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Resolution No 6 of the Council of Ministers of 11 January 2022 on the adoption of the State purchasing policy (Official Journal, item 125)

Annex to the Resolution No 6 of the Council of Ministers of 11 January 2022 (Polish Monitor, item 125)

# State Purchasing Policy

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## Chapter I Introduction

One of the conclusions that emerged in the course of nearly two years of consultations and legislative work on the Act of 11 September 2019 — Public Procurement Law (Journal of Laws of 2021, item 1129, as amended), hereinafter referred to as the ‘PPL’, was the lack of linkage of public spending within the public procurement system to the strategic objectives of the state. Defining the priority actions of the Republic of Poland in the field of public procurement and the desired direction of contracting bodies’ activities concerning the award of public contracts is important for strengthening the economic and social development of the country. Therefore, in Article 21 of the PPL, the legislator obliged the minister responsible for the economy to prepare the draft of the state purchase policy on a regular basis.

The State purchasing policy, hereinafter also referred to as “purchasing policy” or “policy”, is a document adopted by means of a resolution of the Council of Ministers, at the request of the minister responsible for the economy, once every four years. This document is the first policy proposal and is scheduled for years 2022-2025.

Adopting the State purchasing policy means moving away from the perception of public procurement only in terms of formalised procedures, the observance of which is the main and most important objective of the contracting body. One of objectives is to change the perspective on public procurement. It is to be seen more as an instrument for increasing the level of innovation of the national economy and contributing to the achievement of the sustainable development, i.e. social, environmental and health objectives. It is also the policy’s role to focus purchasing on services, supplies and works of key importance from the point of view of the interests of the State. It is therefore a continuation of the systemic changes in the area of public procurement initiated on the date of entry into force of the PPL.

The central government administration bodies are required by the PPL to draw up management strategies for particular purchasing categories, compatible with the purchasing policy. Purchasing strategies will therefore, for these bodies, be instruments to achieve policy priorities.

Despite the fact that the obligation to apply the purchasing policy is limited to contracting bodies within the government, certain advantages also arise from it for the other contracting bodies. One of the most important benefits is the possibility for contracting bodies to confront and confirm their purchasing activities, including the use of the various instruments and solutions indicated in the PPL, with the provisions of the policy. It should be emphasized that the issues raised under Chapter II of the purchasing policy, ‘Summary of the diagnosis of the public procurement system’, concern all categories of contracting bodies.

In view of the current epidemic situation linked to the COVID-19 outbreak<sup>1)</sup> and its negative socio-economics consequences, an important aspect of the purchasing policy is the inclusion of public procurement in the implementation of the country's economic and social policies aimed at stimulating and sustaining the country's economic growth and counteracting COVID-19.

In order to optimise the policy design, representatives of public procurement market participants, government administration, as well as public procurement experts were consulted in the course of the work on the document.

The State purchasing policy document is divided into three priorities: Professionalisation (Chapter IV), Development of the potential of SMEs (Chapter V) and Sustainable and innovative public procurement (Chapter VI), setting out the objectives to be achieved and planned for 2022-2025. In line with the assumption, the implementation of the above-mentioned priorities will take place within the framework of:

- implementation programmes;
- instruments of implementation, and
- tools.

The Minister responsible for the economy, the President of the Public Procurement Office, members of the Council of Ministers other than the minister responsible for the economy, as well as other relevant entities, have been entrusted with the implementation of the above-mentioned priorities. A summary of the scope of the activities entrusted to the above-mentioned entities and the objectives to be achieved can be found in Chapter XI, "System for the implementation of the State purchasing policy".

Implementation instruments are dedicated to contracting bodies belonging to the government and describe how their conduct will be conducive to achieving the objectives of the purchasing policy. The instruments of implementation contain recommendations and obligations of contracting bodies concerning the direction of their procurement activities and the use of specific purchasing tools and practices.

In turn, the tools described in Chapter IX themselves set out the recommended method of using the tools laid down in the PPL, as well as the tools outside the PPL, related to the setting of the conditions of the contract. Chapter IX contains both recommendations to contracting bodies on the use of these tools and recommendations for government administrations to take activities to improve the efficiency of these tools.

However, it should be noted that contracting bodies are not obliged to take all the activities described in the delivery instruments aimed at achieving the policy objectives. They are not obliged to use all tools or to use them exclusively as described in the policy. The

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<sup>1)</sup> Within the meaning of the Act of 2 March of 2020 on special solutions related to the prevention, countering and combating COVID-19, other communicable diseases and crisis situations caused by them (Journal of Laws of 2021, item. 2095, as amended).

objective of the policy is to leave to the contracting bodies the possibility to choose the instrument or instruments of implementation and tools appropriate to the subject-matter of the contract, as well as the formula to meet the purchasing needs, i.e.: public procurement, public-private partnership, works or services concession contracts.

## Chapter II Addressees of the State purchasing policy

The State purchasing policy, as a document of strategic importance for the public procurement system, defining the priority activities of the state in this area and setting out the directions for contracting bodies in the field of public procurement, adopted by a resolution of the Council of Ministers, is addressed primarily to government administration bodies.

The heads of government administration bodies, including Ministers with regard to the office serving the Minister, Head of the Chancellery of the Prime Minister in respect of the office providing services pursuant to Article 26 of the Act of 8 August 1996 on the Council of Ministers (Journal of Laws of 2021, item 178, as amended), heads of bodies and units subordinated or supervised by ministers, heads of units subordinated to or supervised by the Prime Minister, voivodes in the office serving the voivode, heads of services, guards and inspections of the complex government administration, the head of the unaffiliated government administration<sup>2)</sup>, are required to ensure, as far as possible, the implementation of the recommendations and obligations arising from the State purchasing policy.

The detailed scope of activities recommended to be taken by the contracting bodies and those to which the contracting bodies have been obliged in this document is defined within the framework of the specific priorities to be addressed by the purchasing policy. Within the framework of the measures to be implemented in addition to government administration bodies, the policy will also create certain obligations towards other contracting bodies, which, for example, are beneficiaries of government programmes and funds, to the extent specified in the policy.

At the same time, the State purchasing policy can be a useful and important source of knowledge and the basis for developing optimal purchasing practices also for contracting bodies outside the government administration. It will also allow economic operators to prepare for their participation in public procurement market.

The minister responsible for the economy is responsible for coordinating and evaluating the activities undertaken in connection with the implementation of the State purchasing policy. In 2022-2025, the minister will act independently and coordinate the activities of other entities, including the President of the Public Procurement Office (the PPO President), related to the implementation of policy priorities. In addition, together with the PPO President, they will monitor the degree of implementation of the activities taken by contracting bodies, which are government administration bodies, in connection with the implementation of the policy, within the scope of implementation instruments and tools.

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<sup>2)</sup> Within the meaning of Article 56 of the Voivodship and Government Administration Act of 23 January 2009 (Journal of Laws of 2019, item 1464 and 1561).

At the end of the validity period of the purchasing policy, the minister responsible for the economy will evaluate the measures taken under the implementation programmes, implementation instruments and tools.

At the same time, in connection with the implementation of the State purchasing policy, an important role was attributed to the PPO President as the government administration body competent in matters of public procurement. The PPO President has the greatest experience in carrying out educational and training activities in this field. The scope of the activity of the PPO President is defined in the programmes for the implementation of the specific priorities of the State purchasing policy.

Members of the Council of Ministers, within the framework of their departments of government administration, support the implementation of the State purchasing policy in bodies and entities subordinated and supervised. Voivodes support the implementation of recommendations in the voivodships.

## Chapter III Diagnosis of the public procurement system – summary

The need to develop a State purchasing policy was emphasised in the *Strategy for Responsible Development*, adopted by the resolution of the Council of Ministers<sup>3)</sup>, hereinafter referred to as the “Strategy for Responsible Development”, where a role was envisaged for it (...) *creating a demand for the implementation of the most complex technical and technological solutions in public space, and, on the other hand, a challenge for national companies to reach for more actively B+ R+ I in the process of procurement*”.

Public procurement is a key form of public sector participation in the economy. According to reports by the President of the Public Procurement Office on the functioning of the public procurement system (for years 2017-2020), the value of contracts awarded under the PPL is steadily increasing. The exception here was 2020, when the value of the contracts awarded slightly decreased and was around 7.90 % of GDP. However, this was the year in which the economy was most severely affected by the negative socio-economic impact of the COVID-19 pandemic.

The approximate value of the public procurement market, also taking into account public contracts awarded without the application of the procedures provided for in the PPL, in 2020 was approx. PLN 281.0 billion. This was slightly less than in previous years (2019 — PLN 289.8 billion, 2018 — PLN 307.2 billion, 2017 — PLN 234.6 billion).

The public procurement system continues to struggle primarily with a problem of low competitiveness, despite a positive upward trend in the last two years. In 2020, the number of tenders submitted in public procurement procedures below the EU thresholds was on average 2.78. (in 2019-2.48 tenders, in 2018- 2.24 tenders and in 2017 - 2.42).

In 2020, in as many as 38.32 % of public procurement procedures only one tender was submitted. This percentage remained close in recent years (in 2019 – 43%; in 2018 - 46%; in 2017 - 43 %). The most difficult situation in this respect is in the case of supply contracts — in as many as 47.30 % only one tender was submitted (in 2019 - 49 %). In the case of services, the percentage was 39.46 % and was also slightly lower than in 2019 (then 46 %). On the other hand, the lowest percentage of procedures with one tender was recorded for works — 12.88 % (2019-24 %).

Taking into account the types of contracts, it should be noted that for many years the largest number of tenders have been submitted in procurement for works and the smallest in supplies procedures. In the case of contracts for works below the EU thresholds, on average 4.44 tenders were submitted in 2020 (in 2019 - 3.45; in 2018 - 2.49; in 2017 - 3.01), on

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<sup>3)</sup> Resolution No 8 of the Council of Ministers of 14 February 2017 adopting the Strategy for Responsible Development to the year 2020 (with a perspective to 2030) (Polish Monitor, item 260).

average 2,21 tenders were submitted in supplies (in 2019 - 2.09; in 2018 - 2.06; in 2017 - 2.13;) and in services — 2.65 tenders (in 2019 - 2.50; in 2018 - 2.41; in 2017 - 2,53).

Currently, there are around 32 958 contracting bodies in Poland, of which 12 736 awarded contracts under the PPL in 2020 (2019 – 12 776; 2018 r. – 12 954; w 2017 r. – 12 537)<sup>4)</sup>. The public procurement system in Poland is therefore a dispersed (decentralised) system. As a result, the purchasing activity of individual entities focuses primarily on meeting the current purchasing needs necessary for the proper performance of the tasks entrusted to them.

### ***Professionalisation***

Effective implementation of the principle of efficiency, which is explicitly formulated in Article 17 of the PPL, requires to ensure that the contracting body has an adequate level of knowledge regarding the ability to describe the subject-matter of the contract and the structure and functioning of the relevant market for a subject-matter. Only a strong in knowledge and well-cooperating team of people will be able to prepare the procurement on the required level. Employees should have a defined career path in order to be able to bind their future to the public sector.

The low level of professionalisation of public procurement is certainly influenced by the conditions of the training system in the area of public procurement. Trainings provided by the PPO President are of great interest. However, the needs of contracting bodies often exceed the organizational capacity of the Public Procurement Office, which leads to a situation where the places for training participants run out within a few hours after the registration opens. As a consequence, not all interested contracting bodies can take part in the training courses.

Moreover, there is a need for solutions to increase the use of tools such as joint procurement or centralised procurement. Increasing the level of cooperation between individual contracting bodies and the use of its many forms is also one of the signs of professionalisation of the process of preparing and conducting procedures.

The lack of effective cooperation between the contracting body and the economic operator is also perceived. Economic operators, as contractors principally engaged in an economic activity, should be one of the main sources of opinion and knowledge on potential solutions that can be used in the context of the description of the subject-matter of the contract.

The lack of cooperation between individual contracting bodies also prevents procurement from being more efficient. Contracting bodies do not sufficiently share their experience gained in connection with the awarded contracts, including the preparation of a description of the subject-matter of the contract or the formulation of the conditions of the contract performance optimal for the subject-matter of the contract. There is also a lack of a system

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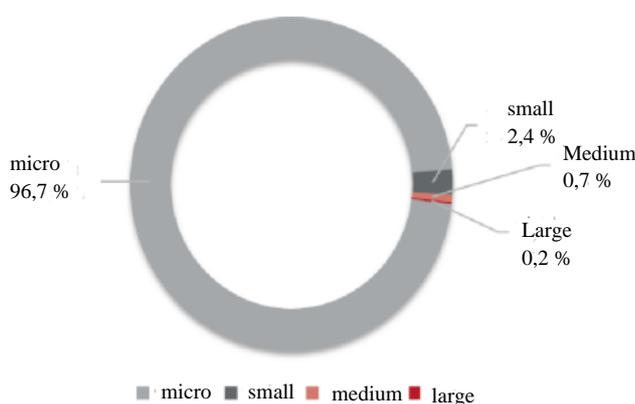
<sup>4)</sup> Report of the President of the Public Procurement Office on the functioning of the public procurement system in 2020 and earlier years respectively.

for obtaining and providing information on the difficulties encountered in the implementation phase and on good practices in this respect.

Insufficient professionalisation of public procurement results in the tendency of the contracting body's employees responsible for awarding contracts to benefit primarily from the basic and less complex instruments provided for in the PPL. This is one of the reasons for not exploiting the potential of public procurement in achieving the state's strategic objectives, i.e. increasing sustainable procurement and opening up to the sector of micro, small and medium-sized enterprises, hereinafter referred to as 'SMEs' or "SMEs sector"

### ***SMEs***

The SMEs sector accounts for the overwhelming majority of enterprises in Poland — 99.8 %. Among them the largest group (96.7 %; 2.08 million) are micro-entrepreneurs. Participation of small businesses in the structure of Polish companies is 2.4 % (52.7 thousand), medium-sized — 0.7 % (15,2 thousand) and large — only 0.2 % (3,7 thousand).



(source: Report on Small and Medium-sized enterprises in Poland, Polish Agency for Enterprise Development, Warsaw 2020)

SMEs also account for a significant share of national GDP, which fluctuates around 49.1 %, with an overall share of 72.2 % of entrepreneurs (data from 2018). In addition, from 10 million people working in enterprises, more than 6.5 million of them are employed in SMEs (as at 31 December 2019). This means that the number of employees in SMEs represents 67.4 % of the total number of employees in the enterprise sector<sup>5</sup>.

The percentage of tenders submitted by SMEs in 2020 was respectively: 65 % to 66 % for contracts with a value equal to or exceeding the EU thresholds and 82 % for contracts below the EU thresholds. Nevertheless, the market share of SMEs in public procurement

<sup>5</sup> Report on the Small and Medium-sized enterprises in Poland 2021, prepared by the Polish Agency for Enterprise Development.

still does not match their real potential. Indeed, a significant proportion of SMEs are not interested in participation in procurement market at all.

Meanwhile, the public procurement, due to its nature, can provide a development boost to that category of entrepreneurs. Purchasing needs of the public sector, combined with the regulatory changes adopted by the PPL, can stimulate demand for innovative and green procurement and, consequently, become an important pillar for the development of the potential of SMEs. However, it is important to identify the tools that will make the public procurement market more attractive to SMEs. Contracting bodies may be reluctant to make use of tools such as: possibility of dividing contracts into lots, framework agreements, dynamic purchasing system, application of preliminary market consultations.

The PPL has already put in place mechanisms to promote better spending of public funds. There has been a change in the model of the public procurement system by introducing the principle of efficiency understood as the best ratio between the results obtained and the expenditure incurred<sup>6</sup>. The procurement process is no longer seen only as the conduct of the procedure itself, but its planning, preparation and implementation have also become an important element.

### **Sustainable procurement and innovation**

The national public procurement market is characterised by a low level of sustainable and innovation procurement. According to the data published in the Report of the President of the PPO on the functioning of the public procurement system in 2020, the share of green or innovation public procurement in the total number of public contracts awarded was only 1 %. This share, calculated according to the value of the public contracts awarded, is 7 %. Only 384 contracting bodies awarded contracts of an environmental or innovation nature. The application of the cost criterion using life-cycle costing took place only in 21 procedures (supplies: 18, services: 3, works: 0). The innovation aspects in tender evaluation criteria were only applied in 37 procedures (supplies: 11, services: 24, works: 2).

The use of the technical dialogue, which functioned under the Act of 29 January 2004 on Public Procurement Law<sup>7</sup> repealed on 1 January 2021 (currently replaced by a preliminary market consultation), was marginal. In 2020, the contracting bodies informed about the use of the technical dialogue in 170 contract notices included in the Public Procurement Bulletin, representing 0.15 % of the total number of notices. By comparison, in 2019, the technical dialogue was used in 159 procedures (0.14 %), in 2018 in 231 procedures (0.18 %), in 2017 in 429 procedures (0.35 %).

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<sup>6</sup> See Article 17 par. 1 of PPL.

<sup>7</sup> (Journal of Laws of 2019 item 1843 and of 2020, item 1086).

Until the end of 2020, i.e. until the entry into force of the PPL, the public procurement procedures were dominated by one procedure, i.e. the open procedure, in which approx. 89 % of the procedures was conducted. The introduction of a basic procedure in procedures with a value below the EU thresholds, has changed this picture, although the use of other procedures such as the competitive dialogue or the innovation partnership is still at a very low level.

In addition, despite the application of various tender evaluation criteria in the procedures, in about 85 % of cases the most advantageous tender is the one with the lowest price.

The problem is both the number and quality of the non-price evaluation criteria used by contracting bodies. In 2020, criteria relating to quality, functionality or technical parameters of the subject-matter of the contract were applied only in 10 % of procedures with a value below the EU thresholds and only in 18 % of procedures with a value equal to or exceeding the EU thresholds. The most popular criteria in procedures with a value below the EU thresholds were those related to guarantee conditions or warranty (54 % of procedures) and the time limit for performance of the contract (29 %). The same was the case in procedures with a value equal to or exceeding the EU thresholds. Here also, the two most popular non-price criteria for evaluating a tender are the time limit for the performance of the contract (38 % of the procedures) and the guarantee conditions or warranty (35 %). These criteria do not have a major impact on increasing the efficiency of procurement.

It is also necessary to disseminate among contracting bodies, in particular among executives, the idea that savings should not be calculated only in relation to the price of the tender, but rather by reference to the life-cycle costs of the product or works.

Among the main reasons for a low level of sustainable and innovation procurement are, above all, not always sufficient level of awareness of their benefits among contracting body's employees, including executives and managers. The need for professionalisation of staff is also evident in this context. However, it seems that the most important task in this regard is to make contracting bodies aware of the broad *spectrum* of benefits arising from sustainable procurement and to support the use of available tools. Moreover, it is crucial to create a friendly environment for implementation of critical contracts of sustainable and innovative nature.

Public procurement is also an important instrument for implementing the social policy of the state. The state has the right and obligation to require that labour and social rights are respected with regard to persons employed by the contract performance. Although contracting bodies are increasingly aware of the need to enforce the requirement relating to the employment under an employment contract of persons performing the contract, many social aspects are still not taken into account when awarding public contracts. The state should also use funds spent through public procurement for professional activation

of disadvantaged social groups and promote the principles of corporate social responsibility.

## Chapter IV Priority – Professionalisation



### 1. What is professionalisation?

The professionalisation of public procurement is a process that has been implemented in Poland since the beginning of the public procurement system. Its importance for the efficiency of the entire public procurement system was underlined by the European Commission in Recommendations 2017/1805 of 3 October 2017<sup>8)</sup>. According to the Commission, this process should be understood broadly to “*reflect the overall improvement of the whole range of professional skills and competences, knowledge and experience of the people conducting or participating in tasks related to procurement*”.

The professionalisation of public procurement, in line with the above recommendations, refers to three areas which improvement is crucial for the effective implementation of this priority, i.e.: **1) architecture; 2) human resources** and **3) systems and tools**.

The **architecture** should be understood as the precise and clear assignment of tasks and responsibilities to specific contracting bodies from the public administration structure, including the assignment of these purchasing tasks to the specific levels of administration. Consequently, the **architecture** also refers to the relationship between the scope of specific tasks and functions and the way in which public expenditure is incurred for their implementation.

Within the framework of **human resources**, the policy refers to the competences, tasks and responsibilities of the contracting body’s staff, as well as the way in which work is organised. Moreover, the proper design of these elements will promote the acquisition and maintenance of professionals necessary for the effective implementation of purchasing needs.

The third area is **systems and tools**. In this area, the development of instruments, tools, documents, guidelines and other systemic measures will be coordinated to create an environment around procurement practitioners that is favouring efficient implementation of purchases.

Within the framework of the State purchasing policy, due to its position in the system, instruments and tools comprising an element of human resources as well as systems and tools are implemented. Developing the capacity of the public administration to identify and meet purchasing needs should be a key activity taken by Poland to increase the efficiency and transparency of public spending. As underlined by the United Nations<sup>9)</sup>,

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<sup>8)</sup> European Commission Recommendation (EU) 2017/1805 of 3 October 2017 on the professionalisation of public procurement - Building an architecture for the professionalisation of public procurement <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017H1805>

<sup>9)</sup> United Nations Committee of Experts on Public Administration (2006), “Definition of basic concepts and terminologies in governance and public administration”, United Nations Economic and Social Council, <https://digitallibrary.un.org/record/566603ln=en>

human resource capacity-building is a process in which capabilities are developed to perform functions, solve problems and set and achieve goals. Activities in line with these assumptions should be performed at three interrelated levels, i.e.: **individual, institutional and societal**.

Capacity-building at **individual** level will consist of establishing the right conditions under which each procurement practice is able to embark on a continuous process of learning and skills developing, as well as adapting to constantly evolving technological changes. These activities will require a new approach to human resources management, as well as the implementation of an effective competency management method. At the **institutional level**, a similar approach needs to be applied.

Capacity-building at the **societal level** is required to support an interactive and communicative public administration that evaluates its actions both on the basis of its own analysis and on feedback from the public. Through acting at this level, the administration should be seen as a responsive and accountable public service provider. Thus, the knowledge and perspective of actors outside its own organisation should be used appropriately.

The multi-faceted professionalisation of public procurement is an important priority of the purchasing policy, supporting the implementation of the remaining priorities. It will rely on the implementation of actions in a coordinated manner in the above-mentioned areas and at all levels. At **individual level**, i.e. individual public procurement practitioners responsible for meeting purchasing needs. At the **institutional level**, i.e. the activities of the State apparatus, whose role is to strengthen the efficiency of the entire public spending system in the framework of public procurement. Activities under this level also include control and supervisory bodies, as well as dispute resolution bodies (National Appeals Chamber, Public Procurement Court — District Court in Warsaw) and other subsidiary bodies. Finally, at the **societal level**, where contact with the recipients of a given contract (e.g. public service) and cooperation with other entities (economic operators, research entities, other contracting bodies) play a key role.

## **2. Benefits of professionalisation**

- Professionalisation of public procurement enables further action to be taken to increase the efficiency of public procurement. It also determines the effective implementation of the remaining objectives and policy objectives, including increasing the involvement of SMEs in the public procurement market or increasing the volume of sustainable procurement.
- Professionalisation means focusing on competence and staff development, which will have a positive impact on the way procurement processes are prepared and carried out, including greater openness of contracting bodies to modern and

innovative products and services. The market for innovative and sustainable products is extremely dynamic. Thus, employees preparing descriptions of the subject-matter of the contract must be provided with access to professional knowledge and the possibility of professional development. This will be facilitated by, among other things, promoting continuous access to training in public procurement as well as industry-specific training.

- Effective professionalisation should also change the perception of work in government administration and of its employees. Enabling the acquisition of high competences and the ability to use tools in handling modern projects will create the image of government administration as a modern and promising workplace, which creates the conditions for dynamic professional development.
- Professionalisation will result in more efficient public spending. Investing in the improvement of contracting body's staff should result in systematic and real savings, while maintaining the highest possible quality of contracts performed.
- Professionalisation will also result in a wider openness of contracting bodies to cooperation, including the exchange of knowledge and experience. By pooling the potential, contracting bodies who do not have sufficient resources on their own to carry out more complex or expensive investments can jointly carry out such projects. Moreover, fields through cooperation with specialised public administration units, contracting bodies will be able to obtain knowledge and support of experts in highly specialised.

The professionalisation of public procurement at the above-mentioned levels should bring positive and noticeable results in public procurement over the next 4 years, i.e. during the period for which the purchasing policy was developed.

### **3. The role of the State purchasing policy in professionalisation**

In the Polish public procurement system, tasks related to the professionalisation are carried out by a large number of entities, among which the PPO President should be identified as the central government administration body competent in matters of public procurement. In accordance with Article 469 of the PPL, the PPO President is responsible for education and information activities, dissemination of knowledge of public procurement, including analytical information and preparation and dissemination of standard documents used in the award of public contracts.

The PPO President has prepared a document of a strategic nature, comprehensively covering professionalisation activities, entitled: "The Activities of the President of the PPO

supporting the professionalisation of human resources”, December 2020<sup>10)</sup>. According to this plan, the PPO President due to the wide market demand, focuses on key educational activities related to, among others, scientific, legal and consultancy activities and the promotion of knowledge, jurisprudence and good procurement practices. Furthermore, a pilot curriculum has been developed for postgraduate studies in public procurement and the purchasing process. In addition, the plan envisages the dissemination of modern forms of modelling and management of data, such as BIM (*Building Information Modeling*). This is an important starting point for further activities on the professionalisation of public procurement.

The activities undertaken by the PPO President complement the activities of other entities operating in the public procurement system, as well as the heads of contracting bodies themselves, in the area of building other skills and competences that should characterise public procurement practitioners. Building such competences, e.g. planning, supplier management, project management, cooperation, technical knowledge — specific to the given categories of contracts, as well as many other soft competences, is not sufficiently related to the activities carried out by the state in this field, educational activities of other entities, etc. The head of the contracting body, when building their purchasing team, should place it in the context of his activity (priority — Professionalisation, area: Structure) and accordingly adopted purchasing strategy. Thus, building a team should be based on the model indicated below.

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<sup>10)</sup> “The Activities of the President of the PPO supporting the professionalisation of human resources”, December 2020, [https://www.uzp.gov.pl/data/assets/pdf\\_file/0017/43307/Dzialania-Prezesa-UZP-wspierajace-profesjonalizacje-kadr.pdf](https://www.uzp.gov.pl/data/assets/pdf_file/0017/43307/Dzialania-Prezesa-UZP-wspierajace-profesjonalizacje-kadr.pdf)



In view of the above, the policy coordinates the activities of various entities, including contracting bodies, aimed at increasing the professionalisation of all participants in the public procurement market, as well as identifying benchmarks and recommendations in terms of capacity-building of human resources, taking into account the adopted purchasing strategy and on the basis of professional profiles of public procurement practitioners. The programmes and policy instruments set out medium-term strategic and specific objectives and tasks to be achieved by all participants in the public procurement system, so that all activities undertaken by different actors are complementary and practitioners improve their competences in all areas resulting from the competency matrixes.

The role of the State purchasing policy in the field of professionalisation is also to create recommendations for activities in the case of contracts exceeding the human resources capacity of the contracting body, whether due to **technical issues** (no possibility to prepare an effective procedure due to the complex and unconventional subject-matter of the contract) or **organisational issues** (contract exceeds or significantly burdens the human organisational capacities of the contracting body). It should be pointed out that not every contracting body needs and should have a wide range of procurement practitioners, provided that it is able to fulfil its purchasing needs in cooperation with other entities. As part of its programmes, the purchasing policy indicates recommendations and assumptions of actions aimed at making it easier for contracting bodies to pool capacities and reaching for the knowledge of entities specialised in the performance of a given category of contracts.

## Chapter V Priority – Developing the potential of SMEs



### 1. Impact of the SMEs' sector on the economy

Entrepreneurs belonging to the SMEs sector play an important role in the Polish economy. This role determines the direction of state activities aimed at strengthening economic and social development. The proper exploitation of the potential of SMEs supports the achievement of the strategic objectives of the country, such as increasing the competitiveness of the economy and entrepreneurship, the high level of which is characterised by the most developed economies in the world. Creating a strong and stable SMEs sector, whose needs and capabilities are widely taken into account by public institutions, contributes to building the position and strength of the Polish economy.

The dynamism and flexibility of SMEs, as well as the willingness to create innovation and “green” solutions and technologies, are of particular importance in the transformation of the European economy towards an innovative and sustainable economy. SMEs have the capacity to respond quickly and efficiently to market needs, including public sector needs. A particular role is played by *start-ups*, which combine the use of modern technologies in their business model with the aim of achieving growth in the shortest possible time.

SMEs are involved in creating local and therefore highly desirable jobs, as well as the capacity-building of regional communities and markets. The importance of SMEs is particularly relevant in areas away from large urban or industrial centres. They are more likely to take local socio-economic considerations into account in their activities. There is also an increasing interest of SMEs in corporate social responsibility governance. (*Corporate Social Responsibility, CSR*), which includes activities for the local community, social campaigns, employee volunteering.

National economies with a high share of SMEs are characterised by a higher level of resilience to economic crises. The ability of the SME sector to adapt rapidly to sudden and wide-ranging changes in the business environment fosters the stabilisation of the economic situation in times of economic downturn, but also strengthens the recovery and stimulates the economy in the recovery phase. This is particularly important in the period of overcoming the impact of COVID-19. Due to the break-up or disruption of a significant number of supply chains involving, inter alia, actors from outside the European Union, many European companies will look for partners that offer greater stability and predictability of supplies and services. This represents an opportunity for the SMEs sector, both in terms of national and cross-border relations.

The emphasis on the important role and significance of SMEs in the contemporary economy, in particular in shaping its competitive advantages, has been reflected in assumptions of the national and EU economic policies. This leads to synergies facilitating the achievement of objectives set for the further development of the SMEs sector.

The EU SMEs policy framework and support programmes were defined in particular by the *Small Business Act* of 2008<sup>11)</sup>, which identified 10 areas of activities to establish optimal operating conditions for SMEs. According to the Programme, one aspect of adapting public policy instruments to the needs of SMEs should be to facilitate SMEs' participation in public procurement. *An SME Strategy for a sustainable and digital Europe of 2020*<sup>12)</sup>, addresses the issue of SMEs in realities of a rapidly changing European economy, aimed at increasing the number of SMEs participating in sustainable business practices and the number of SMEs using digital technologies. In the context of public procurement, attention was drawn, inter alia, to the need for procurers to make greater use of the flexibility offered by EU law in the area of public procurement, e.g. dividing contracts into lots, and the need to increase the number of innovation procurement.

The importance of the SMEs sector for the Polish economy as a whole, as well as for its employees, was highlighted in *The Strategy for Responsible Development*. The strategy also emphasised the need to implement a single purchasing policy, which should include the introduction of facilitation for SMEs. In this respect, in accordance with Article 21 para. 2 of the PPL, the objectives and directions set out in the strategy, were taken into account in the State purchasing policy within the framework of programmes and implementation instruments aimed at supporting the development of SMEs potential.

The positive impact of the SMEs sector on the economy depends not only on the percentage of SMEs in the total number of entrepreneurs, but above all on their development potential. While SMEs have competitive advantages due to their specific functioning, they are not sufficient in themselves to ensure an optimal level of development. Therefore, the appropriate actions taken by the state is so important.

Public procurement, which is one of the main tools for distributing public funds to the economy, will be used to develop the potential of the SME sector. Government administration will strive to ensure the best possible conditions for SMEs in the award of public contracts.

## **2. Benefits from increased participation of SMEs in public procurement**

Analyses of the public procurement market show that SMEs receive a significant part of contracts awarded. However, it is not possible to fully exploit the potential of this sector in public contracts. Indeed, a large number of SMEs are not interested in running for them

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<sup>11)</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 25 June 2008 on "Think Small First" — *A Small Business Act* for Europe

<sup>12)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 10 March 2020 *An SME Strategy for a sustainable and digital Europe*.

at all, limiting their activities to the commercial market <sup>13)</sup>. They associate public procurement with numerous risks rather than a significant business opportunity. This is also affected by the low level of sustainable and innovative procurement.

This way of perceiving procurement means that the real benefits from participation in the procurement market, such as the access to a stable source of remuneration, building of a company's reputation, are drawn by a limited range of SMEs. This reduces the positive impact of public procurement on the entire SMEs sector.

Support for the development of the SMEs potential will be achieved by further opening up the public procurement market to the needs and opportunities of SMEs and consequently increasing the number of entrepreneurs calling for and winning a contract. Looking at purchasing processes from the perspective of SMEs is to be an important determinant of activities of contracting bodies belonging to the government administration. Action will also be taken to support the participation of entrepreneurs, including SMEs, in contracts awarded in other Member States of the European Union and by international organisations. The increase in the number of innovation and sustainable procurement, as part of one out of the other two priorities of the State purchasing policy, will also play a significant role in increasing the interest of SMEs in the public procurement market<sup>14)</sup>.

The wider availability of contracts, combined with their appropriate targeting, will ensure an increase in demand for services, products and works they offer. A larger stream of public funds to the SME sector will increase investments, including investments in human capital. In other words, participation in public procurement will provide an impulse to expand the scope of business activity.

Increasing interest of SMEs in the public procurement market will also have positive effects for contracting bodies as well as for the economy as a whole. For the procurement market, it will mean, above all, a further increase in competitiveness and, consequently, the receipt of more favourable offers by contracting bodies. In turn, the economy will benefit from unlocking the growth and innovation potential of SMEs<sup>15)</sup>. In addition, public procurement will give more SMEs a chance to enter the market.

Measures taken to increase the involvement of SMEs in public procurement will be beneficial for domestic entrepreneurs and those from other European Union Member States equally. However, the structure of the participation of domestic and foreign SMEs in the Polish public procurement market indicates that domestic entities operating on regional and local markets will benefit greatly from the effects of the measures taken. According to subsequent Reports of the President of the Public Procurement Office on the

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<sup>13)</sup> Concept for the new PPL, June 2018.

<sup>14)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 10 March 2020 An SME Strategy for a sustainable and digital Europe.

<sup>15)</sup> Commission Staff Working Document, European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts, 2008.

functioning of the public procurement system<sup>16)</sup> out of the total number of SMEs calling for contracts awarded by Polish contracting bodies, the vast majority are domestic entrepreneurs.

The dominant position of domestic SMEs on the Polish public procurement market therefore means that continuing the process of opening up public procurement for SMEs will contribute to strengthening the potential of the domestic service and industrial sector.

### **3. The role of the State purchasing policy in developing the SMEs potential**

A new strategic approach of the government administration to the participation of SMEs in public procurement is introduced. In addition to the objective of increasing the activity of SMEs already present on the public procurement market, its main assumption is to increase the market share of those SMEs that have not called for contracts as part of their previous business activity.

In addition to the public entities responsible for the functioning of the entire public procurement system, the heads of the contracting bodies in the government administration are responsible for creating favourable conditions for SMEs in public procurement.

The establishment of appropriate legal solutions, including SME-friendly ones, was the first and at the same time the most important step in the ongoing reform of the public procurement system. It is now crucial to make changes in the way contracting bodies apply public procurement law in order to make more optimal use of the available opportunities.

#### **Increasing SMEs involvement in public procurement will be facilitated by:**

- Changing the approach of contracting bodies to the participation of SMEs in the purchasing process

The further increase of SMEs interest in the public procurement market depends to a large extent on a change in approach of contracting bodies to SMEs participation in public procurement. It is necessary for individual contracting bodies to recognise and understand the positive impact of the SMEs sector on their purchasing processes, expressed inter alia by concrete financial savings, higher quality of products, works or services offered. Without more frequent and more effective use of SMEs-friendly solutions, it will be difficult to make the domestic public procurement market fully open to SMEs.

The PPL, created a legal framework encouraging greater participation of SMEs in purchasing processes. The change in the approach of contracting bodies is to oblige them to take greater account of solutions and legal instruments that have a positive impact on

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<sup>16)</sup> <https://uzp.bip.gov.pl/sprawozdania/>

the situation of SMEs in purchasing processes. A catalogue of contracts for which the use of these solutions and instruments is mandatory is specified.

This approach should also be applied to public contracts awarded outside the PPL regime.

The proper organisation of the public procurement procedure plays an important role for SMEs. This allows entrepreneurs to make optimal use of their resources in order to win and then perform a public contract. Therefore, heads of contracting bodies should strive to ensure that SMEs have access to information which may have a significant influence on their decision to participate in individual procedures, already at the planning stage of the procedure.

- Providing SMEs with broad and easily accessible substantive skills and knowledge support

Changes in the culture of public procurement should be accompanied by an appropriate strengthening of the competences for SMEs necessary to call for a public contracts. Lack of sufficient knowledge of public procurement law and practical aspects of the procurement procedure are one of the main barriers to market access. The existence of these competence gaps affects the perception of public procurement as complex and unsuitable to SMEs capacities.

Actions will be taken to provide SMEs with an adequate level of substantive skills and knowledge support. More emphasis will be put on the practical aspects of the purchasing process. The ability to search for information on public procurement, to use tools resulting from digitalisation or to conduct effective negotiations is as important as knowledge of individual procurement procedures.

SMEs will be given access to information on current rules and public procurement requirements in other Member States of the European Union. This will have a positive effect on their willingness to participate in this category of contracts.

- Supporting information flow between market participants

The solution often used by SMEs, which is allowed by the PPL, is to establish cooperation in the form of a consortium. It allows pooling of existing resources and potential (e.g. financial, organisational, experience) in order to obtain public contracts that exceed the capabilities of individual entrepreneurs. However, many entrepreneurs face problems in establishing such cooperation, which are due to, inter alia, the lack of adequate flow of relevant information between entrepreneurs. This is often a barrier to access the public procurement market. Therefore, a solution of an IT nature dedicated to the exchange of information about willingness to engage in business-to-business cooperation will be developed.

Action will also be taken to develop an IT solution in order to facilitate the award of contract valued below the threshold for the application of the PPL (i.e. 130 000 PLN) exploiting the potential of local entrepreneurs and natural persons declaring their willingness to carry out such contracts. Consideration is given to the establishment of a register for individuals and entrepreneurs offering their services or products at local level (e.g. municipal, city) to which registration would be optional. With such a register, on the one hand, contracting bodies would gain knowledge of the potential of local and regional economic operators and the possibility of pursuing additional economic and social objectives that they will be able to benefit from when awarding the contract. On the other hand, the register could provide support to individuals and entrepreneurs who provide services or carry out production activities, but who have difficulties in attracting contractors and, consequently, would serve to activate the local economic potential. The development of a register would be a further step in the process of public procurement digitalisation in a broad sense.

➤ Introducing further facilitation of the procedure

Excessive formal obligations, including requirements to submit documents, are among important factors discouraging entrepreneurs from running for a public contract. The process of creating a more friendly and simplified national legal framework for public procurement has triggered the adoption of the PPL, which has been in force since 1 January 2021.

Many of its solutions are particularly beneficial for SMEs. Among the most important are the introduction of a new procedure for contracts with a value below the EU thresholds, the balancing position of the parties to a public contract (e.g. introducing an obligation of partial payments or advance payments) or strengthening the protection of the legitimate interests of subcontractors. These solutions were welcomed by SMEs.

The follow-up to the legislative direction will be the introduction of the certification of economic operators in the national public procurement system. The possibility of establishing a certification mechanism is provided for by EU law in the area of public procurement. This option has been used by many Member States, including those in Central and Eastern Europe. The envisaged solution will fully comply with Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65, as amended), hereinafter referred to as ‘Directive 2014/24/EU’, including the principles arising therefrom, i.e. the principle of equal treatment and non-discrimination.

The certification mechanism entails certain benefits for economic operators belonging to the SMEs sector. It significantly reduces the time needed to prepare a tender. Entrusting the verification of the economic operator’s situation to a specialised entity independent of the contracting bodies promotes the professionalisation and transparency of the

verification process of economic operators. It is also important to reduce the costs of participation in the procedure.

➤ Adequate quality of procurement documents

The quality of procurement documents provided by contracting bodies influences the decision of entrepreneurs belonging to the SMEs sector to participate in the procedures. Low transparency of documentation or too little information therein can discourage SMEs from running for a public contract. The preparation of a correct tender is difficult in such a situation and requires additional commitment.

SMEs are hampered by significant discrepancies between the form, structure and content of documents provided by different contracting bodies for similar contracts. This not only extends the time needed to familiarise with the documentation, but also creates an additional risk of error for the contractor.

In order to ensure an adequate quality of procurement documents as well as their harmonisation, activities will be taken to standardise the procurement documents for the different types of services, supplies and works. “Packages” of documents will be prepared for the award of services, supplies and works essential to the public procurement market. The “package” will consist of templates of all the most important procurement documents for a given procurement process, e.g. tender specifications/descriptions of needs and requirements, templates of relevant declarations, a template of a draft public procurement contract, etc.

The use of standard contract documentation by contracting bodies will allow for a significant reduction in time needed for its analysis. This will allow contractors to focus on other more demanding procurement activities.

The use of standard documents is recommended. Ultimately, it will be up to the contracting bodies to decide on their use, taking into account the specificity of the procedure.

➤ Support for the participation of Polish SMEs in procurement of international organisations

International organisations publish contract notices on public procurement worth around USD 50 billion each year. Only UN system organisations are launching tenders for nearly USD 20 billion. Unfortunately, the participation of Polish entrepreneurs in tenders of international organisations and agencies is still very low. Poland is currently ranked 157th among the 177 countries participating in UN tenders. Other organisations include: OECD, NATO, International Red Cross.

International procurement also includes the opening up of the procurement market of the US Army stationed in Poland and Europe, especially in the field of infrastructure development, service, supply of devices and equipment.

International procurement covers mainly the supply of goods and services to the organisations themselves, e.g. food and agricultural goods, clothing, equipment and services in transport, energy and mining sectors, military equipment, IT equipment and services, consulting, conference, graphics, publishing or renovation and construction services, as well as indirect projects such as development assistance (ODA).

International organisations ensure security of payments, promotion and establishment of new business contacts, diversification of contracts, excellent references, timely execution of tasks, very good and stable financial conditions, which translates directly into business development. The barrier to participation is a dispersed information system, different (depending on the organisation) classification systems for goods and services, different requirements and procurement procedures, different registration systems for potential bidders and tendering time limits.

In view of the low level of participation of Polish entrepreneurs, including SMEs, in contracts awarded by international organisations, activities aimed at ensuring access to information on procurement, substantive and institutional support will be continued.

## Chapter VI Priority - sustainable and innovation procurement



### 1. What is sustainable procurement?

The model of sustainable development is the foundation of the environmental, social and economic policies of developed countries. In order to achieve the sustainable development goals, synergies are required between the three key elements i.e. economic growth, social inclusion and environmental protection. They are interconnected and, as such, condition the achievement of prosperity for individual societies.



(source: <https://www.un.org.pl/>)-

Sustainable public procurement is one of the main instruments for implementing the concept of sustainable development. Although they do not have a legal definition in any Union or national legislation, they should be understood as a way of organising procurement procedures so that it takes into account environmental or social aspects, while ensuring that public funds are spent intentionally, rationally and cost-effectively<sup>17)</sup>. Sustainable public procurement is therefore an operationalisation of the principles and the sustainable development goals<sup>18)</sup>.

<sup>17</sup> See: Sustainable public procurement. Social and environmental aspects in the procurement procedure in the light of the amendments to the Public Procurement Law, Public Procurement Office, p. 5.

<sup>18</sup> See: UN Resolutions of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development".

Within the category of sustainable public procurement, it is possible to distinguish between so-called:

- **social procurement**
- **green public procurement**

An important aspect of sustainable development is also the increase in the innovation of the economy, which allows not only to increase the level of competitiveness of the economy, but also to reduce the negative impact on the environment (eco-innovation) or social inclusion (e.g. development of electronic means of communication). **Innovation public procurement** plays an important, stimulating role in this respect.

## **2. Efficiency of public procurement**

In accordance with the principle of efficiency, the preparation and conduct of the public procurement procedure is intended to ensure that the best quality of supplies, services and works, justified by the nature of the contract, is obtained within the financial resources of the contracting body. It is also intended to ensure that the best social, environmental and economic effects are achieved if they are achievable by the subject-matter of the contract in question.

The implementation of the principle of efficiency is therefore to prepare the procedure in such a way that, when awarding a contract, the contracting body can simultaneously pursue the strategic objectives of Poland, resulting from the priorities set out in the purchasing policy, and thus contribute to the growth of sustainable development.

The contracting body, following the policy recommendations, will implement the principle of efficiency. The PPL does not require the contracting body to include social, environmental or innovative aspects in each contract. Not every contract can pursue such additional objectives. However, the contracting body should consider, on a case-by-case basis, whether any of these aspects could be applied to the contract in question and whether this is justified.

Preparing sustainable procurement requires more work and resources on the part of the contracting body. It also requires more risks to be addressed. In order to be able to identify them well and then minimise them, it is necessary to prepare for such a procedure in an appropriate manner.

Contracting bodies should, where possible, make use of the possibility of participating in joint projects and research, including those carried out under the aegis of the European

Union. This can create completely new opportunities for the use of modern and innovative technologies. An example of such a programme is Horizon Europe<sup>19)</sup>.

Opportunities for additional funding should also be sought when preparing for sustainable procurement. Contracting bodies should therefore make use of the possibilities arising from the financial framework for 2021-2027 in this respect.

### 3. Social procurement

#### 1) What is social procurement?

Socially responsible public procurement (in addition to green procurement) is one of the types of sustainable public procurement. It should be understood as public contracts in which the contracting body, in order to meet its own purchasing needs, also includes social aspects in a public contract, which may include:

- the requirement to employ, inter alia, unemployed, jobseekers, to-be self-reliant persons or persons with disabilities;
- decent work;
- compliance with social rights and the right to work;
- social inclusion of people marginalised (also people with disabilities);
- equal opportunities and non-discrimination;
- ensuring accessibility for all concerned;
- inclusion of sustainability criteria, including ethical trade and wider voluntary compliance with Corporate Social Responsibility (CSR) principles.

This therefore entails additional requirements in relation to the service, supply or works to be procured, inserted by the contracting body in the procurement documents which enable the achievement of social objectives in the public contracts awarded.

Social aspects may be taken into account at the various stages of the procurement process, such as planning and preparation of the procedure, the conduct of the procurement procedure, as well as at the stage of the contract performance.

There are currently *Recommendations in the public procurement system on the integration of social aspects in public procurement by the government administration*, adopted by the Council of Ministers on 29 March 2017, which require all heads of government administration units to take into account social aspects, including in particular social clauses, as far as possible and in as many public procurement procedures as possible<sup>20)</sup>.

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<sup>19)</sup> Detailed information on EU research programmes, including Horizon Europe, can be found on the website of the National Contact Point for EU Research Programmes <https://www.kpk.gov.pl/>

<sup>20)</sup> <https://www.uzp.gov.pl/aktualnosci/archiwalne/zalecenia-w-sprawie-uwzgledniania-przez-administracje-rzadowa-aspektow-spoecznych-w-zamowieniach-publicznych>

The purchasing policy follows these recommendations, complements them and identifies tools for more effective integration of social aspects in a given contract.

It is worth emphasising that socially responsible public procurement may prove to be an important tool in countering the adverse effects of the COVID-19 crisis.

## 2) Benefits of applying social aspects

Social procurement enables tangible benefits not only from the point of view of the social objectives of specific contracting bodies, but also at regional, national or international level. Among the benefits that can be achieved when applying social aspects in public procurement are:

- employment of persons from groups at risk of social exclusion, at least for the duration of the contract, including young people and workers over the age of 50;
- facilitating access to procurement for social economy operators;
- the possibility of adapting the subject-matter of the contract to the requirements of end-users, in particular persons with disabilities, persons from disadvantaged groups;
- improving the quality of life, in particular for people with disabilities and people from disadvantaged groups;
- applying the principle of equal opportunities in practice;
- preference for companies that take into account social aspects in practice;
- promoting social responsibility and social labels among entrepreneurs.

## 3) The role of the State purchasing policy in socially responsible activities

The State purchasing policy is another argument for contracting bodies to take social aspects into account in their purchasing processes. Control bodies or other bodies, when carrying out their control or supervision activities, should take into account the recommendations and objectives of the socially responsible procurement policy.

The increase in the number of social procurement will have a positive impact on the promotion of pro-social attitudes of entrepreneurs. Their implementation of management methods and an active approach to social aspects (and even more broadly — sustainable procurement) can be stimulated by activities of the government administration. This is why the policy objective under this priority is to increase the use of social aspects in public

procurement and to increase the number of entrepreneurs pursuing socially responsible business<sup>21)</sup>.

Contracting bodies should, when awarding public contracts, formulate requirements for economic operators applying for public contracts in terms of corporate social responsibility and respect for human rights, also with regard to the entire supply chain. These requirements, in accordance with the provisions of the PPL must be related to the subject-matter of the public contract to be awarded.

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<sup>21)</sup> See: <https://www.oecd.org/governance/public-procurement/procurement-and-rbc/>

## 4. Pro-health procurement

### 1) What is a pro-health procurement?

When defining what the State purchasing policy is, the legislator indicated in Article 21 par. 1 point 5 of the PPL on the need for contracting bodies to take greater account of health aspects. In practice, this means using knowledge about healthy lifestyles, including the principles of rational nutrition, also in the organizational activities of the public administration. These aspects will contribute to the formation of proper eating habits and, consequently, also to health-promoting behaviours or creating an environment that promotes a healthy lifestyle. It should be borne in mind that proper nutrition is the most important environmental factor affecting the development of the body and ensuring good health. Maintaining good eating habits is particularly important because of the prevention of diseases developing against the background of malnutrition, especially overweight and obesity and their multi-organ consequences. At this point, it is worth emphasising that chronic non-communicable diseases, including diabetes and obesity, pose a serious public health challenge.

According to recent studies and reports, the fight against overweight and obesity among children and adults is one of the challenges facing the state apparatus in the coming years. To this end, coordinated action by the entire administration is needed, one of which is the State purchasing policy. Despite efforts to hold the growth of overweight and obesity in society, this problem is still unresolved.

The emergence of the new coronavirus (SARS-CoV-2), which led to the global COVID-19 pandemic, has reinforced the urgent need to take action to reduce obesity, which increases the risk of a severe COVID 19 outbreak.

### 2) Benefits of applying health aspects

The long-term effects of these changes will be observed over several years. Anticipated benefits:

- changing the patterns of consumption of products with a high content of sugar, salt, fat;
- a mechanism to counteract negative health behaviour;
- promotion of pro-health behaviour, including healthy eating habits;
- reducing the prevalence of dietary risk factors for chronic non-communicable diseases;

- positive impact on health indicators, including holding upward trends in overweight and obesity, thus reducing the incidence of metabolic diseases, cardiovascular diseases or diet-related cancers;
- gradually increasing the range of foods low in sugars, fat and salt on the market.

### 3) The role of the State purchasing policy in pro-health activities

The activities resulting from the State purchasing policy are one of the elements of healthcare policy and, as such, are only a piece of activities carried out to improve the health and eating habits of Poles. However, given the scale of the funds spent and the importance of the projects implemented, the role of Policy on pro-health activities is to promote the choice of quality food.

Procurement carried out in accordance with the recommendations of the Policy is to stimulate the development of the market of producers of high-quality food, as well as the market for food services (catering) and for increasing the demand for such food. This will be part of building an environment that contribute to healthy food choices.

## 5. Green public procurement

### 1) What is green public procurement

Green public procurement plays an important role in meeting EU and national environmental and climate objectives. It is defined 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*”<sup>22)</sup>.

In other words, green public procurement is procurement that meets the needs of contracting bodies, including real economic benefits throughout the product’s life cycle, while being environmentally and climate-friendly to the widest possible extent. Through green public procurement, public spending can be combined with the achievement of the sustainable development goals (SDGs) as well as important economic objectives such as increasing innovation of the economy.

In procedural terms, the classification of a contract as a green contract determines that environmental aspects are taken into account in the specific procedure. Environmental aspects can be used in:

- description of the subject-matter of the contract (e.g. requirements for certain levels of environmental impact);
- conditions for participation in the procedure or the voluntary grounds for exclusion from the procurement procedure (e.g. obligation to comply with environmental management systems or standards, no infringement of environmental obligations and prohibitions);
- criteria for the evaluation of tenders (e.g. those relating to the energy efficiency of the subject-matter of the contract); requirements related to the performance of the contract (e.g. requirements for specific environmental management measures).

The importance of public procurement in the process of shaping trends in the market for goods, services and works in the context of the achievement of environmental objectives was highlighted in Resolution No 67 of the Council of Ministers of 16 July 2019 on the adoption of “The 2030 National Environmental Policy – the Development Strategy in the Area of the Environment and Water Management” (Polish Monitor item 794). At the same time, it was emphasised that, in order to realise the potential of public procurement in the area of environmental policy, it is necessary, inter alia, to raise the awareness of contracting bodies and control bodies of the pro-environmental solutions available in the PPL.

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<sup>22)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 16 July 2008 Public procurement for a better environment, COM(2008) 400 final.

## 2) Benefits of applying environmental aspects

The benefits from awarding green public procurement are multidimensional. In addition to reducing the negative impact on the environment of products, services and works purchased by contracting bodies, and consequently improving the living conditions of regional and local communities (e.g. eco-friendly public transport reduces smog), they also contribute to shaping responsible social attitudes in environmental protection. Indeed, the award of green procurement by the public sector is an important signal that taking into account environmental and climate considerations does not prevent it from effectively meeting its own purchasing needs or from performing specific tasks.

Key environmental and climate benefits of green public procurement include:

- reducing greenhouse gas emissions — e.g. by purchasing products and services with a lower carbon footprint throughout the life cycle;
- reducing water consumption — e.g. by purchasing equipment with reduced demand for water;
- reducing air, water and soil pollution — e.g. by purchasing electric vehicles to provide a public transport service;
- reducing waste production — e.g. through the use of biodegradability technologies in production;
- energy savings — e.g. through the use of renewable energy sources;
- reducing the use of natural (primary) raw materials — e.g. by using waste secondary raw materials.

In the context of efforts to make the concept of a circular economy a reality, it is emphasised that green public procurement is one of the measures necessary to ensure a more effective and efficient use of resources<sup>23)</sup>.

From the point of view of individual contracting bodies, it is crucial that green public procurement can generate real and measurable financial savings, the perception of which, however, requires a change in contracting bodies' approach to analysing the costs of contracts awarded. This analysis should be based primarily on the costing of the entire life-cycle of the product and not just on acquisition costs. These savings may, for example, result from the energy efficiency of products, the availability of recycling, the use of renewable energy sources. Savings for contracting bodies, especially those operating at regional and local level, can result from improved environmental conditions and the

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<sup>23)</sup> Published by the European Commission, *Buying green! A handbook on Green Public Procurement*, third edition, Publications Office of the European Union, 2016.

associated possibility of reducing expenditure on other public tasks (e.g. health, waste management).

Green public procurement is also an instrument for stimulating economic development, including in particular capacity building for eco-innovative technologies, services and products. There is no doubt that the sector is gaining increasing importance in the economy due to the directions of European environmental and climate policies, and ever-growing trade in green solutions. The high demand from the state for green procurement provides a real incentive for entrepreneurs to develop new environmental technologies. This is particularly true for sectors where public buyers have a large market share (e.g. construction, infrastructure, health services or transport). This helps to increase the overall level of innovation of the economy.

### 3) The role of the State purchasing policy in increasing the number of green public procurement

The PPL established a legal framework for the award of public contracts, which allows contracting bodies to take into account environmental aspects in their procurement procedures. The introduction of effective regulation is an important but preliminary step in the further transformation of the public procurement market towards a green procurement market.

Increasing the number of green public procurement requires, above all, greater openness of procurers to environmental issues, including willingness to move away from the choice of standard solutions.

Therefore, contracting bodies within the government administration are obliged to strive for a wide consideration of environmental aspects in their procurement procedures, taking into account their needs and interests. This means that the contracting body's determination that certain environmental aspects may be applied in a particular procedure, without compromising its interests and the level and quality of satisfaction of its purchasing needs, should result in these aspects being taken into account. In the case of contracts with a value equal to or exceeding the thresholds, contracting authorities should benefit from the results of the needs and requirements analysis referred to in Article 83 of the PPL.

This approach should be applied by contracting bodies belonging to the government administration, including in the case of public contracts awarded outside the regime of the PPL.

Comprehensive and well-targeted educational and information activities will continue to raise awareness among contracting bodies, as well as economic operators and representatives of control bodies, of existing environmental problems, as well as their importance and real impact on the quality of life of regional and local communities. An important aspect of these activities will be to familiarize and clarify the various benefits,

including economic benefits, of green public procurement. Particular emphasis will be placed on reaching out with relevant information to the heads of contracting bodies, who have a decisive influence on the direction and conditions of purchases. All these activities will have a positive impact on the perception of the role of green public procurement in social and economic life.

The willingness of contracting bodies to award green public contracts determines to a large extent the level of preparation in content of contracting body's staff both in terms of the possibilities offered under the PPL, as well as the available technologies and processes of an eco-friendly nature. The existence of competence gaps in the above areas limits the ability of contracting bodies to carry out the purchasing process correctly and effectively, and consequently reduces the interest of contracting bodies to obtain solutions with limited environmental impact. The answer to these difficulties will be the implementation of a content-related support programme for contracting bodies, which will aim at familiarizing with the practical aspects of green public procurement. Relevant education and information activities will also be provided to control bodies and economic operators.

The advanced development and availability of green solutions in certain categories of products and services means that taking environmental aspects into account when purchasing them should not constitute a significant burden on contracting bodies. As an example, energy-efficient computers or recycled paper should be indicated. The increase in the number of green public procurement when purchasing such categories of products should be considered an important step in the transformation of the national public procurement market. This will be achieved by publishing a catalogue of products and services the purchase of which will entail the obligation for contracting bodies belonging to the government administration to apply certain environmental criteria. The catalogue of products and services, together with the environmental criteria assigned to them, will be updated periodically at least every two years. This will ensure the possibility of its ongoing adaptation to current trends in environmental solutions and changes in the market situation.

The policy identifies and discusses implementation instruments that allow to exploit the opportunities offered by green procurement, which may be used by contracting bodies in individual green procurement procedures.

## 6. Innovation procurement

### 1) What is innovation procurement?

The concept of *innovation* currently has many meanings. Directive 2014/24/EU indicates that innovation means: *‘the implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations (...)’*.

The national definition of the concept of innovation regulated in Article 7(6) of the PPL is closely linked to the definition introduced by the Directive.

Following the above, innovation procurement can be distinguished between two models:

- buying the process of innovation (e.g. research and development services) with a partial outcome (prototype),
- buying the outcomes of innovation created of others.

Innovative solutions can be distinguished in the light of European Commission recommendations according to their nature. Innovations, which are the evolution of existing solutions, can be described as **incremental innovations**. New solutions that disorders the functioning of the old system by creating new actors, flows and values are **disruptive innovation**. In specific cases, innovation may even lead to structural or organisational reforms. Then we are talking about **transformative innovations**.

Each contracting body when planning the procurement in advance, should, being aware of its own capabilities, competences and organizational potential, carry out its purchases with a view to its adequacy (incremental innovation, disruptive innovation or transformative innovation) as well as the model for meeting purchasing needs. Moreover, the more qualified nature of innovation should undoubtedly be considered in industries for which the public procurement market is fundamental of operation (e.g. railway infrastructure, road infrastructure, medical, etc.).

The Strategy for Responsible Development draws attention to the need to consider more innovation aspects. It points to the need for public sector to stimulate demand for innovation: *“Public administration can play an important role in stimulating demand for innovation, in a context of relatively low customer purchasing power on the domestic market, through a wisely programmed public procurement system<sup>24)</sup>*.

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<sup>24)</sup> Chapter VII: Description of the main areas of concentration, Area: Development of innovative companies, p. 96.

## 2) Benefits of applying innovation aspects

- Increasing the innovativeness of the Polish economy is one of the key foundations for getting out of the so-called “middle income traps”. Only due to the development of innovation of the national economy it is possible to maintain the dynamics of GDP growth that has taken place in Poland after the political transformation. Public procurement, as a system on which many industries depend, should be part of the state’s efforts in favour of innovation.
- Broader consideration of innovative aspects also means the development of Polish enterprises, including in particular SMEs, start-ups and enterprises that are competitive and capable to rapidly increase their potential.
- Building space for the development or use of innovative technologies that have already been developed can be the foundation on which competitive companies can be established in the national, European and even global markets.
- As a major customer, contracting authorities can provide innovative companies with the opportunity to test their new solutions in real conditions.
- Contracting bodies may encourage other investors, both public and private, to invest in the activities of their clients, since cooperation with contracting bodies translates into an increase in their turnover.
- An innovative approach to purchasing can be crucial in optimising costs. It is important to consider savings in procurement over the whole life cycle of products.

## 3) The role of the State purchasing policy in the development of Polish innovations

The role of the State purchasing policy will be to integrate funds spent under the public procurement system into the state’s activities in the development of Polish innovations. Contracting authorities have the potential, as customers for innovation, to become an important driver for technological development using the means at their disposal. Industries that rely on public sector customers should be encouraged to develop innovative solutions and adopt new technologies by generating adequate demand in the public sector.

It is worth noting, however, that in addition to the benefits of procuring innovative solutions, they often entail a number of risks and costs. Therefore, the role of the purchasing policy is to indicate an effective model of organisation and the direction in which the competences of a team of procurement practitioners should be built. The new

approach to organisation aims to increase the efficiency of innovative purchases. The policy therefore aims to encourage heads of contracting bodies to take risks when awarding innovative procurement.

The State purchasing policy, through its recommendations and actions, on the one hand, will provide inspiration for contracting bodies to make certain business decisions, on the other hand, it will provide arguments and support for these decisions. There is no doubt that, with the introduction of the principle of efficiency into the public procurement system, the contracting body should foresee the inclusion of innovative solutions in its plans and strategies.

Moreover, the activities recommended by the policy will aim at attracting potential innovators (i.e. high-tech enterprises with the potential to produce innovative solutions) in cooperation with the public sector.

The implementation of the objectives and programmes of the State purchasing policy will aim at attracting innovative solutions for the public services provided in the next step. In this respect, within the framework of implementing instruments, recommendations to apply when using tools provided for in the PPL will be formulated.

## Chapter VII Implementation programmes



### 1. Job profiles of public procurement practitioners

#### 1) Implementation of ProcurComp<sup>EU</sup> elements

This activity involves supporting the implementation of the latest recommendations resulting from the European Commission's: "ProcurComp<sup>EU</sup> — European Competence Framework for Public Procurement Professionals", hereinafter referred to as: "ProcurComp<sup>EU</sup>"<sup>25</sup>).

The implementation of the basic principles of ProcurComp<sup>EU</sup> will allow for the creation of a system for the exchange of information between contracting bodies and the PPO President regarding the competency gaps that arise among public procurement practitioners throughout the government administration. The activities of the PPO President will focus on common and recurring elements throughout the whole public procurement market. They will be complementary to the activities of the head of contracting bodies. Moreover, despite the activity of the PPO President in this area, heads of contracting bodies will not be exempt from the obligation to undertake their own activities aimed at building and improving capacity of human resources.

Promotion activities of ProcurComp<sup>EU</sup> will also be carried out within the framework of the activities for the implementation of this programme. In addition, the issue of common job profiles (see p. 40) will be the subject of educational activities carried out within the framework of the policy.

### 2. Building the capacity and competences of public procurement practitioners

Building capacity and competence will be done through a special online platform dedicated to public procurement market participants, training and the development of a set of good practices. These actions will complement each other.

#### 1) Internet platform

The implementation programme will build an online platform for participants in the public procurement market, hereinafter referred to as the "Internet Platform" or "platform". The role of the platform will include:

- collection of materials, guidelines, good practices and knowledge on public procurement developed in the framework of the implementation of the purchasing policy;
- enabling practitioners to exchange knowledge and experience in public procurement;



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<sup>25</sup>) Issue: Publications Office of the European Union, 2020.

- providing training in the form of e-learning, which will cover the most important elements of the public procurement system;
- ensuring that control bodies are able to exchange information on the results of their control of the award of contracts.

Ultimately, the platform will also provide access to a database of entities and institutes that carry out research and development and would be interested in providing content-related support and assistance to contracting bodies from government administration, in particular in the field of innovation and green procurement (more on this in section 6 of this chapter).

The Internet platform will be a repository of knowledge, which will include analyses, recommendations, good practices, examples of evaluation criteria. It will also be possible to access the jurisprudence of the National Appeal Chamber, the Public Procurement Court — the District Court in Warsaw and selected judgements of common courts, administrative courts, the Supreme Court and the CJEU.

An important point of the Platform will be sharing complete modules relating to the possibility of integrating sustainable and innovative aspects into procurement:

- module on green public procurement — where you will find information, guidelines and practical recommendations on how to include GPP. This will include information on the latest news and developments in the area of green public procurement.
- module on social procurement — with information on the appropriate purchasing tools to take social aspects into account, promote socially involved entities and promote corporate social responsibility, take into account accessibility requirements for persons with disabilities and design for all users, awarding contracts to socially involved entities such as sheltered workshops, social cooperatives and prison work establishments and other social economy entities.
- module on innovation procurement — with recommendations and examples of the use of pre-commercial procurement (see p.112), innovation partnerships, dynamic purchasing system, negotiated procedures for awarding contracts, design contests, etc.

The platform will also include sets of environmental criteria developed by the European Commission, as well as guidance to be developed by the Green Procurement Council on this basis.

The platform will be addressed to all participants in the public procurement market, i.e. employees of the public procurement units of the contracting body, economic operators and public procurement departments of companies, as well as employees of control bodies and other interested parties. The platform will be developed by 2024.

## 2) Trainings

During the validity period of the policy, various types of educational activities will be implemented. They will cover the purchasing tools recommended by the policy and how to use them, as well as examples of successful and effective use of these tools by other contracting bodies.

Trainings will take place in two forms, i.e. onsite and *online*. These trainings will focus on selected aspects of the State purchasing policy, including issues related to green and sustainable procurement, as well as to the effective use of purchasing tools under the PPL. The training will be addressed to all contracting bodies, regardless their status.

It is intended that the topic of trainings is to be composed in a horizontal manner and cover procurement topics both in terms of the preparation of the procurement procedure, the use of available tools, the integration of sustainable and innovative aspects and the wider cooperation. An important element will be to present benefits from selecting solutions or processes of an eco-friendly or innovative nature. Particular emphasis will be placed on practical knowledge of how to assess the life cycle costs of a product. The potential of private market actors will also be used to implement the training programme.

As a result, practitioners will have access to content in the formula that is most effective for them. The training will be addressed to all participants in the public procurement market, i.e. economic operators, contracting bodies, controllers and other interested parties, including those who are not obliged to apply the purchasing policy.

Some of the events will only be addressed to the heads of contracting body and their primary objective will be to encourage the award of green public procurement through the perspective of positive experiences of other contracting bodies.

As part of this activity, the recommendations of the Committee for the Control of Public Contracts for auditors carrying out controls of innovation purchases.

## 3) Set of good practices

As part of the implementation of tasks related to professionalisation, packages of recommendations and good practices will be prepared, including in the field of green procurement for various industries and types of procurement. During the validity period of the State purchasing policy, a series of summary publications will be prepared containing the above recommendations and practices.

## **3. Promotion of the State purchasing policy**

Market engagement is an important element in the success of all the priorities of the State purchasing policy. The aim of these activities will be to reach as many stakeholders as possible (addressees of the State purchasing policy under the professionalisation priority). Marketing



and promotion activities will include a communication campaign through social media, press releases and articles.

During the validity period of the policy, conferences on the implementation and evaluation of policy priorities will be organised for public procurement practitioners.

#### **4. Expanding access to public procurement for SMEs**

##### **1) Framework for the use of recommended and mandatory instruments to support SMEs development**

Contracting bodies which are the government administration, when awarding public contracts for service, supplies and works in the following sectors:

- medical equipments (CPV: 33100000),
- IT and related services (CPV: 72000000; 30000000; 48000000),
- furniture (incl. office furniture) (CPV: 39100000),
- transport equipment and auxiliary products to transportation (CPV:34000000),
- repair and maintenance services (CPV: 50000000),
- sewage, refuse, cleaning and environmental services (CPV: 9000000),
- construction work (CPV: 45000000),
- agricultural services (CPV: 77100000),
- industrial machinery (CPV: 42000000),
- construction structures and materials (CPV: 44000000)

— are obliged for each contract, to organise the entire purchasing process, including the public procurement procedure, in such a way as to ensure that SMEs are able to apply for the contract.

Contracting bodies should choose the optimal solutions for the purchasing process and the instruments available in public procurement law, in particular those indicated and recommended in the policy in the section: Instruments supporting the development of the SMEs potential.

The selection of sectors was based on an analysis of the situation of SMEs in the 15 largest sectors of the public procurement market. These are sectors that can be divided into two main categories. The first one is the sectors with the highest number of tenders submitted by SMEs, while at the same time the low share of the above tenders among those selected by the contracting bodies (e.g. agricultural services). The second category consists of sectors where the number of tenders submitted by SMEs is among the lowest, but they are much more often selected by contracting bodies (e.g. medical equipment).

Both categories therefore cover sectors where there is considerable potential for SMEs, but they are not fully exploited. Appropriate actions taken by contracting bodies, such as the wider use of non-price criteria for the evaluation of tenders or the division of contracts into lots, can



contribute respectively to increasing the number of contracts awarded to SMEs in the first category sectors and to increasing the number of tenders submitted by SMEs in the second category sectors.

In the case of procurement not included in the sectors indicated above, contracting bodies are required to consider, as part of their preparation for each purchasing process, the degree of potential interest and the ability of economic operators belonging to the SMEs sector to obtain the contract in question. The statement that the contract in question may be of interest and potential for SMEs obliges contracting bodies to take such measures as are required for contracts covered by the above-mentioned catalogue of sectors.

These rules should be waived only in justified cases, in particular when justified by the legitimate interests or needs of the contracting body. On the other hand, the condition for withdrawal cannot constitute a lack of real and measurable benefits, including economic benefits, on the part of the contracting body. This also applies to contracts subject to the mandatory use of solutions beneficial to SMEs.

Ensuring that contracting bodies are properly prepared for the efficient use of SME-friendly solutions and instruments will be part of activities implemented under the priority Professionalisation of public procurement.

## 2) Content-related support for SMEs

Content-related support for SMEs provides for:

- implementation of an education and information programme dedicated to SMEs, which will provide training (webinars), seminars and workshops on public procurement;

In order to increase their accessibility, they will be organised more widely using electronic means of communication, and will be recorded for further dissemination to interested stakeholders.

The programme will cooperate with national champions in the public procurement market belonging to the SMEs sector. Its main objective will be to promote participation in the public procurement market through the prism of knowledge and positive experiences of its participants.

Material (e.g. guides) will be developed that will present and explain in a synthetic and transparent manner the key issues related to the different stages of the purchasing process from the point of view of SMEs. Particular emphasis will be placed on the practical aspects of public procurement, including those related to the digitalisation of purchasing processes. Guides will also be prepared on the main principles of public procurement in selected Member States of the European Union, based on the needs expressed by economic operators. The guides will contain key information that can be helpful in the procurement process. They will not only target entrepreneurs who already have experience in this area, but above all those wishing to start up in other public procurement markets.

The detailed scope and form of the actions to be taken will be developed taking into account the needs and expectations of SMEs, incl. through dialogue with SMEs business organisations. The potential of private market actors will also be used to implement the training programme.

In order to ensure an adequate level of information on the activities undertaken under this Programme, which should have a positive impact on increasing interest among SMEs, an appropriate information campaign will be implemented, in particular through the use of social media. Promotion of activities aimed at supporting SMEs will be carried out in cooperation with business organisations.

- creating on the Internet Platform, which will be implemented as a priority:  
Professionalisation, a module dedicated to SMEs;

The objective of the module will be to facilitate and improve the acquisition by SMEs of the knowledge and information needed to participate in purchasing processes (see p. 40).

This module will, inter alia, serve as a properly structured and grouped knowledge base for SMEs on public procurement. It will bring together all kinds of educational and information materials that can help SMEs to expand their competences in the field of public procurement.

Aiming to ensure comprehensiveness and universality of the module, all government administration units will be obliged, from the moment the module is available, to provide the entity responsible for the operation of the module with educational and information materials on public procurement, which will be dedicated to SMEs. This entity will decide on the publication of the received materials in the module.

### 3) Support for establishing cooperation in the form of a consortium

Within the module dedicated to SMEs, functionality will be provided to allow interested SMEs to exchange information, e.g. in the form of notices of readiness to cooperate within a consortium (on a permanent basis or for a specific procurement procedure).

### 4) Introduction of a certification mechanism

The introduction of a certification mechanism in the public procurement system will give economic operators the opportunity to obtain a certificate which will be used to demonstrate that there are no grounds for excluding an economic operator from a public procurement procedure or to confirm that the conditions for participation in the procedure have been met (having at their disposal specific knowledge, experience, staff, equipment, etc.). The economic operator will be entitled to use the certificate for many different procedures, without the need to collect and submit documents (qualitative means of proof) each time.

## 5) Standardisation of procurement documents

Standardisation of procurement documents provides for:

- identification, also in cooperation with industry organisations of entrepreneurs, of the key types of services, supplies and works that are essential for the market;
- development of “*packages*” of standard procurement documents.

## 6) Increasing the participation of Polish entrepreneurs, including SMEs, in international procurement

A key element of efforts to increase the participation of Polish entrepreneurs, including SMEs, in the procurement of international organisations will be to continue:

- activating and coordinating the promotion of procurement opportunities;
- disseminating information sources on contracts;
- organising of trainings on international procurement procedures and requirements for participation;
- institutional support, including i.a.: lobbying for Polish entrepreneurs (tenders participants); participation in projects of international organisations financed by Polish development aid and voluntary contributions to organisations that can ensure the participation of Polish entities; support for issuing the necessary documents (e.g. declaration of competence, nominations, credentials safety), remaining in the competence of central authorities and institutions.

*A Team on Public Procurement of International Organisation* will be established under the minister responsible for the economy. Its task will be i.a. to coordinate the promotion of international procurement among the central administration. The team will consist of representatives of the administration as well as business support organisations.

## **5. Linking the objectives of the State purchasing policy in the area of sustainable and innovation procurement to the spending of state special-purpose funds at the disposal of the minister or other governmental authority and government programmes**

Sustainable and innovation public procurement should play a greater role in the process of disbursing public funds from the state special-purpose funds at the disposal of a minister or other governmental authority, as well as government programmes, in particular those targeting infrastructure investments. Linking these public measures to the achievement of the objectives and policy of sustainable and innovative procurement will provide a positive impulse for the



further development of the public procurement market. In addition, it will promote achieving of economic, social or environmental objectives relevant to the public interest (e.g. dissemination of technologies with reduced environmental impact, inclusion of disadvantaged groups, increase in innovation of the economy).

As part of the implementation programme, actions will be taken to include, in the conditions of co-financing or financing from particular funds or government programmes, the obligation for beneficiaries subject to the PPL regime to apply environmental, social, health and innovation aspects, incl. instruments and tools indicated in the policy. Including beneficiaries of these funds and programmes in the scope of the policy will mean that the strategic objectives of the state for sustainable and innovative public procurement defined in the policy will be embedded in the activities of entities outside the government, such as local government units. An exemplary list of current state-owned special-purpose funds and government programmes is set out in Annex 1 to the policy. This is an open list and therefore the implementation programme will also include special-purpose funds at the disposal of the minister or other government administration body and government programmes established during the validity period of the policy.

The bodies responsible for implementing the implementation programme in this area are ministers indicated in Annex 1 to the policy. In the case of special-purpose funds and government programmes established during the validity period of the policy, the operators of the respective funds and programmes will be responsible for implementing the implementation programmes.

## **6. Capacity building of contracting bodies for wider implementation of sustainable and innovation procurement**

Within the framework of this implementation programme, a list of public scientific entities and institutes will be compiled which would be interested in providing content-related assistance to contracting bodies from the government administration in preparing and conducting the procurement procedure, having adequate capacity in this respect.

The scope of support provided by these entities will primarily cover the stage of preparation of the procedure, including assistance in: identifying an innovative solution that would meet the purchase need, a description of the subject-matter of the contract, identifying the possibility of applying innovative and novel solutions and optimising the criteria for evaluating tenders in this respect, or conditions for participation in the procedure, estimating the value of the contract, and supporting the preliminary market consultations. If necessary, support may also take place at the stage of contract performance.

Examples of entities ready to provide such assistance are: Łukasiewicz Research Network (as part of the Łukasiewicz Challenge) and the Institute for Organisation and Management in Industry “Orgmasz” (the Centre for Technology Assessment), as well as the National Centre for Research and Development, the Polish Agency for Enterprise Development, or institutes authorised to carry out verification of environmental technologies (ETV). Other institutes,



scientific and research entities will also be able to take part in the programme if they are willing to.

Providing contracting bodies with support and facilitating institutional cooperation with specialised institutions and research entities is expected to overcome the barriers preventing the growth of innovation procurement and unlock the real potential of innovation and eco-innovation potential that can be applied in public administration.

## 7. Budget allocation of contracting bodies

It is proposed that all contracting bodies separate a share of the budget appropriate to their scale for R+D and PPI contracts. In addition, contracting bodies are advised to pursue the following objectives:

- 3% of the total procurement budget will be allocated to research and development (e.g. *PCP — Pre-Commercial Procurement*, design contest, innovation partnership <sup>26)</sup>;
- 20 % of all contracts (their component or part) will include a purchase in the formula of the launching customer of innovation (PPI)<sup>27)</sup>;
- 30% of all contracts will consider environmental aspects <sup>28)</sup>;
- 20 % of all contracts will consider social aspects<sup>29)</sup>.

These recommendations should be taken into account in particular by contracting bodies awarding contracts in industries with a high dependence on the public sector, such as railway, road, airport, medical and energy infrastructure.

The purpose of this solution is to indicate to the contracting body the desired model that each contracting body should pursue. As part of their purchasing strategies, contracting bodies should therefore set individual objectives in the above-mentioned scope and aim to achieve them. This model will be disseminated through trainings and conferences provided in the policy (see page 40).

## 8. Establishment a Team on Green Procurement

The minister responsible for the economy will request the Prime Minister to appoint an inter-ministerial team to deal with green public procurement issues. The team will be composed of representatives of indicated ministers and central government administration bodies for whom environmental issues in public procurement are important due to tasks they perform, i.e.: the Minister responsible for climate, the minister responsible for the environment, the minister

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<sup>26)</sup> The indicator is derived from the Scale-up Europe Manifesto <http://scaleupeuropemanifesto.eu> confirmed in the *Commission Notice Guidance on Innovation Procurement*.

<sup>27)</sup> Ibidem

<sup>28)</sup> Indicator is based on the National Action Plan for Sustainable Public Procurement for 2017-2020, where it is indicated that the rate of 25% for green procurement and 12 % for social procurement is to be achieved by 2020.

<sup>29)</sup> Ibid.



responsible for transport, the minister responsible for energy, the minister responsible for the economy, the minister responsible for regional development, the PPO President.

The team will have a coordinating role within the government administration in terms of green public procurement. In this regard, the team will carry out an analysis of the extent to which the objectives of green public procurement have been achieved and the possibility of including in the planned procedures environmental criteria taken from the sets developed by the European Commission. The catalogue of products and services, together with the environmental criteria assigned to them, will be updated by the Team on a regular basis at least every two years.

In addition, the Team will also work to adapt the set of environmental criteria developed by the European Commission so that contracting bodies can obtain a ready and exemplary set of criteria that are optimal for their needs and capabilities.

Therefore, contracting bodies are obliged to apply the indicated environmental criteria assigned to particular products and services when awarding public contracts covering products or services included by the catalogue developed by the Team.

## Chapter VIII Instruments of implementation



### 1. Organisation at contracting body

#### 1) Common job profiles

Internal procedures must be “legible”. Efforts must be made to formulate clearly and explicitly the responsibilities of the members of the tender committees and of other persons carrying out the activities related to the preparation and conduct of the procurement procedure. Employees must be aware of their responsibilities and responsibilities in the purchasing process. However, responsibility should be attributed to a specific person.

The policy indicates the following proposal adapted to the ProcurComp<sup>EU</sup> framework:

- the division of competences between various organizational units of the contracting body, concerning, inter alia, activities such as: carrying out an analysis of needs and requirements, preliminary market consultations, preparation of draft contracts, preparation of a description of the subject-matter of the contract, preparation of STC (specification of contract terms), criteria for evaluation of tenders or preparation of a report on the performance of the contract, organisation of purchasing units of each contracting body. The contracting body should build a team of public procurement practitioners based on such tools as: competency matrix, job profiles and self-assessment tools. The tools should be adapted to the size of the contracting body organisation. The simultaneous use of these tools in the organisation can make a significant contribution to improving the efficiency of each team of public procurement practitioners.

At this point, it should be noted that the reorganisation of the purchasing units of the contracting body does not exclude the need for these units to cooperate with the representatives of the content-related units. It is therefore crucial that, where appropriate, there is scope within the organisation of each contracting body to cooperate between procurement practices and content-related workers.

**The change of the contracting body organisation should be carried out in 5 steps.** Completing all 5 steps should allow the contracting body to identify precisely the lack of knowledge and experience of its purchasing team.

#### ***Step 1. Adapt the Competency Matrix***

The first step that the contracting body should take is to get familiar with the following competency matrix. The matrix provides a reference point for all public procurement professionals and practitioners.

Being aware of the needs and the context of the activity, it should be pointed out that the competency matrix is not a rigid requirement to which each contracting body must adapt directly. The matrix is to be a foundation and a tool for self-adaptation and used by contracting authorities. Using the matrix, each contracting body can make changes to adapt the content of

the existing competences or modify the list of competences by adding new competences or excluding those which are considered irrelevant.

The Competency Matrix identifies key competences, attitudes and knowledge that public procurement practitioners should have. These competences can be divided into two categories: procurement specific competences and soft competences. Each of these categories is divided into 3 subcategories. Accordingly, for procurement competences a distinction can be made between competences that should be considered essential pre-award, post-award and horizontal. Soft competences can be refined through personal, people and performance.

**Figure 1: Competency groups**



(Source: [https://ec.europa.eu/info/sites/default/files/procurcompeu-in\\_a\\_nutshell\\_pl.pdf](https://ec.europa.eu/info/sites/default/files/procurcompeu-in_a_nutshell_pl.pdf))

**Procurement-specific competences:**

- **The “horizontal” cluster** – encompasses competences applicable to all stages of the public procurement lifecycle;
- **The “pre-award” cluster** - includes all competences required to perform all the tasks and activities taking place before the award of a public contract;
- **The “post-award” cluster** - contains competences necessary for the contract management after the award of a public contract.

**Soft competences:**

- **The “personal” cluster** captures the behaviours, skills and attributes, public procurement professionals should possess, as well as the mind-set they should display according to their job profile;

- **The “people” cluster** comprises those competences enabling public procurement professionals to interact and cooperate with other professionals, and to do so in the most professional manner;
- **The “performance” cluster** includes all competences public procurement professionals need to have in order to increase value for money in public procurement procedures.

Procurement Specific	Horizontal	1. Planning
		2. Lifecycle
		3. Legislation
		4. E-Procurement and other IT tools
		5. Sustainable procurement
		6. Innovation procurement
		7. Category specific
		8. Supplier management
		9. Negotiations
	Pre-Award	10. Needs assessment
		11. Market analysis and engagement
		12. Procurement strategy
		13. Technical specification
		14. Tender documentation
		15. Tender evaluation
	Post-Award	16. Contract management
		17. Certification and payment

		18. Reporting and evaluation
		19. Conflict resolution and meditation
Soft	Personal	20. Adaptability and modernisation
		21. Analytical and Critical Thinking
		22. Communication
		23. Ethics and compliance
	People	24. Collaboration
		25. Stakeholder relationship management
		26. Team management and leadership
	Performance	27. Organizational awareness
		28. Project management
		29. Business and performance orientation
		30. Risk management and internal control

The above-mentioned specific competences should be developed and classified according to **4 proficiency levels**, i.e. basic, intermediate, advanced and expert. In order to achieve a higher level of proficiency in a given competence, it will be necessary to improve your skills and knowledge in order to comply with the minimum requirements set out in the ProcurComp<sup>EU</sup> European Competence Framework for Public Procurement Professionals.

Competences with detailed recommendations in the field of knowledge and skills, which a public procurement practitioner should have at each level of proficiency, are indicated in the Competence Matrix in Annex 2 to the State purchasing policy.

**As part of step 1, the contracting body should:**

- get familiar with the ProcurComp<sup>EU</sup> Competence Matrix and the competences indicated in it,
- alternatively, complete the Competency Matrix with procurement-specific competences.

## ***Step 2. Define the job profiles***

As part of this step, the contracting body adapts the previously developed Competence Matrix to its organisational needs, i.e. to the job profiles existing within the organisation. This means that each contracting body should build job profiles with selected competences tailored to their own characteristics. This is done by defining a specific competence with a target proficiency level for each existing job profile within the organisation. To do so, each contracting body can prepare their own profiles or use the templates described below.

There are many job profiles in each organisation. This is no different for public procurement practitioners. Each contracting body has developed a model of job profiles in its structures over years of practice and experience. However, these are very often models that do not correspond to the modern understanding of public procurement as a complete purchasing process. Therefore, in the State purchasing policy, a model framework of job profiles has been described, which can be used by the contracting body to reorganise the units responsible for the award of public procurement. The job profiles described in this document can indicate to contracting body how to optimally and effectively distribute tasks within the procurement units.

The job profiles adapted by the contracting bodies will vary from one organisation to another, as they should be adapted to the specific circumstances of the contracting body and the type of tasks performed. Nevertheless, adapting to the framework proposed below will make it possible to disseminate access to the self-assessment tools developed for such profiles, to define the competences required for a particular job profile and to harmonise the level of proficiency of procurement practitioners. It will also make it possible to precisely identify training and recruitment needs of the head of the contracting body.

Six examples of job profiles for public procurement practitioners, based on the ProcurComp<sup>EU</sup> framework, are presented below. These profiles provide a foundation on which each contracting body should independently build a team that fits its needs and the reality of its activities. Using these profiles, the contracting body will be able to reorganise a team of public procurement practitioners so that they are able to carry out the full purchasing process, i.e. from planning to evaluation.

Defining job profiles is crucial when reviewing the resources, competences and talents existing to the contracting body. It is also possible to use the self-assessment tool described below if the

proposed profiles are not adapted in advance to the employees. Therefore, each organisation should:

- start from neutral list of all competences in the organisation,
- define a set of job profiles based on the needs and competences of the organisation,
- use the following six examples of job profiles, as long as they fit in,
- adapt these job profiles to the organisation's needs in this respect.

#### *Profile 1 – Procurement support officer*

As a procurement support officer, your job is to assist staff members throughout the entire public procurement cycle, making sure all procurement documents are compliant with procedural, technical and legal requirements, and that meetings and other contacts are well organised.

- The officer needs to have a solid overview of the different steps in the procurement lifecycle, and proficiency with the relevant Procurement and other IT tools needed.
- You also need to rely on good communication and collaboration, as well as strong organisational awareness to move the process along efficiently.
- Your major added value is in helping the procurement team to ensure compliance, particularly in the preparation of tender documentation.

#### *Profile 2 – Standalone public buyer*

The standalone public buyer's job is the most common. You are the person who has to manage all of the procurement needs for a small contracting body. As such, your job is to be a generalist who knows what needs to be done at each stage of the process, and where to find the kinds of specialised knowledge you may not have.

- You need to have solid understanding of relevant EU and national legislation and be proficient with the relevant IT systems and tools.
- You also need to be able to handle compliance and risk management responsibilities
- As a public buyer, your internal clients and end users rely on you to bring strong business and performance orientation, and to take care of outward-facing aspects such as supplier management
- Your major added value is to be a generalist who has at least an intermediate understanding of all the steps in the procurement lifecycle, from needs assessment and market consultation to drafting technical specifications and leading the evaluation
- You may also need to cover the post-award phase of the procurement process, including contract management and certification and payment.  
Being able to incorporate sustainability and innovation objectives into the procurement process is an ass
- Your role requires analytical and critical thinking to address problems independently, and organisational awareness to get support when you need it.

### Profile 3 — Public Procurement Specialist

The public buyer's job is to be a specialist in the public procurement for a larger contracting body or central purchasing body, as part of a larger team.

- You need to have solid understanding of relevant EU and national legislation, apply a consistent compliance mindset, and be proficient with the relevant IT systems and tools.
- As a public procurement specialist, your internal clients and end users rely on you to bring strong business and performance orientation, and to take care of outward-facing aspects such as supplier management.
- Your major added value is in the pre-award phase, translating the results of the needs assessment of internal clients into clear and objective technical specifications, and taking an active role in the tender evaluation committee.
- As a specialist, you need to bring strong understanding of how the work in your remit fits into the broader procurement lifecycle, and to craft tailored procurement strategies.
- You are able to incorporate sustainability and innovation objectives into the procurement process.
- As a member of a larger team, collaboration and organisational awareness are essential to your success.

### Profile 4 – Category Specialist

The role of category specialist is to develop and provide advanced and expert knowledge of a particular category of supplies, services or works.

- Your job as the category specialist is to become an expert in a specific kind of market and contract. You help the internal or external clients to increase their value for money and the satisfaction of end users through your advanced knowledge of the suppliers and their offering.
- Your major added value is in your category specific knowledge. Within this category, you are particularly adept at conducting market analysis and engagement, and in drafting technical specifications.
- This knowledge also makes you uniquely effective at the needs assessment process, as well as on how the specificities of your field interact with the steps of the procurement lifecycle
- You rely on your business and performance orientation to transform your knowledge into better results for end users and the public.
- You are able to leverage your insights to achieve more sustainable and innovation procurement.

### Profile 5 – Contract Manager

As a contract manager, your job is to oversee the operation and performance of the public contracts. The contract manager acts as the main point of contact for suppliers on contractual matters. It monitors the performance of the contract and reports back to the leadership.

- You need to have a strong understanding of relevant EU and national legislation, particularly contract law.
- You also need to represent the organisation in terms of supplier management, as well as any negotiations or conflict resolution that may be necessary.
- Your major added value is in the post-ward phase, taking the lead on contract management and payment, and reporting and evaluation responsibilities

### *Profile 6 — Department manager*

The key and fundamental task of the department manager is to ensure that the organisation's policies goals (incl. those within the framework of the State purchasing policy) are transformed into concrete purchasing action.

- Your job as the department manager's job is to oversee the public procurement professionals in the organisation to deliver on their objectives. As a management position, this role requires less specialisation in procurement and more professional competences.
- You need to have a solid grasp of relevant EU and national legislation, and to be able to translate that into tailored procurement strategy.
- You are ultimately responsible for compliance, as well as internal control and risk management.
- You are responsible for the planning, making sure organisational and national policies are being implemented day-to-day. This includes incorporating sustainable and innovation policy goals into the procurement process, where relevant.
- You are often called on to represent your organisation, so you will need excellent communication and negotiation skills.
- As a manager, you are accountable for the department budget, thus you need to bring a strong performance orientation and project management to the job to drive value for money.
- Your major added value is as a leader. This requires exceptional team management and leadership and stakeholder relationship management skills, as well as very strong organisational awareness.
- You will need to rely on your analytical and critical thinking, and to drive change through adaptability.
- You are accountable to the organisation for all reporting and evaluation, and authorising certification and payment.

Each organisation should select job profiles taking into account the characteristics of its activity, its size and its potential. Contracting authorities whose purchasing needs are mainly based on the approval of the office, i.e. they carry out few procedures with a value equal to or above the EU thresholds, will construct a team of procurement practitioners differently from specialised and purchasing units to carry out the largest projects in Poland.

Contracting authorities that do not specialise in any specific categories of procurement and rarely enter into contracts with a value equal to or above the EU thresholds also have different staffing needs. It is crucial for them that the specialists they have at their disposal are as versatile as possible. Therefore, the basic job profile of such entities will be the *'standalone public buyer'*, who, with the possible support of the *'procurement support officer'* and under the direction of the *'department manager'*, will be able to meet the purchasing needs of the smaller contracting body.

The situation will be different for contracting authorities whose purchasing needs fluctuate around specialised solutions or are carried out in the context of procurement procedures with a value equal to or above the EU thresholds. This type of contracting body should look for specialists with the profile of a *"public procurement specialist"* as the backbone of a team supported by practitioners with the profile of a *"category specialist"* who will complement the team with their expertise and narrow knowledge. This team, headed by a *"department manager"* with a possible support from *"procurement support officers"*, will be able to meet the purchasing needs of larger organisations.

Determining whether a *"contract manager"* is needed in a given organisation will depend on the specificities of each contracting body. When contracts are multiple or complex, it is recommended to include in the team a practitioner responsible for contract management. An example of the Competency Matrix with the target levels for the above-mentioned job profiles is attached as Annex 3 to the policy.

### ***Step 3. Perform self-assessment***

As part of this step, public procurement practitioners are required to complete a self-assessment questionnaire. This questionnaire should be divided into three parts: (i) general questions, (ii) knowledge questions, (iii) skill questions.

The proposal for questions corresponding to each competence is attached in Annex 4 to the policy, *"The self-assessment questionnaire"*. This Annex shall be used in conjunction with Annex No 2. *The "Competency Matrix for Professionals in Public Procurement"*, which describes in detail the competences and requirements for a particular level of proficiency.

In conclusion, at this stage, the contracting body should review the real potential of purchasing entity by carrying out self-assessments that are reliable and free of negative consequences for employees.

The data obtained from the above questionnaires should then be collected and summed up by the contracting body. The next step will be the transmission of these aggregated data to the supervisory unit, which, after summarising the data of all its supervised entities, will forward the aggregated material to the PPO President.

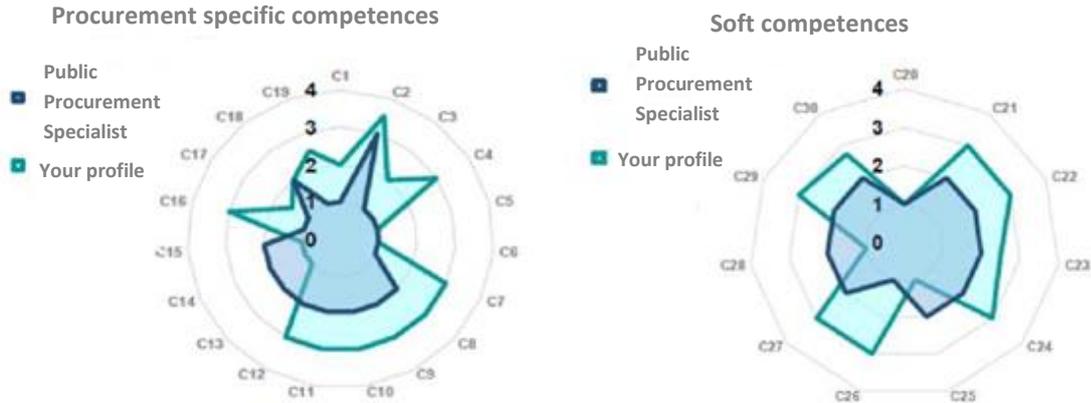
This will allow supervised entities to organise joint training or procurement. The PPO President will receive collected data detailing administration departments<sup>30)</sup> and individual contracting authorities.

**Step 4. Identify the gaps**

When a team of practitioners submits individual self-assessment questionnaires, the role of the head of contracting body is to analyse the results collected at both individual and organisational level.

These results at individual level should be confronted with the job profiles that each contracting body has defined for himself at stage 2. This will enable the head of contracting body to discover the strengths and weaknesses of his team and potential competency gaps.

Using, e.g. a radar chart, comparing the job profile with the score of each employee individually or the average score of all staff to perform the tasks within this profile, it is possible to identify in a simple way the gaps in the team’s competence and room for action.



(Source: [https://ec.europa.eu/info/sites/default/files/procurcompeu\\_ecf\\_for\\_pp.pdf](https://ec.europa.eu/info/sites/default/files/procurcompeu_ecf_for_pp.pdf))

In conclusion, at this stage, the contracting body is required to carry out the actual evaluation of the results of the questionnaires, moreover, the data collected as a result of these questionnaires should be collected by the contracting body and on their basis monitor the professional development of employees.

**Step 5. Address the gaps**

Based on data from self-assessment questionnaires, the contracting body may identify areas that require intervention. Actions may be undertaken within the framework of a system of professional development for individual employees or at the level of the organisation as a whole by, inter alia, internal or external training, recruitment of new employees, outsourcing and

<sup>30)</sup> Pursuant to the Act of 4 September of 1997 on Government Administration Departments (Journal of Laws of 2021, item 1893).

pooling capacity with other contracting authorities through exchange of knowledge and joint procurement and appointment of central purchasing bodies.

Thus, the human resources policy of the contracting body based on the obtained data should be a key element of the human resources strategy and the purchasing strategy of the entity.

In addition, by analysing the data collected and compiled in this way, the PPO President will be able to better adapt his training and education activities to the real and recurring needs of public procurement practitioners.

In conclusion, within this step, the contracting body should define tasks and training plans for all employees of the purchasing body.

In view of the above, the **head of contracting body** should:

- go through the 5 steps outlined above for the alignment of procurement practitioners with ProcurComp<sup>EU</sup> framework, of which the first 4 phases by the end of the second year (2023) of the policy,
- adapt internal regulations to the ProcurComp<sup>EU</sup>,
- in step 5 “address the gaps” prepare a list of competences that are missing in the procurement team and define a training strategy on its basis,
- submit the results of the questionnaires together with a list of missing competences and proficiency levels to their supervisory unit and voivode,
- start implementing this strategy through internal and external training (organised by public bodies and the private market) and monitor annually.

**The general bodies and voivodes** should:

- collect the results of questionnaires of their supervised entities,
- aggregate data from questionnaires of their units and then forward it to the PPO President.

**Public procurement practitioners** should:

- complete the questionnaire reliably,
- aim to fit into the desired job profile,
- signal training needs,
- train on their own, using free and publicly available material.

**The PPO President** should:

- collect information on competency gaps on an annual basis,
- take this information into account in the educational activities.

**The minister responsible for the economy** should:

- promote the use of job profiles among contracting bodies.



## 2) Making work for the contracting body more attractive

The role of the head of contracting body is undoubtedly to conduct a coherent, well-thought-out and effective human resources policy. In particular, this is crucial for the management of a team of public procurement practitioners. Often, their proficiency in their profession can bring an actual efficiency of the funds spent, which can be manifested, among others, in savings or in obtaining better, more modern and environmentally friendly solutions.

Each contracting body has its own individual character and its purchasing needs are conditioned by both technical and organizational capacity and facilities. Realising the purchasing needs of such entities requires proper recognition by public procurement practitioners of the possibilities of their own organisation. Therefore, from a strategic point of view, the outflow of public procurement practitioners is a risk that may affect the efficiency of the overall procurement lifecycle.

The strategic interest of the head of contracting body is certainly to build up an appropriate team of public procurement practitioners (based on the ProcurComp<sup>EU</sup>). To this end, it is crucial to maintain public procurement practitioners and build their capacities individually and as a whole team. To this end, the head of contracting body should carry out intensified activities towards: (I) the individual capacity building of the employee and (ii) the capacity building of managers.

### ***Action 1. Individual capacity building of employees***

The first stage of capacity building is to obtain the employee as part of a well-performed recruitment process. The basis of an effective team is the proper matching of employees to the team and the nature of the work. A short and expedited recruitment process will typically result in hiring an employee who does not fit in with the functioning team and who may leave the job after a few months. This situation will lead to an increase in the workload for the remaining employees during the vacancy period and more tension in the team.

It is recommended that recruitment to the team of public procurement practitioners is at least 2 stages, where one of the stages is the skill test. In addition, in each case, the head of contracting body should verify the candidate's qualifications and experience. Moreover, in order to attract young workers, it is worth taking anticipatory actions by supporting knowledge contests on public procurement or supporting the activities of academic research circles. These activities can attract graduates interested in public procurement from the very beginning.

An effective recruitment process should select an employee whose competences will be sufficient to carry out their duties effectively, and whose personal characteristics will indicate a desire for development and professional self-improvement.

Secondly, every employee should already at the beginning of their work for the contracting body, undergo the process of self-evaluation, taking into account their job profile. On the basis of the result of this evaluation, the employee and his/her immediate superior should prepare an individual professional development plan that includes both short-term objectives within the framework of the unit's training plan, but also medium-term objectives, which will aim to build the employee's professional capacity in accordance with the achievable and future job profile.

An individual employee development programme is a tool for the civil service that already exists in the system and should be used accordingly.

It is crucial that the head of contracting body is the cornerstone of the employee's development support system by providing financial and organizational support in improving their competences, enabling postgraduate studies, doctoral studies, foreign language lessons, legal applications and other forms of employee development. Employees, seeing development opportunities within an organisation, will be eager to commit to it for a long time.

The third activity of the management staff of the contracting body, which may have a positive impact on the development of public procurement practices, is undoubtedly periodic evaluations (which should not be confused with the periodic evaluation referred to in Article 81 of the Civil Service Act of 21 November 2008 (The Journal of Law of 2021, item 1233)). This is the moment when an employee may receive feedback on the attitudes in the course of his/her professional duties. It is crucial that such evaluations take place more than once a year and that the structured feedback is made up of positive elements as well as those that need to be improved. In the course of such evaluations, the individual development plan should also be updated in order to complement it with new elements which the employee has difficulties with and to develop the employee's competences on an ongoing basis.

The role of the head of contracting body in this case is to initiate such evaluations and to organise the work of the contracting body in such a way that managers can carry out such assessments and have the appropriate tools and competence to perform them.

The fourth element of staff capacity building is the creation a belief in employees about the possibility of promotion within the organisation. Employees often leave an organisation where they do not see the possibility for promotion to higher positions and the possibility of getting a pay raise. With this in mind, the development plan of an employee needs to be clearly defined in the milestones required for promotions and pay raises. Thus, the employee has the feeling that it can bind the future to the organisation. Therefore, in the case of a vacancy for any position, especially at managerial level, the head of contracting body should first consider the applications from employees already working within the organisation. This issue should be complemented with an individual development plan of an employee, so that employees in lower positions improve their competences and prepare themselves to take up senior positions and to meet the tasks associated with them.

## ***Action 2. Capacity building of managers***

The reason for job resignation, apart from financial issues, can often be issues related to team management by managers. When an employee resigns, very often the reasons should be found on the side of the manager, not the whole organisation. It is worth paying special attention to this when there is a high rotation of employees in a given team.

With this in mind, special attention should be paid to the development of soft skills among managers, as well as to educate them on how to manage a team consisting of different levels and ages.

The recommended model is to prepare the manager for his role in the implementation of an individual development plan and to select it from employees of the organisation. Such a prepared employee has better knowledge of the characteristics of both the team and the purchasing needs of the contracting body

In addition, the manager, as part of his/her job profile from the ProcurComp<sup>EU</sup>, should achieve an adequate degree of soft skills before taking up his/her role. Moreover, in the course of his/her employment as a manager, as part of the development plan of the manager concerned, the head of contracting body should pay particular attention to soft skills related to communication and team management.

### ***Action 3. Building comfortable working conditions***

Another desirable course of intervention by the head of contracting body is to evaluate the working conditions available to employees of the contracting body. The head of contracting body should seek to improve the workplace according to the needs signalled by the staff. Employees should have the full comfort of working in the office. Even minor inconveniences, that have been an everyday occurrence for many years, can be one of reasons for leaving a job.

#### **In view of the above, the head of contracting body should:**

- equip managers of procurement units with organizational tools to ensure that professional development can be carried out in accordance with the adopted individual plan,
- prepare an appropriate improvement plan for managers and future managers with a special focus on soft skills,
- coordinate the conduct of periodic evaluations,
- overview the recruitment process with a view to improving it and complement it with job profiles,
- review working conditions and adapt them as far as possible according to staff proposals.

#### **The manager of a procurement unit should:**

- prepare a development plan for individual employees and aim to implement it,
- conduct evaluation meetings at least twice a year (preferably more frequently) and update development plans for employees,
- take an active part in the recruitment process.

#### **Public procurement practitioners should:**

- complete all evaluation questionnaires reliably,
- signal the need for changes in the workplace,
- signal training needs,
- improve job competences.

To this end, as part of preventive measures, the head of contracting body should conduct anonymous employee questionnaires every six months to help identify areas for improvement in working conditions.



## 2. Horizontal and vertical cooperation

Cooperation between contracting bodies is an element in improving innovation and efficiency of public procurement. It can contribute to greater professionalism of the staff involved in preparing and conducting the procurement procedure. Cooperation does not deprive individual contracting bodies of their independence and autonomy in meeting their purchasing needs, but provides support at each stage of the procedure. The aim is to prepare the procedure better and more content-related and provide an optimal description of the subject-matter of the contract in terms of purchasing needs, taking into account the use of innovation, green and social aspects.

The PPL provides the adequate tools, through which contracting bodies have the opportunity to establish cooperation both during the preparation and conduct of the procurement procedure.

Two types of cooperation between contracting bodies should be distinguished:

- horizontal cooperation — cooperation between contracting bodies in the framework of centralised and joint procurement;
- vertical cooperation — using the knowledge and support of specialised institutions, other contracting bodies, the world of science, drawing on their previous experience.

### 1) Centralised Procurement

The first form of horizontal cooperation between contracting bodies is centralised procurement, which is the subject-matter of an activity of the central purchasing body, within the meaning of Article 44 of the PPL. Participation in centralised purchases is in principle mandatory. The central purchasing body shall be appointed by order of the Prime Minister, from among organisational units subordinate to or supervised by government administration bodies or by the minister in charge of the government administration from or supervised by subordinate organisational units. It may also be appointed by a resolution of the executive body of a local authority.

The subject-matter of the centralised procurement is not different from that of the joint procurement. These may also include i.a.: supply of computer equipment, IT equipment, software and licenses, office equipment, vehicle fuel, fleet cards, office supplies, press, passenger cars, off-road and trucks and other commercial vehicles, fixed and mobile telephony services, property and communications insurance, postal and courier services, uniforms.

### ***Benefits from centralised procurement:***

- Achieving economies of scale, i.e. significantly more cost-effective tenders due to the larger scope of the contract.
- Standardisation of products procured, which will be on the equipment of certain contracting bodies. This applies in particular to those central purchasing bodies which carry out procedures for the use of contracting bodies throughout the country.
- Content-related support for smaller contracting bodies, which can help to increase the efficiency of the contracts performed.
- Time savings resulting from a smaller number of procedures, giving the contracting body's staff more time to prepare other procedures, including those strategic from the point of view of the contracting body.

### ***Principles of good cooperation***

Centralised procurement can only bring the expected benefits if there is good cooperation between all institutions involved in central procurement. This cooperation should cover both the stage of preparation of the central contracting body's plan of procedures for the following year, as well as the preparation of already specific procedures with a description of the subject-matter of the contract, the establishment of criteria for the evaluation of tenders or the conditions for participation. The principles of good cooperation should include, inter alia:

- mutual respect and loyalty of all institutions involved in the centralised procurement process;
- seeking an agreement between the institutions, based on a mutual understanding of needs and objectives;
- recognising the coordination role of the central purchasing body;
- setting appropriate time-limits for the submission of comments and for the analysis of documents appropriate to their volume.

For contracting bodies, concerted interaction should also be manifested in:

- readiness to communicate their purchasing plans to the central purchasing body
- recognition of the coordinating role of the central purchasing body, i.e. the power of the central purchasing body to set time-limits for contracting bodies;
- making an estimate of the contract value and prepare a preliminary description of the subject-matter of the contract for procedures covered by central purchases.

The central purchasing body, in cooperation with individual contracting bodies, should:

- take into account the expectations and opinions of individual contracting bodies regarding the preparation of the description of the subject-matter of the contract;

- set reasonable time-limits for the submission of comments and analyses;
- show readiness to meet with representatives of the individual contracting bodies in the event of misunderstandings, ambiguities;
- have the courage to introduce in centralised procurement social, green and innovative aspects and solutions to increase the opportunities of SMEs.

Specific analysis and cooperation requires a phase of defining a centralised procurement plan, deciding which procedures will be implemented centrally and which procedures will be carried out individually. It may turn out that the contract performed centrally at the level of estimation will be more expensive than carried out individually. It is important to keep in mind the differences in prices of supplies, services or works in different regions of Poland. In addition, economic operators costs, margins, discounts applied may be different. Some economic operators may not be interested in a contract of the central purchasing body because they operate locally and will therefore not participate in the centrally organised tender, for fear of their executive, logistical or transport capabilities. The central purchasing body, in consultation with the individual contracting bodies, must consider all this in order to take into account the possible benefits from awarding the contract on the local market.

### ***Analysis of procurement efficiency***

Centralising of public procurement should improve both organisational and economic efficiency. The authority appointing the central purchasing body should ensure that it is able to monitor the level of efficiency of central procurement. Therefore, the ordinance or other act appointing a central contracting body should include an obligation to analyse the effectiveness of centralised procurement, as part of the cooperation of the institutions involved in the process.

Such an analysis should be made once a year and include, inter alia, information on:

- the degree of savings in centralised procurement compared to individual contracts;
- the number of sustainable procurement carried out using social and green aspects;
- indicate the actions taken to facilitate the award of contracts to SMEs

It should result in a document containing at least: the sources of the data analysed, a summary of the central contracts awarded with an indication of the degree of savings achieved, the cost-benefit balance and the final results and conclusions. This document, signed by the person in charge of the central purchasing body, should be submitted to the authority that supervises it by the end of the first quarter of the following calendar year at the latest.

### ***Ancillary purchasing activities***

An important element defining the activity of the central purchasing body should also be the performance of so-called ancillary purchasing activities, which consist of providing assistance to contracting bodies in connection with the award of the contract or the organisation of a competition and advice on the planning, preparation and conduct of the procedure.

It is advisable for the contracting body for which a central purchasing body has been appointed to be able to benefit from its content-related support, knowledge and experience in the

preparation of the procedures, even if they carry them out themselves and the subject-matter of the contract is not covered by central purchases.

Central purchasing bodies, due to their planning competence, may collect information on the purchases planned by individual contracting bodies and inform those contracting bodies of the potential possibility of joint conduct of the procedure or of carrying out the procedure under their aegis, even if the contract in question has not been included in the central purchasing list for a given year.

**In view of the above, individual ministers should attach greater importance to:**

- consider the need to appoint central purchasing bodies from among subordinate or supervised entities that could meet the needs of their offices and their subordinate or supervised units, taking into account their specificities and sample categories of contracts that are not covered by the proceedings conducted by the **Government Administration Service Centre**.

**Heads of contracting bodies should:**

- supervise the cooperation of subordinate offices with the central purchasing body and be kept informed of procedures carried out centrally or jointly;
- use the results of the performance analysis for the day-to-day management and supervision of the public procurement system.

**Central purchasing bodies should:**

- once a year, analyse their procurement efficiency. Whereas this obligation should arise from internal regulations;
- provide ancillary purchasing activities to smaller entities, e.g.: support in connection with the award of a contract or the organisation of a competition and advice on the planning, preparation and conduct of the procedure.

### ***Central purchasing body for government administration***

A special role in the context of cooperation between government administration bodies is played by the Government Administration Service Centre (COAR), which is an institution of the budget economy, reporting to the Head of the Chancellery of the Prime Minister. COAR was designated as the central purchasing body for government administration units by an order of the Prime Minister. The primary task of COAR is to carry out centralised and joint

procurements in accordance with the PPL, as well as to provide joint services resulting from the performance of these contracts.

In order to improve the efficiency of the centralised and joint procurement system in government administration, it is desirable to increase COAR's activity in the area of coordination of the centralised procurement system for the government administration units and to improve the quality of cooperation between individual contracting bodies.

The role of COAR in the planning and preparation of procurement needs to be strengthened. COAR, when planning purchases for a given year, should be able to analyse the purchase plans of government administration units and, as a result, take action to prepare centralised and joint procurements.

The activities related to the development of purchase proposals should take place on a two-track basis. On the one hand, proposals of units, on the other hand, COAR's own analysis. This will allow for the coordination of procurement and to combine the purchasing needs of government administration units. This will provide an opportunity to increase the number of joint contracts, carried out, for example, by two or three contracting bodies or by a central contracting body. COAR, after analysing the procurement plans, should also propose to the government administration units to carry out certain contracts. In such a situation, COAR could play a role of content-related support in the preparation of the procedure.

Consideration should also be given to extending the catalogue of information collected by COAR. This applies both the proposed conditions for participation in the procedure and the criteria for the evaluation of tenders. Consideration should also be given to the inclusion of green, social and innovative aspects in the procurement process.

COAR should also be able to collect data on the model of conduct desired by the government administration units (contract award or conclusion of a framework agreement).

The increase in COAR's data collection will result in a greater impact on the preparation of the procedure. On the other hand, it is also intended to increase the involvement of government administration units in the purchasing process. Finally, the aim is to improve the quality of cooperation between COAR and government administration units and reduce the number of requests submitted to the Head of the Chancellery of the Prime Minister for approval of independent contract awards.

**In the view of the above, COAR should:**

- apart from preparing and conducting centralised procurement, play a coordinating role in the procurement planning process, including receiving and analysing procurement plans of individual contracting bodies, taking an active part in defining and planning standard purchases,
- provide content-related support to contracting bodies and, if necessary, create a framework for cooperation and assistance in carrying out a joint procurement, at least for two other contracting bodies, if they so request,
- in the fourth quarter of the calendar year, at the time of the establishment of procurement plans by the individual contracting bodies, organise a meeting of all ministries in order to determine the possibility of carrying out joint procurements,
- take greater account of the needs of ministries when preparing the plan of procurement procedures and individual procedure. This requires coordination meetings to discuss the possibility of carrying out individual procedures, purchasing proposals, description of the subject-matter of the contract, the conditions for participation in the procedure, etc.

It seems that the contacts between COAR and government administration units cannot be limited only to the platform<sup>31)</sup>. In particular, if a description of the subject-matter of the contract is drawn up and if any comments are made on the draft STC submitted by COAR, more direct contacts may be necessary. This will give contracting bodies the opportunity to present and justify their proposals or comments. Also at the time of developing procurement plans, a direct meeting between COAR and government administration units could bring tangible benefits and streamline the process of developing both central and joint procurement plans.

## 2) Joint procurement

A characteristic of joint procurement is to cooperate in the conduct of a public procurement procedure. The contracting bodies concerned shall establish cooperation by concluding an agreement.

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<sup>31)</sup> The electronic platform for the exchange of information referred to in para. 3 point 4 of Order No 249 of the Prime Minister of 30 December of 2020 on the designation of the central purchasing bodies for government administration unit and designation of government administration units required to purchase contracts from the central purchasing body (Polish Monitor, item 1215).

Access to and performance of joint procurement, unlike centralised procurement, is voluntary. No contracting body is obliged to award joint contracts with other contracting bodies. The benefits of joint procurement are:

- optimising contractual conditions, making purchases more cost-effective and efficient, including the lower price to be paid for the contract performance;
- greater possibilities for content-related preparation of the procedure and description of the subject-matter of the contract by combining knowledge and organizational resources of individual contracting bodies,
- better safeguarding of the public interest, measured by the mutual compatibility of the solutions offered, standardization of tools at their disposal, and the ability to carry out effectively certain tasks for which individual contracting bodies are appointed.

In addition to standard products related to ensuring the functioning of the office, joint procurement may be related, for example, to the performance of specific tasks, to the procurement of electricity, to the provision of lighting for public spaces.

Tasks related to the following can be carried out jointly:

- waste management, regarding waste segregation, incineration or recycling,
- construction and expansion of sewage treatment plants,
- related to thermal energy.

Joint procurement may also include, e.g.:

- public utility vehicles,
- computer equipment,
- office supplies,
- standatisation of technical equipment, e.g. for hydrotechnical and flood prevention infrastructure,
- maintenance and snow clearance from roads under different management so that there is no sudden and dangerous situation for users of lack of traffic flow,
- equipment for schools, educational centres, orphanages, hospitals, etc.

An adequate flow of information and cooperation between at least two contracting bodies are necessary to talk about the possibility of a joint procurement. It is therefore important to properly plan your purchasing needs and the ability to establish cooperation. Publishing reliable plans for procurement procedures in the Public Procurement Bulletin and on the contracting body's website, on the one hand, is a source of knowledge for economic operators, on the other can be a valuable source of information for other contracting bodies. This makes it easier to know the purchasing needs of other institutions and thus creates the possibility of an agreement for the joint conduct of a public procurement procedure.

When preparing the procedure, it is recommended that employees of the contracting body also consider the possibility of carrying out a given contract jointly with another contracting body.

Contracting bodies, when concluding an agreement for the joint award of a contract, should avoid the feeling that, once the authorised contracting body has been appointed, they are exempt from carrying out activities relating to the preparation of the procurement procedure and the support of the authorised contracting body at the stage of its conduct. It is also important that each contracting body, prior to the conclusion of the agreement, describes the subject-matter of the contract according to its needs and preliminary estimates its value, as this will provide a basis for determining whether the purchasing needs are convergent and, consequently, whether the joint award will be an efficient and non-conflict tool.

The agreement between contracting bodies should include, i.a.:

- not only the identification of the parties to the agreement with the designation of the contracting body authorised to conduct the procedure;
- but also an indication of the contracting body's staff assigned to take part in the work relating to the preparation of the description of the subject-matter of the contract
- provisions relating to the determination of the contract value and the payment and cost allocation rules;
- provisions relating to the conclusion of one public contract or separate contracts for each contracting body.

In view of the above, ministers in charge of government administration units should:

- Coordinate to a greater extent the procurement procedure of units and institutions subordinate to them, with a view to reinforcing cooperation between them and increasing the number of joint procurements awarded within the individual ministries.

The heads of the contracting body should:

- consider, already at the procurement planning stage, the possibility of joint procurement, taking into account the possible benefits;
- cover by joint procurement (unless covered by centralised procurement): standard contracts related to ensuring the functioning of the Office for electricity, lighting, public utility vehicles, computer equipment, office supplies, standardization of technical equipment, e.g. relating to hydrotechnical and flood protection infrastructure, maintenance and snow clearance of roads, as well as contracts related to environmental protection, waste management, waste segregation, incineration or recycling, the construction and development of sewage treatment plants, thermal energy, etc.;
- supervise that employees responsible for preparing the procedure identify whether it is possible to conduct the procedure jointly with another contracting body.

***Joint procurement can also be an instrument to support the development of the SMEs potential.***

Instruments to increase access for economic operators from SMEs sector, such as dividing contracts into lots, allowing partial tenders to be submitted in one procedure, concluding framework agreements and others, are described in Priority II (see p. 23).

At this point, particular attention should be paid to the use of a **framework agreement**, which can work well in the context of joint procurement. The design of the framework agreement is adapted to be concluded in the name or on behalf of many contracting bodies, it allows for aggregation of purchases, allows to combine the needs of several entities and exploits economies of scale. It also allows for the fragmentation of large contracts.

In the context of joint procurement, it is also worth pointing out the advantages of:

- **dynamic purchasing system** that provides the pre-selection of economic operators, which allows at the stage of the award of a contract covered by this system to omit the verification of economic operators' abilities and reduce the workload devoted to the evaluation of tenders. The contracting body does not have to evaluate documents on the grounds for exclusion or meeting the conditions for participation in the procedure every time. This is also beneficial for contractors, since instead of collecting and submitting

documents multiple times for each procedure, they do it only once - at the stage of qualification for the dynamic purchasing system.

- **cooperation of contracting bodies only at the stage of preparation of the contract** - establishing a cooperation between contracting bodies only at the stage of preparing the contract and developing a description of the subject-matter of the contract, but without conducting the procedure jointly, will allow the contracting bodies to exchange experience and knowledge and to prepare a standardised subject-matter of the contract. However, formally, each contracting body would conduct a separate procedure.

### 3) Vertical cooperation

In addition to horizontal cooperation, vertical cooperation can also have a key impact on procurement efficiency. This cooperation should draw on the knowledge and experience of other contracting bodies, as well as of specialised public institutions, and the scientific world.

It is therefore recommended to use the knowledge of other institutions and to ask them for consultations, to seek solutions that can be applied in the planned and upcoming procedures. Such consultations may be requested during the preparation of an atypical, specialised contract, when green or innovative aspects are considered, or in the case of a non-standard, non-typical procedure, when the persons responsible for the description of the subject-matter of the contract have doubts about the solutions they plan to implement.

The benefits of vertical cooperation:

- an increase in sustainable procurement including green, innovation or social aspects;
- harmonising the application of different approaches in the area of government administration;
- improving the quality and efficiency of awarded contracts;
- ability to draw conclusions from mistakes of other contracting bodies

The subject of consultations between contracting bodies may be both the conditions for participation in the procedure, the criteria for the evaluation of tenders or the various provisions of the public contract, but also information on the procurement market, potential economic operators, the possibility of considering social, green or innovation aspects.

Contracting bodies should also draw on their experience, but should bear in mind that any of them can benefit from such assistance, but also anyone may be requested for such consultation.

In order to be able to collaborate, there must be an appropriate flow of information between contracting bodies. This can be ensured at a minimum through the websites of the individual contracting bodies and the information that is published there. In search of experiences of other contracting bodies and valuable solutions, it is therefore useful to browse the content of other contracting bodies' websites, including in particular archived procedures, as they can be an important source of inspiration for the solutions adopted in the planned procedure, as well as

good practices often developed by contracting bodies for the purpose of awarding public contracts.

Interesting good examples that may inspire other contracting bodies are provided in the table below. It also proves that such online *research* can have positive results, contribute to a more effective and efficient procedure and save the time needed for preparation.

<b>Contracting body<sup>32)</sup></b>	<b>Example of good practices</b>
<b>Ministry of Finance</b>	body leasing;
<b>Ministry of Development Funds and Regional Policy</b>	good practices in ordering training services;
<b>Ministry of Digital Affairs</b>	application of option law and body leasing;
<b>The Chancellery of the Prime Minister - COAR</b>	framework agreements;
<b>Ministry of Culture and National Heritage</b>	model non-price evaluation criteria clauses supporting green and socially fair solutions

Direct contacts between contracting bodies are also desirable. These contacts should not only be limited to the preparation and conduct of the procurement procedure, but should also include an evaluation report. In accordance with Article 446 of the PPL the contracting body shall draw up a report on the performance of the contract. It is intended to include, i.a., evaluation of the method of contract performance, including the quality of its performance, and include conclusions on a possible change in the manner of performing future contracts or determining the subject-matter of the contract, taking into account the expediency, effectiveness and efficiency of public spending. The report is intended to serve the contracting body, but there is nothing to prevent the contracting body that developed that report from sharing those conclusions and experience with other contracting bodies.

### ***Knowledge of specialised institutions***

Another form of vertical cooperation in the preparation of the contract is the use of the knowledge of specialised institutions and bodies and the world of science. The strategic goal resulting from the PPL and the development of the State purchasing policy is to increase the innovation of procurement, so that the procured products contribute to the technological leap of the state and environmental protection. Therefore, when preparing the procedure and analysing needs and requirements, contracting bodies should have access to the widest possible knowledge and to content-related support from specialised institutions.

Specialised consultations can significantly help contracting bodies to assess which solutions should be applied, which of the available solutions will be optimal, taking into account the specific conditions of the contracting body, as well as to assess solutions proposed by economic operators in the framework of preliminary market consultations. The scope of the support

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<sup>32)</sup> The table indicates good practices developed by the ministries over the last years, therefore the names of ministries that are not currently valid are also included.

provided by specialised institutions could also include assistance in the evaluation of tenders submitted. The Technology Assessment Centre (COT) is an example of such an institution that contracting bodies will be able to turn to. It is an analytical unit of the Łukasiewicz Research Network<sup>33</sup>, which conducts socio-legal and economic research in the area of STI (Science, Technology, Innovation). Information on the areas and scope of the support offered by the COT is included in Annex No. 5.

An important aspect of the use of scientists' knowledge is also the use by contracting bodies of available studies, good practices and recommendations. One of the tasks of the PPO President is to conduct educational and information activities and to disseminate knowledge in the field of public procurement. For this reason, the PPO President carries out tasks related to the development of good practices and recommendations, examples of criteria for evaluating tenders etc. On the website of the Public Procurement Office (PPO) ([www.uzp.gov.pl](http://www.uzp.gov.pl)) in the Knowledge Repository tab, there are already many publications available, which have been developed independently by the PPO or by specialised institutions or as part of their collaboration with the PPO. They relate to various fields and meet the demand for both social, green and innovative procurement (they may concern IT, construction, innovation, environmental-related solutions).

The activities of the PPO President will be continued. The effects of the educational activity will appear on the PPO website.

**Individual contracting bodies are recommended to:**

- Keep archived and completed procedures on websites, so that other contracting bodies can familiarise themselves with solutions used
- seek and consult solutions applied by other contracting bodies;
- draw on the knowledge of specialised institutes, whose task will be to provide a content-related support and to assist in the development of solutions concerning new technologies, so that the described subject-matter of the contract meets the contracting body's needs to the greatest extent possible and that the final product and the solutions applied in it meet the additional objectives .



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<sup>33</sup>The Łukasiewicz Research Network was established by the Act of 21 February 2019 on the Łukasiewicz Research Network (Journal of Laws of 2020, item 2098).

### 3. Removing barriers to SMEs' access to the public procurement market

#### 1) Removing contract size barriers

SMEs wishing to participate in a public procurement procedure often indicate that a blocking factor in their tender submission is the size of the contract covered by the procedure. This is also indicated by the analysis carried out by the World Bank, which shows that SMEs are most likely to win a contract or a contract lot in the case of a medium-sized contracts<sup>34</sup>.

Contracting bodies should implement actions to remove barriers for SMEs resulting from the large size of the contract, adapted to the type, nature or subject-matter of the contract. The following actions are crucial.

#### *Action 1. Dividing a contract into lots or the admission of partial tenders in a contract award procedure*

Considering possible actions related to the removal of barriers arising from the volume of the contract, contracting body should take action to award public contracts where a contract has been divided into lots or which allows partial tenders to be submitted in a contract award procedure, **unless there are substantial technical, economic or organisational reasons for not doing so (the nature of supplies, services or works renders the execution of the contract technically difficult or expensive, or the contracting body would not be able to ensure coordination of execution of the contract).**

There should be no doubt that dividing public purchases into smaller lots or allowing a partial tender to be submitted is an essential instrument facilitating access for SMEs to participate in a contract award procedure. This is supported by both **quantitative considerations** - making the size of the contract correspond to the capacity of the SME and **qualitative considerations** – making more efficient adaptation of the contract type to the specialisation of the industry in which an SME operates.

Dividing a contract into lots or the admission of partial tenders may be prevented by e.g. the nature of the contract, the high inefficiency of such an activity (incl. economic — economies of scale significantly affect the price), large organisational difficulties on the side of the contracting body related to the proper coordination of the execution of the entire contract<sup>35</sup>. However, the reasons for not dividing the contract into lots or accepting the submission of partial tenders should not be based on concerns related to possible minor difficulties or costs or minor problems in coordinating the activities of economic operators, and – even more so – the convenience of the contracting body.

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<sup>34</sup> SME participation in public procurement in Poland. Mihály Fazekas, Nóra Regős (Government Transparency Institute).

<sup>35</sup> Recital 78 of Directive 2014/24/EU indicates that where the contracting authority decides that it would not be appropriate to divide the contract into lots, the individual report or the procurement documents should contain an indication of the main reasons for the contracting authority's choice. Examples of reasons for not dividing the contract into lots are: the contracting authority finds that such division could risk restricting competition, or risk rendering the execution of the contract excessively technically difficult or expensive, or that the need to coordinate the different contractors for the lots could seriously risk undermining the proper execution of the contract

The contracting body must in each case assess the validity of the reasons for not dividing the contract into lots, taking into account all the circumstances of the case. If, for organisational reasons, the contracting body intends not to divide a contract into lots or accept partial tenders, it should first examine whether it would be justified to involve an external entity (to admit to submit a tender for lot) in the coordination of the whole divided contract. Such a solution would increase the competitiveness of SMEs in the case of specialised parts of the contract (specialised services, supply of specialised equipment), without having to involve them in coordinating the execution of the whole/entire contract, which could constitute a barrier for SMEs to eliminate those economic operators from participating in the procedure.

**Having regard to the above:**

- the contracting body **is advised** not to limit the number of lots for which the contract may be awarded to the economic operator concerned. The possibility of awarding a contract for a larger number of lots will not limit the possibility for SMEs to participate in the procurement procedure, while not discouraging the participation of larger economic operators;
- the contracting body, considering that the division of a contract into lots or the admission of partial tenders in a contract award procedure is excessively difficult, i.a. for technical, economic or organisational reasons, **are obliged** to state in the procurement documents **the reasons for not dividing the contract into lots** (Article 91 par. 2 of the Act on Public Procurement Law) or **not allowing to submit partial tenders, together with a statement of reasons.**

## ***Action 2. Conclusion of framework agreements***

When considering possible actions related to the removal of barriers arising from the volume of the contract, contracting bodies should take steps to make use of the possibility of concluding a framework agreement with several economic operators instead of awarding a contract to a single economic operator, **unless the type and nature of the contract or the purchasing needs of the contracting body do not justify the conclusion of such a contract.**

The use of framework contracts by contracting body for the award of public contracts concluded with several economic operators significantly equals the chances of SMEs contractors when applying for the award of contracts compared to those of larger operators. The conclusion of a framework agreement, in particular where the contract is divided in lots, will not only allow economic operators to offer contracts in tranches which can also be performed by SMEs but should also have a positive impact on the quality of the contract performed due to the better matching of an of the economic operator with the type of service covered by the part of the contract.

Contracting bodies should refer to the terms and conditions of participation in the procedure and set them in proportion to the largest proportion of the contract awarded under the framework agreement and not to the whole contract covered by the framework agreement.

**Contracting bodies are recommended, within the framework agreement, to ‘separate’ contracts aimed at satisfying:**

- standard needs (standard solutions, products where large contractors can perform better) from contracts aimed at meeting specialised needs (non-standard or innovative solutions, products where SME contractors can offer more flexibility and higher standard of performance);
- needs requiring delivery on a large scale (a larger entrepreneur can obtain economies of scale e.g. by performing standard services) from contracts related to services that can be delivered on a small scale (minor services where SMEs contractors will find themselves well);

Such a strategy of action by the contracting body will allow it not only to obtain a better value for money for both standard and specialised contracts, but also to achieve additional objectives, e.g. social, economic, innovative.

2) **Providing sufficient time for economic operators to prepare for participation in the contract award procedure**

**In order to ensure that SMEs can better plan und prepare for the procurement procedure:**

- The contracting body **should** include in the plan of procurement procedures referred to in Article 23 of the Act on PPL in section: Additional information, information which may have a significant impact on the economic operator's decisions to compete for the award of the public contract, including those related to: preliminary market consultations, the obligation to lodge a tender guarantee or contract execution performance guarantee, the possibility of submitting tenders for lot, advanced or partial payments, adjustments of remuneration, etc

### 3) Setting requirements proportionate to the subject-matter of the contract and proportional financial requirements

EU regulations (Article 18 of Directive 2014/24/EU) and national regulations (Article 112 of the PPL) require contracting bodies to indicate conditions for participation in a procurement procedure in a manner **proportionate to the subject-matter of the contract and applying minimum levels of requirements to assess the ability to perform of the contract.**

A strict approach to require economic operators to meet requirements proportional to the type of purchase and its value is particularly important for SMEs. Imposing excessive requirements in relation to the subject-matter of the contract is a factor which excludes, in particular, SMEs from the procurement procedure, to a much greater extent than in the case of large companies.

Often, economic operators, especially SMEs, cannot rely on their own experience, e.g. due to the short duration of their activity, but employ highly qualified staff. Therefore, it would be possible to rely on experience in performing the contract of its own employees as a means of providing greater opportunities for participation by a wider range of economic operators in the procurement procedure. Providing this possibility will also benefit the contracting bodies themselves, as it can allow for better exploitation of the potential of also SME's economic operators and the performance of the contract at a higher level of innovation than normally available on the mass market and with an individual approach to its execution.

**Contracting bodies are recommended to set requirements of participation in the procurement procedure which:**

- are not only proportionate to the contract and non-discriminatory, but also defined in a comprehensible manner;
- refer to the ability to execute the specific contract and not to the overall assessment of the economic operator's capacity, provided, however, that it does not unduly restrict the group of economic operators who could run for a contract;
- refer not only to the experience of the economic operator, but also to the experience of economic operator's employees, enabling the economic operator to rely on that experience.

**Contracting bodies are also recommended to require only proportional financial guarantees, incl.:**

- requiring economic operators to lodge a tender guarantee only in a justified case, i.e. where the procedure refers to a contract entirely different from already awarded services, supplies or works; where the contracting body does not know the economic operators' market for this contract or the level of risk of non-finalisation of the procedure in the case of not requiring a tender guarantee, justifies the introduction of an additional financial burden on economic operators, in the form of a tender guarantee;
- where a tender guarantee is requested, returning it in the cases referred to in Article 98 of the Act on PPL, within a period of less than 7 days.

**In addition, contracting bodies should:**

- if it is considered that the requirement to lodge a tender guarantee in a classical procurement procedure is justified, take into account that the requested amount of a tender guarantee should not always reach the maximum values permitted by the Act on PPL, but may amount to e.g. 1.5% of the contract value, for contracts with a value equal to or exceeding the EU thresholds;
- return part of the contract performance guarantee after the performance of the contract lot in accordance with Article 453 para. 4 of the Act on PPL; therefore, the contracting bodies should take into account the principles for such return of the guarantee in procurement documents.

#### 4) Award of contracts on the basis of the most economically advantageous tender

SMEs can provide contracting bodies with innovative solutions and an individual approach to the performance of the contract, and often ensure a better value for money than a large contractor.

**In order to implement the principle of effectiveness referred to in Article 17 para. 1 of the Act PPL, contracting bodies are recommended to attach greater importance to:**

- Applying non-price criteria for the evaluation of tenders and enabling economic operators to provide more solutions targeted at the quality of the product or service, taking into account the selection of the most economically advantageous tender as a tender providing the best value for money or cost;
- Description of the subject-matter of the contract by defining technical specification in terms of characteristics or functional requirements (Article 99 para. 2 of the Act on PPL) instead of standard solutions, which will allow contracting bodies to focus on actual purchasing needs and on exploiting the potential of economic operators in the SME sector offering innovative products or services;
- Allow variant tenders to be submitted, in particular where the contracting body is not aware of the product or service offer available on the market. The contracting body is then required to determine in procurement documents the minimum requirements to be met by variant tenders and the requirement for their submission.

In addition, the contracting bodies should take into account, in relation to the contract to be awarded, costs that will be borne during the lifecycle of the subject-matter of the contract and which the contracting body acting with due diligence could have foreseen prior to the award of the contract.

#### 5) Providing sufficient time for economic operators to prepare tender

Increased involvement of SMEs in public procurement also requires sufficient time for the economic operators from this sector to prepare and submit their tender. The application of the minimum time-limits for the submission of tenders or requests to participate, as required by the PPL, not only discourages SME's economic operators from participating in public tenders, but often, due to lack of experience or lack of adequate administrative staff, constitutes a real barrier to their submission of tenders.

**Contracting bodies are recommended to take actions to provide sufficient time for the preparation of a tender, in particular by:**

- Publication of prior information notices which, in particular in the case of more complex or large contracts, will allow economic operators from the SME sector to properly prepare their tender or, for example, to find a consortium member with whom the economic operator will be able to jointly apply for the award of a contract;
- Apply the longest possible time limits for submission of tenders, adapted to the complexity and specificity of the subject-matter of a contract and taking into account the time needed to prepare and submit a tender also by economic operator from a SME sector who will need specialised assistance in formulating a tender or will be obliged to apply for the award of a contract, due to its size or specificity, jointly with another economic operator;
- The minimum time limits for submission of tenders required by the Act on PPL should be applied only in particularly justified cases.

**6) Applying solutions that foster equal distribution of the financial burden of the contract and shortening payment periods for the completed contracts**

An important factor in encouraging economic operators, including SMEs, to participate in public tenders is the credibility of contracting authorities as business partners and the certainty of cash flows.

What at the same time discourages economic operators from performing public contracts is that the financial burden of performing the contract is shifted to the economic operator. In the case of SMEs, this is often a factor completely blocking their participation in the contract as an economic operator. SMEs believe that it is “necessary” to consider their participation in the performance of a contract only as a subcontractor, which often raises their concerns about the final payment of remuneration by the economic operator with whom they will cooperate.

Therefore, contracting bodies should, where this does not conflict with the nature of the procedure, apply the solutions favouring an even distribution of financing burden, as discussed below.

Contracting bodies are recommended to pay more attention to include in contractual provisions clauses stipulating that economic operators are obliged to pay their subcontractors on time.

In addition, contracting bodies are recommended to:

- Providing for 14-day time limits for payment of remuneration to economic operators;
- Providing for adapting the amount of remuneration due to the economic operator, in accordance with Article 439 of the Act on PPL, also in case of public procurement contracts concluded for a period of less than 12 months, but not less than 6 months;
- Application of advanced payment or payments in instalments for a completion of a part of the contract, in accordance with Article 443 of the Act on PPL, also in the case of contracts concluded for a period of less than 12 months, but not less than 6 months;
- In the case of instalments payments - setting the percentage of remuneration paid for the completion of individual parts in a manner corresponding to the amount of work completed, whereas the percentage of the last part should not exceed 30% of the remuneration due to the economic operator.

#### 4. Alternative dispute resolution in public procurement

Greater use by procurers of out-of-court dispute resolution in public procurement can be an important factor in encouraging SMEs to participate in procurement procedures. The use of ADR, i.e. *alternative dispute resolution* also in public procurement, should be considered as a more efficient tool in terms of time and cost, than engaging in complex and costly litigation procedures.

An amicable dispute resolution in public procurement may have, alongside financial benefits, a number of additional advantages. One such advantage is the possibility to take into account, within the limits permitted by law, the interests and expectations of contracting bodies and economic operators, and, consequently, avoid a ruling that may adversely affect their further cooperation.

The General Counsel to the Republic of Poland has prepared a document entitled “Recommendations on the conduct of amicable dispute resolution”, indicating the path to be followed if this method is chosen to bring the dispute between the contracting body and the economic operator to an end.



The recommendations are available on the website of the General Counsel to the Republic of Poland:

<https://www.gov.pl/web/prokuratoria/rekomendacje-i-wzory-postanowien-umow2>

**Contracting bodies are recommended to consider alternative dispute resolution, incl.:**

- Including in contracts or framework agreement provisions on mediation or other amicable dispute resolutions;
- Use of the possibility of mediation or amicable dispute resolution before the Court of Arbitration or the General Counsel to the Republic of Poland.

## **5. Life-cycle costing**

The cost criterion, which the PPL indicates as applicable criterion for the evaluation of tenders, favours the change in the approach of contracting bodies to the procurement procedure and a departure from the application of the price only criterion. It allows contracting bodies to apply life-cycle costing when selecting the most advantageous tender. At the same time, it enables the economic justification of the contract taking into account the life-cycle of the subject-matter of the contract and costs associated with, i.a. its maintenance and use, and not solely on the basis of the purchase costs.

Life-cycle costing may cover, to an appropriate extent, some or all of the costs incurred over the life cycle of a product, service or works. Life-cycle costing may include internal costs which are borne by the contracting body or other users, as well as costs attributed to environmental externalities.

Among the costs incurred by the contracting body or other users, the PPL lists costs related to:

- purchase,
- use, in particular the consumption of energy and other resources,
- maintenance,
- disposal, in particular the costs of demolition and recycling.

The costs attributed to environmental externalities include in particular the costs of greenhouse gas emissions and other pollutants and the costs related to mitigating climate change. They may be included in the life-cycle costing on the assumption that their monetary value can be



determined and verified. The contracting body may also take into account other costs which are not directly mentioned in the PPL<sup>36)</sup>.

The provisions do not indicate rigidly what costs are to be taken into account by the contracting body when applying life-cycle costing. They only list examples of costs that can be considered in the cost-effectiveness method. This allows for a more flexible application of life-cycle costing by contracting bodies, taking into account the subject-matter of the contract and available methodologies.

If the contracting body decides to use life-cycle costing as part of the cost criterion, it is obliged to specify the scope of the information requested from economic operators and to indicate the method for estimating the costs. In the procurement documents, the contracting body shall indicate the scope of the data to be provided by economic operators and the methodology for calculating life-cycle costs.

### 1) Common methods for the calculation of life-cycle costs

The freedom of contracting bodies to determine costs in life-cycle costing does not apply to procurement procedures where the subject-matter of the contract is covered by a common method adopted by an act of Union law. In this case, when awarding contracts using life-cycle costing, contracting bodies are obliged to apply the methodology set out in the EU's directional regulations.

The provisions of the PPL refer to Annex XIII to Directive 2014/24/EU indicating the EU regulations defining common methods for the calculation of life-cycle costs. The Annex lists only Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120 of 15.5.2009, p. 5), which, as the only act of EU law, introduced a directional LCC methodology for road transport vehicles. However, it should be emphasised that Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles (OJ L 188, 12.7.2019, p. 116) repealed this LCC methodology.

### 2) Requirements for the method for estimating external environmental costs

While internal costs are relatively easy to express in economic terms, monetisation of environmental impacts is a more complex process. It is necessary to determine first which environmental impact factors will be taken into account, what method to use for calculating their economic value and on the basis of what documents to verify levels of indicators used in the methodology. This is essential to ensure compliance with the basic principles of award of contracts, i.e. equal treatment of economic operators, fair competition and transparency. To that end, the provisions of the PPL determine the conditions which the method used to estimate external environmental costs must all meet. The method must be:

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<sup>36)</sup> In Article 245, para. 3. of the Act on PPL the words 'in particular' were used.

- based on objectively verifiable and non-discriminatory criteria;
- accessible to all interested parties;
- adapted in such a way, that the supply of data by economic operators acting in due diligence is not unduly burdensome, including economic operators from third countries which are parties to the World Trade Organisation Agreement on Government Procurement or other international agreements to which the European Union is a party.

### 3) LCC calculation method for buildings

The life cycle of a building consists of three basic periods: investment (planning, design, construction), operation (use) and demolition (deconstruction of the object — residual value).

Applicable provisions, issued on the basis of Article 245 para. 7 of the PPL, provide for a simplified calculation method taking into account purchase costs, operating costs and maintenance costs of buildings. It is assumed that the operating costs are related to the expected consumption of final energy or energy carriers and water, the quantity consumed during the year being presented by the economic operator in the tender. In turn, the maintenance costs are to be the result of the operation of the building and are intended to enable the building to be maintained in a sound technical and aesthetic condition. The components here are the maintenance costs of the products less the value of the economic operator's guarantee.

The benefits of using life-cycle costing of a building include:

- rationalisation of contracting bodies' expenditure on the contract over the entire lifetime of the facility;
- positive impact on the environment, since the highest score will be given to the implementation assuming the lowest cost of the implementation phase not only itself, but also of subsequent use, which is to a large extent generated by energy demand often met to the detriment of the environment;
- promoting solutions and companies offering green solutions;
- developing advanced tender evaluation methods and moving away from the primacy of the price criterion.

In the case of large facilities, in particular public utilities, the calculation of the life-cycle costs of buildings should be a standard for the selection of a tender, even more so in the case of strategic construction investments. This is because it is in the social interest both economically and ecologically.

### 4) EU life-cycle costing tools

In 2019, the European Commission commissioned the development of life-cycle costing tools. LCC calculating tool with accompanying user guides have been provided for, among others, the following product groups:

- computers and monitors,

- interior lighting,
- outdoor lighting and
- imaging equipment.

The tools allow for the calculation of life-cycle costs taking into account:

- investment costs (acquisition and installation);
- operating costs;
- the costs of the maintenance service;
- other costs, including one-off initial costs<sup>37)</sup> and other annual costs<sup>38)</sup>;
- external environmental costs<sup>39)</sup>.

The PPO President developed a Polish version of the tools, together with the guides, which were made available in 2020 on the website: <https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne/zielone-zamowienia/przydatne-informacje/rachunek-kosztow-cyklu-zycia>.

It is recommended that contracting bodies use the available methodologies for the calculation of life-cycle costs in public procurement where the subject-matter of the contract is covered by such a methodology or when the tools for such calculation have been made available.

#### **Contracting bodies should:**

- use the available methodologies for calculating the life cycle costs in contract award procedures where the subject-matter of the contract is covered by such a methodology or when the tools for such calculation have been made available.

## **6. Environmental management system**

The environmental management system is a way of managing a company which aims to identify the environmental aspects of a company and to introduce changes in the way in which the company operates in order to reduce the negative environmental impact arising from the activities of the company. Reducing the negative impact of the company's activities may concern the atmosphere and air, water, soil, natural resources, plant and animal environment, energy.

<sup>37)</sup> Costs related, for example, to staff training, equipment configuration and data transfer.

<sup>38)</sup> Costs related to insurance, taxes, fees, interest, as well as costs related to e.g. system maintenance, regular training, destruction of data.

<sup>39)</sup> In the tools, the only external factor considered is the impact of climate change related to CO2 equivalent emissions as a result of the energy consumption of products when using them.



Public authorities should require economic operators calling for public contracts to have environmental management systems and promote the ownership of such system. This applies in particular to the construction sector, related to infrastructure investments, the chemical industry, and where energy is used to a large extent, so that economic operators have an environmental management system in place.

Having an environmental management system can be either a condition for participation in the procedure or an additional criterion for the evaluation of tenders, as the implementation of the system relates to the manner in which the contract is performed and not to the characteristics of the economic operator.

There are many environmental management systems, of which the following two are the most known and most commonly used:

- ISO 14001 - Environmental management system developed by The International Organisation for Standardisation;
- EMAS - The Eco-Management and Audit Scheme, developed by the European Commission.

**When preparing the procedure, the contracting body shall:**

- Require to have an environmental management system as a condition for participation in procedures that have a significant impact or are likely to have a high impact on the environment, or as a criterion for the evaluation of tenders.

**The Polish Agency for Enterprise Development (PARP), in consultation with the Ministry responsible for environmental protection, should:**

- promote benefits for entrepreneurs of the implementation of the environmental management system.

## **7. Environmental Technology Verification (ETV)**

Environmental Technology Verification is a pilot programme coordinated by the European Commission. Poland is one of the six Member States of the European Union that participate in it.

ETV verifies the innovation of solutions in the context of the environmental impact of technology from a life cycle perspective. Therefore, it enables to combine the strive to increase innovative and green procurement. It consists of providing objective evidence that the technical design of the environmental technology guarantees the achievement of the claimed performance, technical or functional efficiency and thus brings specific and measurable environmental benefits.



The verification of the environmental performance and benefits takes into account all aspects of the impact of the technology on environment: from the extraction of raw materials for the purpose of its production, to the disposal.

ETV in public procurement:

- provides reliable information on innovative environmental technology enabling comparison according to the requirements and needs of the contracting body;
- can be used as part of innovative pre-commercial procurement, as it allows for the selection of the optimal solution according to the specific needs of the buyer;
- reduces investment and technological risks and makes an informed decision to purchase the technology best suited to the contracting body's requirements;
- may constitute a proof in procurement procedures confirming the achievement by the technology of the declared effect.

In addition, ETV can serve as a source of information for the development of STC: provide a source of information on exploitable technologies and their real potential for ecology and innovation.

Initially, the ETV pilot programme concerned only three areas, but this scope has already been increased to seven thematic areas. ETV can provide an impetus for the implementation of innovative technologies that consider environmental aspects. As Poland is one of the six European Union Member States participating in the ETV pilot, it is already worth starting to take advantage of its potential in the development of sustainable public procurement. ETV may be used in the following areas:

- 1) energy technologies - production of electricity and heat from renewable energy sources, energy efficiency in industrial processes and buildings, general energy production technologies (e.g. microturbines, hydrogen and fuel cells, heat pumps, combined heat and power production, heat exchangers), distribution, energy storage;
- 2) water treatment and monitoring - water treatment for consumption, waste water treatment from microbiological and chemical contaminants, water industrial, monitoring the cleanliness of water;
- 3) materials, waste and resources - recycling of by-products and industrial waste for the recovery of secondary raw materials, recycling of batteries, accumulators and chemicals, increasing resource efficiency through the use of replacement materials, products made of biomass;
- 4) technologies for soil and groundwater monitoring and soil purification;
- 5) technologies and processes for cleaner production;
- 6) technologies reducing air pollution and monitoring and reducing emissions from stationary sources;
- 7) environmental technologies for agriculture.

Three institutions are entitled to carry out ETV in Poland:

- The Institute for Ecology of Industrial Areas in Katowice;
- The Institute of Technology and Life Sciences in Poznań;
- The Quality Centre, Automotive Industry Institute (PIMOT) in Warsaw.

Contracting bodies should consider the possibility of using ETV whenever the subject-matter of a contract is related to the areas indicated above.

## Chapter IX Tools

### 1. Description of the subject-matter of a contract

#### 1) Standards

The tool recommended during the preparation of the procurement procedure is the Polish Standards, in particular those transposing European standards and international standards<sup>40</sup>. Being aware of the direction of development of public procurement and the current challenges faced by contracting bodies, it is very important to use these standards in the management of the public procurement system. From a standardisation point of view, standards are an objective and non-discriminatory tool that can realistically influence the performance of public procurement in accordance with the principle of efficiency, and the principle of equal treatment. According to recommendations of the Polish Committee for Standardization, key standards, which should be taken into account by contracting bodies are:

- PN-EN ISO 14001:2015-09 Environmental management systems - Requirements and guidelines for use;
- PN-EN ISO 9001:2015-10 Quality Management Systems - Requirements;
- PN-EN ISO/IEC 27001:2017-06 Information technology - Security techniques - Information security management systems - Requirements;
- PN-EN ISO 50001:2018-09 Energy management systems - Requirements and guidelines for use;
- PN-ISO 45001:2018-06 Occupational health and safety management systems - Requirements and guidelines for use;
- PN-EN ISO 22000:2018-08 Food Safety Management Systems - Requirements for each organisation in the food chain;
- PN-ISO 31000:2018-08 Risk management - Guidelines;
- PN-ISO 37001:2017-05 Anti-corruption management systems - Requirements and guidelines for use;
- PN- EN ISO 19011:2018-08 Guidelines for auditing management systems;
- prPN-EN 17371-1E Supply of services - Part 1: Procurement of services - Guidelines for assessing the ability of service providers to provide services and evaluation of the service offer (project at the stage of standardisation audit, it is possible to accelerate the work);
- prPN-prEN 17371-2E Provision of services - Part 2: Service contracts - Guidelines for the design, content and structure of contracts (project at the formal voting stage ending on 20 May 2021, planned publication February 2022);

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<sup>40</sup> In accordance with Article 101 para. 1 point 2 and para. 3 of the Act on PPL



- PN-EN 17371-3:2020-12 Supply of services - Part 3: Performance Measurement Management - Guidelines for a Performance Measurement Mechanism for Service Contracts;
- PN-EN ISO 22301:2020-04 Safety and resilience - Business continuity management systems - Requirements;
- PN-EN ISO 14034:2019-01 Environmental management — Environmental technology verification (ETV).

More standards can be found at the following address: <https://www.pkn.pl/polskie-normy/wykazy-pn/wykaz-opublikowanych-pn>

**When preparing the procurement procedure, the contracting body should:**

- Analyse whether the standards recommended in the State purchasing policy can be used in the procedure and comply with them;
- Analyse whether other standards can be used in the procedure.

**The Polish Committee for Standardization should:**

- Promote the use of standards in public procurement, incl. by posting its recommendations on the Internet Platform (see chapter VII).

## 2) Social labels

The contracting bodies may, in the description of the subject-matter of the contract, the contract award criteria or in the contract performance requirements, require that a product or service bears a specific label which confirms compliance with specific social criteria relating, i.a., to respect for human rights or labour law. The requirements resulting from the label must: i) concern only criteria which are linked to the subject-matter of the contract and which are relevant to the characteristics of the works, supplies or services covered by that subject-matter; (ii) be based on objective, verifiable and non-discriminatory criteria. Labels and label requirements must be available to all interested economic operators. They shall be granted through an open and transparent procedure<sup>41</sup>.

Examples of labels issued by third parties on social issues include:

- Fairtrade International Certificate;
- TCO Certified;

<sup>41</sup> Commission Notice 'Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)', <https://ec.europa.eu/docsroom/documents/45767/attachments/1/translations/pl/renditions/native>



- SA 8000;
- Fair for Life;
- the AAA compliance level label of the WAI WCAG 2.1 Web Content Accessibility Guidelines or the label of other disability organisations;
- DALCO accessibility requirements of the standard UNE 170001-1:2007 in the built environment.

On the PPO website under the following link you may find a document entitled: ‘Social labelling’, where the most important labels that can be used in the procurement procedure are discussed:

<https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne/spoleczne-zamowienia/przydatne-informacje/etykiety>

**When preparing the procedure, the contracting body should:**

- Use social labels where possible while preparing procurement documents.

**The PPO President should:**

- Update a list of recommended labels on the Internet Platform (see chapter VII);
- Promote the use of labels in educational activities.

### 3) Accessibility

Supplies, services and works should be accessible to all, including persons with disabilities. The contracting body is obliged to include in the description of the subject-matter of the contract the requirements relating to the accessibility of the subject-matter of the contract.

This obligation results from both Article 42 of Directive 2014/24/EU and Article 60 para. 1 of the Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94 of 28.3.2014, p. 243), as well as Article 100 of the PPL. In the case of procurement intended for use by natural persons, if justified by the subject-matter of the contract, a description of the subject-matter of the contract should be drawn up taking into account accessibility requirements for persons with disabilities and design for all users.

The requirements for the accessibility of services and supplies to a wider group of recipients, i.e. persons with special needs, are also introduced by the Act of 19 July 2019 on ensuring accessibility for people with special needs (Journal of Laws of 2020, item 1062), hereinafter



referred to as ‘the Accessibility Act’. In accordance with Article 4 para. 3 of this Act, when a public body enters into a contract for the performance of a public task or a public contract with a non-public body, it must also lay down the conditions for ensuring accessibility to persons with special needs. These conditions should relate to the scope of the public tasks or public contracts covered by the contract and take into account the minimum accessibility requirements described in Article 6 of the above-mentioned Act (for guidance on the formulation of contractual provisions, see box below).

Complementing the requirements in this area is the Government’s Accessibility Plus Programme<sup>42</sup> which aims to ensure free access to goods, services and opportunities for participation in social and public life of people with special needs.

Studies, information and good practices regarding the implementation of accessibility in public procurement are available on the website of the Public Procurement Office at the following link:

<https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne/spoleczne-zamowienia/przydatne-informacje/dostepnosc>

More detailed information on this issue can be found on the website of Accessibility Plus Programme.

It should also be emphasised that, in the case of the implementation of projects from the European Funds, the application of the “Accessibility Standards for Cohesion Policy 2014-2020” annexed to Guidelines<sup>43</sup>) should also be ensured. The document is available at:

[https://www.funduszeuropejskie.gov.pl/media/55001/Zalacznik\\_nr\\_2\\_do\\_Wytycznych\\_w\\_zakresie\\_rownosci\\_zatwierdzone\\_050418.pdf](https://www.funduszeuropejskie.gov.pl/media/55001/Zalacznik_nr_2_do_Wytycznych_w_zakresie_rownosci_zatwierdzone_050418.pdf)

Good practices and exemplary conditions of accessibility, together with examples are attached in Annex 7 to the State purchasing policy.

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<sup>42</sup> Resolution No 102/2018 of the Council of Ministers of 17 July 2018 on the establishment of the Government Accessibility Plus Programme.

<sup>43</sup>) Guidelines on the implementation of the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities and the principle of equal opportunities for women and men under the Union funds for the period 2014-2020 or equivalent to the financial perspective 2021-2027.

**When preparing a contract award p[rocedure/design contest and the provisions of the public contract, the contracting body should:**

- analyse which of the requirements listed in Article 6 of the Accessibility Act are appropriate to the scope of the commissioned task and adequately formulate contractual provisions appropriate to the nature of the subject-matter of the contract.
- indicate in the documentation of procedure or design contest which elements from Article 6 of the Accessibility Act are mandatory to apply;
- lay down in the contract specific provisions on how the tasks will be carried out , in accordance with which requirements of Article 6 of the Accessibility Act, or specify the obligation to carry out the task in a "accessible" manner, as detailed in the tender submitted for the performance of a task.
- precisely indicate the scope of responsibilities and consequences of failure to comply with the accessibility requirements imposed in the contract.

#### 4) Corporate Social Responsibility (CSR)

In recent years, there has been a strong strengthening of the trend of responsible business conduct, responding to both market expectations and regulatory processes. As part of the *due diligence* process, companies analyse their impact on the environment (including climate change) and on respect for human rights in business (analysing, i.a. the risk of forced labour). They implement appropriate procedures by taking systemic measures to prevent and mitigate the actual and potential negative effects of their activities.

This creates new business models that offer products and services that contribute to safer environment, healthier and better adapted to the needs of today's customers. These trends should be strengthened, given that they will build a more predictable and resilient economy at macroeconomic level.

Good practices in the integration of corporate social responsibility in public procurement will be developed during the implementation phase of the policy.

CSR is linked to both social and environmental aspects. It concerns, i.a., areas such as:

- respect for human rights, including: prohibition of child labour, forced labour;
- respect for workers' rights, including the right to equitable wages, association in trade unions, respect for weekly working hours, health and safety rules;
- environmental protection - rational management of available natural resources, circular economy solutions, reducing carbon footprint and negative environmental impacts, waste segregation, environmental education of workers;



- supply chain management - applying CSR principles at every stage of the supply chain, enforcing responsible business standards by business partners;
- activities related to business ethics - implementation of anti-corruption rules.

There are various standards, certificates and audits on the market which prove the implementation of CSR principles. Among them, the most popular are:

- ISO 26000 Standard - Guidelines on social responsibility;
- ISO 20400:2017 Standard - Sustainable procurement;
- Social Accountability 8000 Standard (SA8000) - Social Responsibility;
- GRI Reporting Standards - Global Reporting Initiative;
- SMETA Audits - Sedex Members Ethical Trade Audit.

Contracting bodies **should** consider introducing conditions related to economic operators' compliance with CSR principles. Where justified by the subject-matter of the contract, it is recommended to introduce contractual clauses which will secure the performance of the contract in terms of compliance with CRS principles.

## 5) Elements of health promotion

The description of the subject-matter of the contract should take into account the requirements in accordance with the current nutrition standards for the Polish population and the recommendations of healthy nutrition developed by the National Institute of Public Health National Institute of Hygiene National Research Institute.

Therefore, the contracting body **must specify** in the contract notice or in the procurement documents the subject-matter of which is the supply of food within the meaning of Article 3 para. 1 of the Act of 25 August 2006 on Food and Nutrition Safety (Journal of Laws of 2020, item 2021), obligation to include in the tender the nutrition declaration<sup>44)</sup> of the procured foodstuff and, in the case of beverages, the addition of the substances referred to in Article 12a para. 1 of the Act of 11 September 2015 on Public Health (Journal of Laws of 2021, item 183, as amended).

In addition, in the case of ordering foodstuffs defined in the catalogue of groups of foodstuffs intended for sale to children and adolescents in educational units, as defined in the provisions issued pursuant to Article 52c para. 6 of the Act of 25 August 2006 on food and nutrition safety,

<sup>44)</sup> Article 30 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18, as amended).



the provisions of that Regulation should be applied. The catalogue prepared as part of the so-called „shop regulation”<sup>45)</sup> limits the accessibility of foods with high levels of critical ingredients from a nutrition point of view, i.e.: sugar, fat and salt. This requirement does not cover procurement for the delivery of dishes (catering services) or organisation of mass catering, which should always comply with current nutritional standards and the recommendations of healthy diets.

In addition, it is possible to take into account, i.a., in the description of the subject-matter of the contract the share of products distinguished by signs confirming high food quality — not only organic food, but also food from the system of Protected Designations of Origin, Protected Geographical Indications, Traditional Speciality Guaranteed and national quality systems. It is very often food produced locally, respecting the environment, produced using sustainable methods, coming from specific regions, characterised by traditional production methods.

Requiring food with such certificates can contribute to the development of SMEs and improve the quality and efficiency of public procurement.

**When preparing the procedure, the contracting body should:**

- take into account the policy recommendations and the Healthy Nutrition Recommendations.

**The Minister of Health should:**

- In cooperation with the Minister for Agriculture and Rural Development, prepare and update educational materials and standard documents for public procurement, in which health aspects can be taken into account;
- Submit to the PPO President prepared or updated educational materials and standard documents in order to express an opinion;
- Submit prepared educational materials and standard documents for publication on the Internet Platform (see chapter VII).

## 6) Environmental labels

The PPL gives contracting bodies a tool by which it is possible to take into account the green aspects in a situation where they have neither specialised knowledge nor technically advanced equipment. These are environmental labels. Therefore, when preparing a procurement procedure, contracting bodies should, whenever possible and justified by the nature of the contract, require economic operators to provide environmental labels in the procurement documents. This can bring many benefits for both environmental protection and procurement.

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<sup>45)</sup> Regulation of the Minister of Health of 26 July 2016 on groups of foodstuffs intended for sale to children and adolescents in educational units and the requirements to be met by foodstuffs used in mass catering of children and youth in these units (Journal of Laws of 2016, item. 1154).



First of all, the label itself provides proof that a given product, service or construction work meets the environmental protection standards set out in the contract documents and that this has already been positively verified by an independent specialised organisation. All the contracting body has to do is to check if the economic operator has submitted the label together with the tender.

Requiring labels can also positively influence the length of the procurement procedure by facilitating the evaluation of tenders and facilitating the definition of requirements. It also minimises the risk of possible appeals.

The label is a document relating to the subject-matter of a contract, which may refer to:

- a description of the subject-matter of the contract;
- tender evaluation criteria;
- requirements related to the performance of the contract.

The most valuable are those labels that are issued by independent bodies and organisations and those based on objective, transparent and verifiable criteria. These are the most famous labels that belong to the so-called I type<sup>46)</sup>.

Environmental labels can also be divided according to the following criteria:

- **Labels based on a broad set of criteria** are the most popular type of environmental label, as well as the most commonly used for GPP purposes. Examples of such labels are:
  - EU Ecolabel (EU flower);
  - NordicSwan;
  - Blue Angel;
- **Labels for only one aspect of a product** are based on at least one positive/negative performance criteria related to a specific issue, e.g. energy efficiency. Examples of such a label are:
  - Energy Star labelling;
  - Energy labels;
- **Sector-specific labels** - example are labels covering certification schemes in forestry;
- **Product assessment labels** - they classify products or services according to their environmental performance related to a given issue rather than applying positive/negative performance criteria.

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<sup>46)</sup> PN-EN ISO 14024 Environmental labels and declarations. Type I environmental labelling. Principles and procedures.

**When preparing the procedure, contracting body should:**

- where possible, use environmental labels when preparing procurement documents.

**The PPO President should:**

- continue to promote the use of labels in educational activities.

## 7) Cybersecurity

Security risks in networks and information systems are one of the key challenges for administrations in the 21st century. Therefore, contracting bodies are required to apply the highest possible cybersecurity standards.

In order to provide substantive support to contracting bodies the Government Plenipotentiary for Cybersecurity has developed National Standards for Cybersecurity (NSC). The development of NSC standards fulfils specific objective 2. of Cybersecurity Strategy of the Republic of Poland for 2019-2024 – *Increasing the level of resilience of information systems of the public administration and private sector, and achieving the capacity to effectively prevent and respond to incidents*<sup>47</sup>. The NSC was developed on the basis of the standards of the U.S. National Institute of Science and Technology (NIST) and assigned to the standards in force in the Polish legal system, used in the management of information security by entities of the national cybersecurity system, including entities performing public tasks. The standards consist of the following studies (as of December 2021):

- Standards for Security Categorisation (NSC 199 ver. 1.0);
- Minimum security requirements for information and information systems of public entities (NSC 200 ver. 2.0);
- Emergency Planning Guide (NSC 800-34 ver. 1.0);
- A framework for risk management in organisations and information systems. Security and privacy protection in a life cycle of the system (NSC 800-37 ver. 1.0);
- Security and privacy protection of information systems and organisations (NSC 800-53 ver. 2.0);
- Control Baselines for information systems and organisations (NSC 800-53B ver. 1.0);
- Mapping of security measures: NSC 800-53 ver. 2 - PN-ISO/IEC 27001:2013; PN-ISO/IEC 27001:2013 - NSC 800-53 ver. 2 (NSC 800-53 MAP ver. 1.0);

<sup>47</sup> see <https://www.gov.pl/web/cyfryzacja/strategia-cyberbezpieczenstwa-rzeczypospolitej-polskiej-na-lata-2019-2024>



- Guidance on the definition of information security categories and information system security categories Part I (NSC 800-60 part. 1 ver. 1.0);
- Guidance on the definition of information security categories and information system security categories Part II (NSC 800-60 part. 2 ver. 1.0);
- Manual for handling computer security incidents (NSC-800-61 ver.1.0);
- Security architecture of information systems in the "Zero trust" model (NSC 800-207 ver. 1.0);
- Glossary of key cybersecurity terms (NSC 7298 ver. 1.0).

It should also be added that the provisions of the Regulation of the Council of Ministers of 12 April 2012 on the National Interoperability Framework, minimum requirements for public registers and the exchange of information in electronic form, and minimum requirements for electronic systems (Journal of Laws of 2017, item 2247) recommend the use of the following Polish Standards when establishing the information security management system: PN-EN ISO/IEC 27001, PN-EN ISO 22301. NSC standards have mapping to these standards, which is presented in NSC 800-53 MAP. This makes it possible to ensure the compliance of the created information security management system with the those provisions.

All these updated documents can be found at: <https://www.gov.pl/web/baza-wiedzy/narodowe-standardy-cyber>

In the context of digital supply chain security and ensuring supplier verification and supply chain verification throughout the contract, it is recommended additionally to use the good practices published in the document "Key Practices in Cyber Supply Chain Risk Management: Observations from Industry"<sup>48</sup> (NIST, February 2021 r.). With regard to the practical issue, at the verification stage of the cybersecurity product or service provider, as part of ensuring the security of the digital supply chain, a set of sample questions for a potential supplier, as proposed in the Practical NIST Guide<sup>49</sup> can be used:

- Is the supplier's software/hardware design process documented?
- Has the elimination of known vulnerabilities been considered in the product design (through product architecture, code review, etc.)?
- What controls are implemented to manage and monitor production processes?
- How is the configuration management done?
- How is the software tested for code quality or vulnerabilities?
- How does the supplier ensure safety during the life cycle of a product?

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<sup>48</sup> Key Practices in Cyber Supply Chain Risk Management, <https://nvlpubs.nist.gov/nistpubs/ir/2021/NIST.IR.8276.pdf>, NIST 2021

<sup>49</sup> Best Practices in Cyber Supply Chain Risk Management, [https://www.nist.gov/system/files/documents/itl/csd/USRP\\_NIST-Utility\\_100115.pdf](https://www.nist.gov/system/files/documents/itl/csd/USRP_NIST-Utility_100115.pdf), NIST 2021

- Is the supplier not dependent on other manufacturers/suppliers and, in the event of a disruption of cooperation with them, will be able to ensure the security of the supply chain?
- What levels of protection and detection against malware are applied?
- How does the provider monitor emerging vulnerabilities?
- What are the possibilities of a supplier to manage new vulnerabilities, so-called "zero-day"?

Fundamental data protection aspects relating to the location, processing and sharing of data should be taken into account when awarding the contract. Therefore, in contracts with the supplier it is necessary to provide for:

- compliance with the GDPR <sup>50</sup> and the Act of 10 May 2018 on the protection of personal data (Journal of Laws of 2019, item 1781);
- application of non-disclosure agreements (NDA);
- use of a system for classifying sensitive information (TLP - Traffic Light Protocol) in correspondence and documents between the contracting body and the supplier;
- use sensitive data encryption software, including encrypted mail communications (e.g. PGP - Pretty Good Privacy); and also, e.g.: include key providers in incident response exercises and data recovery testing.
- Sample verification questions at the supplier selection stage:
  - How do they protect and store customer data?
  - How long is the data stored?
  - How is the data destroyed after the end of the contract?
  - How is the data encrypted?

**When preparing the contract award procedure, the contracting body should:**

- select tools for information security that meet the highest standards for cybersecurity;
- apply the recommendation of the Government Plenipotentiary for Cybersecurity regarding National Standards for Cybersecurity.

**The Government Plenipotentiary for Cybersecurity should:**

- update the National Standards for Cybersecurity.

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<sup>50</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 04/05/2016, p. 1.



## 8) Green public procurement

The European Commission's handbook *Buying Green!*<sup>51)</sup> identifies 4 key sectors in which the application of environmental aspects should be taken into account by contracting authorities. These sectors are characterised by a high environmental impact and high budgetary importance, which, in combination with the availability of more environmentally friendly solutions, can positively contribute to achieving the climate goals set by Poland.

These sectors include:

- buildings,
- food and catering services,
- road transport vehicles,
- energy-using products.

### ***Buildings (CPV 4521000-2)***

The transition to a more sustainable construction model is one of the key elements a contracting authority can implement in order to move towards climate neutrality. In procurement of this category, contracting authorities should take into account environmental factors related to the use of buildings with a particular focus on energy consumption. In addition, factors such as materials used in construction, indoor air quality, water consumption, impact on road traffic, land use as well as waste generated during construction work should be taken into account.

**During the planning and preparation of contract award procedure for buildings, the contracting body should consider:**

- applying the methodology for green procurement for buildings as referred to in the handbook *Buying Green!*
- Using tools such as LEED, BREEAM, etc.

### ***Food and catering services (CPV 55520000-1)***

The public sector is often responsible for the organisation of nutrition, for example for the needs of its staff, hospitals or catering services for its events. Improperly conducted agricultural production may cause negative environmental effects in the form of greenhouse gas emissions, soil and water degradation, waste generation, as well as through transport, packaging and

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<sup>51)</sup> *Buying Green!* A handbook on public procurement 3rd Edition Publications Office of the European Union, 2016  
<https://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf>

storage of food products. Using food of organic origin for this purpose can be an alternative which, in addition to reducing negative environmental effects, can promote health-promoting dietary choices. Furthermore, it is necessary to reduce food waste and packaging waste in this type of procurement.

**During the planning and preparing of contract award procedure for food and catering services, contracting body should consider:**

- applying the methodology for green food and catering procurement, as referred to in the handbook *Buying Green!*
- using tools such as organic production certificates, like the one issued in accordance with the Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/92 OJ L 189, 20.7.2007, p. 1).

***Road transport vehicles (CPV 34100000-8)***

Despite the development of the road transport sector towards a wider use of less fuel-efficient vehicles, the negative environmental impacts caused by this sector are still severe.

Technologies and organisational models have emerged on the market, which respond in an alternative and environmentally friendly manner to the purchasing needs of road transport. Examples of such solutions include: use of electric and alternative fuel vehicles and car sharing.

It is worth recalling here the obligation that will be imposed on the contracting bodies when Article 34 of the Act of 11 January 2018 on electromobility and alternative fuels (Journal of Laws of 2021, item 110 and 1093) enters into force (1 January 2025). Under this provision, the general and central bodies of state administration will be obliged to ensure at least 50 % share of electric vehicles in the passenger transport fleet.

**When planning and preparing contract award procedure for road transport vehicles, the contracting body should consider:**

- applying the methodology for green procurement for road transport vehicles referred to in the handbook of **Buying Green!**
- where there is a justified need to purchase a vehicle for conventional fuel - purchase of hybrid cars or using more environmental-friendly model for this purchase need (e.g. car-sharing or car-sharing with other contracting bodies).

**Contracting bodies should:**

- aim to maximise the share of electric vehicles in the fleet of passenger transport vehicles.

***Energy-using products (e.g. CPV 31000000-6)***

Electronic and electrical equipment is widely used in public administration activities and at the same time it has negative effects on the environment. Many contracting authorities from government administration, in addition to computers, printers and lighting, also use specialised devices. As number of devices in use increases, so does the need to control costs related to energy consumption and environmental impact.

There are solutions available on the market to counteract the negative environmental effects of such products, such as ultra-efficient IT equipment or energy-efficient lighting.

**When planning and preparing a contract award procedure for energy-using products, contracting bodies should consider:**

- applying the methodology for green procurement of energy-using products, as referred to in the handbook on Buying Green!
- taking into account the measures referred to in Annex III to Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315 of 14.11.2012, p. 1–56).

**2. Non-price criteria for the evaluation of tenders**

In public procurement, the criteria for evaluating tenders which are relevant to the contracting body and the extent to which they should influence the selection of the most advantageous tender shall be determined by assigning a specific weighting to each criterion. The legislator's



aim to maximise quality is expressed in an obligation of contracting authorities to apply quality criteria with a total weight of at least 40 %. In accordance with national policy, quality should be a priority. The contracting body may therefore assign low weight to the price or cost criterion, while at the same time indicating on the website of the conducted procedure, even when the procedure is launched, the amount it intends to allocate to finance the contract. Limiting the weight of the price criterion and providing in advance a limit on the resources that the contracting body may allocate to the performance of the contract will result in economic operators competing primarily on the basis of qualitative criteria.

From the exemplary calculation of the quality criteria included in Article 242 para. 2 of the PPL follows that the quality criteria are not limited to qualitative aspects. They may also address, for example, social, environmental, innovative aspects, the organisation and competence of key personnel and contractual conditions such as delivery date or delivery period. Thus, the value of a given contract can be determined by a number of factors relevant to a particular contract. The contracting body's preferences may therefore take into account, in addition to quality, other elements, often linked only indirectly to the subject-matter of the contract. When awarding certain contracts, social, environmental or innovative aspects may be a key element. In particular, the principle of efficiency is materialised by the mandatory analysis of needs and requirements in contracts with a value equal to or exceeding the EU thresholds. This analysis should indicate, i.a., the possibility of considering social, environmental or innovative aspects of the procurement, which should also include an analysis of the possibility of using social, environmental or innovative criteria when selecting the most advantageous tender.

Selecting a tender based on the highest quality that the contracting body can afford is not the only acceptable strategy. A tender may be selected only on the basis of price or cost. This strategy consists of obtaining benefits with predetermined features while minimising the expenditure incurred (costs). The preference of the contracting body is then to save money. However, in the case of contracting authorities, this strategy requires the definition of quality requirements relating at least to the main elements of the subject-matter of the contract, in the form of appropriate quality standards. The selection of the most advantageous tender based solely on the price or cost criterion is excluded in advance in procedures the subject-matter of which involves creative or scientific activities (Article 243 of the PPL).

The selection of a tender may also be based on the strategy of the best cost-quality balance. Contracting authorities may apply this strategy without any restriction, assigning even less weight to quality criteria than 40 % if, as in the case of the selection of a tender solely on the basis of price or cost, they define quality requirements relating at least to the main elements of the subject-matter of the contract. Again, it is justified to analyse whether there is a possibility to achieve social, environmental goals or goals related to stimulation of the economy. This analysis may indicate the need to incorporate such elements into the tender evaluation criteria, while maintaining the principle of obtaining the best results of the contract in relation to the expenditure incurred.

## 1) Social aspects



An exemplary catalogue of the social aspects which may be taken into account by the contracting body as tender evaluation criteria can be found in recital 99 of Directive 2014/24/EU. These are:

- measures aiming at the protection of health of the staff involved in the production process;
- the favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract, including, inter alia, the employment of long-time job-seekers to perform the contract;
- providing training in the skills needed for the contract in question, including, for example, the implementation of training measures for the unemployed or young persons in the course of the performance of the contract.

Social criteria for the evaluation of tenders may also include<sup>52)</sup>:

- *Methodology for ensuring social inclusion in the delivery of the service.* Bidders must submit a detailed plan to reach each of the target groups specified in the tender documents.
- *Number and quality of apprenticeship/training opportunities created during the performance of the contract.* Bidders must detail their approach to recruitment and training, provide a sample job specification for apprenticeships and describe the support structures to be put in place.
- *Third-party certification for ethical sourcing of products delivered under the contract.* Marks are assigned based on the percentage of products with Fair Trade or equivalent certification. If an economic operator does not have a third-party certification, they indicate the reason for this and describe any internal measures taken to ensure ethical sourcing of products.
- *Measures to ensure gender equality.* Marks are assigned based on specific measures to fight discriminations and support gender equality (e.g. training of staff, work/life balance, flexible work schedule etc.).
- *Additional accessibility requirements.* Marks are awarded based on specific measures to enhance accessibility beyond the requirements included in the technical specification.

Suggestions for other criteria are gathered in a document prepared by the PPO President, which can be found at:

<https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne/spoleczne-zamowienia/przydatne-informacje/kryteria>

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<sup>52)</sup> Commission Notice "Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)", C (2021) 3573 final.

**When preparing the procurement procedure, the contracting body should:**

- at the stage of analysis of needs and requirements, determine what efficiency strategy it wants to adopt, i.e.:
  - Minimalization of costs;
  - The best cost and quality balance;
  - The highest quality (most desirable)
- on the basis of the above, select non-price criteria for the evaluation of tenders;
- take into account the social criteria recommended by the policy.

**The President of the PPO should:**

- collect examples of non-price evaluation criteria and publish them on the Internet Platform (see chapter VII).

## 2) Environmental aspects

According to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Public procurement for a better environment' (COM(2008) 400), one of the basic concept of green public procurement relies on having clear and ambitious environmental criteria for products and services that could be used by all Member States of the European Union.

Under the leadership of the European Commission, such green public procurement criteria have been developed. The documents produced are not strictly relevant criteria for the evaluation of tenders, but may be useful throughout the process of preparing the procedure, i.a. in defining the conditions for participation in the procedure or preparing a description of the subject-matter of the contract. The criteria are formulated in such a way that they can be applied (in part or in full) with minimal adaptation to the needs of each contracting body interested in using them in the procedure which they prepare. A distinction can be made here both between the basic criteria that can be used by each contracting body in the Member States, which relate to key environmental impacts, and the comprehensive criteria, the use of which should contribute to obtaining the best quality of green products available on the market.

The criteria developed by the European Commission are available on the website of the European Commission and that of the PPO. Links below:

<https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne/zielone-zamowienia/kryteria-srodowiskowe-gpp>;

[https://ec.europa.eu/environment/gpp/eu\\_gpp\\_criteria\\_en.htm](https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm)



**Contracting bodies should consider using the tender evaluation criteria developed by the European Commission, in particular where the subject-matter of the contract refers to the following industries/sectors:**

- construction (including raw materials, such as: wood, aluminium, steel, concrete, glass, as well as construction products, such as: windows, wall and floor coverings, heating and cooling equipment, aspects relating to the operation and decommissioning of buildings, maintenance services, execution of on-site works contracts);
- food and catering services
- transport and transport services;
- energy (including electricity, heating and cooling using renewable energy sources);
- office equipment and computers;
- clothing, uniforms and other textiles;
- paper and printing services;
- furniture;
- cleaning products and services
- healthcare equipment

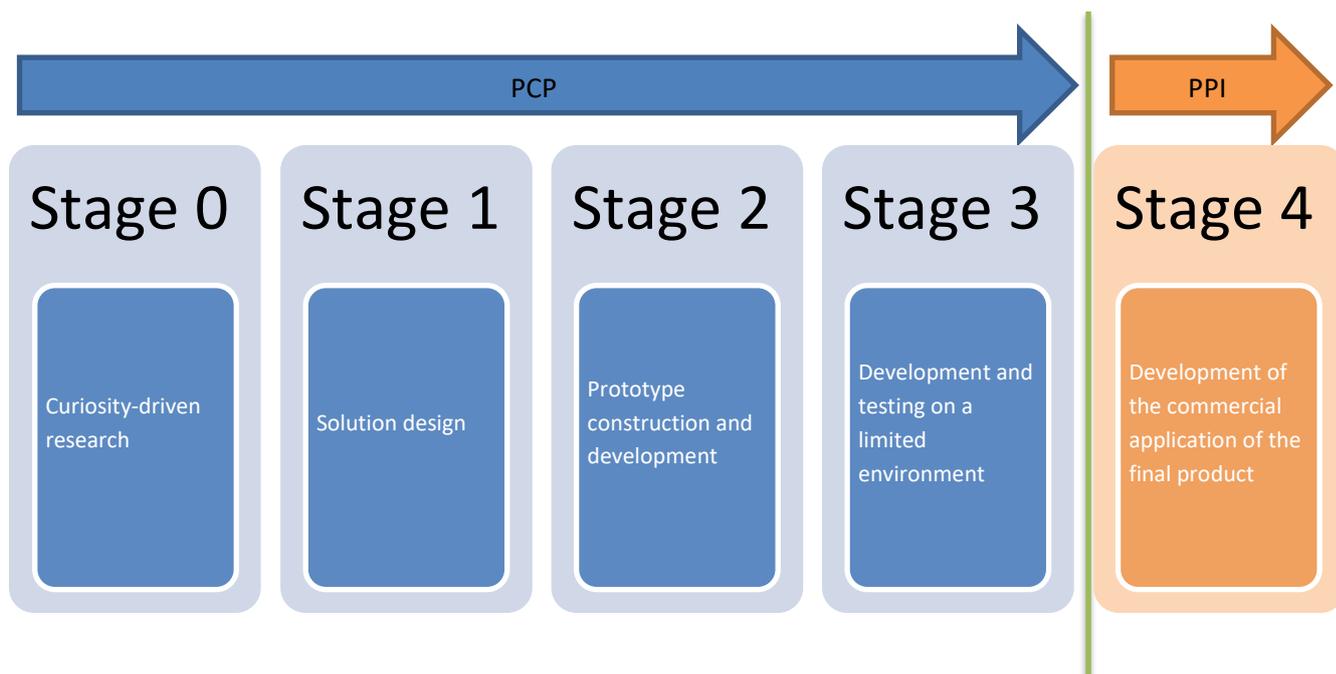
### **3. Pre-commercial procurement (PCP)**

Pre-Commercial Procurement, hereinafter referred to as ‘PCP’, is covered by an exemption from the application of the provisions of the Public Procurement Act by virtue of Article 11 para. 1 point 3 of the PPL. Therefore, those contracts are not covered by the public procurement procedures laid down in the PPL. They relate to purchases the subject-matter of which are research and development services which are not entirely paid out by the contracting body or the benefits of which are not exclusively its property. The aim of excluding contracts for research and development (R&D) services is to provide benefits to the public as a whole and the results of the resulting work should be made available to all interested parties. The exemption from the application of the PPL allows the contracting body to operate with more flexibility. However, contracting bodies implementing PCP programmes must continue to ensure that the principles of fair competition, equal treatment of economic operators, proportionality and transparency are respected<sup>53)</sup>.

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<sup>53)</sup> See: Olga Golińska, Maja Hernik, Bartosz Dziadecki The award of contracts for research and development services excluded from the application of the Act on PPL (pre-commercial procurement) on the basis of the regulations of the National Centre for Research and Development





The terminology used for pre-commercial procurement — in particular concepts such as *‘procurement’*, *‘procedure’*, *‘tender’*, *‘proceedings’* — builds on the achievements of typical public procurement, however it should be borne in mind that these terms are not identical to those used in the PPL, but are based on a similarity to statutory arrangements.

The implementation of individual programmes in the PCP formula is an expression of the new approach of the National Centre for Research and Development (NCBR) to support research and development on a commercial basis. These procedures have been adapted to procure solutions that are not available on the market. In particular, PCP allows the selection and funding of programmes in such a way as to match the solutions as much as possible to the contracting body’s expectations. This is possible because the contracting body can shape new technologies that are the subject-matter of the PCP together with the economic operators — starting from the programme selection stage, which allows the documentation to be clarified in consultation with the economic operators, through the possibility of selecting several economic operators simultaneously, with the possibility of terminating cooperation with some of them as a result of the evaluation of their activities at intermediate stages of research and development, until the desired solutions are obtained. NCBR’s involvement in the implementation of the programme at an early stage of research and development can increase the chances of obtaining a better price-quality ratio of the product received.

As part of the work already carried out, the NCBR has prepared recommendations on how to carry out the pre-commercial procurement on the basis of regulations prepared and tested in practice by this institution<sup>54)</sup>.

<sup>54)</sup> [https://www.uzp.gov.pl/\\_data/assets/pdf\\_file/0021/49053/Udzielanie-zamowien-na-uslugi-badawcze-i-rozwojowe-wylaczone-ze-stosowania-ustawy-Pzp-zamowienia-przedkomercyjne-w-oparciu-o-regulamin-NCBR.pdf](https://www.uzp.gov.pl/_data/assets/pdf_file/0021/49053/Udzielanie-zamowien-na-uslugi-badawcze-i-rozwojowe-wylaczone-ze-stosowania-ustawy-Pzp-zamowienia-przedkomercyjne-w-oparciu-o-regulamin-NCBR.pdf)

#### The heads of contracting bodies should:

- aim to allocate 3% of the budget spent on procurement (including procurement exempted from the regime of the Act on PPL) to PCP projects;
- aim to ensure that in 20% of all procurement their element or part include purchase in the formula of launching customer of innovation (PPI).

#### Contracting bodies should:

- when deciding to carry out the pre-commercial procurement on their own, use the NCBR's regulations;
- in case of lack of own potential, accede to procurement of other entities, including entities dedicated to R+D.

#### Auditors should:

- develop their competences in the field of pre-commercial procurement and including/incorporating innovative solutions.

#### NCBR should:

- share knowledge and experience with other entities implementing project in the PCP formula.

## 4. Public procurement of innovation

As mentioned above, public procurement for innovation can be based on two models:

- **buying the process of innovation** - i.e. the purchase of research and development services with their (partial) results;
- **buying the outcomes of innovation** created by others.

Procurement activities of contracting bodies in this area may therefore be based on, but are not limited to, R&D projects. Public procurement of innovation for those without expertise will mainly come down to being the “*launch customer*” of innovation and purchasing new or significantly improved solutions developed by others.

The PPL creates a system of tools that can be used by contracting bodies to increase the chances of purchasing innovations in public procurement that seemingly have no potential for innovation. Among such institutions provided for by the PPL one may indicate, inter alia: purchasing strategies of contracting bodies, preliminary market consultations, description of



requirements, variants, negotiated procedures, design contest, dynamic purchasing system and others.

Recommendations concerning these tools were further discussed by the PPO President in the publication: “*Public procurement of innovation*”<sup>55)</sup>.

## 5. Framework agreement

Contracting bodies have the possibility provided for by the PPL to manage their purchases on the basis of framework agreements, i.e. long-term contracts, which provide the necessary flexibility and allow to adapt contract provisions to changing market conditions, including within products and prices. The lack of a definitive definition of the content of individual contracts makes it possible to complement them or to specify them in future individual contracts. It gives the opportunity to clarify the characteristics of the subject-matter of the contract, which ensures that it is constantly possible to follow technological changes or other improvements in the scope of the offer of goods and services.

The conclusion of framework agreements may be particularly beneficial when procuring for repetitive supplies and services to meet recurring or permanent needs. Framework agreements correspond to the objectives set for this type of purchases, such as:

- standardisation of demand over time and, in the case of contracting bodies with local units, also in space;
- ability to response quickly and deconcentration of procurement;
- managing procurements of an unspecified size.

The structure of the framework agreement may be used for complex contracts involving the purchase of new equipment combined with the maintenance and service of the equipment, the training of its users and the purchase of consumables. Typically, a comprehensive contract is concluded in such cases, combining the provisions of the contract for the procurement of equipment, planned maintenance and training of users with the provisions of the framework agreement for the purchase of additional equipment or its adaptation to changes in technology, training of new users and the purchase of consumables.

In particular, the use of framework agreements is justified in markets with high volatility, such as markets for IT products and services, where there is no economic justification for binding the contracting parties with rigid prices and conditions<sup>56)</sup>. The framework agreement may allow the contracting body to efficiently meet the needs of e.g. security testing services, IT human resources services, the procurement of medicines under the centralised procurement.

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<sup>55)</sup> Dr Justyna Pożarowska, Magdalena Olejarz, Public Procurement of Innovation, Public Procurement Office, December 2020

<sup>56)</sup> Communication from the Commission of 11 March 1998, Public procurement in the European Union [in:] Public procurement in the European Union — in search of solutions, Warsaw 1998, p. 83



In the case of contracts for works, framework agreements can be used for building renovations and for recurring services such as ongoing maintenance.

**When deciding on the conclusion of a framework agreement, account should be taken of the following:**

- the essential characteristics of the product or service. The stability of the characteristics of a given product or service allows to conclude longer-term contracts, regardless of whether they are one-off contracts or framework agreements. On the other hand, the short life cycle of a product, encourages to award recurring contracts or to selection of the framework agreement which ensures that unit procurements are adapted to the changing characteristics of the product;
- market structure. If the market is fragmented, it is better to manage it through a mechanism allowing for the preselection of relevant economic operators, such as a framework agreement. A continuous requests to all economic operators will be avoided, which may be burdensome for both them and the contracting body. On the other hand, if the market structure is unstable and characterised by a high turnover of entrepreneurs, the long-term preselection of economic operators may lead to discrepancies between market conditions and those resulting from the framework agreement;
- the extend of the needs to be met. Merging procurements in one contract is more appropriate if it creates the possibility of receiving a discount on the basis of the quantity of products or services procured;
- the demand structure of the contracting body. If the subject-matter of the contract can be stored or does not need to be stored (e.g. in the case of software licences), it is possible to award one-off contracts, regardless of the repetitive or continuous nature of the demand. However, if there is an interdependence between the distribution of needs over time and purchases, it will be beneficial to conclude a framework agreement.

**Contracting bodies are recommended to use framework agreements in the case of:**

- procurements for services or supplies designed to meet recurring or permanent needs;
- comprehensive procurement, combining the satisfaction of the contracting body's needs for the purchase of equipment, planned maintenance, training of users, purchase of consumables or others;
- procurements on markets with high volatility, such as the markets for IT products and services.



## 6. Dynamic purchasing system

The PPL gives contracting bodies the opportunity to create a fully electronic, dynamic purchasing system for commonly used or final products, works or services that are generally available on the market.

This purchasing technique enables the contracting body, by establishing a list of qualified economic operators and by allowing new economic operators to participate, to obtain a particularly wide range of tenders, and thus ensuring the optimal use of public funds through wide competition.<sup>57</sup>

The dynamic purchasing system provides for preselection of economic operators, which allows at the stage of award of the contract under this system to omit the verification of the suitability of economic operators and reduce the workload devoted to the evaluation of tenders.

The contracting body does not have to examine the documents on the grounds for exclusion or fulfilment of the conditions for participation in the procedure every time. The economic operator submits all the necessary documents once, at the stage of qualification for the system. The use of this tool is particularly beneficial in recurring procurement. It is possible to use the system even for employees who do not have traditional procurement competences. In addition, the contracting body may require tenders under a dynamic purchasing system to be submitted in the form of **electronic catalogues** or to **require to attach electronic catalogues** to the request to participate in the procedure.

The electronic catalogue shall be transmitted in a format suitable for **automated data processing**. Economic operators include in the system their products and their prices in electronic catalogues, which allows contracting bodies to compare prices and conditions more easily, as well as to procure electronically items that best meet their expectations.

Ultimately, electronic catalogues or more broadly tenders submitted in the form of a structured document will enable **automatic purchasing**. In the simplest version, the main task of the computer program will be to automatically perform a valuable evaluation of tenders.

A dynamic purchasing system may also be “*self-executing*” in the sense that if the conditions laid down in its code are fulfilled (e.g. a decrease in stock levels in a warehouse), the system (i.e. a de facto computer program) will itself generate a procurement by sending an invitation to tender to the economic operator covered by the system.

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<sup>57</sup> Cf. Recital 63 of Directive 2014/24/EU

#### Heads of contracting body should:

- consider building appropriate software for its implementation in the dynamic purchasing system, in particular taking into account areas where Polish economic operators are the market for subcontractors and material suppliers;
- adapt the nature of this solution to the capabilities of SMEs

#### Contracting bodies should:

- consider including a dynamic purchasing system as an SME-friendly model of sourcing materials for larger investments

## 7. Design contest

From the point of view of the State purchasing policy it is advisable to disseminate the prior design contest mechanism, in particular to award innovative and sustainable public procurement. The mechanism of design contest has been designed in such a way as to enable the selection of creative work, in the fields of, i.a. spatial planning, urban and architectural design, data processing, IT design and innovative purposes. The design contest procedure is therefore particularly applicable in situations where the contracting body has only information on which functions the proposed solution should to have and what is the maximum budget to spend on it. This information therefore does not allow precise and complete procurement documents to be drawn up.

The leader of the innovative use of the design contest (procedure) is undoubtedly the GovTech Poland initiative. Experience and recommendations concerning the effective use of the design contest procedure are included in chapter 3 (co-authored by GovTech Poland experts) of the document entitled: Public procurement of innovation<sup>58)</sup>.

#### Contracting bodies should:

- Use the design contest according to recommendation of GovTech Poland.

#### Heads of contracting bodies should:

- Take into account the need to build the competences of public procurement practitioners in the field of the design contest.

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<sup>58)</sup> Dr Justyna Pożarowska, Magdalena Olejarz, Public Procurement of Innovation, Public Procurement Office, December 2020



## 8. Building Information Modeling (BIM)

An important tool is *Building Information Modeling* (BIM), i.e. modeling information about the building. BIM refers to a structured way of collecting data on buildings. It also defines a way of cooperation during the design and operation ensuring that the building is optimised within the assumed ranges, e.g. operating costs, flexibility in use or minimising project errors, as well as how to manage processes and make decisions based on facts and information that are extracted from the collected data.

BIM provides all participants in the investment process with up-to-date, accurate and reliable real-time investment information. This allows to make optimal decisions related to construction as an investment process. The analysis covers the entire life cycle of the facility, i.e. from conception and design, through construction, operation, to demolition.

The BIM process can facilitate the evaluation of tenders for their environmental impact — e.g. by attributing the building components and the individual solutions used to the relevant carbon footprint indicators, comparing operating costs based on BEM models (Building Energy Modeling). It also enables to create a three-dimensional project in which it will be possible to accurately show the proposed solutions and describe them in terms of their functionality, durability, innovation or environmental impact.

BIM should be used primarily for large, strategic projects where, in view of the total investment budget, the cost of BIM implementation will be significant, but full implementation of BIM will enable to bring tangible benefits. It is also necessary to adjust the BIM level to the level of complexity of the contract in question.

Benefits:

- increase the level of knowledge of the planned investment, which can translate into a better preparation, taking into account: rationalisation of supply chains, purchase planning;
- understanding the nuances of the procurement that may have an impact on the environment, and thus the possibility of minimising waste and eliminating errors e.g. in transport;
- reducing unjustified risks related to uncertainties in design solutions, which can contribute to increased participation of SMEs;
- possibility of creating standardised data for other contracting bodies, and thus contributing to increasing cooperation between them.

The benefits were also identified during the project „*Digitalisation of the construction process in Poland*”<sup>59)</sup>, which resulted in the creation of a „*Roadmap for the implementation of the BIM methodology in public procurement*”<sup>60)</sup>. For the contracting body, designer and general

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<sup>59)</sup> <https://www.gov.pl/web/rozwoj-technologie/cyfryzacja-procesu-budowlanego-w-polsce--zakonczenie-projektu>

<sup>60)</sup> <https://www.gov.pl/attachment/2552e46d-991f-4bda-849e-1a61ce4b3e76>

economic operator, BIM Standard PL also describes those benefits, calling them potential objectives of BIM implementation.

**When preparing the procedure, the contracting body should:**

- where possible, use BIM options in the description of the subject-matter of the contract to encourage economic operators to compete for the contract award with innovation and quality of solutions.

**The PPO President:**

- continue to promote the use of the BIM analysis within educational activities.

## 9. Cloud Service Model - Cloud (computing) services

According to the definition in Resolution 97 of the Council of Ministers of 11 September 2019 on the "Common State Information Infrastructure" initiative, "cloud computing" means *"a processing model allowing universal and convenient access over the network to a pool of configurable processing resources (e.g. networks, servers, storage, applications and services) that are quickly made available from the service catalogue with minimal effort from management teams or service providers, consisting of three service models (SaaS, PaaS, IaaS), four ways to deploy clouds (private cloud, community cloud, public cloud, hybrid cloud) and characterised by five key features (self-service on-demand, broad network access, dynamic resource accumulation/pooling, fast and flexible resource allocation and release, measurement and optimisation of services), in which the principle of shared responsibility is applied between the provider and the customer of cloud services, and the key technologies used to build this model include: fast and efficient wide area networks, efficient and relatively inexpensive servers (including their number) and high-performance hardware virtualisation"*.

Cloud computing is therefore a real way of delivering IT services, as well as real benefits and new opportunities for the organisations that use it. In order to ensure that Polish contracting bodies have access to the latest and innovative solutions, it is reasonable to formulate requirements in the procedure documentation in order to include cloud services. A cloud service is an on-demand service in a self-service environment, it allows users to access services quickly without having to perform manual configuration. Cloud services use shared resources, which means that a single application can be shared by multiple users, but is uniquely adapted without each user having their own copy. Users of cloud services only pay for what they use for the service selected.

Types of cloud services<sup>61</sup>:

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<sup>61</sup> The definitions of cloud computing services are set out in Resolution No 97 of the Council of Ministers of 11 September 2019 on the Common State Information Infrastructure Initiative (M.P. of 2019, item 862)



- **IaaS** – Infrastructure as a service. The basic type of cloud services. A new infrastructure model based on a shared pool of resources that can be quickly configured, shared and released.
- **PaaS/CaaS** – Platform/Container as a service. A new architecture model that allows for a high level of agility, flexibility and security in the implementation of leading services according to the organisation needs.
- **SaaS** – Software as a service. A new application model where complex business solutions with low configuration and scalability can be completely managed.

Cloud services meet the real needs of the project for infrastructure, depending on the current needs of the contracting bodies in a given project. This solution avoids the risk of technological debt in the project and the possibility of using modern and innovative technological solutions. The use of cloud services means reducing the cost of creating and testing prototype IT solutions, as well as having a positive impact on the environment — cloud data centres have better energy efficiency indicators that are difficult to achieve for local data centres in organisations.

### When preparing the procurement procedure, the contracting body should:

- where possible, require the use of cloud services by economic operators when defining the subject-matter of the contract in order to force economic operators to compete for the award of the contract with innovation, scalability and flexibility;
- alternatively, to reward the use of cloud services by appropriate formulation of tender evaluation criteria;
- require from cloud service providers to hold certificates confirming their ability to provide cloud services with standards and best practices. Standards encountered in practice include i.a.:
  - PN-ISO/IEC ISO 20000 for IT service management,
  - PN-EN ISO/IEC 27001 for Information security management,
  - PN-EN ISO 22301 Business continuity management system,
  - ISO/IEC 27017 on cloud information security,
  - ISO/IEC 27018 on the code of practice for protecting personal information in cloud,
  - PN-EN 50600 on Data centre facilities and infrastructures part 3 or ANSI/TIA-942 minimum Tier III,
  - SOC 2 Type 2 report issued by independent certification body accredited by the European Accreditation System,
- consider using ZUCH programme – Cloud Service System, which gives possibility to tender and to acquire cloud services for public administration and third-party providers. The ZUCH system is available at: <https://chmura.gov.pl/zuch>.

## **10. Analysis of needs and requirements**

The analysis of needs and requirements is intended to serve the contracting body. It should not be treated as another formal obligation that must be fulfilled. It is the first step to preparing the procedure — determining what the contracting body needs and what solutions it can use, what tools it can use to achieve the optimal product for itself. The aim is to diagnose a justified purchasing need, which will be optimal also in terms of the organizational and financial capabilities of the contracting body.



**The head of contracting body should:**

- regulate the analysis of needs and requirements in the internal procedure in such a way as to ensure the cooperation of organisational units.

**Contracting bodies should:**

- apply ‘Guidelines for contracting authorities to develop the analysis of needs and requirements in the light of the new public procurement law’ prepared of the Public Procurement Council

## **11. Preliminary market consultation**

The purpose of conducting preliminary market consultations is to obtain information for the contracting body on specialised, innovative solutions that are available in a given procurement market and can be used in the contract. They are intended to increase the contracting body’s knowledge of the possibilities and methods of preparing, conducting and performing the public contract, which would be optimal for meeting the purchasing needs. Consultations may relate in particular to:

- the characteristics of the specific subject-matter of the contract;
- a better understanding of the general market situation related to the industry;
- other alternative forms of satisfying the purchasing needs of the contracting body;
- the possibility of applying non-price criteria for the evaluation of tenders;
- the possibility of applying social, innovative and green aspects in the prepared procedure;
- ways to increase possibility of SMEs participation in the procurement;
- the envisaged specific provisions of the contract relating to the performance and subject-matter of the contract;
- assistance with a preliminary and indicative estimate of the contract value.



**The head of contracting body should:**

- Regulate preliminary market consultations in the internal procedure in such a way as to ensure the cooperation between organisational units.

**Individual contracting bodies should:**

- Ensure that, as far as possible, consultations involve different economic operators, both market leaders, well established and branded entities and SMEs;
- not consider preliminary market consultation as a pre-qualification for participation in the relevant procurement procedure.

## Chapter X Purchasing strategies and categories

### 1. Purchasing strategies of contracting bodies

The strategy should indicate the objectives to be achieved for the contracting body and how they are implemented, describe the activities undertaken at the procurement planning stage and the cooperation between the departments of contracting bodies. It should also define internal procedures and operating rules to create an appropriate internal environment and to ensure that the contracting body's potential is properly exploited.

The strategy is a certain action plan, which should be prepared in such a way that, taking into account the specificity of the office concerned, it enables achieving the state's strategic objectives through public procurement. These objectives are:

- an increase in the number of innovative procurement;
- an increase in green procurement and procurement including environmental aspects;
- more social or health-oriented procurement;
- increase in competitiveness expressed by the increase in number of tenders submitted and more active participation of SMEs.

The purchasing strategy should indicate the objectives to be achieved for the contracting body and how they are implemented, describe the actions undertaken at the stage of procurement planning and the cooperation between the departments of the contracting body. Guidelines for the development of the strategy are set out in Annex 6 to the State purchasing policy.

**Each purchasing strategy should take into account the following elements:**

- Planning of procurement with diagnosis of individual objectives and their differentiation between individual groups and assigning appropriate statuses, in particular the identification of strategic procurement, including allocating more time to prepare strategic projects.
- Internal regulations emphasising a cooperation between the organizational units of the contracting body, i.e. unit for public procurement and contend-related units, at all stages of the procurement procedure.
- A clear assignment of responsibilities. Employees must understand the objectives of the purchasing strategy and its objectives. This applies to both employees of public procurement units and technical staff preparing descriptions of the subject-matter of the contract and staff performing linear duties, as well as managers.

**The head of contracting body is responsible for:**

- development and implementation of a purchasing strategy;
- verification of its implementation by means of clear metrics;
- coordinating its implementation.

**The head of contracting body should also consider the possibility of meeting specific purchasing needs by concluding a public-private partnership agreement or a concession contract for works or services.**

## **2. Purchasing categories**

The policy recommendations addressed to contracting bodies should be implemented foremost in the strategic categories of ongoing procurement. This is to be done by the management strategies for the different purchasing categories referred to in Article 22 of the PPL. In order to achieve the objectives relevant to the state policy, it is recommended that the developed management strategies include in particular (if the contracting body in question performs contracts covered by these categories):

### **1) Medical devices**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to the procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Pre-commercial procurement (PCP)
- Public procurement of innovation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultations

### **2) IT and related services**

- Standards
- Social labels
- Accessibility plus
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Removing barriers to access to the procurement (SMEs)
- Application of environmental criteria
- Horizontal and vertical cooperation
- Pre-commercial procurement (PCP)
- Public procurement of innovation
- Framework agreement
- Design contest
- Cloud Services Model
- Standards for cybersecurity
- Analysis of needs and requirements
- Preliminary market consultations

### **3) Furniture (incl. office furniture)**

- Standards
- Social labels
- Accessibility plus
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to the procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Framework agreement
- Dynamic purchasing system
- Design contest
- Analysis of needs and requirements
- Preliminary market consultations

#### **4) Transport services, transport equipment and auxiliary products to transport**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Public procurement of innovation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultation

#### **5) Repair and maintenance services**

- Standards
- Non-price criteria for the evaluation of tenders
- Removing contract size barriers (SMEs)
- Application of environmental criteria
- Horizontal and vertical cooperation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultation

#### **6) Waste water collection, waste disposal, cleaning and environmental services**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing contract size barriers (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Framework agreement
- Analysis of needs and requirements
- Preliminary market consultations

## **7) Construction works**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Pre-commercial procurement (PCP)
- Public procurement of innovation
- Framework agreement
- Design contest
- Building Information Modeling (BIM)
- Analysis of needs and requirements
- Preliminary market consultations

## **8) Agricultural services**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Pre-commercial procurement
- Life-cycle costing
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultations

## **9) Energy-using products (e.g. industrial machinery, office equipment and computers)**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Pre-commercial procurement (PCP)
- Public Procurement of innovation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultation

## **10) Construction and building materials**

- Standards
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Pre-commercial procurement (PCP)
- Public procurement of innovation
- Framework agreement
- Dynamic purchasing system
- Design contest
- Analysis of needs and requirements
- Preliminary market consultation

## **11) Food and catering services**

- Standards
- Social labels
- Accessibility plus
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Health aspects
- Horizontal and vertical cooperation
- Framework agreement
- Dynamic purchasing system
- Design contest
- Analysis of needs and requirements
- Preliminary market consultations

## **12) Energy (incl. electricity, heating and cooling using renewable energy sources)**

- Standards
- Social labels
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Pre-commercial procurement (PCP)
- Public procurement of innovation
- Framework agreement
- Design contest
- Analysis of needs and requirements
- Preliminary market consultations

### **13) Clothing, uniforms and other textiles**

- Standards
- Social labels
- Accessibility plus
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Horizontal and vertical cooperation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultations

### **14) Paper and printing services**

- Standards
- Social labels
- Accessibility plus
- Environmental labels
- Non-price criteria for the evaluation of tenders
- Life-cycle costing
- Environmental management system
- Removing barriers to access to procurement (SMEs)
- Application of environmental criteria
- Environmental Technology Verification (ETV)
- Horizontal and vertical cooperation
- Framework agreement
- Dynamic purchasing system
- Analysis of needs and requirements
- Preliminary market consultations

## Chapter XI System for the implementation of the State purchasing policy

The system for the implementation of the State purchasing policy will be used to assess the impact of the policy on the public procurement market. In order to have a complete overview of the state of the procurement system and the level of implementation of individual priorities, implementation programmes, implementation instruments and tools, the following system has been created.

This system has been divided into 3 parts:

- evaluation of efficiency;
- analysis of implementation progress;
- monitoring the implementation of the State purchasing policy;

The data used to verify the implementation of the policy will come from the following sources:

- **Annual Report of the President of the PPO on the functioning of the public procurement system.** For the purposes of preparing the report, the PPO President collects information on the level of use of selected solutions and institutions provided for by the PPL. For policy purposes, the PPO President will be required to prepare and present to the minister responsible for the economy a summary of the necessary data relating to the above-mentioned solutions and the instruments used by contracting bodies (specifying government administration).
- **Annual surveys** on considering instruments and tools identified by the policy. The minister responsible for economy will be responsible for preparing the content of surveys and conducting the survey. The survey will consist of 2 parts, i.e.: (i) the part concerning the implementation of the obligations imposed under the programmes (if imposed on the authority in question), (ii) the implementation of policy instruments. The **general bodies and voivodes** will also play a key role in surveys. The general bodies and the voivodes will be obliged to cooperate with the minister responsible for economy in conducting a survey by coordinating the process of collecting the required data from their supervised and subordinate units. The role of the general bodies and voivodes will also be the initial aggregation of the data received in accordance with the form provided by the minister responsible for economy. Pre-aggregated data will be submitted to the minister responsible for economy.

### 1. Evaluation of efficiency

The assessment of effectiveness will consist of assessing the impact of the State purchasing policy according to measurable indicators.

The implementation of the policy by the contracting bodies belonging to the government administration will therefore be assessed through the prism of measures indicated below. These

measures relate directly to the priorities identified in the document. They will show to what extent procurers follow the policy recommendations and whether these recommendations have the intended effect.

**Priority I – Professionalisation:**

No.	Measurement	Baseline indicator	2023	2025
1	Percentage of contracting bodies from government administration, that have completed steps 1-4 ProcurComp <sup>EU</sup>	N/A New solution	50%	90%
2	Percentage of contracting bodies, that take into account competence gaps in their individual professional development plans for public procurement practitioners as recommended by ProcurComp <sup>EU</sup>	N/A New solution	30%	70%
3	Percentage of procedures conducted jointly with another institution, where at least one of them belongs to the government administration	No data available <sup>62</sup>	+5%	+10%
4	Supplies, services or works purchased from a central purchasing body or from economic operators selected by the central purchasing body.	4 525 awarded contracts	+5%	+10%
5	Number of people, who have benefited from educational projects conducted as part of the implementation of the State purchasing policy	N/A New solution	2000 people	6000 people (in total over the period 2023-2025)

**Priority II – SMEs**

No.	Measurement	Baseline indicator	2023	2025
1	Percentage of SMEs actively participating in the public procurement market at the contracting stage	14% <sup>63</sup>	16%	18%
2	Percentage of tenders submitted by SMEs in the total number of tenders submitted in procurement procedures	82% of all procurement	>82%	>82%

<sup>62</sup> Baseline indicator in this respect will be completed with results of the first survey

<sup>63</sup> A. Kowalewska, J. Szut, A new approach to the public procurement, Report 2013, Polish Agency for Enterprise Development, Warsaw 2013, p. 7.

**Priority III – Sustainable procurement**

No.	Measurement	Baseline indicator	2023	2025
<b>1</b>	Number of public contracts awarded where social aspects were applied (in relation to all procedures)	28 283 awarded contracts	+5% of base value	+10% of base value
<b>2</b>	Number of public contracts awarded where environmental aspects were applied (in description of the subject-matter, criteria for evaluation of tender, labelling, environmental management system)	1142 awarded contracts	+3% of base value	+7% of base value
<b>3</b>	Number of public contracts awarded where innovative aspects were applied (in description of the subject-matter and criteria for evaluation of tender)	73 awarded contracts	+3% of base value	+7% of base value
<b>4</b>	Number of public contracts, which refer to accessibility for people with disabilities or design for all users in the description of the subject-matter of the contract.	3 572 awarded contracts	+3% of base value	+7% of base value
<b>5</b>	Number of public contracts awarded where the cost criterion using life-cycle costing was applied	21 awarded contracts	+3% of base value	+7% of base value

## 2. Analysis of implementation progress

In addition to continuous monitoring and evaluation of effectiveness, there will also be an annual evaluation of the state of play of implementation of the programmes adopted. Activities in each programme are divided into 3 time frames, i.e. short-term, medium-term and long-term activities. The authorities designated as responsible will be required to provide information on the progress of their activities in the framework of the survey referred to above.

### 1) Job profiling of public procurement practitioners

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1	Inclusion of ProcurComp <sup>EU</sup> in training and promotional materials of the State purchasing policy			Minister responsible for the economy  In cooperation with: President of the PPO

## 2) Building the capacity and competences of public procurement practitioners

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1		Launch of Internet Platform	Launch of e-learning modules	Minister responsible for the economy
2		Launch of a database of scientific and research units		Innovation Council  In cooperation with: Minister responsible for the economy
3	Implementation of the onsite training programme taking into account the areas recommended in the State procurement policy	Implementation of the onsite training programme taking into account the areas recommended in the State procurement policy	Implementation of the onsite training programme taking into account the areas recommended in the State procurement policy	President of the PPO/ Minister responsible for the economy
4	Implementation of the online training programme taking into account the	Implementation of the online training programme taking into account the	Implementation of the online training programme taking into account the	President of the PPO/ Minister

	areas recommended in the State procurement policy	areas recommended in the State procurement policy	areas recommended in the State procurement policy	responsible for the economy
5	Implementation of the workshop programme on joint procurement	Implementation of the workshop programme on joint procurement	Implementation of the workshop programme on joint procurement	President of the PPO/ Minister responsible for the economy
6		Developing a good practice package on health aspects	Providing access to materials on health aspects on the Internet Platform (within Internet Platform, priority Professionalisation)	Minister of Health In cooperation with : President of the PPO
7		Developing a good practice package on green procurement		Minister responsible for the economy In cooperation with : Minister responsible for the environment Minister responsible for the climate President of the PPO Team on Green Procurement

<b>8</b>	Identification of areas and preparation of publications containing recommendations and good practices	Identification of areas and preparation of publications containing recommendations and good practices	Identification of areas and preparation of publications containing recommendations and good practices	President of the PPO/ Minister responsible for the economy  In cooperation with other competent authorities
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### 3) Promotion of the State purchasing policy

<b>No.</b>	<b>Short-term activities (by the end of 2023)</b>	<b>Medium-term activities (by the end of 2024)</b>	<b>Long-term activities (by the end of 2025)</b>	<b>Responsible authority</b>
<b>1</b>	Organisation of conferences on the State purchasing policy	Organisation of conferences on the State purchasing policy	Organisation of conferences on the State purchasing policy	Minister responsible for the economy  In cooperation with: Other units

2	Information activities on the priorities and objectives of the State purchasing policy	Information activities on the priorities and objectives of the State purchasing policy	Information activities on the priorities and objectives of the State purchasing policy	Minister responsible for the economy
				In cooperation with: President of the PPO

4) Framework for the use of recommended and mandatory support instruments for SME development

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1	Include in the training programmes tools fostering an increase of interest of SMEs in the public procurement market			President of the PPO  In cooperation with: Minister responsible for the economy

5) Content-related support for SMEs

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1		Creation of a module dedicated to SMEs on the Internet Platform to be implemented within the Professionalization priority.	Implementation of an educational and information programme dedicated to SMEs	Minister responsible for the economy

In cooperation  
with:  
PARP

6) Support for establishing cooperation in the form of a consortium

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1		Launching of the functionality on the Internet Platform which will be implemented under the Professionalization priority, enabling communication between economic operators in order to establish consortia		Minister responsible for the economy

7) Introduction of a certification mechanism

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
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<b>1</b>	Introduction of a certification mechanism into the public procurement system	Minister responsible for the economy  In cooperation with: President of the PPO
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8) Standardisation of tender documents

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
<b>1</b>	Identification, in cooperation with industry organisations, the key types of services, supplies and works for the market that should be standardised.		Development of packages of standard tender documents.	President of the PPO/ Minister responsible for the economy

9) Increasing the participation of Polish entrepreneurs, including SMEs, in international procurement

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1	Appointing the Team on Public Procurement of International Organisation			Minister responsible for the economy
	Including in educational and promotional activities aimed at SMEs the issue of participation in the procurement of international organisation.	Including in the educational and promotional activities aimed at SMEs the issue of participation in the procurement of international organisation.	Including in the educational and promotional activities aimed at SMEs the issue of participation in the procurement of international organisation.	Minister responsible for the economy In cooperation with: PARP

10) Linking the objectives of the State purchasing policy on sustainable and innovative procurement to the spending of funds from the state's special-purpose funds and at the disposal of the minister or other authority of government administration.

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1			Linking the objectives of the State purchasing policy on sustainable and innovative procurement to the spending of funds from the state's special-purpose funds and at the disposal of the minister or other authority of government administration	Operators of governmental programmes and special-purpose funds

11) Building the capacity of contracting bodies for wider implementation of sustainable and innovative procurement

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authority
1	Including in training programmes issues related to social aspects	Providing access to materials on social aspects on the Internet Platform (within the Internet Platform, priority Professionalization)	Launching of an e-learning module – social aspects (within the Internet Platform, priority Professionalization)	President of the PPO/ Minister responsible for the economy

2	Including in training programmes issues related to health aspects		President of the PPO/ Minister responsible for the economy  In cooperation with: Ministry of Health
3	Including in training programmes issues related to environmental aspects  (within trainings, priority Professionalization)	Providing access to materials on environmental aspects on the Internet Platform (within the Internet Platform, priority Professionalization)	Launching of an e-learning module – environmental aspects  (within the Internet Platform, priority Professionalization)  President of the PPO/ Minister responsible for the economy  In cooperation with: Team on Green Procurement
4	Including in training programmes issues related to innovative aspects  (within trainings, priority Professionalization)	Providing access to materials on innovative aspects on the Internet Platform (within the Internet Platform, priority Professionalization)	Launching of an e-learning module – innovative aspects  (within the Internet Platform, priority Professionalization)  President of the PPO/ Minister responsible for the economy  In cooperation with: Team on Innovation

		NCBR
5	Appointing a Team on Green Procurement	The Prime Minister on request of the minister responsible for the economy
6	Preparation of recommendation for representatives of control bodies in the field of purchasing processes carried out in the PCP and PPI formula.	Committee for the Control of Public Contracts In cooperation with: minister responsible for the economy and PPO NCBR

12) Allocating the budget of contracting bodies

No.	Short-term activities (by the end of 2023)	Medium-term activities (by the end of 2024)	Long-term activities (by the end of 2025)	Responsible authorities
1			Contracting bodies will allocate the budget dedicated to innovation procurement (both PCP and PPI)	General bodies and voivodes

### **3. Monitoring the implementation of the State purchasing policy**

The Minister responsible for the economy, in cooperation with the President of the PPO and other general institutions and institutions responsible for supervision of contracting bodies from the government administration will monitor the level of use of the instruments and tools recommended by the State procurement policy. The purpose of monitoring is to control, on an ongoing and annual basis, the inclusion of the instruments and tools indicated in the policy content.

### **4. Report on the implementation of the State purchasing policy**

On the basis of data obtained for the purposes of evaluation of effectiveness, evaluation of implementation progress and monitoring the implementation of the State purchasing policy comprehensive reports will be carried out, aimed at a summary of the functioning of the implementation instruments and policy tools and their impact on the implementation of the priorities set.

The first report will be completed in 2024, i.e. after 2 full years of the policy validity period. This report will refer to short- and medium-term activities, as well as to the level of achievement of indicators at the evaluation of effectiveness by 2023. The report will be the starting point for the work on the draft of the next State purchasing policy.

The second report will be conducted upon completion of the State purchasing policy in this cycle. This report will summarise the entire policy by evaluating the effectiveness of priorities, the efficiency of programme implementation and the use of instruments and tools.

# ANNEXES TO THE STATE PURCHASING POLICY

## Annex 1

### List of government programmes and funds involving public money

No.	Name of the Programme	Coordinating/implementation entity	Body responsible for the implementation of the Programme
1.	The Government Road Development Fund	voivode(s)/ local government units	Minister of Infrastructure
2.	National Road Construction Programme in 2014-2023 (with a perspective until 2025)	GDDKiA <sup>64</sup>	Minister of Infrastructure
3.	100 Ring Roads programme in 2020-2030	GDDKiA <sup>1</sup>	Minister of Infrastructure
4.	Safe Road Infrastructure Programme 2021-2024	GDDKiA <sup>1</sup>	Minister of Infrastructure
5.	Local and Regional Rail Infrastructure Completion Programme to 2028 „Rail+”	PKP PLK S.A. <sup>65</sup>	Minister of Infrastructure
6.	National Railway Programme to 2023	PKP PLK S.A. <sup>2</sup>	Minister of Infrastructure
7.	Programme for construction or modernisation of railway stations in 2021–2025	PKP PLK S.A. <sup>2</sup>	Minister of Infrastructure
8.	Construction of a waterway linking the Vistula Lagoon with the Gulf of Gdansk	Polish Maritime Office in Gdynia	Minister of Infrastructure
9.	Aid for the financing of railway infrastructure management costs, including maintenance and repair by 2023	Railway infrastructure operators, incl. mainly PKP PLK S.A.	Minister of Infrastructure
10.	Maintenance of maritime waterways in the Oder estuary area in 2019-2028	Director of the Maritime Office in Szczecin	Minister of Infrastructure
11.	Multiannual programme – „Solidarity Transport Hub Investment Programme. Stage I. 2020-2023”	CPK Sp. z o.o. <sup>66</sup>	Minister of Infrastructure

<sup>64</sup> Generalna Dyrekcja Dróg Krajowych i Autostrad (EN: General Directorate for National Roads and Highways)

<sup>65</sup> PKP Polskie Linie Kolejowe S.A.

<sup>66</sup> Centralny Port Komunikacyjny Sp. z o.o. (EN: Solidarity Transport Hub Poland)

12.	Clear Air Program	NFOŚiGW <sup>67</sup>	Minister of Climate and Environment
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## Annex 2

### Competency Matrix for Public Procurement Professionals

Procurement specific

Horizontal

#### 1. Planning

The formulation, development and implementation of procurement planning translate the policy choices of the organisation into where and how public procurement should be used to cost-effectively purchase the required supplies, services or works in line with the desired policy impact. The planning should take into account:

- a) The political and policy priorities of the organisation,
- b) The relevant policies at national level,
- c) The adopted budget plans and available resources.

#	Basic	Intermediate	Advanced	Expert
1	Perform basic procurement planning tasks, such as collecting and consolidating contributions from various department	Provide research and gather input for the procurement planning in line with the policy and political goals of the organisation	Coordinate the preparation of the organisation's procurement plan, and make recommendations for the final planning and timeline	Set the vision for the organisation's procurement and adjacent policies
2	Implement the procurement planning in their daily work	Help implement the organisation's procurement planning in line with the budget and timeline	Anticipate potential opportunities and challenges and mitigate risks in the implementation process	Establish the procurement plan and budget focusing on policy outcomes and benefits
3		Ensure their daily work aligns with and contributes to the procurement planning in line with political and policy priorities	Monitor implementation of the plan to ensure the success of the policy	Act as a reference point for high level policymakers on procurement

<sup>67</sup> Narodowy Fundusz Ochrony Środowiska i Gospodarki Wodnej (EN: The National Fund for Environmental Protection and Water Management)

				issues, including giving feedback to the political level
4			Provide feedback to policymakers on the implementation of the plan	Promote the procurement function in the overall strategy of the organisation

## 2. Lifecycle

The procurement lifecycle includes the various phases from planning and pre-publication to post-award and contract management. Each step affects the nature of subsequent steps. Understanding the overall lifecycle and the interactions between the steps, over a number of procedures, is necessary for the design and implementation of robust procurement procedures. It allows to anticipate risks and opportunities, thus improving efficiency and value for money.

#	Basic	Intermediate	Advanced	Expert
1	Help monitor the implementation of the different steps of the procurement lifecycle, with an understanding of the interactions between the phases, and the risks.	Implement the different phases of the procurement lifecycle, with an understanding of the interactions between the phases, the risks and opportunities they present.	Manage the implementation of all phases of the procurement lifecycle, understanding how each interacts with the others	Oversee all phases of the procurement lifecycle across multiple contract types
2			Consistently apply their procurement lifecycle knowledge to maximise efficiency and value for money	Shape internal policies and tools to exploit links between procurement phases to maximise efficiency and value for money

3			Anticipate potential challenges, risks and impacts of the various phases of the procurement lifecycle	Act as a reference point on procurement lifecycle management for those within and outside the organisation.
4			Guide others in implementing procedures to capitalise on links between phases.	

### 3. Legislation

Public procurement professionals need to understand and be able to apply the relevant national and EU level legal frameworks and the principles of non-discrimination, equal treatment, transparency, proportionality and sound financial management. This includes adjacent areas of law and policy, e.g.:

- a) Competition, administrative, contract, environmental, social and labour laws, accessibility obligations and Intellectual Property Rights;
- b) EU funding, budgetary and accounting rules;
- c) Remedies;
- d) Anti-corruption and anti-fraud measures.

Knowledge of the legislation is also essential to understand and ensure the desired impact on the procurement system and on the supply chains.

#	Basic	Intermediate	Advanced	Expert
1	Monitor developments in national legislation to support the organisation's procurement decisions	Understand the implications and impacts of procurement law on the procurement system and the supply chain	Apply diverse aspects of the procurement legislation, as well as other legal frameworks impacting procurement	Contribute to the creation of public procurement policy of the organisation
2	Apply procurement procedures in line with the legal framework and best practices.	Make procurement decisions in line with policy	Take deliberate steps to ensure specific impact of procurement	Act as a knowledge sharing agent on EU and national procurement law

		requirements and provide clear advice and solutions	law on supply chains	
3		Perform research and analysis of the impact of EU or national regulation on procurement.	Help develop the organisation's procurement practices in line with key issues and the broader procurement policy context	Promote the adoption of non-binding and innovative legal provisions that represent new opportunities
4				Take part in expert working groups on procurement law

#### 4. e-Procurement & other IT tools

E-Procurement and other IT systems and tools support the procurement lifecycle, from the publication of tenders to the final payment. They reduce administrative burden, improve efficiency, and strengthen transparency and accountability of procurement procedures. Key tools include:

- a) Preparatory phase tools, e.g. TED and national procurement platforms, e-notification, standardised tender documents and templates;
- b) Submission phase tools, e.g. e-submission, the European Single Procurement Document, e-Certis;
- c) Tendering phase tools, e.g. e-catalogues, electronic procurement platforms, dynamic purchasing systems, auction systems, and e-invoicing;
- d) Other IT tools for data transparency, anti-fraud and anti-corruption, such as business and public contract registers.

The digital transformation of public procurement requires a continuous proactive approach to take advantage of the best available tools. It also requires continuous training.

#	Basic	Intermediate	Advanced	Expert
1	Perform basic operations using the available procurement systems and tools, such as uploading data	Use the systems and tools available for supporting procurement procedures and perform the main e-procurement procedures	Implement the use of a wide range of procurement systems and tools	Promote procurement systems and tools and encourage a professionalisation culture within the organisation
2	Collect and centralise required template documents to prepare tender documentation	Use template documents, the national e-procurement platform and public contract registers;	Analyse procurement data for budget monitoring and forecasting upcoming procurements	Use procurement data to identify procurement trends and to improve the organisation's procurement procedures
3		Use relevant procurement systems and tools in order to ensure the transparency of the procurement process	Identify inefficiencies in the organisation's use of systems and tools and make suggestions for improvements	Contribute to the introduction and/or development of new procurement systems and tools, or to the improvement of existing ones, as well as advocate at the political level for the uptake of the latest systems and tools available
4		Use available data from the systems in		Take part in expert working groups

		order to assess the risk of anti-competitive practices by suppliers (such as collusion).	Ensure that all users have the appropriate access and training and act as a change management agent during implementation of a newly adopted system or tool.	aimed at developing and fostering the uptake of the procurement systems and tools nationally and internationally.
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## 5. Sustainable procurement

Sustainable public procurement incorporates strategic public policy goals into procurement procedures, such as green public procurement (GPP), socially responsible public procurement (SRPP), and ensuring genuine competition and SME participation. It contributes to reducing the environmental impact of procurement, to achieving social goals, and to improving value for money for the organisation and for society at large. Sustainable objectives can be implemented in many ways:

- a) Exclusion criteria that require a minimum level of compliance with environmental and social law by contractors and sub-contractors;
- b) Selection criteria that verify the bidder's qualifications to achieve environmental and social goals; Technical specifications that include social and environmental considerations such as label requirements or sustainable production processes;
- c) Evaluation techniques such as life-cycle costing and use of environmental or social award criteria;
- d) Contract performance clauses in order to monitor and enforce high sustainability standards;
- e) Sector specific legislation requiring, for example, minimum energy-efficiency standards, as well as horizontal rules such as accessibility obligations;
- f) Member State level green or social action plans outlining support measures or setting targets.

#	Basic	Intermediate	Advanced	Expert
1.	Understand the scope and benefits of sustainable procurement for achieving the organisation's sustainability objectives	Implement sustainable procurement aspects in technical specifications, selection and award criteria, contract clauses and key performance indicator	Implement the organisation's sustainable procurement strategy in terms of the targets, priorities and timeframes to achieve the organisation's sustainability objectives	Master the concepts and application of sustainable procurement aspects and prioritise based on impact, budgetary importance and influence on the market

2.	Understand how sustainable procurement aspects are implemented and the resources available to implement them; Support the implementation of sustainable procurement approaches within the organisation	Use sustainable procurement tools and methods, such as standards, life-cycle costing and labels	Make decisions about integrating sustainable procurement aspects into e.g. technical specifications, selection and award criteria, contract clauses and key performance indicators	Secure political support and promote the organisation's sustainable procurement strategy and priorities
3.	Gather data to monitor the performance of sustainable procurement project	Carry out research, analysis and networking activities that support sustainable procurement decisions	Promote and encourage the use of sustainable procurement tools and techniques, such as standards, life-cycle costing techniques and labels	Design the organisation's sustainable procurement strategy, setting clear scope, targets, priorities and timeframes, and ensure it is implemented effectively
4.		Monitor the sustainability impact and performance of the project, including commitments made by contractors and subcontractors	Get an overview of the products and services available on the market by engaging suppliers and make a business case for sustainable procurement based on life-cycle costing and social impact	Define priority sectors with high-impact and identify approaches to tendering in the selected sectors such as construction, food and catering, vehicles, and ICT

5.			Reach out to stakeholders who are conducive to developing sustainable procurement markets and opportunities	Integrate sustainable procurement good practices to the organisation and among peer organisations
6.			Ensure there is a system for monitoring the sustainability impact of contracts, including commitments made by contractors and subcontractors	Advocate for the development and widespread use of sustainable procurement within and beyond the organisation, take part in expert groups and networks and create partnerships with other public authorities and stakeholders (e.g. civil society and NGOs) to promote and improve implementation of sustainable public procurement

## 7. Innovation procurement

Innovation procurement refers to a public procurement that involves either:

- a) Buying the process of innovation (e.g. buying research and development services), or
- b) Buying the outcomes of innovation created by others (i.e. buying innovative solutions).

Innovation procurement helps modernise public services while creating opportunities for companies to develop new markets. By developing a forward-looking innovation procurement strategy and considering alternative competing solutions, contracting authorities can drive innovation from the demand side to meet short term as well as medium to long term needs. A well-designed innovation procurement strategy will reduce the risk of low- or non-performance of the purchased innovations by providing a step-by-step approach from solution design, prototyping, and development to development and product testing.

#	Basic	Intermediate	Advanced	Expert
1.	Understand why and how innovation procurement aspects are implemented and how they can add value to the procurement process for the organisation	Prepare a business case for starting an innovation procurement (incl. cost/benefit analysis)	Implement the organisation's innovation procurement strategy in line with the organisation's objectives	Master the concepts and application of innovation procurement and prioritise based on innovation impact, budgetary importance and potential influence on the market
2.	Support the implementation process of innovation procurement within an organisation	Understand how innovation procurement aspects, including key emerging technologies, are implemented and how they can add value to the objectives of the organisation	Make decisions about key performance indicators to integrate within tender specifications and contracts	Design and implement a forward-looking strategy for innovation procurement for the organisation based on high-impact opportunities (e.g. ICTs and key enabling technologies) and on the impacts achieved by completed

				innovation procurements
3.	Perform basic tasks for conducting innovation procurements using available tools (e.g. template documents)	Set the public procurement procedure parameters (e.g. by using functional or performance based requirements instead of prescriptive requirements, examining the use of variants, innovation-friendly selection and award criteria, standards, certifications, quality labels, key performance indicators and IPR conditions) to enable innovative solutions to compete with established ones	Maintain a good overview of the products and services available on the market by engaging with suppliers and stakeholder groups involved in innovation	Advocate for the development and widespread use of innovation procurement within and beyond the organisation, take part in key innovation procurement related events, expert groups and networks to promote and improve the implementation of innovation procurement
4.	Gather data for monitoring the expenditure level and the impact of innovation procurement	Monitor the innovation impact and the performance of the project	Incentivise the industry to invest in research and development and expand commercialisation to bring innovative solutions, including key emerging technologies, to the market with the quality and price needed for	Establish strategic agreements and cooperation structures with other buyers that enable regular coordinated or joint procurements

			mass-market deployment	
5.			Promote and encourage the use of innovation procurement tools and techniques.	

### 7. Category specific

Category specific expertise is at the core of the procurement procedure. The characteristics of the category of supplies, services or works to be acquired need to be well understood, including by involving experts and stakeholders (professionals and end-users). The procurement strategy and documents have to be tailored to fulfil the identified need and maximise value for money

#	Basic	Intermediate	Advanced	Expert
1.	Perform research and provide relevant information on a category of supplies, services or works to make informed purchasing decisions.	Check if any legal and regulatory requirements apply to their category of supplies, services or works (e.g. ensuring a minimum stock level for healthcare supplies, transport and storage requirements for hazardous materials);	Arrange or categorise planned spending according to markets trends, keeping in mind quality, service, risk and cost.	Act as a reference point for procurement professionals and users at organisational and even national level;
2.		Contribute to the definition of product technical requirements in preparing technical specifications.		Shape organisational or national policy for procurement or use of the supplies, services or works in their category;
3.				

				Prepare targeted thematic guidance and disseminate best practices developed by similar organisations.
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## 8. Supplier management

Supplier management involves building and maintaining effective relationships with current and potential future suppliers. It is essential to ensuring the successful delivery of current contracts and of future calls for tender. In addition, increased understanding of suppliers can help procurement professionals drive more robust, ethical, responsible and economically advantageous supply chains through open channels of communication with suppliers, especially SMEs

#	Basic	Intermediate	Advanced	Expert
1.	Reply to simple queries from suppliers	Interact directly with suppliers on low complexity contracts	Maintain structured and strategic relationships with suppliers and potential suppliers based on trust, commitment, integrity and an awareness of mutual obligations	Maintain high level relationships with strategic suppliers;
2.	Support the work of other procurement professionals in meetings and other communication with suppliers.	Advise economic operators and suppliers on the conduct of e-procurement procedures	Provide support to suppliers in particular on the use of the e-procurement system	Explore opportunities for increased value added in complex projects with political implications;
3.		Monitor supplier performance, identify trends and take necessary actions	Analyse supplier trends and draw conclusions in terms of opportunities for improvement	Define topics and design the content of support to suppliers;
4.		Develop sound working relationships with suppliers based on trust, commitment, integrity and an awareness of mutual obligations.	Handle cases of disputes with suppliers	Shape and exploit ethical and economically advantageous supply chains
5.			Identify and foster ethical and	

			economically advantageous supply chains	
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## 9. Negotiations

Negotiations can be used to secure and advance the interests of the organisation, and ultimately of the final beneficiary, in achieving best value for money. They aim at reaching a mutual agreement between the contracting authority and the supplier, despite potentially opposing interests, on how to improve the submitted tenders to better satisfy the terms and conditions stated in the procurement documents. Negotiations must respect the general procurement principles (i.e. non-discrimination, transparency and equal treatment), as well as ethical and integrity standards.

#	Basic	Intermediate	Advanced	Expert
1.	Perform basic tasks related to the negotiation process;	Collect input, data and information, including from internal experts, to help prepare negotiation strategies	Prepare negotiation strategies and elaborate negotiation positions based on research and analysis, and input from internal stakeholder	Lead complex operational and strategic negotiations across a wide range of contract types, issues and stakeholders
2.	Support the negotiation process with data and input gathering, and data analysis.	Attend and actively participate in negotiation meetings	Attend negotiations and solve complex issues that arise for different types of procurements and contracts;	Lead complex negotiations for high-complexity and high-risk, politically-sensitive procurements;
3.		Run negotiations and solve straightforward issues for routine, lowcomplexity projects	Run the majority of negotiations of high complexity projects (in terms of risk, technicality, and/or procedural aspects).	Obtain the best value for money and best solution in terms of contributing to the achievement of the policy objectives.
4.		Provide support in negotiations for higher complexity projects		

## Procurement specific

### Pre-award

#### 10. Needs assessment

The needs assessment is the process of determining the needs, including possible impacts in terms of value for money or environmental impacts, regarding the subject matter of the procurement by various means, including: liaising with internal and external stakeholders, within the organisation itself or third parties to identify their needs, translating identified needs into procurement planning of supplies, services, or in line with the organisation's budget plan, considering aggregation of needs related to the same subject matter.

l.p.	Poziom podstawowy	Poziom średniozaawansowany	Poziom zaawansowany	Poziom ekspercki
1.	Gather relevant information from multiple sources in a structured manner (e.g. using templates)	Interact with internal and external stakeholders to understand the range of current and foreseeable needs	Manage the full process of needs analysis and data interpretation;	Oversee the full process of needs assessment with an eye for opportunities to increase value for money and impact on policy objectives across the organisation
2.	Interact with internal and external stakeholders to understand organisational needs	Analyse and interpret collected data, and draw conclusions in the identification of potential needs	Bring in technical expertise as required for complex procurement procedures	Advise on possible distinctions between investment costs and current expenditure for a specific budget
3.	Draft the first needs assessment	Identify similar cases and make suggestions for needs aggregation to generate savings	Liaise with colleagues to gather advanced technological knowledge for drafting technical specifications	Influence key stakeholders to implement the broader procurement strategy of the organisation including the identification of synergies across organisations
4.		Act autonomously in identifying the need for		Drive and challenge the

		and running standard procurement procedures.	Propose alternative options and solutions to better address the underlying needs and priorities and makes recommendations	organisation's needs identification strategy and creates a culture of performance and innovation.
5.			Put in place solutions and strategies that help anticipate and create innovative ways to meet internal and external needs (e.g. needs aggregation)	
6.			Communicate convincingly to internal and external stakeholders on the recommended approach.	

## 11. Market analysis & engagement

Market analysis provides an in-depth view of which supplies and services can or cannot be provided by the market, and under what conditions. It involves collecting information on key market drivers (e.g. political, environmental, technological, and social) and on the potential bidders. This information can be used to define the procurement strategy (e.g. division into lots), the reference price, and selection and award criteria to better advance the organisation's objectives.

Market engagement is a consultation process that helps identify potential bidders and solutions, identify the gap between the procurement need and what the market is able to offer or inform the market about an upcoming procurement. Different market engagement techniques, such as questionnaires, technical dialogue, open days, and direct emails to suppliers, can be used as long as they are conducted in accordance with the public procurement principles (i.e. non-discrimination, transparency and equal treatment,), and ethical, privacy, confidentiality and integrity standards, in order to ensure genuine and fair competition.

#	Basic	Intermediate	Advanced	Expert
1.	Apply the principles of transparency, nondiscrimination and equal treatment, as well as ethical, privacy, confidentiality and integrity standards to market consultations	Apply the principles of non-discrimination, transparency and equal treatment as well as ethical and integrity standards to market consultations	Review market analysis and ensure completeness; undertake market research on complex organisational needs in line with principles	Take advantage of the market conditions and opportunities to align the procurement strategy to emerging market trends and shape it to best meet the policy goals of the organisation
2.	Collect information from available sources without engaging suppliers, to support market assessment on straightforward requirements	Analyse and interpret market research to estimate cost and forecast budgets	Identify market opportunities and propose mitigation measures to any risk identified	Advise on best market engagement techniques and propose ways to mitigate risks associated to them;
3.	Prepare supporting documentation.	Evaluate the potential impact of market factors using relevant tools	Set up processes for enabling a relevant number of suppliers to take part in market consultations and competitive dialogue procedures	Supervise the market analysis process and take relevant decisions based on the assessment
4.			Ensure that procurement strategies are designed to reflect market conditions,	Anticipate future developments and potential risks in the supply chain

			policy goals, and opportunities identified	
5.			Identify risks to genuine competition in the case of limited market offer, either due to the number of active suppliers or the nature of the service or supply	Promote a culture of meeting and exceeding internal needs and maximising value for money at the organisational level
6.				Understand and open up markets by influencing supply chains (e.g. consulting with SMEs) through market engagement.

## 12. Procurement strategy

The design of the procurement strategy is the deliberate use of different elements in the procurement lifecycle to reflect and exploit the conditions of the subject matter of the procurement and define the most appropriate and impactful process in order to reach the organisation's objectives and ensure genuine competition. It includes the identification of the most appropriate option between: types of procurement procedures, standalone or joint procurement, features of the procedure, such as scope, duration, and division into lots, techniques and instruments for electronic submission (electronic auctions and catalogues, and dynamic purchasing systems), types of contract (e.g. direct or framework agreement) and contract performance clauses.

#	Basic	Intermediate	Advanced	Expert
1.	Understand commonly used procurement procedures, techniques for electronic submission and contract types	Understand the different steps of the procurement strategy	Make suggestions for the use of various procurement procedures and techniques in order to design the procurement strategy	Provide expert advice to practitioners on the procurement design process and support the use of alternative procurement procedures
2.	Support research on the procurement procedures, techniques and instruments for the procurement strategy	Gather the information necessary to make data driven procurement strategy decisions and recommendations	Oversee the research and analysis process and make the final decision on the most appropriate procurement process	Help shape organisational and national policy to support good procurement strategy
3.	Provide input to support the procurement strategy decision-making process; e.g. summarise and report information gathered on procurement options.	Make effective use of the whole range of procurement procedures, techniques for electronic submission, contract types and contract performance clauses where appropriate.	Ensure that the right resources are available for the research and analysis process	Analyse and implement the findings of market analysis and market engagement to shape the procurement strategy

4.			Using the results of the market analysis, assess and take action to mitigate any risk of anticompetitive behaviours by suppliers linked to various options	
5.			Decide on the design of the procurement strategy using the full range of procurement procedures and techniques	

### 13. Technical specifications

Drafting technical specifications involves transforming the findings of the needs assessment and market analysis into concrete specifications and evaluation criteria that can be used in assessing bids and awarding the contract. This includes setting objective and not over-prescriptive minimum requirements for the subject matter to avoid unnecessarily limiting competition. Ensuring that technical specifications are outcome-focused and future-proofed is key to enable innovation and continuous improvement. When drafting the technical specifications, public buyers should already define the exclusion, selection and award criteria which will be used to evaluate the offers in order to identify the Most Economically Advantageous Tender (MEAT). Technical specifications can also contain references to standards in order to ensure common understanding, transparency and equal treatment.

#	Basic	Intermediate	Advanced	Expert
1.	Contribute to the preparation of clear technical specifications	Collect information and analysis on technical content to support the specification development	Draft specifications that take advantage of evolving markets and keep pace with changing needs	Provide advice or lead development of very complex specifications
2.	Adapt standardised or previously used tender specifications to current needs	Apply the selection and award criteria and understand their influence on the market	Liaise with relevant colleagues and services to gather advanced technological knowledge for drafting technical specification	Drive the development of innovative and forward-looking specifications with the relevant specialists and experts, including the use of functional requirements
3.		Ensure that the technical specifications are compliant with the principles of public procurement, horizontal obligations such as accessibility as well as relevant sector	Define the selection and award criteria to deliver value for money with an understanding of the market implications	Review technical specifications for complex and high-profile procurements.

		specific legal requirements.	and legal requirements as well as for the potential use of standards	
4.		Make use of non-price criteria for routine procurement procedures, including appropriate weighting to ensure best price-quality balance	Provide guidance on drafting technical specifications to team members	
5.		Make references to standards to increase common understanding of procurement documents between buyers and suppliers	Understand and incorporate technology roadmaps when drafting technical specifications.	
6.		Engage with experts to understand technology roadmaps that will support the drafting of technical specifications for innovation procurements		

## 14. Tender documentation

To launch a procurement procedure, tender documentation has to be prepared and the exclusion, selection and award criteria that are the basis for the contract award decision must be defined. The tender documentation (in addition to the technical specifications) explains the administrative requirements of the procedure, justifies the estimated value of the contract, and specifies the terms and conditions under which tenders are to be submitted, evaluated and awarded. They may include other elements such as draft contract provisions, cancellation conditions for the tender, as well as modifications, performance and termination provisions, etc.

#	Basic	Intermediate	Advanced	Expert
1.	Support the preparation of procurement documents such as instructions to tenderers, annexes to be completed, and draft contracts, based on guidelines and templates	Draft procurement documentation in line with the organisation policy and EU and national regulations	Design and complete tender documentation that reflects policy goals and helps maximise value for money	Contribute to the policy of the organisation as regards tender documentation, and act as a reference point for compliance review and verification for others
2.	Ensure the quality of the tender documentation process by applying the right methodology and standards	Publish tender announcements and respond to economic operators questions about tender documentation requirements	Make sure the correct methodology is applied to the issued public procurement tender	Design and implement transparent and appropriate tender documentation strategy for the organisation in full compliance with the legal limitations and possibilities
3.		Design both standard and non-standard contract terms in collaboration with legal advisors	Foresee and tackle risks linked to financial and legal aspects of concerned documents	

4.		Verify the compliance and completeness of procurement documentation prepared	Endorse final documentation and other management decisions related to process	
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## 15. Tender evaluation

The tender evaluation process must ensure that tenders are assessed in an objective and legally compliant way and against exclusion, selection and award criteria defined in the call for tender, in order to identify the Most Economically Advantageous Tender (MEAT). The evaluation committee should be led by experienced administrators who are well-versed in their roles, responsibilities and procedural obligations, supported by relevant technical experts in the field of the subject matter, including assessing standards and labels. The process should be documented to provide the evidence and the rationale for the award.

#	Basic	Intermediate	Advanced	Expert
1.	Support the evaluation process, including the preparation of documentation for the evaluation committee	Perform evaluation against the defined criteria and make recommendations to support the award decision making	Chair evaluation committees for most types of procedures	Facilitate the resolution of complex cases where the tenders are difficult to evaluate or where conflict of interest arises
2.	Manage tender documentation, including receipt of offers and archiving	Participate as a voting member in evaluation committees for routine contracts	Ensure that the evaluation process is conducted in way that is consistent, transparent and fair	Provide suggestions for mobilising relevant experts to take part in the evaluation committees
3.	Participate in the assessment of tenders and ensure the process is documented	Detect possible cases of anti-competitive and corrupt behaviours, such as collusion among suppliers, based on the tender	Ensure that the number, skills and knowledge of the evaluation panel members is appropriate, and that they are free of conflict of interest	

4.		Prepare and provide feedback to tenderers	Communicate the outcomes of the evaluation panel to stakeholders	
5.		Document the evaluation process used to rank the offers in order to ensure proper reporting and audit trail		

### Procurement specific

#### Post-award

#### 16. Contract management

Contract management involves ensuring that the subject of the procurement is delivered according to the terms, conditions in the technical specifications and the contract, and in compliance with all legal requirements and technical specifications. This includes aspects related to governance, risk, performance (and Key Performance Indicators (KPIs)), rules on modifications of contracts and financial management of contracts. In the case of supply contracts, contract management also covers logistics and inventory management. This means ensuring that goods are delivered on time and meet quality standards, and that the availability of stocks is consistently and cost-effectively maintained.

#	Basic	Intermediate	Advanced	Expert
1.	Gather data for contract implementation monitoring	Define and implement the contract management plan	Manage a portfolio of contracts for the procurement of supplies, works and services	Supervise the management of complex contracts and provide advice on resolving contracts with challenging issues
2.	Update and maintain contract databases and registers	Monitor the performance of contracts against pre-defined KPIs	Anticipate the implementation of the contract already during the pre-award phase to	Shape the contract management policy at organisational or national level

			minimise contract modifications late	
3.	Support contract delivery functions in line with scope, quality, time and budget	Perform regular risk assessments on procurement contracts	Adapt management practices in difficult situations	Ensure overall alignment with national policy or legal requirements in terms of logistics and inventory management
4.	Report on contractual milestones and outcomes	Apply the terms and conditions of contracts in varied circumstances	Make a decision on contract termination	Steer the logistics and inventory policy across the organisation with efficiency and effectiveness
5.	Support inventory management and inform when issues with the logistics or with the inventory arise	Advise on contract modifications	Understand and provide advice on all aspects related to contract law and contract management strategies	
6.		Prepare the ground for contract termination	Tailor the logistics and inventory management for the delivery of complex goods	
7.				

		Apply corrective measures in case of deviations from the contract terms		
8.		Apply first-hand experience with logistics and perform inventory management		

### 17. Certification and payment

Before proceeding with a payment to a contractor for the provision of supplies, works or services, the procuring organisation needs to perform a verification check to ensure alignment with the specifications of the terms and conditions of the contract and all applicable financial and accounting rules.

#	Basic	Intermediate	Advanced	Expert
1.	Collect invoices and other documents which support the procurement verification process	Review the documentation required for the payment certification process	Assess the conformity of supplies, works or services with the terms and conditions of complex contracts	Create a culture of performing verification checks across the organisation
2.	Help to ensure a clear audit trail for all payments made	Use relevant techniques and tools to check for double payments	Develop mitigation measures to prevent and detect payment fraud, such as double payments	Solve payment issues related to the nonconformity of supplies, works or services of high-value contracts with the terms and conditions of the contract

3.		Assess the conformity of supplies, works or services with the terms and conditions of routine contracts	Sign off or reject payment requests	
4.		Prepare recommendations for approval or rejection of payment		

### 18. Reporting and evaluation

Reporting and evaluation is the ex-post assessment of the deliverables and outcomes of a procurement process to assess the strengths and weaknesses and draw lessons for future calls for tender. It is done by collecting relevant data in line with organisational and national reporting obligations.

#	Basic	Intermediate	Advanced	Expert
1	Support the analysis of contract performance, including by collecting data from the procurement management process	Perform the contract reporting and evaluation process to ensure that the organisation is extracting lessons learnt from their experience	Analyse complex cases of underperformance to identify underlying causes and recommend mitigating measures	Analyse contract performance reporting to assess the contribution to organisation's objectives
2	Ensure record keeping of all transactions and make sure an audit trail is kept	Analyse performance data and formulate clear findings and recommendations	Ensure transparency of data and findings in line with organisational and national policies and standards	Review reports on complex cases of underperformance
3	Collect relevant data that helps address national and organisational	Conduct ex post verification and draft reports on standard cases of underperformance	Implement the recommendations of audit and ex post verification reports	Supervise the implementation of audit recommendations and ex-post

	reporting obligations			verification reports
4			Engage suppliers in performance improvement discussions	Develop a culture of supplier engagement within the organisation to create clear communication channels for feedback and improvement.

### 19. Conflict resolution & mediation

Conflict resolution or mediation refers to the process of: preventing and solving points of difference, disagreements and conflicts between parties, during all phases of the procurement process and contract management, in order to reach an agreement for the common interest of both parties, managing complaints filed against the organisation according to the national review system, understanding of the national review system and remedies system, and conflict solving mechanisms at different levels.

#	Basic	Intermediate	Advanced	Expert
1.	Identify potential conflicts and refer them to the hierarchy according to organisational policy	Anticipate and take steps to prevent potential conflicts	Manage procedural and contractual issues such as claims and disputes, etc	Lead activities in case of conflict escalation
2.	Gather information to support the management of the complaints	Objectively analyse the facts of a situation and present clear findings and recommendations for potential solutions	Manage the conflict resolution process using different conflict resolution, arbitration and mediation techniques	Provide final approval of the response to complaints

3.		Participate in the conflict resolution process;	Provide recommendations to improve organisational procedures for avoiding and resolving conflicts and complaint	Implement lessons learnt from review cases at national and European level as well as from good practices and cases that were solved without reaching the level of an official complaint
4.		Help address complaints, e.g. by drafting the appropriate response		Create a culture of conflict resolution and mediation with the tenderers and suppliers

## Professional

### Self

#### 20. Adaptability & modernisation

Public procurement professionals need to respond and adapt to changing tasks and circumstances. Such changes can occur in terms of working methods (e.g. digitalisation), citizens' expectations (e.g. food safety), technological solutions and challenges (e.g. big data and cybersecurity), emergency scenarios (e.g. pandemics, natural disasters) and policy challenges (e.g. climate change).

Public procurement professionals must keep abreast of relevant changes in the regulatory, political, and technological environment of public procurement. They must keep an open mind to changing conditions, new ideas and viewpoints and working methods. They must adapt, be resilient to change, and even embrace change by looking for modern and innovative solutions to overcome new procurement challenges. They should be capable of reassessing their approach in emergency situations to ensure compliance while making full use of available flexibilities. They should identify learning and development opportunities that support agile adaptation to change and new tools.

#	Basic	Intermediate	Advanced	Expert
1.	Accept new priorities positively and apply new tools and processes	Implement new procurement techniques and approaches in line with procurement modernisation strategies	Manage innovation and change efforts to maximise effectiveness, speed of response and adaption	Seek out innovative and effective ways to improve the organisation's procurement processes, in line with innovation trends in the public service
2.	Suggest ways to make a change work effectively and demonstrate a positive mindset	Contribute to an environment that facilitates team and individual change and learning processes	Adjust internal procedures and workflows according to implemented change initiatives	Identify future competences and expertise required by the organisation to quickly respond and adapt
3.			Prepare the procurement team and organisation for dealing with, responding and	Set up the organisational context for learning and development and professionalisation through upskilling

			adapting to change	of the procurement Staff
4.			Foster an environment conducive to innovation, learning and development and ensure that learning and development needs are addressed	Encourage a culture of change and innovation in order to deliver better outcomes for citizens

## 21. Analytical & critical thinking

Procurement professionals need analytical and critical thinking to evaluate information with accuracy and objectivity. In doing so, they use good judgment, anticipate opportunities and threats and solve problems in an efficient and creative way.

#	Basic	Intermediate	Advanced	Expert
1.	Gather and analyse relevant data while applying existing qualitative and quantitative approaches in a consistent way	Interpret trends and patterns when processing data	Develop analytical processes to ensure all relevant factors are considered	Determine the nature and scope of analysis
2.	Identify and suggest alternative solutions when solving problems	Review documents with a critical eye, ensuring that implications and risks are considered	Establish criteria to evaluate data, while taking into account both current and future needs	Interpret analysis outputs to support and motivate strategic decisions

3.	Show awareness of opportunities and risks throughout the procurement cycle	Analyse and raise awareness among colleagues and stakeholders on potential risks and suggest adequate approaches for mitigating risks	Adapt the procurement approach based on the situation and requirements.	Lead monitoring of emerging threats
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## 22. Communication

Communication aims to ensure that the goals and processes of procurement policy in general, and individual procurement procedures, are well understood by stakeholders. It relies on the use of appropriate communication channels (oral, written, electronic) in order to deliver relevant and accurate information in line with the public procurement principles of non-discrimination, transparency and equal treatment. In doing so, public procurement professionals need to adapt the communication medium and message to the target audience.

#	Basic	Intermediate	Advanced	Expert
1.	Listen actively, speak and write clearly, logically and concisely	Use active listening and communication skills in conversations and meetings	Deliver strategic, engaging and persuasive communication with a consistent message around values and objectives	Create and champion an open and transparent environment for communication within the organisation
2.	Ensure efficient release of information through various communication channels	Prepare detailed and accurate communication deliverables, to present procurement priorities through the organisation communication strategy	Implement the communication strategy of the organisation in relation to specific procurement projects by defining the relevant deliverables, overseeing their design and delivery, and creating a structure that ensures a good flow of communication.	Define a public procurement communication strategy for the organisation that promotes the organisation's procurement priorities
3.	Support the team in designing clear and sound communication deliverables			Promote creative, innovative and impactful communication methods

4.	Adopt ethical and professional behaviour in line with the organisation's code of conduct and ethical standards	Understand and respect the organisation's compliance policies, their scope and the requirements and risks related to them	Promote the organisation's code of conduct and ethical standards among staff	Design the organisation's code of conduct and ethics and create the conditions for its observance by the staff, through guidance and training and leadership
5.	Demonstrate a compliance mind-set when preparing procurement deliverables.	Understand and assess the impact and consequences of a violation of ethical standards and compliance policies	Review and monitor procurement projects and ensure supply chain processes are compliant with national ethical policies	Create the compliance culture of the organisation and align it with government regulations and policies
6.		Consult with legal and relevant subjectmatter experts when in doubt about compliance related practices	Provides practical recommendations for improving adherence with the organisation's compliance and regulatory policies	Monitor actions and plans that drive effective compliance and constant improvements
7.				Analyse and identify compliance issues that may threaten the quality of work and organisational development.

## 23. Ethics & compliance

Public procurement stakeholders must ensure compliance with all applicable rules, codes of conducts and guidelines and adherence to the principles of public procurement: equal treatment, non-discrimination, transparency and proportionality. All stakeholders involved in public procurement must ensure verification throughout the full range of concrete tasks, making use of available tools to assess the risks of conflict of interest, corruption on the one hand, and anti-competitive practices by suppliers such as collusion and bid-rigging, or potential problems with compliance in their work on the other hand.

#	Basic	Intermediate	Advanced	Expert
1.	Adopt ethical and professional behaviour in line with the organisation's code of conduct and ethical standards	Understand and respect the organisation's compliance policies, their scope and the requirements and risks related to them	Promote the organisation's code of conduct and ethical standards among staff	Design the organisation's code of conduct and ethics and create the conditions for its observance by the staff, through guidance and training and leadership
2.	Demonstrate a compliance mindset when preparing procurement deliverables	Understand and assess the impact and consequences of a violation of ethical standards and compliance policies	Review and monitor procurement projects and ensure supply chain processes are compliant with national ethical policies	Create the compliance culture of the organisation and align it with government regulations and policies
3.		Consult with legal and relevant subjectmatter experts when in doubt about compliance related practices.	Provides practical recommendations for improving adherence with the organisation's compliance and regulatory policies	Monitor actions and plans that drive effective compliance and constant improvements
4.				

				Analyse and identify compliance issues that may threaten the quality of work and organisational development.
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## Professional

### People

#### 24. Collaboration

No public procurement professional works in isolation. To be successful, procurement professionals need to collaborate with each other and their environment. This means working in teams and encouraging the sharing of ideas and strategies and the gathering input and expertise. This is equally applicable for a small organisation where the public buyer will have to rely on both internal and external stakeholders, as well as for larger organisations and central purchasing bodies, where there is a conscious strategy for building multidisciplinary procurement teams for specific procurement procedures (e.g. lawyer, economist, specialist or subject-matter expert).

#	Basic	Intermediate	Advanced	Expert
1.	Take accountability for their role and actively contribute to reach the objectives of the procurement team	Contribute to the team dynamics to ensure cooperative and positive working relationships for the team's success	Promote the importance and benefits of diversity and inclusion within procurement teams	Develop team spirit and culture for effective team work and collaboration
2.	Understand the importance of building relationships based on trust and reliability	Develop and enhance relationships within different departments, and with stakeholders, citizens, suppliers, etc.	Share your knowledge with others while acknowledging others' experience and skills	Promote a conducive environment for team work to achieve results
3.	Apply interpersonal skills when working with team members		Facilitate the sharing of expertise and resources with and between teams taking into consideration their structural, functional and cultural dimensions	Leverage the benefits of diverse teams and stakeholder collaboration to achieve organisational results

4.	Act honestly and fairly with others, showing consideration and respect		Build strong teams that capitalise on differences in expertise, competences and background	Act as a role model and show strong examples of cooperation in the organisation
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## 25. Stakeholder relationship management

Stakeholder relationship management means creating and maintaining solid internal and external relations based on mutual trust and credibility. Public procurement professionals often need to engage with stakeholders to achieve organisational goals and contribute to the sustainable development of stakeholder relationships.

#	Basic	Intermediate	Advanced	Expert
1.	Identify internal and external stakeholders and understand their needs	Ensure stakeholders' needs are heard and effectively addressed	Leverage sound working relationships based on trust, commitment and integrity	Champion sound and effective working relationships at senior level
2.	Maintain good working relationships with internal and external stakeholders at an operational level	Develop good working relationships and communication with internal and external stakeholders based on mutual trust	Motivate internal and external stakeholders in order to achieve the desired outcomes	Create a culture of outstanding stakeholder relationship management within the organisation
3.	Consider all stakeholder points of view when analysing problems and opportunities	Analyse potential positive and negatives consequences to select the most appropriate stakeholder management methods	Facilitate an environment where win-win solutions can be achieved	Ensure organisational strategies incorporate strong stakeholder relationship management
4.	Seek solutions that balance the needs of various stakeholders and look for win-win solutions.	Build and manage relationships with subject matter stakeholders to ensure sustainability of stakeholder strategies	Work proactively to anticipate and mitigate potential stakeholder	Identify and prioritise strategic stakeholder relationships

			communication challenges	
5.			Develop and leverage strategic stakeholder relationships	Take responsibility for improving stakeholder orientation and engagement at organisational level

## 26. Team management & leadership

Team management and leadership are key to setting a clear direction and achievable objectives for procurement teams and functions. They should be used to promote a collaborative environment and work towards common goals. This implies using methods and techniques that are tailored to the team to support its members, clearly defining roles and responsibilities; setting individual and group performance expectations; and encouraging the team to work together to achieve the set goals.

#	Expert	Intermediate	Advanced	Expert
1.	Understand and adapt to various leadership styles	Understand the necessity to align team work with the delivery of the organisation's goals and act accordingly	Demonstrate assertiveness, confidence and emotional intelligence when managing a team	Develop a culture of best practices and innovation within the procurement team and the organisation
2.	Encourage open communication within the team	Give team members regular feedback on their strengths and weaknesses	Plan, manage, prioritise and delegate responsibilities, in accordance with the team's capabilities	Promote and support positive team management and leadership practices
3.	Give constructive feedback to ensure continuous improvement within team, organisation and service	Listen and value input from other team members	Encourage and support change initiatives and involve team members	Lead change initiatives to meet policy requirements.
4.	Make constructive suggestions for improvement			

**Professional  
Performance**

27. Organisational awareness

Organisational awareness is the understanding of the administrative structure, organisational culture, as well as the legal and policy framework, that impacts the organisation. It allows one to understand the drivers and motivations of different stakeholders, and to take appropriate actions leading to securing value for money and the best outcome for the organisation.

#	Basic	Intermediate	Advanced	Expert
1.	Operate according to the organisation's vision, mission and values	Identify the interests and motivations of internal stakeholders and point out associated risks	Design and deliver relevant trainings to convey the organisation's values and working methods	Lead and shape high level internal policy discussions
2.	Identify relevant training opportunities to support own professional development	Understand and respect the organisation's legal environment	Promote values and social aspects of the organisation to support successful team work	Define clear career prospects and staff learning and development opportunities
3.	Understand the organisation structure and processes, and how different departments influence procurement decisions	Seek guidance and advice from experts in the organisation to solve problems	Provide the deepest level of knowledge of the organisation internal processes and procedures, and system and tools.	Steer the organisation's strategy towards the achievement of value for money

## 28. Project management

The effective delivery of a procurement project requires the understanding and application of key concepts, practices and tools to manage procurement procedures. These project management concepts can be used to ensure that procurement projects are delivered in line with the expected timeline, budget, quality, stakeholder involvement and risk mitigation.

#	Basic	Intermediate	Advanced	Expert
1.	Undertake simple tasks and support the preparation of deliverables	Make informed and appropriate decisions that support the advancement of the project	Ensure key project milestones and deliverables are met to deliver project's objectives	Promote relevant project management system and tools for the organisation
2.	Respect the guidelines and timeline for deliverables and project activities	Organise and coordinate activities in line with project objectives and strategy	Monitor and deliver multiple complex projects in an uncertain environment	Take accountability for project effectiveness and deployment of the selected approach
3.		Report on project progress and results, including quality assessment	Handle complex budget issues and stakeholder communication	Govern the organisation's project management strategy and anticipate high risks and unexpected situations and mitigate them
4.		Successfully manage an individual project from the scoping phase to project closure	Establish a framework and approach for the project, ensuring the right alignment of project objectives with the overall strategy	

5.		Identify tasks and delegate them using the right resources		

## 29. Performance orientation

Public procurement professionals need to focus efforts and prioritise work to deliver value for money, in line with public service guidelines and policies. Their role is to achieve cost savings and strategic and sustainable goals, proactively identify inefficiencies, overcome obstacles and adapt their approach to consistently deliver sustainable and high-performance procurement outcomes.

#	Basic	Intermediate	Advanced	Expert
1.	Manage time effectively and prioritise work to meet deadlines	Demonstrate perseverance and commitment to achieve team and organisational goals	Set goals that support performance and value for money targets	Show strategic awareness of the role of internal teams and external stakeholders in delivering successful procurements
2.	Review and improve own performance	Set team goals that support organisational goals and KPIs	Drive the procurement team to achieve standards and results in line with the values and mission of the organisation	Drive motivation and shape stakeholders' behaviours to achieve organisational objectives
3.	Pursue individual goals with energy and persistence, setting high standards of performance	Keep the team focused by setting short and long-term action plans	Monitor and analyse performance, including using statistical analysis techniques, for setting new goals.	Create a performance culture and shape an organisational structure that supports goals achievement

4.	Develop a basic factual understanding of organisational drivers	Effectively manage team performance to achieve value for money results		Sets high value for money and procurement performance goals
5.		Measure the extent to which targets have been achieved		

### 30. Risk management & internal control

Public procurement takes place at an intersection of public and private interests. It is subject to several layers of internal and external oversight, even including media attention, and is widely identified as a key risk area for fraud and corruption. As such, a big part of a procurement professional's job is managing a number of overlapping risks. This requires rigorous and thoughtful application of mitigation measures and controls, as well as a proactive approach to protecting the interests of the organisation and the public good.

#	Basic	Intermediate	Advanced	Expert
1.	Understand that procurement is open to risks, such as fraud and corruption, and contribute to their identification	Effectively implement the different functions of internal control and audit	Proactively manage risks to add value to the procurement activities	Use advanced risk management and control activities both at operational and strategic level
2.	Implement risk management processes such as change management and version control.	Apply and tailor internal control processes to procurement	Implement advanced risk management and control processes and tools, including IT-based ones	Master all internal and external assurance functions and use them to add value to the procurement activity
3.			Integrate the inputs from risk assessment exercises as input for designing procurement	Fully integrate control and risk management processes into governance and operational

			strategies and policies	procurement systems, using established channels of communication with competition and anti-corruption authorities
4.			Suggest improvements to the internal control system of the procurement activity	Use the benefits of procurement system and tools to enhance the design and the implementation of controls

## Annex 3

### Sample competency matrix

Cluster	Competence	Procurement job profiles					
		Procurement support officer	Standalone public buyer	Public procurement specialist	Category specialist	Contract manager	Department manager
Horizontal	Planning	-	1	1	2	2	3
	Lifecycle	1	2	3	3	2	3
	Legislation	-	2	1	1	2	4
	e-Procurement and other IT tools	1	2	2	1	1	2
	Sustainable procurement	-	1	2	3	2	3
	Innovation procurement	-	1	2	3	2	3
	Category specific	-	1	1	3	-	-
	Supplier management	1	1	1	2	2	2
	Negotiations	-	2	2	-	2	3
Pre-award	Needs assessment	1	1	2	2	-	3

	Market analysis and engagement	1	2	2	2	-	-
	Procurement strategy	-	2	2	1	-	3
	Technical specifications	1	2	2	3	-	-
	Tender documentation	1	2	2	1	-	-
	Tender evaluation	-	2	2	1	-	2
Post-award	Contract management	1	2	1	2	3	2
	Certification and payment	1	2	1	-	3	2
	Reporting and evaluation	1	2	2	-	2	3
	Conflict resolution and mediation	-	1	1	-	2	2
Personal	Adaptability and modernisation	-	2	1	2	2	3
	Analytical and critical thinking	1	2	2	2	3	4
	Communication	1	2	2	1	3	3

	Ethics and compliance	2	3	2	1	3	4
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People	Collaboration	2	1	2	1	2	3
	Stakeholder relationship management	1	1	2	1	3	4
	Team management and leadership	-	1	1	-	-	3
Performance	Organisational awareness	2	2	2	1	2	4
	Projekt management	1	2	2	-	2	3
	Performance orientation	1	2	2	2	3	3
	Risk management and internal control	1	2	2	1	3	4

## **Annex 4**

### **The self-assessment questionnaire**

#### *Section one*

##### *General questions*

General questions give an overview of the individual's background in public procurement. These questions do not have a score and therefore do not count for the individual self-assessment results. Rather, these questions are contextual information complementary to the individual self-assessment.

**Question 1:**

What is your position within your organisation?

**Question 2:**

What are your current tasks and responsibilities related to public procurement?

**Question 3:**

Are you working full-time or part-time on these tasks and responsibilities?

**Question 4:**

How many years have you been occupying this position?

**Question 5:**

How many years of experience do you have working in public procurement in total?

**Question 6:**

What type and level of training related to public procurement have you received?

#### *Section Two*

##### *Knowledge questions*

Knowledge questions capture the knowledge the individual has in public procurement against the expected knowledge (target proficiency level) set for the individual's job profile. Answers to the knowledge questions are scored from 0 to 4.

**Competence 1: Planning;**

How well do you know your organisation's procurement planning, policy priorities and budget?

**Competence 2: Lifecycle;**

How well do you know the different phases of the procurement lifecycle, from pre-publication to post-award?

**Competence 3: Legislation;**

How well do you know the legislation on public procurement and other relevant areas of law?

**Competence 4: e-Procurement and other IT tools;**

How well do you know e-Procurement and other IT systems and tools?

**Competence 5: Sustainable procurement;**

How well do you know the relevant sustainability policies and how to promote them?

**Competence 6: Innovation procurement;**

How well do you know the relevant innovation policies and how to promote them?

**Competency 7: Category specific;**

How well do you know the features and specificities of one or more specific category of supplies, services or works?

**Competency 8: Supplier management;**

How well do you know supplier management strategies and processes?

**Competency 9: Negotiations;**

How well do you know negotiation processes relevant in public procurement?

**Competency 10: Needs assessment;**

How well do you know needs identification tools and techniques?

**Competency 11: Market analysis and engagement;**

How well do you know market analysis tools and appropriate market engagement techniques?

**Competency 12: Procurement strategy;**

How well do you know the different procurement strategies, such as procedure types, use of lots, and kinds of contracts?

**Competency 13: Technical specifications;**

How well do you know the requirements of drafting technical specifications?

**Competency 14: Tender documentation;**

How well do you know the requirements of preparing tender documentation?

**Competency 15: Tender evaluation;**

How well do you know the evaluation process?

**Competency 16: Contract management;**

How well do you know the principles of contract management?

**Competency 17: Certification and payment;**

How well do you know the process for certification and payment?

**Competency 18: Reporting and evaluation;**

How well do you know contract monitoring tools and techniques?

**Competency 19: Conflict resolution and mediation;**

How well do you know conflict resolution and mediation processes and the functioning of the review system?

**Competency 20: Adaptability and modernisation;**

How well do you know change management techniques and tools?

**Competency 21: Analytical and critical thinking;**

How well do you know analytical and critical thinking approaches and tools?

**Competency 22: Communication;**

How well do you know communication tools and techniques and how to apply the public procurement principles in various communication situations?

**Competency 23: Ethics and compliance;**

How well do you know the procedural rules and principles as well as tools, codes and guidance document that help ensure adherence thereto?

**Competency 24: Collaboration;**

How well do you know collaboration tools and techniques?

**Competency 25: Stakeholder relationship management;**

How well do you know the key concepts and methods of stakeholder management?

**Competency 26: Team management and leadership;**

How well do you know the key concepts and methods of team management?

**Competency 27: Organisational awareness;**

How well do you know your organisation's administrative structure, procedures and processes, internal culture and legal and policy framework?

**Competency 28: Project management;**

How well do you know project management tools and techniques relevant for the public administration?

**Competency 29: Performance orientation;**

How well do you know cost and performance management strategies and methods as well as Key Performance Indicators (KPIs) that help identify inefficiencies and monitor the financial performance of the procurement and the way it delivers value for money?

**Competency 30: Risk management and internal control;**

1. How well do you know audit and control functions?
2. How well do you know audit risk management tools and techniques?

*Section Three*

*Skill questions*

Skills questions capture the range of skills the individual has against the expected skills (target proficiency levels) set by the individual's job profile.

**Competence 1: Planning;**

To what extent are you able to develop a procurement plan according to available budget resources?

**Competence 2: Lifecycle;**

To what extent are you able to follow the various phases of the procurement lifecycle?

**Competence 3: Legislation;**

To what extent are you able to apply specific aspects of the procurement legislation, as well as other legal frameworks impacting procurement?

**Competence 4: e-Procurement and other IT tools;**

To what extent are you able use e-procurement and other IT systems and tools?

**Competence 5: Sustainable procurement;**

How well do you know how to incorporate sustainable objectives set by the organisation and national policies into the procurement process?

**Competence 6: Innovation procurement;**

To what extent are you able to incorporate innovation objectives set by the organisation and national policies into the procurement process?

**Competency 7: Category specific;**

To what extent are you able to get the most out of one or more category of supplies, services or works?

**Competency 8: Supplier management;**

To what extent are you able to develop, manage and maintain relationship with suppliers while respecting public procurement principles?

**Competency 9: Negotiations;**

To what extent are we able to apply negotiation processes strategies during the procurement phases and contract management in accordance with public procurement principles and ethical standards?

**Competency 10: Needs assessment;**

To what extent are you able to apply needs assessment techniques and tools for determining needs of the organisation and end-users regarding the subject-matter of the procurement?

**Competency 11: Market analysis and engagement;**

To what extent are you able to use market analysis and market engagement techniques to understand the characteristics and trends of the supplier market?

**Competency 12: Procurement strategy;**

To what extent are you able to determine among the range of available procurement strategies the one that fits best to the procurement at stake while reaching the organisation's objectives?

**Competency 13: Technical specifications;**

To what extent are you able to draft technical specifications that enable potential bidders to submit realistic offers that address the needs of the organisation?

**Competency 14: Tender documentation;**

To what extent are you able to prepare procurement documentation including appropriate exclusion, selection and award criteria?

**Competency 15: Tender evaluation;**

To what extent are you able to evaluate offers against pre-defined criteria in an objective and transparent way??

**Competency 16: Contract management;**

To what extent are you able to oversee contract implementation while ensuring technical compliance of the good, work or service delivered?

**Competency 17: Certification and payment;**

To what extent are you able to apply verification principles and the financial control framework to verify the legal compliance of the procurement contract before proceeding to payment?

**Competency 18: Reporting and evaluation;**

To what extent are you able to evaluate the process, deliverables and outcomes of a procurement to draw lessons on how to improve the performance of future procurements?

**Competency 19: Conflict resolution and mediation;**

To what extent are you able to prevent and resolve conflicts and manage complaints in the framework of the national review system?

**Competency 20: Adaptability and modernisation;**

To what extent are you able to anticipate and accommodate to changing tasks and circumstances and aim to continuously learn and grow?

**Competency 21: Analytical and critical thinking;**

To what extent are you able to use analytical and critical thinking in evaluating an information and/ or a situation and solving problems?

**Competency 22: Communication;**

To what extent are you able to communicate effectively by adapting the communication medium and message to the target audience while ensuring public procurement principles are respected?

**Competency 23: Ethics and compliance;**

To what extent are you able to ensure compliance with applicable public procurement rules, principles, and ethical standards?

**Competency 24: Collaboration;**

To what extent are you able to promote inclusive and collaborative thinking and processes?

**Competency 25: Stakeholder relationship management;**

To what extent are you able to create mutual trust that contribute to solid internal and external stakeholder relationships?

**Competency 26: Team management and leadership;**

To what extent are you able to tailor management and leadership methods and techniques to the team and circumstances thereby creating a conducive environment for achieving common goals?

**Competency 27: Organisational awareness;**

To what extent are you able to understand both the procurement function and the organisation's structure and culture?

**Competency 28: Project management;**

To what extent are you able to apply project management tools and techniques to effectively carry out a procurement procedure and contract?

**Competency 29: Performance orientation;**

To what extent are you able to apply commercial and performance management strategies and methods to maximise value for money of procurement contracts?

**Competency 30: Risk management and internal control;**

To what extent are you able to carry out the different functions of inspection, control, audit, and evaluation applicable to public procurement?

## **Annex 5**

### **Support of Łukasiewicz Research Network – Center for Technology Assessment**

The Łukasiewicz Research Network is the third largest research network in Europe and the largest research network in Poland, bringing together 32 institutes in 11 Polish cities. Its part is the **Center for Technology Assessment (COT-Orgrasz)**, so that it has the opportunity to work with a team of more than 4500 creative scientists and engineers, uses 440 R & D laboratories and unique research equipment nationwide, which includes 3762 specialised devices.

The purpose of the COT is:

- bringing business closer to science, supporting the development of socially responsible innovations
- scientific advice on the implementation of socially responsible innovations

**The scope of COT support to contracting bodies from government administration may include:**

#### **1. Stage I – analysis of needs and requirements**

- Identification of technologies currently in use on the market.
- Trend analysis, aimed at identifying technologies that have the highest market potential.
- Participatory study – Opinion surveys of stakeholders – users.
- Technology SWOT – Opportunities and threats, weaknesses and strengths of technologies concerned.
- Technology roadmapping - Mapping of technological options tailored to the needs of contracting body.
- Ranking, technology benchmark – Assessment of technological options
- Technology valuation - Determination of indicative contract value.

#### **2. Stage II – Description of the subject-matter of the contract**

- Development of assumptions for the description of the subject-matter of the contract.
- Legal consultations, i.a. including GDPR, cybersecurity, intellectual property,
- Development of conditions for participation in the procedure
- Development of tender evaluation criteria

#### **3. Stage III – Support for selection of economic operator and acceptance of product (optional, to be implemented depending on the reported needs)**

- Expert committees - Support in the evaluation of tenders, possibility of participation of Łukasiewicz experts in the work of the tender committee,
- Product acceptance — Verification of the product's conformity with the subject matter of the contract,
- Product implementation - Participation of Łukasiewicz experts in the process of product implementation

### **Model of cooperation with contracting bodies**

1. The contracting body reports to Łukasiewicz – COT submitting a brief description of the subject-matter of the contract, purchase need.
2. Łukasiewicz — COT completes a project team composed of its experts and undertakes a project aimed at supporting the customer, including identifying the customer's needs and preparing a description of the subject-matter of the contract.

Due to the fact that COT is part of the Łukasiewicz Research Network, it can use the potential of scientists and engineers from all Łukasiewicz institutes and use their laboratories and research equipment to carry out the task. Thanks to this potential, it is able to support the contracting body **within 3-4 weeks**, i.e. to carry out the project, describe the subject-matter of the contract and hand it over to the contracting body so that it is a product ready to launch the procedure.

### **Areas of support**

COT works within the following four research groups bringing together scientists and engineers from all Łukasiewicz institutes, co-creating R & D programmes in strategic areas for the development of the Polish economy and society. COT research groups are:

#### **1. SMART AND CLEAN MOBILITY – Priority area of work enabling the construction and development of new technologies.**

- 1) Electromobility,
- 2) Logistic chain management system,
- 3) Modern storage,
- 4) Smart cities,
- 5) Robotisation,
- 6) Efficient distribution networks,
- 7) Design of autonomous vehicles.

**2. SUSTAINABLE ECONOMY AND ENERGY – Developing modular technologies: energy-efficient, eco-friendly, ensuring short-term investments, and attractive prices.**

- 1) Prosumer energy;
- 2) Energy from waste and alternative fuels;
- 3) Development of energy storage technologies;
- 4) Production of biodegradable materials
- 5) Development of technologies for sourcing of raw materials, waste and wastewater treatment.

**3. DIGITAL TRANSFORMATION – Development of digital innovations, monitoring and analysis of national and foreign strategies for digital transformation.**

- 1) Automation and robotisation;
- 2) Photonics;
- 3) Artificial intelligence;
- 4) Data Science
- 5) Internet of Things
- 6) Smart services for citizens and business;
- 7) Digital agriculture;
- 8) Digital education.

**4. HEALTH - Supporting research and development of a cancer prevention and diagnostics programme.**

- 1) Modern and personalised diagnostics;
- 2) Medical therapies based on protein engineering and the use of artificial intelligence and biosensors
- 3) Chemical synthesis of active substances.

In addition, the scope of COT-Łukasiewicz support may also include:

**1. Business consulting**

- Macroeconomic forecasts
- Market analysis (manufacturers, suppliers, demand)
- Cost and price analysis
- Production analysis
- Product application analysis
- Patent strategies

- Technology assessment
- Technology audit
- Cost-effectiveness study
- Support for R&D processes
- Consultancy on certification
- IP valuation

## **2. Legislative support**

- Legislative monitoring
- Opinion

## **3. Studies**

- Public opinion polls (national, local)
- Expert studies
- Communication research, communication strategies
- Trend monitoring and technological foresight

## **4. Scientific cooperation**

- Obtaining grants
- Monitoring of funding sources

## **5. Support for implementation**

- Feasibility studies
- Commercial paths

## **Annex 6**

### **Guidelines for developing purchasing strategies**

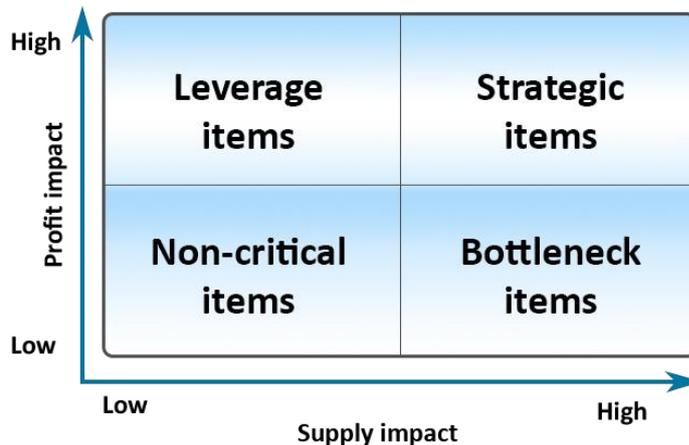
The strategy is a certain action plan, the implementation of which is to achieve the objectives adopted by the contracting body in the area of public procurement, including those of a strategic nature. The strategy should therefore set out internal procedures and operating rules to create an appropriate internal environment and to ensure that the contracting body's potential is properly exploited.

The strategies of the various authorities (contracting bodies) from the government administration may differ because they have different priorities and tasks for which they have been appointed. The common denominator of all strategies should be the implementation of the state's strategic objectives in the area of public procurement, which have been included in the State's Purchasing Policy.

Reliable development of the strategy gives the contracting body a real opportunity to increase the effectiveness of purchasing processes, as it allows for their proper preparation. A team of practitioners pursuing a specific purchasing need may decide, based on the provisions of the strategy, e.g. to conduct preliminary market consultations or to use certain purchasing tools..

The strategy also allows for the preparation and implementation of an optimal training plan for the procurement unit and the content management units, in terms of competences and tools crucial for the effective fulfilment of purchasing needs. In addition, the strategy can be used to identify competence gaps and staff shortages on the part of the contracting body, which should be addressed.

The purchasing portfolio of government administrations is quite diverse. It includes both standard purchases that serve the basic needs of the authority, as well as purchases of a complex and strategic nature. Therefore, contracting bodies should try to review their purchases and divide them according to a scheme based on the matrix model developed by Dr. Peter Kraljic. The difference, however, is that on the vertical axis, in the case of public procurement, there is not profit impact that is highlighted, but the possibility of achieving the statutory objectives imposed on the contracting body which is a government administration body (the vertical line on the matrix below).



Source: The Modern Economy. The Influence of Purchasing on Savings Generation in Production Companies, Agnieszka Marchlewska-Organista

According to the above matrix model of Kraljic the total procurement should be divided into four groups

- **Non-critical purchases:** It is the largest group of purchases made by each contracting body. Non-critical products are relatively easy to purchase and widely available. They are characterised by the fact that there is a very large group of economic operators on the market who are able to implement them. Therefore, they are not subject to purchase risks in terms of timely execution. They also do not have a direct link to the fulfilment of statutory objectives by contracting bodies. Non-critical products can be e.g. office supplies, cleaning services, catering, etc. These can also be recurring purchases, so that the database on the description of the subject-matter of the contract can be used in the procurement procedure.

The following tools may be used for non-critical purchases: framework agreement, dynamic purchasing system, open procedure with standard terms and condition.

The possibility of joint procurement can be an important tool that brings real benefits both in terms of price and time and human resources savings.

- **Leverage purchases:** These purchases have a very large impact on the ability to achieve the statutory objectives of the contracting body, but they do not involve a high purchasing risk, including in terms of the date of completion. The main reason for low purchasing risk is the large number of potential economic operators who will be able to complete the procurement. This also means that when preparing the description of the subject-matter of the contract, it is necessary to focus on the quality of supplies, services and works. It is also advisable to use the criteria for evaluating tenders and the conditions for participation in the procedure so that strategic objectives of sustainable and innovative procurement can be achieved.

For such purchases, the use of a joint procurement tool should be considered.

- **Strategic purchases:** It is the most important group of purchases, which have a very large influence on the ability of the contracting body to pursue statutory objectives. They also carry a relatively high purchasing risk (e.g. due to the timely execution of the contract), which is related to the limited number of economic operators able to perform the contract. They are a priority for the contracting body and the whole internal procedure and regulation should be designed in such a way as to make it easier for employees to prepare for this type of purchases. The rules of procedure relating to the use of the tools provided by the Act on PPL, i.e. the analysis of needs and requirements; preliminary market consultation, should also be described.

In view of its priority, the preparation of the purchasing process should be preceded by an action plan setting out the different stages. The plan should be designed to take into account the risk of different circumstances, e.g. a delay in the purchasing process related to an appeal to the National Appeal Chamber and a complaint to a court.

This is a type of purchase where the head of the contracting body should be informed about the different stages, deadlines and potential risks and the most important roles in the process of preparing and conducting the purchasing process should be played by directors of individual units and staff with the most experience and skills (advanced and expert level).

- **Bottlenecks purchases:** Purchases where the subject-matter of the contract has little impact on the ability to pursue statutory objectives, but there is a high risk associated with the timely performance of the contract. It can be an unusual, non-standard product, made to order and one that can be carried out by a relatively small number of economic operators.

In this purchasing group, it is important that an action plan is prepared in case the risk of non-timely performance of a contract or other such “crisis” situation becomes real. It is also necessary to take appropriate measures to prepare the purchasing process in advance in order to minimise this risk.

If a purchase is diagnosed as a “bottleneck” an analysis should be carried out towards an alternative way of meeting a given purchasing need, as well as exploring the possibility of other options for the performance of such procurement.

It should also be borne in mind that the statuses given to individual purchases do not have to be permanent. For example, a purchase originally considered as non-critical may ultimately turn out to be a bottleneck purchase or originally considered to be a leverage purchase, will ultimately be a non-critical purchase. This depends both on changes in the market for economic operators, but also on the activities of the contracting body, which may seek alternative methods of fulfilling their purchasing needs.

### **Objectives of the strategy and how to achieve them**

The strategy should clearly define the objectives that will be achieved through its implementation. In line with the adopted priorities of the State Purchasing Policy, these objectives should include, inter alia:

- 1) an increase in sustainable and innovative procurement;
- 2) an increase in number of tenders submitted in procedures, including greater participation of SMEs in procurement.

### **Centralisation and coordination of the strategy implementation**

The Head of the contracting body is responsible for the development and implementation of the purchasing strategy. It is also the responsibility of the Head of the contracting body to monitor the progress in achieving the adopted objectives on an ongoing basis.

## Annex 7

### **Good practices - sample accessibility conditions with examples of provisions that can be used by contracting bodies.**

The Accessibility Act requires public entities to provide beneficiaries of its provisions with minimum accessibility functionalities: architectural, digital and information and communication (Article 6 of the Act). This obligation should be implemented, inter alia, in the context of public procurement. Contracting authorities (public entities) should take into account the requirements referred to in Article 6 of the Act, appropriate to the specifics of the public procurement, whenever this is justified by the nature of the subject-matter of the contract. However, it should be borne in mind that the concept of accessibility in procurement is a broader concept and is not limited to the three areas mentioned above. For its effective implementation, contracting authorities should also take into account non-statutory accessibility guidelines, as their application can contribute to a higher than minimum level of accessibility. Therefore, the examples below indicate which elements are the conditions of accessibility referring to statutory obligations (marked with the letter 'O') and which are optional requirements resulting from additional accessibility standards or guidelines (marked with the letter 'F'), the application of which is a good practice.

**Example no. 1:** Commissioning an on-line training for a closed group of recipients (assuming no publication of the training content on a website or an organisation in the form of a webinar)

1. at the recruitment stage in the application form, the economic operator should enquire about the specific needs of the participants, e.g.: (F)

Although this element is not explicitly required by the Act, its non-application will result in a lack of knowledge of people attending the training and whether they have specific needs. The use of the form therefore avoids a situation where the economic operator will be surprised by the need to ensure accessibility — e.g. the use of Polish Sign Language (PJM). At the same time, the use of the form may justify the non-application of certain accessibility elements during training (e.g. PJM, if there is no deaf person among the audience).

2. providing a PJM interpreter; (O - if the deaf person's participation and expectation are confirmed)
3. providing information material in different formats, e.g. in enlarged print, contrasting background; (O — if necessary);
4. providing alternative communication channels at the recruitment stage and afterwards, e.g. PJM interpreter, email, SMS; (O)
5. providing live subtitles; (F)
6. leaving space to enter other needs arising from disability. (F)

Please note that a declaration of a special need obliges the organiser to fulfil it as far as possible.

It is also worth noting that in the case of the organisation of on-line training in an open form (webinar) and publication of the recording on the operator's website, the economic operator should be obliged to provide elements related to the digital accessibility of this material (subtitles, PJM interpreter as mandatory elements).

**Example no. 2:** Commissioning an on-site training

1. the building and the premises where training/conferences are organised should be architecturally accessible — this can be ensured in many ways, e.g. by organising an event on the ground floor of the building or if the event is on the floor, it is a good practice to provide an elevator in the building where the event will take place; (O)
2. providing barrier-free horizontal and vertical communication spaces in buildings, i.e. the possibility to move across and between floors; (O)
3. toilets should be adapted for persons with disabilities; (O)
4. persons with assisting dogs (O) must be able to enter the event area — a bowl of water must be provided for dogs; (F)
5. accessibility of parking spaces adapted to persons with disabilities — the so-called blue envelope; (F)
6. the localization of the event should be well connected with the rest of the city or town — with easy access to the bus, tram; (F)
7. suitably lowered: reception counters and/or tables (F).

**Example no. 3:** the requirement in the description of the subject-matter of the contract concerning preparation of documents meeting accessibility requirements, e.g. in connection with the implementation of training

All materials must meet accessibility standards. They are mandatory for all entities that carry out public procurement in accordance with the requirements of Article 6 of the Act of 19 July 2019 on ensuring accessibility for persons with special needs. This means, inter alia.:

1. preparation of texts in sans-serif font, sizes of minimum 11-12 pt.;
2. use of spacing of min. 1,15;
3. text alignment to the left;
4. pasted images and graphs should contain an alternative description — informing the blind person what is on the graphic when the text is read by the reader;

5. the text should be subdivided into paragraphs, using headings and automatic tables of contents.

**Example no. 4:** the requirement in the description of the subject-matter of the contract concerning providing a Polish sign language interpreter (PJM), e.g. in connection with the implementation of training.

1. Specifying desired education, e.g. — PJM interpreter holding a T2 certificate of the Polish Association of Deaf or equivalent; (F)
2. Ensuring the visibility of the PJM interpreter during the online event: (F)
  - a) dividing the screen into smaller modules so as to provide participants with a parallel view of: speaker + presentation + PJM interpreter, translating the meeting into sign language on a regular basis;
  - b) the ability to “pin” the screen with a visible PJM interpreter, so that the participant who needs to use the interpreter can constantly see it on the screen;
  - c) during live transmission, the PJM interpreter should not be smaller than 1/8 of the screen, which means 1/2 height and 1/4 width of the screen.

Additional information:

[\(https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/fundusze-europejskie-bez-barier/dostepnosc-plus/aktualnosci/jak-tworzyc-dostepne-komunikaty-komunikacja-nie-tylko-w-czasach-epidemii/\)](https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/fundusze-europejskie-bez-barier/dostepnosc-plus/aktualnosci/jak-tworzyc-dostepne-komunikaty-komunikacja-nie-tylko-w-czasach-epidemii/).

- d) graphics used as background for PJM interpreter: (F)
  - must not divert attention from the interpretation;
  - additional elements must not obscure the interpreter’s silhouette;
  - important elements such as: website addresses, contact details, are worth writing in addition — so that the deaf person can stop the slide and write them down;
  - attention should be paid to the high contrast to the background and the high legibility of the text — the same rules apply when creating subtitles.
- e) the video should be prepared with interpretation on PJM. The PJM interpreter should be placed at the bottom right of the screen and occupy 1/8 of the screen area, which means 1/2 height and 1/4 width of the screen. Detailed information on this [page](#).

## **II. Good practices when purchasing accessible products/services or designed to take into account the needs of as many users as possible, including people with special needs.**

1. preparing accessible documents and the process of procurement in a way that allows persons with disabilities to familiarise with tender documents and tenders and to participate as potential economic operator;
2. consultation on purchases/services with communities of persons with disabilities;
3. defining the criteria for evaluating a tender by determining the technical parameters, aesthetic and functional characteristics of the subject-matter of the contract in terms of the possibility of benefit from by a large group of persons (including persons with special needs) without the need for adaptation or special design (in accordance with the principles of universal design), using the following characteristics:
  - identical application;
  - flexibility of use;
  - simple and intuitive operation;
  - noticeable information;
  - tolerance for errors;
  - low level of physical effort;
  - dimensions and space for approach and use;
4. maintenance of accessibility – accessibility throughout the life cycle of a service/product building or information should be taken into account, ensuring the flexibility of the solution;
5. precise reference to specific conditions of accessibility, skills, standards, guidelines, which are applicable to the subject-matter of the contract, thereby limiting the economic operator's arbitrariness and the risk of error;
6. inclusion in the tender evaluation system of bonus/reward criteria relating to the conditions for meeting the needs of persons with special needs.

In the case of implementation of projects from the European Funds, the application of the “Accessibility Standards for Cohesion Policy 2014-2020” annexed to the Guidelines (Guidelines on the implementation of the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities and the principle of equal opportunities for women and men under the EU funds 2014-2020 or equivalent to the financial perspective 2021-2027) should be applied. The document is available at:

[https://www.funduszeuropejskie.gov.pl/media/55001/Zalacznik\\_nr\\_2\\_do\\_Wytycznych\\_w\\_zakresie\\_rownosci\\_zatwiedzone\\_050418.pdf](https://www.funduszeuropejskie.gov.pl/media/55001/Zalacznik_nr_2_do_Wytycznych_w_zakresie_rownosci_zatwiedzone_050418.pdf) (O)

Detailed information is contained in part IV. Information and promotion standard. Chapter 3. Materials. Written Information and Chapter 4 Materials. Electronic information (page 48 ff) and in Part VI. Digital standard. Chapter 3 Electronic documents (page 148 ff) of the above standards.