They outline the technical specification and the verification (proof of conformity) for every product type (https://secure2.gov.mt/tsdu/gpp_resources).

National Green Public Procurement Guidelines

Paper based on recovered fibres – Normal Paper

1.1 Subject Matter

Purchase of recycled office paper made from 100% recovered paper fibres.

1.2 Technical Specification

Paper must be made from 100% recovered paper fibres.¹

Verification: Tenderers must provide appropriate proof of compliance. This may be in the form of technical dossier of the manufacturer or a test report from a recognised body. All products carrying the EU Ecolabel will be deemed to comply.

Example of product guidance

The GPP criteria of the particular product **will** be included in the terms of reference / technical specifications / bills of quantities, depending on whether it is a service tender, works or supplies and **will** be reflected in the selection criteria. Contracting authorities **may, in addition,** specify these criteria in the title or short description (subject matter) of the tender being issued.

The onus of proof of compliance with these criteria is on the bidders. Contracting authorities cannot restrict bids by asking for particular labels or standards. This means that companies may not necessarily have a certification or a label but need to prove that their product or service satisfies the core criteria indicated in the product sheet.

An opportunity for business

Government has made a commitment to have 50% of its public procurement compliant with GPP by 2015. It plans to achieve this target over the coming three years via the product targets illustrated above.

The product targets identified clearly indicate the trend in public procurement, both at a national level and at an EU level, which is the source of such criteria. Since the Department of Contracts mostly uses the lowest price as its main award criterion, the GPP criteria are at



present being used in the selection phase i.e. as one of the criteria in the technical compliance.

In cases where the Government uses the most economically advantageous tender (MEAT) method, the GPP criteria could also be integrated in the evaluation phase. This would mean that a tender with a more sustainable product or service would be awarded more points due to the positive environmental attributes.

These new GPP requirements mean that companies which are actively involved in participating in public tenders need to gear up to comply with these criteria in order to compete effectively for this business. In those service or product categories that are not covered by mandatory targets over the short to medium term, companies may have an opportunity to take the lead and pre-empt any additional, stricter targets by venturing into the provision of greener products.

The private sector is also actively seeking more environmentally friendly procurement. Some local manufacturers would not be able to sell to buyers abroad unless they procure greener supplies from their local contractors.

Next steps

There are a number of steps that you should take the time to consider to ensure alignment with these criteria:

Step 1: *Check if your product or service offering is in conformity with the GPP criteria which will be brought into force as from January 2012.*

Step 2: *Look at the targets set beyond 2012 to make sure you will be compliant by 2015.*

Step 3: *Ensure you have the means to prove compliance. For example, if you have adopted a standard, an environmental management system or a label, make sure this is verifiable, that all records are in order and that you carry out the necessary measurement and monitoring required by such standard/s.*

Step 4: *Get ready to use the new e-Procurement portal recently launched by Government.*

Step 5: *In carrying out the above steps, identify gaps and, if any, formulate a plan of how you can achieve compliance within an acceptable timeframe.*

Ensuring compliance is important to compete in public procurement tenders. Improving the environmental performance of your product or service offering can also benefit your business:

- it can help you cut costs by saving on energy, raw materials or resource requirements
- respond to requirements along your supply chain
- gain a competitive advantage over other suppliers / service providers in Government as well as the private sector
- enter new markets – it is becoming easier for local entities to compete in EU-wide tenders.

For further information contact George Sammut (george.sammut@mt.pwc.com) or Nadia De Marco (nadia.mifsuddemarco@mt.pwc.com). You can also refer to our website: www.pwc.com/mt/sustainability

The notes are designed to keep readers abreast with business, financial and tax developments. They are not intended to be a definitive or comprehensive analysis of the subject and should not be acted upon without prior consultation with the Partners and/or Senior Consultants of the firm. For further details, please do not hesitate to contact:

PricewaterhouseCoopers
167, Merchants Street,
Valletta VLT 1174, Malta
Tel: +356 21 247 000 Fax: +356 21 244 768
www.pwc.com/mt

©2011 PricewaterhouseCoopers. All rights reserved. "PricewaterhouseCoopers" refers to the Maltese firm of PricewaterhouseCoopers or, as the context requires, other member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.