



# Assessment Framework for Sustainable Public Procurement Criteria

## A Objective

The central government, together with the regional and local governments, wishes to promote the market for sustainable products by setting a good example and itself procuring sustainable products and services. Criteria are developed for this which by application may lead to:

- An increase in the demand for, and the market share of, sustainable varieties of products and services: from margin to mainstream.
- The encouragement of innovation: stimulating the development and/or market introduction of innovative sustainable products.

## B Target group

The criteria are intended for application by ministries (core departments and agencies), provinces, municipalities and water boards. Different objectives apply to the central government and to the other government bodies for the year 2010, but the same criteria are being developed. Incidentally, other government organisations such as educational and care establishments and also businesses may apply the criteria.

## C Scope

The classification of the product groups concerned is based on a selection from the PIA list (in which the selection took place based on the expected contribution to sustainability). A criteria document is prepared for each product group in this selection. The criteria document describes the relevant sustainability aspects for the product group and contains criteria and attention points. The criteria are intended to be applied in the specification phase of the public procurement process, from the time when they are laid down. The criteria therefore take the form of concrete specification texts which may be included in the specification phase.

For sustainability, both the preparation phase of the call for tender (the requirement statement phase in which it is determined exactly what product is needed and in what quantity) and also the utilisation stage (in which appear sustainability effects of a product once procured) are of significant importance. Attention points which are directed at the needs specification of the procuring organisation are formulated for these phases.

## D Judicial preconditions

The criteria are applicable within the context of the Invitation to Tender for Government Commissions Decree (*Besluit aanbestedingsregels voor overheidsopdrachten - BAO*), which forms the implementation of European Directive 2004/18/EC. The criteria are assessed judicially on the following preconditions:

- Proportionality (having direct relevance to the commission and a reasonable degree of ambition in relation to the size of the commission)
- Transparency (clarity on content and the level of the requirement)
- Non-discrimination (no discrimination as to nationality, membership of quality mark or trade body, etc. All tenderers are treated equally)
- Verification (criteria are formulated in such a way that they may be verified and where possible it is listed for each criterion what quality marks or other documents may serve as evidence).

In the judicial assessment it is considered to what extent the criteria are generically applicable (to all government bodies and for both a large and small size of commission). This test minimises the chance that the contracting authority is confronted by lawsuits based on the tendering rules. The contracting authority is, incidentally, itself responsible for the call for tender: the said service is free to apply a higher level of ambition in the criteria. The application of a lower level is only possible if there are justifiable reasons for this (in exceptional situations this may involve e.g. significant additional costs, incompatibility with safety requirements, insufficient suitable supply in the market).

## E Policy-related preconditions

The policy-related preconditions on the criteria to be formulated are as follows:

- Criteria must be as ambitious as possible.
- Criteria must leave room for creative or innovative solutions.
- Criteria must not be contrary to other Cabinet policy or legislation and regulations. Sometimes the criteria may be supportive of the implementation or promotion of policy.
- Criteria are supra-legal. This means that the criteria go further than the legal requirements: either by increasing the level of the requirements or by including subjects for which no regulations exist. Connection to voluntary covenants is preferred. Where regulations exist, criteria may not serve as an extra stimulus to enforcement.
- A criterion must genuinely have substantial influence on sustainability.
- The criteria developed in an EU context must be adopted as far as possible, providing these fit within the assessment framework.

## F Sustainability: people, planet, profit

The criteria for sustainable public procurement address both social and environmental aspects. It must at the same time be avoided that the criteria have a negative influence on the profit aspect. The application of the criteria taken as a whole should not lead to substantial additional costs.

As regards environmental aspects, the criteria address the most important of these aspects, in which the entire lifetime of the product (service/work) is taken into consideration ("life cycle approach"). For the environment-related criteria, use is made of existing knowledge of purchasers, businesses, NGOs, trade organisations, expert institutions and recent research. No additional comprehensive investigation is done and no choice is made of one specific scientific method. An integral assessment of environmental aspects is made with input from stakeholders. It must be clear for more sustainable alternatives that no shift from one environmental theme to another takes place.

The council of ministers has approved a number of international social criteria for sustainable public procurement. The social criteria consist of the application to all government public procurement of human rights and the four fundamental standards of the international labour organisation ILO (for example protection against child labour and discrimination). Additional ILO standards (reasonable working hours, safe workplace, living wage) and the fair trade standard for an honest price will apply to a restricted number of products still to be defined. The contours of the social criteria established here are currently being further detailed into criteria which may be used during public procurement.

## G Applicability

Criteria are drafted as requirements or wishes and have the following possible forms:

- Criteria for supplier qualification: grounds for exclusion and suitability requirements (requirements on the supplier) and selection criteria ('wishes' with respect to the supplier).
- A description of the minimum requirements pertaining to supply, service or work (the Schedule of Requirements).
- Award criteria, ('wishes' regarding supplies, services or public works). These are applicable when the tendering process is based on the principle of the economically most advantageous offer (*Economisch Meest Voordelige Inschrijving - EMVI*).
- Contract provisions.

The application-directed preconditions on the criteria are as follows:

- The criteria should be user-friendly and link up with the public procurement practices of all government bodies, so that they are easily applicable to the public procurement process.

- There must be sufficient market supply to fulfil the demand from all government bodies (State, province, municipality, water board), taking account of the expected development of supply and demand.
- A small number of criteria should be prepared for each product group, in which the most relevant sustainability aspects are listed.
- The relevance of the criteria should be assessed separately for each product group. Sustainability relevance and base of support among other things should count in the assessment.
- Criteria should be attuned as far as possible to the usual means of call for tender and be formulated as generically as possible. In certain cases, it may however be possible that a criterion is not applicable to an individual call for tender. Where this is provided for it should be described in the explanation of the criterion.

Experience teaches us, incidentally, that the combination of preconditions may lead to restrictions in the sustainability level of the final criteria.

## H Legislative/Administrative burden

In 2001 the legislative burden must be noticeably reduced. The sustainable public procurement criteria will also be considered based on the assumptions enforced in the context of the Reduction of legislative burden for businesses Programme (*Programma Vermindering regeldruk voor bedrijven*). The assumption is that as few as possible legislative burden is created. In this respect it is important that the developed criteria in general meet the six requirements which are stated in the Advice on Legislative Burden and Sustainable Public Procurement given to the minister of VROM on februari 9 2010 by the Commission Legislative Burden for Businesses. To sum up, the systems are: cost effective, contain the best available insights, are able to take along new market developments and have an innovation promoting effect, have a low legislative burden and are EU-proof.

This assessment framework gives further explanation on these points.

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