

# Sustainable Procurement: A Better Future



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## *What is it?*

The term “sustainability” means the ability to be maintained at a specific rate or level. Sustainable procurement is the act of how organisations adapt to limit the environmental impact of their actions and supply chains. This includes organisations having to think about social, economic and environmental factors along with the price and quality aspects of the procurement processes and procedures<sup>1</sup>.

The above essentially entails compliance with fair labour practices, environmental laws and eradication of any harmful waste from the supply chain.

The main objective of this practice for any organisation is to enable efficiency, reach its goals in a strategic manner and grow in a socially responsible way.

## *Why does it matter?*

Sustainable procurement is essential to organisations of any size and any sector as it not only helps an organisation to progress financially but also ensures that it is ready to face any challenges that the future might hold in terms of climate change, social and economic discrimination and many such issues mentioned above. These issues have the capability of disrupting an organisation's supply chain and leaving long lasting effects<sup>2</sup>.

## *The Law*

The concept of sustainability can be found under Article 9, 10 and 11 of the Treaty of the Functioning of the European Union (“TFEU”) and in summary they stipulate that environmental protection requirements must be incorporated into the objectives of the Union and its practices. Furthermore, they also propagate the act to integrate the practice of high level of employment, adequate social protection, high level of education, elimination of social exclusion, and eradication of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation amongst many other things.

The EU legislation has adopted all of the above practices in the form of multiple directives which aim to make an impact on every facet of the public procurement field.

## *Ireland*

The Irish Government and the Office of Government Procurement (“OGP”) have been supporting and facilitating the use of Green Public Procurement (“GPP”) through various initiatives and instruments<sup>4</sup>. GPP vigorously encourages the public organisations to adopt green elements/objectives into their procurement procedures. However, these guidelines and practices are voluntary in nature and are flexible when it comes to their implementation. This policy consists of many plans such as the [Climate Action Plan 2019](#) which requires every public body to maintain a climate mandate. The Department of the Public Expenditure and Reform has also published a [Circular 20/2019](#) on promoting the use of Environmental and Social Considerations in Public Procurement.

This circular primarily enumerates the public organisations to include green criteria in public procurement competitions and also requires them to include the relevant green procurement measures into planning. There is also a [Waste Action Plan for a Circular Economy](#) which concentrates on expanding and strengthening the practices promoted under the GPP.

There is a great [guidance on green procurement](#) which is published by the Environmental Protection Agency ("EPA"). It acts as a guide for procurers to build in green criteria in their public procurement competitions.

### ***The UK and Northern Ireland***

The practice of sustainable procurement is not a new concept in the UK. For example, it is embedded in Regulation 57<sup>5</sup> which stipulates that if economic operators have been convicted of crimes such as corruption, bribery, fraud, money laundering, sexual offences, immigration offences and modern slavery, they must be subjected to mandatory exclusion under this Regulation. Moreover, [Regulation 67\(3\)](#) requires contracting authorities to consider social and environmental characteristics when formulating the evaluation criteria, and [Regulation 68](#) instructs contracting authorities to take into account the costs connected to the consumption of energy, end of life (e.g. recycling and disposal) and environmental externalities linked to the product.

The Northern Ireland Public Procurement Policy document stipulates the public procurement policies adopted by the Northern Ireland Executive and the organisational structures that have been introduced to apply them. The Executive has recently approved the above Policy which instructs that from 1 June 2022 tenders must include a minimum of 10% of the total award criteria to social value. This minimum weighting will apply to the thresholds set out in the Public Contracts Regulations<sup>6</sup>. There is also a [list of organisations](#) which the organisations can refer to ascertain if they would come under ambit of this policy.

### ***Going Forward***

The above initiatives are just a few examples which demonstrate how the national governments and other public bodies are working towards ambitious sustainability targets in order to achieve a better future.

Several construction projects are also observing and adapting green procurement policies on their contractors and sub-contractors in order to uphold the sustainability responsibilities and goals.

It is imperative that public bodies observe the above initiatives in light of the general procurement principles i.e, transparency and proportionality which can be both challenging and tricky. The EU Procurement Directives<sup>7</sup> and the Procurement Regulations<sup>8</sup> already allow for the utilisation of social criteria. However, the above guidelines, plans and circulars provide further clarity on how to apply them in the most efficient way.



<sup>1</sup> Going Green: Best Practices for Sustainable Procurement. Please see at [https://www.oecd.org/gov/public-procurement/Going\\_Green\\_Best\\_Practices\\_for\\_Sustainable\\_Procurement.pdf](https://www.oecd.org/gov/public-procurement/Going_Green_Best_Practices_for_Sustainable_Procurement.pdf)

<sup>2</sup> Sustainable Procurement: What Is It and Why Does It Matter?. Please see at <https://www.oxfordcollegeofprocurementandsupply.com/sustainable-procurement-what-is-it-and-why-does-it-matter/>

<sup>3</sup> A Practical Guide to Public Procurement- Abby Semple (page 172-175)

<sup>4</sup> Green Public Procurement. Please see at <https://www.gov.ie/en/publication/efa12-green-public-procurement-gpp/>

<sup>5</sup> Public Contracts Regulations 2015 ("PCR 2015")

<sup>6</sup> Public Contracts Regulations 2015 ("PCR 2015")

<sup>7</sup> [EU Directive 2014/24 EU Procurement Directive](#)

<sup>8</sup> S.I. No. 284/2016—European Union (Award of Public Authority Contracts) Regulations 2016.