

Department of Contracts
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FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

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GREEN PUBLIC PROCUREMENT: IMPLICATIONS OF THE SECOND NATIONAL ACTION PLAN

The European Commission, in its Communication [COM (2008) 400 Final] titled ‘Public Procurement for a Better Environment’ defines Green Public Procurement (GPP) 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’*.

Green Public Procurement Second National Action Plan

Green Public Procurement offers Environmental, Economic and Social benefits to Governments, Business Communities as well as to Society at large. Investing in greener products and services leads to enhanced environmental performance, increased longevity of products and possibly reduced aftercare costs. The Government of Malta is committed in ensuring that its purchasing power is used to address environmental challenges by shifting towards Greener Public Procurement.

To this end, on 08 October 2021, the Ministry for the Environment, Climate Change and Planning (MECP)¹ published the Green Public Procurement Second National Action Plan (2022-2027), which came into force as of 01 January 2022.

The scope of the Green Public Procurement Second National Action Plan (GPP 2nd NAP) is primarily to strengthen the achievements as well as address any identified challenges encountered during the implementation of the First National Action Plan.

¹ Further to the General Elections held on 26 March 2022, MECP has now become the Ministry for the Environment, Energy and Enterprise

Secondly, it also aims to promote, motivate and incentivise the implementation of Green Procurement practices, production and consumption, thus, reinforcing and integrating the concept of Circular Public Procurement.

The mission of the GPP 2nd NAP is to *‘enhance the Greener Public Procurement Function, recognising the opportunity to limit further the environmental footprint whilst driving markets towards greener products and services’*. In fact, its vision is to progressively increase the share of Government’s Green Public Procurement to 90% by 2027.

A full version of the Green Public Procurement Second National Action Plan may be accessed from the Ministry for the Environment, Energy and Enterprise (MEEE) website (<https://environment.gov.mt>) or via the GPP dedicated web application (<https://gpp.gov.mt>).

Product and Service Groups

The Second National Action Plan adopts a more ambitious approach. It sets out GPP Criteria for seventeen (17) Product and Service Groups, establishing higher benchmarks by giving mandatory status to all, except for three (3) Product Groups.

Mandatory Product / Service Groups are as follows:

1. Copying and Graphic Paper
2. Gardening Products and Services
3. Computers and Monitors
4. Imaging Equipment
5. Textiles
6. Cleaning Products and Services
7. Road Lighting and Traffic Signals
8. Transport
9. Office Building Design, Construction and Management²
10. Road Designs, Construction and Maintenance²
11. Paints, Varnishes and Road Markings²
12. Sanitary Tapware³
13. Toilets and Urinals³
14. Hospitality and Catering Services³

² Office Building Design, Construction and Management. Road Designs, Construction and Maintenance, as well as Paints, Varnishes and Road Markings, will be designated the full Mandatory status by 2023

³ Sanitary Tapware, Toilets and Urinals as well as Hospitality and Catering Services, will be designated the full Mandatory status by 2026

Non-Mandatory Product Groups are as follows:

1. Furniture
2. Vending Machines
3. Electric and Electronic Equipment

Applicability of Green Public Procurement

The Green Public Procurement (GPP) requirements apply across all Public Procurement Procedures within the scope of the Public Procurement Regulations S.L. 601.03, the Utilities Public Procurement Regulations S.L. 601.05⁴ and the Procurement of Property Regulations S.L. 601.12. Although it is not mandatory, it is highly recommended that GPP requirements are part of the Procurement Procedures under the Concession Contracts Regulations S.L. 601.09.

Application of GPP: Quotations and Tenders

In the 1st National Action Plan, the GPP requirements were only mandatory for Calls for Tenders. In the 2nd National Action Plan, the GPP requirements were expanded to include Calls for Quotations, thus, leading to a considerable cumulative environmental contribution. To this end, *‘the impact of this would be that all quotations in any form would be subject to the provisions of the GPP NAP including the need to ensure compliance with applicable GPP criteria’*.

Accordingly, the GPP 2nd NAP necessitates that all Procurement Calls, irrespective of Procurement Type (Services, Supplies, Works), specifically having an Estimated Procurement Value equal to or above €5,000 excluding VAT to incorporate a set of GPP Technical Criteria, as applicable and necessary.

Procurement Originators Form

For the past years, Call for Tenders have been supported by a Tender Originators Form (ToF) which amongst others included a section specifically for Green Public Procurement, the scope of which is to screen Procurement Documents for compliance with the relevant GPP Technical Criteria.

Further to the above developments in relation to the applicable threshold, the ToF has been replaced by a Procurement Originators Form (PoF). Therefore,

⁴ Utilities Public Procurement relates to the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations

Contracting Authorities are expected to raise, duly compile and endorse a PoF for all Procurement Calls (Estimated Value \geq €5K) published as of 01 January 2022.

As already pre-advised in Contracts Circular N° 22/2021, the Department of Contracts has prepared a Procurement Originators Form Template and a self-explanatory ‘Guidance Sheet’ detailing the requirements to be completed. Contracting Authorities holding an active ePPS account, when logged in, may access such documents, both of which form part of a zipped folder titled ‘Standard Templates for CfTs (CAs)’, through the ‘Resources’ section of Government’s e-Procurement platform (Electronic Public Procurement System – ePPS).

GPP Criteria Requirements

In line with its predecessor, the GPP 2nd National Action Plan requires that for all circumstances wherein any of the above-mentioned Mandatory Product and Service Groups⁵ are procured, specific minimum GPP Criteria shall invariably be included in the Technical Specifications / Terms of Reference (as applicable) section of the Procurement Document. Accordingly, the GPP requirements shall also form part of the relevant Technical Offer / Organisation and Methodology submission to be requested as part of the Procurement Proposal.

In instances wherein the Award Criteria adopted for the Procurement Call is the Best Price Quality Ratio (BPQR), certain Product / Service Groups⁶ necessitate that the GPP Criteria are also part of the award criteria in the BPQR Table.

The 2nd NAP also specifies the obligation to green the Title of the Procurement Procedure, thus, reference to the GPP parameters shall feature as part of the subject matter of the Procurement Call.

Contracting Authorities are reminded to adhere to all the above requirements and to correctly transpose the GPP criteria in the relevant Procurement Document. To ascertain compliance to the GPP requirements, the Ministry for the

⁵ The inclusion of any Non-Mandatory (and their respective GPP Criteria) Product and Service Groups is highly encouraged.

⁶ The GPP criteria for (i) Electrical and Electronic Equipment (ii) Imaging Equipment (iii) Road Lighting and Traffic Signals necessitate that environmental award criteria should altogether account for at least 15% of the total points available. For other Product / Service Groups, there are no set requirements or indicative thresholds.

Environment, Climate Change and Planning⁷ has prepared a document detailing the applicable minimum GPP Technical Specifications for 17 different Product / Service groups. The said document also provides suggestions on how to green the Procurement Document Title as well as the list of required Verification Documents⁸ per Product / Service Group. Furthermore, when applicable, the GPP Award Criteria to be considered for inclusion in a BPQR Table are also provided. Accordingly, it is important that all the above elements are met for a Procurement Call to be classified as GPP compliant.

The GPP documents may be accessed from MEEE's website (<https://environment.gov.mt>) or via the GPP dedicated web application (<https://gpp.gov.mt>).

Cancellation of Procurement Calls: To reach the ambitious national target of 90% GPP uptake, the inclusion of GPP Criteria is mandatory except for three (3) Product Groups. Upon quality control checks undertaken by MEEE during publication period, Procurement Calls lacking the inclusion of mandatory GPP Criteria will have to be cancelled. Accordingly, Contracting Authorities will be notified to cancel the relevant Procurement Call and re-issue a corrected version. Ideally this scenario does not materialise as Procurement Call drafters and Ministry GPP Coordinators should have done the proper vetting prior to publication.

Ministry GPP Coordinator and GPP Clearance

To strengthen the GPP function, for these past years there has been a GPP Coordinator in each respective Ministry entrusted with providing GPP clearance for all the Contracting Authorities falling under its portfolio. The role of the Ministry GPP Coordinator continues to be indispensable for a successful mainstreaming and implementation of Green Public Procurement across the Public Administration.

Following the mainstreaming exercise undertaken in 2015 the role of the said coordinator has evolved from a gatekeeper to that of a guardian, wherein the

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⁸ In the vast majority of instances, the Verification Documents shall be presented as part of the Economic Operator's submission, specifically in the form of Technical Literature. However, there are some instances wherein the Verification Documents shall be submitted prior to Contract Signing and / or at Implementation Stage.

Ministry GPP Coordinator became responsible to ensure compliance with the provisions of the Green Public Procurement National Action Plan. The main functions and duties relate to screening as well as provision of advice and monitoring. In Annex I, a more detailed description of the 'Role of the Ministry GPP Coordinator' is being provided.

One of the GPP Coordinator's key tasks is the screening of Procurement Calls (which shall now also include Calls for Quotations \geq €5K Estimated Value) prior to its publication. It is important that the GPP clearance is provided to the Contracting Authorities prior to the latter submitting the Procurement Document (and ancillary documentation) to the authority responsible for the procurement process to initiate vetting. Thus, the GPP coordinator shall ascertain that all the documentation is in line with the GPP requirements, particularly taking note of the correct transposition of any applicable GPP criteria. It is reiterated that it is very important that the final confirmed GPP Clearance is in place prior to the publication of a Procurement Call, otherwise publication shall not take place.

The Pre-Publication Procedural Guidelines are as follows:

- The finalised Procurement Document and the PoF (duly filled in and signed by all relevant officers) to be sent electronically to the Ministry GPP Coordinator for screening
- GPP Coordinator to review the GPP requirements and provide feedback to the Contracting Authority
- Liaising between the GPP Coordinator and the Contracting Authority
- Ministry GPP Coordinator provides GPP clearance and approval once the final version of the Procurement Document is in line with the GPP Guidelines

Evaluation Committees

Evaluation Committee members are expected to be competent, familiar and knowledgeable on GPP Criteria. To this effect, one (1) voting Evaluation Committee member shall be in possession of a certificate attesting that the said member successfully completed a basic GPP Training Programme. The requirement of a GPP Certified Voting Member in an Evaluation Committee

shall only be mandatory for Calls for Tenders having a Procurement Estimated Value exceeding €10,000 excl VAT, published as of 01 January 2023.

Monitoring Mechanism Reporting

The European Commission has expressed the need for a comprehensive GPP Monitoring System and recommends that GPP is integrated into the national e-procurement system. To this end, the MECP⁹, in collaboration with the Department of Contracts has set up a GPP Module on the Electronic Public Procurement System (ePPS) which aims to simplify the systematic collection of GPP data on a pre-publication basis as well as attain reliable and comparable data.

The authority responsible for the procurement process shall be obliged to answer a set of questions as part of the publication process on the ePPS, for any Procurement Call having an Estimated Procurement Value equal to or exceeding €5,000 excluding VAT published as of 01 January 2022. Failure to submit an answer would prohibit publishing of the Procurement Call since the proposed fields have been set as mandatory. At Annex II, a more detailed description of the GPP Module's operative function is being provided.

Further to the above, the Monitoring Mechanism Reporting shall no longer be collected by means of the GPP weekly report submitted by the Contracting Authorities to their respective Ministry GPP Coordinator.

Quality Assurance Report: The respective Ministry GPP Coordinators shall now be requested to fill in a Quality Assurance Report which is based on the previous weekly report but has now been updated to take into account new features introduced in the Second NAP. This post-publication report shall verify (or otherwise) that the information on the ePPS has been correctly inputted. The Quality Assurance Report shall be submitted to the Ministry for the Environment, Energy and Enterprise on a quarterly basis. This report is to be submitted by each GPP Coordinator detailing all Procurement Calls vetted, GPP clearances issued, and other relevant information required.

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The Quality Assurance Report shall serve as a checklist to ensure that all Procurement Calls published on the ePPS platform have been duly vetted by the respective Ministry GPP Coordinator.

The Quality Assurance Report shall include all GPP related information and data including but not limited to:

- Vetted Calls for Quotations and Calls for Tenders
- GPP Clearances
- GPP-related Clarifications and / or Rectifications

Training and Refresher Training Courses

During the past years, MECP¹⁰ in conjunction with the Institute for Public Services (IPS) developed a Training Programme for all Public Administration Officers involved in public procurement, which aims to impart Government's policies in favour of environmental safeguards and wiser use of materials / resources through its procurement procedures. The Training Programme also provides guidance in relation to the correct implementation of the GPP requirements in Procurement Calls.

Contracting Authorities are encouraged to apply for the Training Programme or request a Refresher Training Course to ascertain that they remain conversant with the GPP requirements as well as to clearly understand and fully implement the provisions of the Second National Action Plan in procurement procedures.

Additional Information

Contracting Authorities are being notified that in due course, the Ministry for the Environment, Energy and Enterprise shall be publishing guidelines in respect to GPP Specifications, Verification Documents, Sample Certification and other similar supplementary documentation. Accordingly, Contracting Authorities and Ministry GPP Coordinators would have additional supportive tools to correctly interpret and apply the requirements of the GPP 2nd National Action Plan.

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Contact

Contracting Authorities may submit any queries in relation to the generic content of this Circular to the Department of Contracts' Customer Care service on info.contracts@gov.mt or by calling on +356 2122 0212.

However, regarding specific queries vis-a-vis the GPP Second National Action Plan, the Green Public Procurement Criteria: Technical Specifications, the GPP Training Programme, the role of the Ministry GPP Coordinator as well as any other technical difficulties, Contracting Authorities are to contact the GPP Helpdesk on gpp@gov.mt or by calling on +356 2095 3712 at the Ministry for the Environment, Energy and Enterprise.

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