



RECOMMENDATIONS TO MAINSTREAM GREEN CRITERIA IN PUBLIC PROCUREMENT IN BOSNIA AND HERZEGOVINA

CASE STUDY: OFFICE FOR JOINT AFFAIRS OF THE INSTITUTIONS OF
BOSNIA AND HERZEGOVINA



12 RESPONSIBLE
CONSUMPTION
AND PRODUCTION



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Green public procurement is an important yet still an untapped tool for achieving the country's Sustainable Development Goals, especially in the field of environmental protection. Given the scope of public sector spending in Bosnia and Herzegovina, responsible spending and awareness of the use of resources in procurement may have a substantial impact on environmental protection and serve as an important driver of innovation in the private sector, providing a genuine impetus for the development of green products and services.

The Report was developed with the aim of understanding the ways to mainstream green public procurement into the practice of contracting authorities in Bosnia and Herzegovina. It is the first output of a pilot project implemented by the Service for Joint Affairs of the Institutions of Bosnia and Herzegovina with UNDP support.

Through the pilot project *Green Public Procurement in the Service for Joint Affairs of Institutions of BiH*, UNDP intends to support the Service in undertaking several common public procurement procedures with green criteria included, in order to determine the environmental impacts of green public procurement, research the market in Bosnia and Herzegovina and availability of green alternatives compared to standard procurement items, as well as potential financial savings for contracting authorities when the cost of life of products and services is taken into account.

The pilot project is also to analyse the impacts of the very same procurement in the case of transposition of instruments under the EU Public Procurement Directives into the Public Procurement Law in Bosnia and Herzegovina and relevant bylaws.

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1. INTRODUCTION

1.1. Green Public Procurement – definition

The Communication “Public Procurement for a Better Environment” from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM (2008) 400) defined green public procurement as “a procedure whereby contracting 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”.¹

Green public procurement is a voluntary instrument in the European Union’s public procurement system, meaning that Member States and contracting authorities decide whether and to what extent to implement it.

Contracting authorities are major consumers. By using their purchasing power to select eco-friendly goods, services and works, contracting authorities ensure that taxpayers’ money is used efficiently to achieve direct environmental benefits and reduce negative environmental impacts while preserving the same quality, functionality, value for money, as in traditional choices. By promoting sustainable consumption and production, contracting authorities also provide for a sizable indirect environmental benefits.²

Thus, for example, contracting authorities may encourage the use of innovative greener technologies and approaches in the production of goods, provision of services and execution of works. Such an approach can also have a positive impact on changing regulations in a certain area, increasing the consumption of such products and the like.

1.2. Green public procurement in Bosnia and Herzegovina

The total value of awarded contracts in public procurement procedures in Bosnia and Herzegovina in 2019 amounted to BAM 2,844,273,295.98,³ or 8.1% of the share in nominal GDP, while in 2018 it amounted to BAM 3,080,202,646.22 or 9.39% of nominal GDP.

In line with the Draft Annual Report on Awarded Contracts in Public Procurement Procedures in 2020 (at the time of publication of this Report still pending adoption by the Council of Ministers of BiH), the total value of awarded contracts in public procurement procedures in Bosnia and Herzegovina in 2020 was BAM 2,771,519,929.87, which is a decrease in the share in nominal GDP compared to previous years, and now the reported share totals 8.05%.

Contracting authorities in Bosnia and Herzegovina are major consumers, spending annually nearly 3 billion BAM (excluding VAT) in public procurement, and contributing an average of between 8 to 10% of nominal GDP.



Figure on total values (in BAM) of awarded contracts (2015-2020)

¹ COM(2008) 400, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52008DC0400>

² Green Public Procurement – A Collection of Good Practices, Janez Potočnik, https://ec.europa.eu/environment/gpp/pdf/GPP_Good_Practices_Brochure.pdf

³ Annual report on awarded contracts in public procurement procedures in 2019, <https://cms-ajn.azureedge.net/documents/9c6316a0-5a64-447f-8cf2-76f1377258da.pdf>



Figure on the percentage share of public procurement in GDP (2015-2020)

When it comes to green public procurement, at this time it is not possible to determine how much is spent in total by applying the green public procurement criteria. Since green public procurement is not recognised in the national information system for electronic public procurements www.ejn.gov.ba, there is no statistical data kept on its share in the total number of conducted procedures.

In Bosnia and Herzegovina, no level of government has a green public procurement policy or strategy in place that would set clear green, environmental goals to be achieved, with a timeframe, coverage of procurement of goods, services and works, responsibility for implementation of such procedures and mechanisms for achieving such objectives. Therefore, in cases when contracting authorities do include certain green criteria in specific public procurement procedures, those are above all individual cases, primarily related to the application of some other laws and bylaws such as energy efficiency regulations, construction regulations, customs policy law in Bosnia and Herzegovina, decision on the lowest technical requirements for newly manufactured and used vehicles in the standard approval of vehicles and homologation of individual vehicles, etc., rather than reasons related to the intention to achieve positive environmental impact by conducting certain public procurement.

In September 2015, Bosnia and Herzegovina, together with 192 UN members, signed the UN Sustainable Development Program 2030 (Agenda 2030) and committed itself to its implementation.

The first step in the implementation of the 2030 Agenda in Bosnia and Herzegovina is the development of the Sustainable Development Goals Framework in Bosnia and Herzegovina as a joint document of all levels of government, which identifies the broader directions of development through which the authorities across the board and society in Bosnia and Herzegovina seek to contribute to the achievement of the Sustainable Development Goals. Based on the analysis of the state-of-play regarding sustainable development in Bosnia and Herzegovina, meaning, key development trends, opportunities and obstacles, especially in the context of Bosnia and Herzegovina's accession to the European Union and extensive consultations with representatives of institutions at all levels of government and social and economic stakeholders in 2018 and 2019, three directions of sustainable development in Bosnia and Herzegovina were identified: **1)** Good governance and public sector management; **2)** Smart growth; and **3)** A society of equal opportunities, as well as two horizontal themes: **1)** Human capital for the future and **2)** Leave no one behind principle.⁴



The Sustainable Development Goals Framework in Bosnia and Herzegovina was adopted in December 2020. One of the development directions in this framework is also 8. Green Growth, which indirectly showcases the wide potential of green public procurement.

Also, at the Western Balkans Summit in Sofia on 10 November 2020, Bosnia and Herzegovina signed the Sofia Declaration on the Green Agenda for the Western Balkans, committing the countries of the region (Albania, Bosnia and Herzegovina, Montenegro, Northern Macedonia, Serbia and Kosovo^{*5}) to implement measures

⁴ Sustainable Development Goals Framework in Bosnia and Herzegovina, <https://zamisli2030.ba/sdgs-framework-in-bosnia-and-herzegovina/>

⁵ "This name is without prejudice to status and is in line with United Nations Security Council Resolution 1244 and the opinion of the International Court of Justice on Kosovo's declaration of independence."

to reduce pollution and prevent climate change, energy development from renewables, mobility and circular economy as well as development of biodiversity, sustainable agriculture and food production.

The Green Agenda for the Western Balkans is an integral part of The European Green Deal,⁶ which strives to make Europe a climate-neutral continent without jeopardising sustainable economic growth.

2. GUIDELINES FOR APPLICATION OF GREEN CRITERIA

The current Public Procurement Law in Bosnia and Herzegovina (Official Gazette of BiH, No. 39/14) was adopted in 2014 and is partially harmonised with Directive 2004/18 EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts and Directive 2004/17 EC harmonising the procurement procedures of entities operating in the water, energy, transport and postal services sectors. In the meantime, the European Union adopted new directives in the field of public procurement, namely Directive 2014/24 EU⁷ and Directive 2014/25 EU.⁸ Together with the directive on concessions, Member States were required to transpose these new directives into their legislation by 18 April 2016 at the latest.

Unlike the earlier 2004 Directives, the 2014 Directives clearly attach importance to environmental aspects by improving certain rules concerning, for example:

- More precise definition of the possibility of contracting authorities to request certain certificates/labels or other evidence concerning the environmental features of the subject of procurement, which further strengthens procurement with environmental objectives,
- Eliminating the lowest price as a criterion for contract award,
- Recognising the cost of product life as a sub-criterion for contract award,
- Possibility for contracting authorities to take into account the experience and skills of the bidder's employees when awarding the contract, where appropriate,
- Introduction of the 'Innovation Partnership' as a new type of public procurement procedure for the procurement of research and development of new products,
- Relaxing the conditions for competitive procedure with negotiation, which facilitates access to the procurement of products that are not off-the-shelf.

Although the Public Procurement Law in Bosnia and Herzegovina (hereinafter: the PPL) does not precisely define all the above rules, it still offers sufficient opportunities to include green criteria in a specific public procurement procedure in all its most important parts: 1. Qualification criteria for candidates/bidders, 2. Technical specifications of the subject of procurement, 3. Contract award criteria and 4. Contracting.

2.1 Qualification criteria for candidates/bidders

Eligibility criteria for the candidate bidder are defined in Articles 44 through 51 of the PPL, and classified as follows:

1. Personal ability (Article 45 of the PPL),
2. Ability to pursue professional activity (Article 46 of the Law),
3. Economic and financial standings (Article 47 of the Law), and
4. Technical and professional ability (Articles 48 to 51 of the Law).

⁶ The European Green Deal COM/2019/640, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52019DC0640>

⁷ 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 Text with EEA relevance, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0024&qid=1625134530670>

⁸ 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, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0025&qid=1625134634908>

In accordance with Article 44 of the PPL, the minimum eligibility requirements set by the contracting authority for candidates/bidders, as well as the documents required as a proof must be proportional and in line with the subject of public procurement. The conditions set must not be restrictive of competition and must be clear and precise. The contracting authority requests from the candidate/tenderer only such evidence as is necessary to establish whether the candidate/tenderer meets the eligibility requirements set by the contracting authority.

When it comes to green public procurement, the most important one is 'technical and professional ability'. Thus, for example, Article 48, Paragraph (6) of the PPL grants the contracting authorities the possibility to request certain certificates issued by independent bodies, which confirm that the candidate/bidder meets certain standards of quality assurance. In case it requires these certificates, the contracting authority shall be under the obligation to refer to quality assurance systems based on the relevant European series of standards confirmed by the competent authorities. Certainly, in order to facilitate competition, the contracting authority shall be under the obligation to accept other evidence of equivalent quality assurance measures from candidates/bidders who do not have access to such certificates.

Thus, **a contracting authority seeking to award a contract to a candidate/bidder who takes into account the environment, may request one of the certificates from the ISO 14000 family of standards as eligibility requirement.** In order to protect competition, and in accordance with the same provision of the PPL, the contracting authority is required to accept other evidence of equivalent quality assurance measures from candidates/bidders who do not have access to such certificates. Thus, **the contracting authority must also accept the EMAS certificate⁹ as proof of the Environmental Management Systems – (EMS),** although it had, for example, required a certificate from the ISO 14000 family of standards, provided that such EMAS certificate contains equivalent measures of required quality assurance, as the relevant part or the very essence of the required EMS are the elements of technical capacity covered by it, and not just the mere existence of certification by a particular independent body.¹⁰

It is important to point out that in the system of Bosnia and Herzegovina, the Institute for Standardisation of BiH has adopted an environmental management system¹¹ that is in line with the ISO 14000 family of standards, but which does not interpret the requirements of ISO 14000.

Furthermore, Article 50, Paragraph (1), Item g) and Article 51, Paragraph (1), Item f) of the PPL, which define technical and professional ability in procurement procedure for services or works, prescribe that **as proof of technical and professional ability in procurement procedure of services/works the authority may require a statement from the candidate/tenderer to accept the undertaking of environmental management measures and energy efficiency measures to be applied by the economic operator when providing services/works.**

These provisions do not specify the measures for environmental management and energy efficiency measures that the economic entity will apply when providing services/works, but allow the contracting authority to independently determine the required measures. The problem with this provision is its inaccuracy and that it does not prescribe requirements related to special evidence, such as certificates of competent authorities or certificates of independent bodies; instead, the candidate/bidder undertakes to submit a statement/declaration. Such declaration is independently certified by the bidder and its content is determined by the Instruction for Preparation of Tender Documents and Bids Models Bids (Official Gazette of BiH, No. 90/14 and 20/15). The candidate/bidder is required, in the form of the above declaration, to provide precise information related to the requirements from the tender documentation, in this case regarding the measures taken.

The contracting authority may request that the candidate/bidder to confirm in a declaration/ statement that it accepts the measures related to the manner of disposal of waste generated by services and works, which will be in accordance with applicable waste management laws,¹² and to describe specific waste management measures.

With regard to other qualification requirements relating to technical and professional ability, the contracting authority may require certain educational and professional qualifications of the persons responsible for the implementation of the contract relating to environmental aspects.

Thus, for example, **the contracting authority may require that the candidate/bidder has a certified ecologist, a graduate environmental engineer, a master in ecology, a certified safety advisor for**

9 The EU Eco-Management and Audit Scheme (EMAS), Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

10 Case T-331/06: *Evropaïki Dynamiki – Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE v European Environmental Agency (EEA)*, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62010CN0462>

11 Institute for Standardisation of BiH- <https://isbih.gov.ba/sr/p/sistemi-upravljanja-zastitom-okolisa>

12 Waste Management Law (Official Gazette of Republika Srpska, No. 111/13) and the Waste Management Law (Official Gazette of the Federation of BiH, No. 33/03, 72/09 and 92/17)

the transport of dangerous goods (ADR, RID, ADN),¹³ a driver who has attended training/holds a certificate from eco-driving, and alike. These requirements must be in line with Article 44 of the PPL.

Further, in terms of technical equipment and qualifications, **the contracting authority has the right to check whether candidates/bidders have access to the equipment or whether they are qualified for environmental protection, and whether they have access to certificates issued by the competent institution or quality control agency,** attesting that specifically marked goods are in conformity with certain specifications or norms.

Naturally, in terms of professional and technical ability, **the contracting authority may require a list of executed identical or similar contracts with environmental aspects, including a certificate of its implementation provided by the other contracting party.**

The PPL prohibits requesting appropriate licenses as an eligibility requirement, and the same goes for the license for performing activities in the field of environmental protection. However, **the submission of a license to perform activities in the field of environmental protection may be specified as a condition for concluding the contract,** and if the selected bidder does not submit the license within the deadline set by the contracting authority, the contract is awarded to the next on the ranking list, in accordance with Article 72, Paragraph (3), Item b) of the PPL.

Noteworthy, for groups of candidates/bidders, eligibility criteria from Articles 46 through 51 of the PPL are met by the members of the group cumulatively, meaning that they can rely on the capacities of other members of the group.

Article 73 of the PPL contains provisions on subcontracting. The contracting authority may not prohibit subcontracting, but may request from the candidate/bidder to state whether it intends to subcontract part of the contract to third parties. The bidder to whom the contract has been awarded shall not subcontract any essential part of the contract without the prior written approval of the contracting authority. The elements of subcontracting contract and the identity of the subcontractor must be communicated to the contracting authority in a timely manner, before concluding the subcontract. The contracting authority may verify the qualification of the subcontractor in accordance with Article 44 of the PPL and notify the supplier of its decision no later than 15 days from the date of receiving the notice about the subcontractor. In case of rejection of the subcontractor, the contracting authority must state the objective reasons for the rejection.

In line with the above, the contracting authority reserves the right to reject the subcontractor, stating objective reasons. In case the contracting authority decides to apply the criteria of green public procurement, the objective reason for the refusal of the subcontractor would certainly be related to the non-fulfilment of qualification requirements for subcontractors in accordance with Article 44 of the PPL.

2.2 Technical specification

The Public Procurement Law contains but one provision concerning the technical specification itself, in its Article 54. This provision stipulates that technical specifications must provide all candidates/bidders with equal and non-discriminatory access to competition. Technical specifications will include, whenever possible, the criterion of accessibility for disabled persons or criterion of design for all users.

Technical specifications as such may be prescribed in such a way that the contracting authority refers to certain standards (of Bosnia and Herzegovina, European Union standards and/or international standards), in the form of performance or functional requirements (which may include environmental and energy efficiency elements), and their combination, in accordance with Article 54, Paragraph (2) of the PPL.

It is important to emphasise that the PPL in Article 54, Paragraph (7) and (8) recognises the use of environmental quality labels for the purpose of describing the subject of procurement, in case the environmental requirements for the subject of procurement are determined in the form of performance requirements or functional requirements in accordance with Paragraph (2), Item b) of the same Article. **The PPL recognises the use of European, Bosnian-Herzegovinian, multinational or other environmental quality labels.**

Eco-labels may only be used if the following conditions are met:

- a) Specifications are appropriate for the definition of the characteristics of the goods or services which are the subject of the public procurement contract,
- b) Requirements set for the eco-label are established on information based on scientific grounds,

¹³ Certificate of International Carriage of Dangerous Goods by Road (ADR), Certificate of International Carriage of Dangerous Goods by Rail (RID), Certificate of International Carriage of Dangerous Goods by Inland Waterway (ADN) – Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods

- c) Eco-labels have been developed and issued as part of a process in which all stakeholders such as consumers, producers, traders and environmental organisations may participate, and,
- d) Environmental quality label is accessible and available to all interested parties.

Even more so, the PPL grants the contracting authorities the possibility to state in the tender documentation the requirement that the goods and services marked with a certain environmental quality label correspond to the technical specifications established in the tender documentation.

The PPL does not define the labels themselves – hence, the definition of the EU Directive 2014/24 itself should be used as a definition, which defines label as any document, certification or certificate confirming that certain works, products, services, processes or procedures have met certain requirements.

When using labels, it is recommended that if only certain label requirements are relevant to the contract that the contracting authority seeks to award while other labels are not, the contracting authority should only refer to those specific criteria of the specific label related to the subject of the procurement, rather than requiring as a whole the label from which these criteria derive. In the case of the European Court of Justice No. C-368/10, the Court ruled that contracting authorities should always refer to the criteria within the label and not to the label itself, except where those criteria are laid down in legislation.¹⁴

Bosnia and Herzegovina does not have a prescribed eco-label. Republika Srpska and the Federation of BiH have appropriate eco-labels that have been adopted on the basis of the Entity laws on environmental protection and related regulations on eco-labels and on the manner of managing eco-labels.¹⁵



Eco-label of Republika Srpska¹⁶



Eco-label of the Federation of BiH¹⁷

The PPL also provides for the possibility of receiving variant offers in the manner prescribed by Article 59. An alternative bid is a bid by which the bidder submits an alternative proposal for the subject of public procurement. In order for an variant offer to be considered, the following conditions must be met:

- a) Tender documentation must provide for the possibility of submitting an alternative bid,
- b) Most Economically Advantageous Bid as a criterion for contract award, and,
- c) Tender documentation specifies the minimum requirements that the alternative bid must meet, as well as other requirements for its submission.

The possibility of submitting alternative bids certainly gives the contracting authority more flexibility to achieve the goal, which can lead to receiving solutions from bidders that are more environmentally friendly. Enabling an variant offer is a good solution for a contracting authority that knows the goal they want to achieve with the procurement, but is not sure which approach to use to achieve it, taking into account the development of new technologies and innovative solutions.

¹⁴ **Case C-368/10 Commission vs. Kingdom of the Netherlands**, <https://curia.europa.eu/juris/liste.jsf?num=C-368/10>

¹⁵ **Rulebook on Eco-Labels and Manner of Managing Eco-Labels** (Official Gazette of Republika Srpska, No. 22/08) and **Rulebook on Eco-Labels and on the Manner of Managing Eco-Labels** (Official Gazette of the Federation of BiH, No. 92/07)

¹⁶ **Eco-label of Republika Srpska**, <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mgr/DJEL/Pages/Eko-oznaka.aspx>

¹⁷ **Eco-label of the Federation of BiH**, <https://www.fmoit.gov.ba/bs/novosti/priopcenja/sveanost-dodjele-eko-oznake-fbih-prijatelj-okolisa-povodom-22travnja-dana-planeta-zemlja>

2.3 Contract award criteria

Contract award criteria are defined in Article 64 of the PPL as follows:

- a) Lowest price; or
- b) Most economically advantageous bid.

It is clear from this provision that, unlike the 2014 Directives, which recognise only the “most economically advantageous bid” as a contract award criterion, the PPL allows contracting authorities to continue to use the “lowest price” as a contract award criterion.

As prescribed by Article 64, Paragraph (2) of the PPL, the contracting authority is required to elaborate the criterion of the most economically advantageous bid in the tender documentation, by defining and elaborating sub-criteria for evaluation, in accordance with the nature and purpose of the specific procurement object. Sub-criteria can include quality of the subject of procurement, price, technical capability of the subject of procurement, functional and environmental characteristics, operating costs, economy, after-sales service and technical assistance, delivery deadline or deadline for contract execution, etc., with the obligation for tender documentation to determine a precise methodology for evaluating each sub-criterion.

Unlike the 2014 Directives, the PPL does not recognise costs of life/cycle as a sub-criterion for awarding contracts, that is, procurement costs, use costs such as energy and other resource consumption, maintenance costs, and end-of-life costs, such as product disposal and recycling costs.

However, the application of life cycle cost sub-criteria in accordance with the 2014 Directives would not be contrary to the provision of Article 64, Paragraph (2) of the PPL as long as they are all elaborated in the tender documentation, by defining and elaborating in accordance with the nature and costs of the life-cycle, with the obligation to determine a precise methodology for their evaluation.

Certain tools are also available to contracting authorities to calculate the life-cycle costs of various procurement items such as copiers, computers and related equipment, outdoor and indoor lighting, etc. These tools have been developed by the European Commission¹⁸ and an additional resource are tools that estimate both life cycle costs and CO₂ emissions developed under the SMART-SPP project.¹⁹

What is important to stress, and what is prescribed by Article (3) of the aforementioned provision of the PPL, is that eligibility requirements for candidates, that is, bidders from Articles 45 to 51 of this PPL may not serve as sub-criteria for the evaluation of bids. Namely, the stated criteria refer to candidates bidders themselves and their quality, and not to the quality of goods, services or works that they offer in a specific public procurement procedure.

On the other hand, in the case of a technical specification, the contracting authority is not prohibited from awarding additional points to tenderers whose tender exceeds the minimum values prescribed in the technical specification. Thus, for example, the contracting authority may prescribe in the technical specification a certain maximum emission of CO₂ exhaust gases, and at the same time award additional points to those bidders whose specified emission in a certain percentage/quantity is below the maximum values or award additional points to bidders whose goods are packaged in environmentally acceptable or sustainable packaging (e.g. for biodegradable packaging, scoring could be according to the percentage of biodegradability).

It is therefore evident that the legal framework as it is still provides sufficient space to mainstream green criteria in contract award and a different approach to their evaluation, provided that they are based on an objective and precise evaluation methodology.

2.4 Concluding contracts

The public procurement contract is concluded in accordance with the laws on obligations in Bosnia and Herzegovina, as prescribed by Article 72 of the PPL. This norm is a reference to the law on obligations as a **lex generalis** in the field of contracting. The Public Procurement Law as a **lex specialis** in the part of contracting only prescribes the restriction that when awarding a procurement contract, the price stated in the most successful bid, as well as the conditions set out in the tender documentation, may not be changed. Exceptionally, if the tender documentation provides for a provision on price changeability with objectively determined rules on

¹⁸ Life-cycle costing tools, <https://ec.europa.eu/environment/gpp/lcc.htm>

¹⁹ Tool for calculating Life-Cycle Costs and CO₂ Emissions, <https://smart-spp.eu/index.php?id=7633>

price changeability, such a provision shall be entered in the public procurement contract (Article 72, Paragraph (5) of the PPL).

Therefore, the contracting authority must determine all the most important conditions of the contract in the tender documentation itself, as indicated by Article 53, Paragraph (3), Item r) of the PPL, which prescribes that the tender documentation, among other, should at least contain a draft contract or basic elements of the contract.

In addition to the possible price changeability clause, the PPL, as a **lex specialis**, prescribes only one more obligatory contractual clause in that, for the purpose of executing the public procurement contract, the bidder to whom the public procurement contract has been awarded shall have no right to employ, for the purpose of execution of public procurement contract, physical or legal persons that had participated in preparation of bidding documentation or had stood in the capacity of members or expert persons engaged by Procurement Commission, for at least six months after contract conclusion, or from the beginning of contract realization.

For all other issues, the contracting authority is free to prescribe clauses which are in accordance with the laws on obligations, the above-mentioned points related to the PPL and public procurement, and in accordance with other effective legal regulations.

Therefore, the contracting authority is left with sufficient liberty to prescribe in the contract the manner of performance of the contract, taking into account environmental provisions.

Thus, in order to improve the environmental impact, the contracting authority may provide for the following obligations for the supplier:

- **Delivery of goods outside of rush-hour,**
- **Taking over the packaging in which the goods are delivered and their reuse,**
- **Use of less polluting means of transport (mopeds, bicycles, electric or hybrid vehicles),**
- **Use of recycled packaging for packaging goods or reusable packaging,**
- **Application of appropriate environmental management measures when performing the service or performing works in accordance with certain standards (e.g. ISO 14001 and other),**
- **Use of services of drivers who have undergone training in eco-driving, and alike.**

For the execution of the contract, the way of monitoring its implementation is important, both in terms of general provisions or provisions with green aspects. Thus, the contracting authority may provide that it will carry out periodic unannounced checks on whether the contract is being performed in accordance with its provisions. **The supplier may undertake to submit reports with evidence that the contract has been carried out in accordance with environmental provisions, and the participation of a third party may be foreseen, to be in charge of monitoring the implementation of the contract in accordance with its green provisions.**

3. CASE STUDY: MAINSTREAMING GREEN CRITERIA IN PUBLIC PROCUREMENT FOR THE SERVICE FOR JOINT AFFAIRS OF THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA

3.1 Overview of goods, services and works suitable for the application of green criteria in the Service for Joint Affairs of BiH Institutions

The Service for Joint Affairs of the Institutions of Bosnia and Herzegovina (hereinafter: the Service) was established by the Decision on the Service for Joint Affairs of the Institutions of BiH (Official Gazette of BiH, No. 17/99, 50/10 and 71/11), for the needs of the institutions of Bosnia and Herzegovina, which by their nature are in the realm of joint affairs. The Service is independent in its work and has the status of a legal entity. It comprises six basic organisational units, as follows: Office of the Director, Internal Audit Unit, Sector for Investment and Ongoing Maintenance, Sector for Internal Security, Sector for Services and Sector for Legal, Financial Affairs and Public Procurement.

Joint affairs are defined in Article 2 of the Decision and include investment and current maintenance of compounds of buildings and land, office space, installations and inventory, internal security of compounds of buildings and land, fire protection, maintenance of technical equipment and devices, keeping records of real estate that institutions of Bosnia and Herzegovina have the right to dispose of, record sessions and print written materials, provide catering services, transport by official vehicles, its maintenance and garage, clean business premises and maintain outdoor space for regular use of buildings, and if necessary perform other tasks as assigned, and that by their nature they fall within the scope of joint affairs.

From early 2021 up to the drafting of this report, the Service published 39 procurement notices on the national Public Procurement Portal www.ejn.gov.ba. In 2020, a total of 95 procurement notices were published, and in 2019 a total of 70.²⁰ The analysis of the Service's procurement plans for the last three years (2019-2021)²¹ found that the Service for the most part continuously undertakes the same or similar procurements related to current needs, and that capital expenditures are only visible in the procurement plan for 2020. In particular, the purchases that stand out are the following: office furniture, computer equipment, cargo motor vehicle, a refrigerator for cold drinks and coffee machines, depurators and coffee grinders.

According to the available plans, it is evident that the Service has a considerable budget for procurement amounting to BAM 11,834,730.00 (including VAT) in 2021, BAM 7,214,310.00 (including VAT) in 2020, and BAM 5,828,900.00 (including VAT) for 2019. There is a significant increase in the allocations for public procurement for each subsequent year. It is important to note the Budget of the Institutions of Bosnia and Herzegovina and the Budget of International Obligations of Bosnia and Herzegovina for 2021 have not yet been adopted during the making of the report, and all institutions of Bosnia and Herzegovina, including the Service, are on the so-called temporary funding.

The procurement plan for 2021 contains a number of procurements appropriate for the application of green criteria in accordance with the EU Green Public Procurement Criteria.²²

²⁰ Public procurement portal, <https://www.ejn.gov.ba/Announcement/Search>

²¹ http://szzp.gov.ba/javne_nabavke/plan_nabavki/archive.aspx?langTag=sr-SP-Cyrl&template_id=112&pageIndex=1

²² EU GPP Criteria, https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm

1	Procurement of electricity for facilities of institutions of Bosnia and Herzegovina
2	Procurement of drinks: Water (carbonated and non-carbonated), <ul style="list-style-type: none"> • Alcoholic beverages, • Carbonated soft drinks, • Non-carbonated soft drinks, • Coffee and hot drinks, • Teas. Food products: <ul style="list-style-type: none"> • Various food products, • Fruits and vegetables, • Fresh fish, • Meat products, • Processed food products.
3	Procurement of water consumables
4	Formal and work wear and footwear
5	Toner procurement

Tabular overview of procurements suitable for the application of the EU Green Public Procurement Criteria

Mainstreaming green public procurement in the practice of each contracting authority should be a step-by-step process with a focus on a limited number of goods and services to which the green criteria will initially apply.

The European Commission and most Member States have taken into account the following three main factors when selecting goods and services suitable for the application of the green criteria:

Environmental impact – selection of goods and services with a high environmental impact during the life-cycle;

Budget relevance – focus on areas with high consumption within the contracting authority;

Market influence potential – focusing on the areas with the greatest potential to influence the market.

In addition to these factors, the contracting authority must take into account factors such as political priorities, market availability of environmentally sound alternatives, cost issues, availability of scientifically established criteria, feasibility and practical considerations.²³

3.2 Recommendations to mainstream green criteria in the procurement of the Service for Joint Affairs of the Institutions of Bosnia and Herzegovina

3.2.1 Procurement of electricity for institutions of Bosnia and Herzegovina

In its 2021 Procurement Plan, the Service had planned two procurements related to electricity, namely (i) for the needs of BiH institutions in Istočno Sarajevo, Banja Luka and Mostar, and (ii) for the needs of BiH institutions in Sarajevo and Tuzla. For both procurements, the Service plans to apply the Open Procedure with the conclusion of a framework agreement for 36 months and the total value of both procedures is BAM 4,900,000.00 with VAT included.

²³ *Buying green- A handbook on green public procurement*, <https://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf>

The analysis of the tender documentation for the very same subject of procurement that the Service conducted last year (consolidated-divided into lots) No. JN01-16-11-130-4/20 dated 7 September 2020, it is evident that the green public procurement criteria were not included, although this is a type of procurement that is suitable for the application of the EU Green Public Procurement Criteria.^{24 25} In this specific subject of procurement, there is a possibility of applying green criteria primarily when it comes to technical specification, criteria for contract award and contracting.

According to the EU Green Public Procurement Criteria for electricity, the main goal is to encourage the greatest possible use of electricity from renewable energy sources. The basis for defining renewable energy sources are the relevant laws on renewable energy sources and efficient co-generation at the Entity level,²⁶ as well as Directive 2009/28/EC on the promotion of the use of energy from renewables and amending and subsequently repealing Directive 2001/77/EC and 2003/30/EC.²⁷

No.	SECTION	REQUIREMENT
1	Technical specification	At least 50% of the supplied electricity should come from renewable sources and/or high-efficiency co-generation.
2	Contract award criteria	As a sub-criterion, evaluation of the share of electricity originating from renewable sources and/or high-efficiency co-generation in the planned delivery, above the minimum prescribed.
3	Contracting	The supplier is required to submit a guarantee/proof of origin of electricity supplied to the contracting authority in order to prove the share of electricity from renewable sources.

The contracting authority could also, as an qualification criterion, require an Energy Efficiency Management System in place in accordance with the EN16001 standard (**Energy Management System**) or ISO 50001 standard.

3.2.2 Procurement of food and beverages

In its 2021 Procurement Plan, the Service has a number of public procurement procedures concerning:

Food: 1.1. Various food products; 1.2. Pork; 1.3. Fruits and vegetables 1.4. Fresh fish; 1.5. Meat products; 1.6. Processed food products.

Beverages: 2.1. Water (carbonated and non-carbonated); 2.2. Alcoholic beverages; 2.3. Carbonated soft drinks, 2.4. Non-carbonated alcoholic beverages; 2.5. Teas; 2.6. Coffee and hot beverages.

The analysis of previously prepared tender documents shows that the green public procurement criteria were not included, although this is a procurement that is suitable for the application of the EU Green Public Procurement Criteria.²⁸ In this specific subject of procurement, there is a possibility of applying green criteria primarily when it comes to technical specification, criteria for contract award and contracting.

However, in this case in Bosnia and Herzegovina there is a restriction regarding the application of the green criteria in the technical specification, because in the EU the green criteria derive primarily from the compliance of the delivered food and beverages with Regulation (EC) No. 2018/848²⁹ or its subsequent amendments. The Regulation as such is directly applicable in all Member States. The question of proving compliance arises since according to EU criteria the bidder is required to submit a statement that all food products and beverages to be delivered during the contract performance are in accordance with Regulation (EC) No. 2018/848 or its subsequent amendments. In addition, the bidder is required to describe how he intends to ensure that the above products can be procured from environmental sources during contract performance (for example,

²⁴ EU GPP Criteria for Electricity, <https://ec.europa.eu/environment/gpp/pdf/criteria/electricity.pdf>

²⁵ Law on the Use of Renewable Energy Sources and Efficient Cogeneration (Official Gazette of the Federation of BiH, No. 70/13 and 05/14)

²⁶ Law on Renewable Energy Sources and Efficient Cogeneration (Official Gazette of Republika Srpska, No. 39/13, 108/13, 79/15 and 26/19)

²⁷ Directive 2009/28/EC, <https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=celex%3A32009L0028>

²⁸ EU GPP Criteria for food, catering services and vending machines, [https://ec.europa.eu/environment/gpp/pdf/190927_EU_GPP_criteria_for_food_and_catering_services_SWD_\(2019\)_366_final.pdf](https://ec.europa.eu/environment/gpp/pdf/190927_EU_GPP_criteria_for_food_and_catering_services_SWD_(2019)_366_final.pdf)

²⁹ Regulation (EC) No 2018/848 on organic production and labelling of organic products and repealing Council Regulation (EC) No. 834/2007, <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32018R0848&from=EN>

by identifying suppliers for different products). For producers from Bosnia and Herzegovina, this condition is discriminatory in terms of Article 3 and related Article 54 of the Public Procurement Law as they are not required to apply the said Regulation, and therefore most do not harmonise production with the said Directive.

In the case of fresh fish, the contracting authority may require that the fish and fishery products offered must come from stocks that are within safe biological limits in terms of environmental impact, including overfishing or depletion of stocks, biodiversity and responsible and sustainable use of resources. The bidder shall prove the fulfilment of the said requirement by stating that it will deliver only fish and fish products that comply with the aforementioned requirement with appropriate proof of the origin of the fish. The actual safe stocks are determined exclusively by independent scientific bodies³⁰ and this must be determined by the contracting authority in the tender documentation itself.

When it comes to contract award criteria, the contracting authority may specifically value the possession of certain certificates, such as Label Rouge, Globalgap, RSPCA Assured – as provided by EU criteria, and in BiH to evaluate separately products with the label ‘Produced without GMO’.³¹

In terms of the implementation of these contracts, in accordance with EU criteria, the contracting authority may prescribe a requirement for the supplier for the duration of the contract to collect and record the following: invoices and other documents proving compliance with the criteria in accordance with the requirements for verification of relevant technical specifications and contract award criteria, and that he is required to make them available to the contracting authority for verification purposes. Also, the contracting authority may establish rules for sanctions in case of non-fulfilment of contractual obligations.

In addition, the contracting authority may require the removal of used packaging (such as PET and returnable glass), the use of reusable or recyclable packaging, delivery in larger packages or, in the case of an explicit need for small packages, delivery by less polluting means of transport (bicycles, mopeds, small delivery cars, etc.) or in the period outside the rush hour.

3.2.3 Procurement of sanitary tapware

The 2021 Procurement Plan of the Service includes the procurement of sanitary tapware. For this procurement, the Service plans to apply an open procedure with the conclusion of a framework agreement for 24 months and a total value of BAM 67,000.00 with VAT included.

The analysis of the tender documentation for the very same subject of procurement that the Service conducted in 2019, No. JN01-16-11-63-6/19 dated 20 May 2019 has shown that the green public procurement criteria were not included, although it is a procurement that is suitable for the application of EU Green Public Procurement Criteria, as it includes the procurement of taps, showerheads,³² flushing toilets and urinals.³³

3.2.3.a Taps and showerheads

The key environmental impact of taps and showerheads is related to the consumption of water and energy (hot water) during their use. The EU Green Public Procurement Criteria for these products contain criteria for the procurement of showerheads and taps and criteria for their installation.

Since the case at hand concerns procurement of taps and showerheads as goods, we will analyse the possibility of applicability of the EU Green Criteria. For this particular subject of procurement, the application of green criteria is possible in the preparation of a technical specification. In this case, the contracting authority may determine the following criteria:

³⁰ For example, **Marine Society**, <http://www.fishonline.org/fishfinder?min=5&max=5&fish=&avoid=1>

³¹ **Guidelines for determining the process of production and labelling of food produced without genetically modified organisms (GMO)**, https://www.fsa.gov.ba/old/images/GMO_non/Smjernica_za_ozna%C4%8Davanje_i_kontrolu_bez_GMO_prehrambenih_proizvoda_u_BiH.pdf

³² **EU GPP Criteria for Sanitary Tapware**, <https://ec.europa.eu/environment/gpp/pdf/criteria/sanitary/EN.pdf>

³³ **EU GPP Criteria for Flushing Toilets and Urinals**, https://ec.europa.eu/environment/gpp/pdf/criteria/toilets/criteria_Toilets_en.pdf

No.	TECHNICAL SPECIFICATION	VERIFICATION
1	Maximum/minimum water flow (l/min)	<ul style="list-style-type: none"> Type 1 Eco label Manufacturer's statements
2	Temperature control: <ul style="list-style-type: none"> a) Equipped with a hot water barrier b) Possibility of thermo-static adjustment a) Cold water is in the mid-position of the handle 	<ul style="list-style-type: none"> Type 1 Eco label Manufacturer's statements
3	Time control for use	<ul style="list-style-type: none"> Type 1 Eco label Manufacturer's statements
4	Quality and durability: <ul style="list-style-type: none"> a) Surface coating b) Possibility for repairs and availability of spare parts c) Warranty 	<ul style="list-style-type: none"> Type 1 Eco label Manufacturer's statements
5	User Manual <ul style="list-style-type: none"> a) Installation instructions b) Recommendations for use 	/

As a sub-criterion for contact award, the contracting authority may also apply the life-cycle costs of this sanitary tapware in order to estimate the total costs of their operation during the life-cycle. Such an assessment should be based on the initial cost of purchasing the product, its installation, estimated lifespan, replacement costs and water and energy consumption costs during the life cycle, etc.

3.2.3.b Flushing toilets and urinals

The key environmental impacts of flushing toilets and urinals are related to water consumption during their use, while other impacts may relate to their durability and longevity. The EU Green Public Procurement Criteria can also be used for qualification of the bidder, technical specifications, contract award criteria and the contracting itself.

Qualification of bidders in both cases primarily refers to their previous experience in installation of similar products, and in particular that the installation be performed by professional and trained staff. Of course, in the event that the subject of the procurement does not include installation, these eligibility conditions cannot be used as described. In the case of a technical specification, the contracting authority may specify the following criteria:

No.	TOILETTES		FLUSHING URINALS	
	TEHNICAL SPECIFICATION	VERIFICATION	TEHNICAL SPECIFICATION	VERIFICATION
1	Efficient water use: <ul style="list-style-type: none"> Full amount of flushing water Water saving Adjusting the amount of flushing water 	<ul style="list-style-type: none"> Type 1 Eco label Manufacturer's statements 	Efficient water use: <ul style="list-style-type: none"> Full amount of flushing water Water saving Adjusting the amount of flushing water 	<ul style="list-style-type: none"> Type 1 Eco label Manufacturer's statements

2	Product efficiency: <ul style="list-style-type: none"> • Requirements related to flushing systems • Flushing efficiency • Product longevity 	<ul style="list-style-type: none"> • Type 1 Eco label • Manufacturer's statements 	Product efficiency: <ul style="list-style-type: none"> • Requirement related to flushing systems • Flushing efficiency • Efficiency of urinals without flushing • Product longevity 	<ul style="list-style-type: none"> • Type 1 Eco label • Manufacturer's statements • Test results
3	User Manual a) Installation instructions b) Recommendations for use	/	Biodegradability of liquid and maintenance of urinals without flushing	Type 1 Eco label
4			User Manual a) Installation instructions b) Recommendations for use	/
	CONTRACT AWARD CRITERIA	VERIFICATION	CONTRACT AWARD CRITERIA	VERIFICATION
	Additional points for water saving when flushing at full/reduced capacity	Test results specified in EN 997 or equivalent standards	Dodatni bodovi za uštedu vode prilikom ispiranja	Rezultati testiranja navedenim u normi EN 13 407 ili ekvivalentnim normama
	Hygiene (sensor flush start)	<ul style="list-style-type: none"> • Type 1 Eco label • Manufacturer's statements 	Hygiene (sensor flush start)	<ul style="list-style-type: none"> • Type 1 Eco label • Manufacturer's statements

3.2.4 Official workwear and footwear

Criteria for textile products focus on the most important environmental impacts during the product life-cycle, which in terms of textile products are divided into five special categories:

- procurement of fibres,
- chemical restrictions,
- durability and extension of lifespan,
- energy savings during use,
- a design that allows for reuse and recycling.

The analysis of the tender documentation No. JN01-16-11-86-13/20 dated 26 August 2020 found that the green public procurement criteria were not used for the preparation of this specific public procurement procedure, although the application of the EU Green Public Procurement Criteria of textiles³⁴ was possible. The Service did define the share of, for example, cotton, wool in clothing, but did not define the conditions regarding organic origin, treatment methods, use of recycled materials, use of harmful chemicals, etc. Also, the Service used the lowest price of a technically satisfactory bid as a criterion for awarding the contract, which prevented the application of sub-criteria provided by the EU Green Public Procurement Criteria for textiles.

As the above EU criteria contain multiple conditions that are not the most suitable for procurement in BiH, only the most basic will be highlighted:

No.	TECHNICAL SPECIFICATION	VERIFICATION
1	Cotton fibres: <ul style="list-style-type: none"> • Proportion of organic cotton • Proportion of cotton produced in accordance with the principles of integrated pest management 	Certification of origin by an independent body
2	Wool fibres: Wastewater level generated by wool treatment (g COD/kg wool)	Wastewater testing by an independent body
3	Artificial cellulosic fibres: Airborne sulfur emissions from the production of artificial cellulose fibres	Submission of monitoring data, transaction records and production records of batches demonstrating the conformity of the supplier and associated production facilities where the contracted fibres are produced.
4	Level of substances on the list of proposed substances under REACH (EC 1907/2006)	Declaration for substances on the list of proposed substances under REACH

3.2.5 Procurement of toners

The 2021 Procurement Plan of the Service includes the procurement of toner. For this procurement, the Service planned to apply the procedure of a competitive request for submission of bids with the conclusion of a framework agreement for 12 months and a total value of BAM 22,000.00 with VAT included.

Analysis of the tender documentation for the very same subject of procurement that the Service conducted in 2020, No. JN01-16-11-22-8/20 dated 9 March 2020 has shown that the criteria of green public procurement were not included, although this is a type of procurement that is suitable for the application of the EU Green Public Procurement Criteria.³⁵ For example, the Service relied mostly on the type of toner and the possibility of delivery equivalent in accordance with Article 54 of the PPL, but only partially established requirements regarding the number of page prints. Also, the Service requested samples only for individual toners.

Application of the EU Green Public Procurement Criteria in toner procurement is possible in all stages: qualification requirements, technical specification, contract award criteria and contracting. The main impact of toner on the environment concerns the lifespan. The green criteria may relate to the following:

³⁴ EU green public procurement criteria for textiles products and services, https://ec.europa.eu/environment/gpp/pdf/criteria/textiles_2017.pdf

³⁵ EU green public procurement criteria for imaging equipment, consumables, and print services, https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf

No.	SECTION	REQUIREMENT
1	TECHNICAL SPECIFICATION	<ul style="list-style-type: none"> • Number of pages printed per toner/ cartridge • Resource efficiency of the mass of consumables • Proportion of hazardous substances • Design for reuse/recycling • Quality • Toner and cartridge take-back system
2	CONTRACT AWARD CRITERIA	<ul style="list-style-type: none"> • Efficiency of consumable mass • Possibility of reuse • Waste tank management
3	CONTRACTING	<ul style="list-style-type: none"> • Reporting on reuse/recycling • Right to randomly inspect the delivered toners/cartridges

3.3. Other procurement procedures suitable for the application of green criteria

In addition to the above procurement procedures, the Service has several other procedures in its Procurement Plan which, due to their scope, cannot have a significant impact on the environment or can only indirectly include the application of the EU Green Public Procurement Criteria.

3.3.1. Postal services

In its Procurement Plan, the Service has provided for postal services (receipt and dispatch of mail), which meet the requirements for the application of the EU Green Public Procurement Criteria.³⁶ Since the Service foresees the application of a direct agreement (estimated value of procurement up to BAM 6,000.00 with VAT included), the tender documentation was not available for inspection through the public part of the Public Procurement Portal in Bosnia and Herzegovina. Due to the low value of public procurement, the choice of procedure and the assumption that these are reserved postal services, it was not found purposeful to apply the green public procurement criteria.

In procurement of postal services, the contracting authority may require in the technical specification that the bidder is required to offer a vehicle fleet that includes bicycles and bicycle trailers, which may be electric bicycles for postal and courier services to be provided within cities to the final destination (so-called Last mile). In addition, the contracting authority may require that all vehicles used to provide those services comply with a minimum Euro 5 standard (preferably a Euro 6 standard) on exhaust emissions. Also, in the part of bid evaluations, the quantities of exhaust gases emitted by the offered vehicles can be additionally scored as sub-criteria.

3.3.2 Procurement of hygienic consumables – means for professional use

When it comes to the procurement of consumables – means for professional use, this is a procurement that can only partially be addressed under the EU Green Public Procurement Criteria, specifically the EU Green Public Procurement Criteria for indoor cleaning services.³⁷ Although the mentioned green criteria refer primarily to cleaning services, they still envisage criteria concerning cleaning products, textile cleaning accessories, environmental management measures and practices and consumables. These criteria, although basically the criteria for participation in the procurement process of cleaning service providers, can be indirectly applied to the procurement of these means. According to the analysis of previous tender documents, the situation is similar with the procurement of hygienic inventory.

Thus the contracting authority has the possibility to require cleaning agents with a reduced impact on the environment. In other words, the contracting authority may, by a technical specification, require that a certain

³⁶ EU green public procurement criteria for road transport, <https://ec.europa.eu/environment/gpp/pdf/criteria/transport.pdf>

³⁷ EU GPP criteria for indoor cleaning services, https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf

percentage of the volume offered or all cleaning agents offered must comply with Criterion 1 (toxicity to aquatic organisms) and Criterion 4 (substances whose use is prohibited or restricted) of the EU environmental label for hard surface cleaners.³⁸

3.3.3 Procurement of printing services

The Procurement Plan of the Service provides for printing services, which meet the conditions for the application of the EU Green Public Procurement Criteria.³⁹ Since the Service foresees the application of a direct agreement (estimated procurement value of BAM 3,000.00 with VAT included), the tender documentation was not available on the public part of the Public Procurement Portal. Due to the low public procurement value, the choice of procedure and the scope of work (the Service also has its own printers for everyday use), it was not found purposeful to apply the green public procurement criteria.

The contracting authority has the possibility to require that the printing service be performed using printers, toners/cartridges (*see item 3.2.5*) and paper that meet the requirements of the green public procurement criteria. Also, the contracting authority may require the service provider to restore into use the printers that ceased to function during the contract by using spare parts, that is, repair, not by purchasing a new printer, in order to extend the life-cycle of the printer itself.

3.3.4 Procurement procedures from previous years

In addition to “ongoing” procurements within the Service that are repeated annually, the analysis of tender documents from previous years (2020 and 2019) found other procurements that were suitable for the application of EU Green Procurement Criteria, such as:

1. Procurement of external glass washing services⁴⁰
2. Procurement of office furniture⁴¹
3. Procurement of computer equipment⁴²
4. Procurement of office supplies⁴³
5. Procurement of a freight motor vehicle⁴⁴
6. Procurement of cleaning services for the *Konak* facility⁴⁵
7. Procurement of painting supplies⁴⁶
8. Procurement of toilet paper and paper towels⁴⁷
9. Removal of bulky waste⁴⁸

38 Commission Decision (EU) 2017/1217 of 23 June 2017 establishing the criteria for the award of the EU Ecolabel for hard surface cleaners, <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32017D1217&from=HR>.

39 EU green public procurement criteria for imaging equipment, consumables and print services, https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf

40 EU green public procurement criteria for public space maintenance, [https://ec.europa.eu/environment/gpp/pdf/191113_EU_GPP_criteria_for_public_space_maintenance_SWD_\(404\)_2019_final_EN.pdf](https://ec.europa.eu/environment/gpp/pdf/191113_EU_GPP_criteria_for_public_space_maintenance_SWD_(404)_2019_final_EN.pdf)

41 EU Green Public Procurement criteria for Furniture, https://ec.europa.eu/environment/gpp/pdf/toolkit/furniture_gpp.pdf

42 EU green public procurement criteria for computers, monitors, tablets and smartphones, <https://ec.europa.eu/environment/gpp/pdf/toolkit/computers%20and%20monitors/ENV-2021-00071-00-00-EN-TRA-00.pdf>

43 EU green public procurement criteria for copying and graphic paper, https://ec.europa.eu/environment/gpp/pdf/toolkit/paper_GPP_product_sheet.pdf

44 EU green public procurement criteria for road transport, <https://ec.europa.eu/environment/gpp/pdf/criteria/transport.pdf>

45 EU GPP criteria for indoor cleaning services, https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf

46 EU green public procurement criteria for paints, varnishes and road marking, https://ec.europa.eu/environment/gpp/pdf/criteria_for_paints_varnishes_and_road_marking.pdf

47 EU GPP criteria for indoor cleaning services, https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf

48 EU green public procurement criteria for road transport, <https://ec.europa.eu/environment/gpp/pdf/criteria/transport.pdf>

4. INDICATORS

In order to determine the impact of the application of green public procurement criteria in public procurement procedures, these recommendations will identify general and specific indicators for individual procedures in order to determine the environmental impact of green criteria on public procurement as a whole, as well as on each individual procedure.

4.1. General indicators

The first set of indicators are general indicators and refer to the overall level of application of green public procurement criteria in public procurement procedures, according to the ratio of conducted public procurement procedures by applying green public procurement criteria and the total number of conducted public procurement procedures. The general set of indicators is easy to determine following the criteria of objective verification. Below is a tabular overview of general indicators:

No.	INDICATOR
1	Number of public procurement procedures conducted by applying the green public procurement criteria
2	Number of public procurement contracts concluded by
3	Percentage of contracts awarded by applying the green public procurement criteria in the total number of awarded contracts during the year
4	Percentage of the value of contracts awarded by applying the green public procurement criteria in the total value of awarded contracts during the year

4.2. Specific indicators

Specific indicators are determined for each proposed procedure individually in accordance with its specificities. The challenge in determining specific indicators is to determine the objective calculation criteria that can be verified and to identify those criteria that really have an impact on the environment and the procurement of the contracting authority, in this case the Service itself. In case of incorrect determination of specific indicators, the measurement results will not be useful for the environmental impact analysis and for the public procurement of the contracting authority as a whole.

As a rule, specific indicators primarily relate to environmental impacts through specific CO₂ emissions, and the financial impacts of individual procurement through the life-cycle costs of a particular product.⁴⁹

CO₂ emissions and life-cycle costs cannot be determined for all pilot-proposed procurements according to European Commission rules. Namely, when it comes to CO₂ emissions, tools are available for the following types of public procurement: electricity, cars, light commercial vehicles, energy efficient renovation of facades of office buildings, IT devices (computers and monitors), mobile phone chargers, reconstruction/modernisation of public lighting.⁵⁰

In calculating life-cycle costs, the European Commission has developed calculation tools for the following procurement items: copiers and printers, outdoor and indoor lighting, computers and monitors, and vending machines.⁵¹ In addition, there are certain tools that have been developed as part of the SMART-SPP project.⁵²

For the above reasons, the specific procurement indicators described in this report are identified as follows:

49 Collection of statistical information on Green Public Procurement in the EU- Report on methodologies, https://ec.europa.eu/environment/gpp/pdf/statistical_data.pdf

50 Models for calculating carbon dioxide savings, <https://www.zelenanabava.hr/alati/modeli>

51 Life-cycle costing tools developed by the EC, <https://ec.europa.eu/environment/gpp/lcc.htm>

52 SMART SPP, <https://www.smart-spp.eu/index.php?id=7014>

No.	Procurement subject	Indicator
1	Procurement of electricity for institutions of Bosnia and Herzegovina	Savings of CO ₂ emissions at 7,465,500.00 kWh with 20% share of electricity from renewable sources (t/ CO ₂)
2	Procurement of food and beverages	<ul style="list-style-type: none"> • Percentage share of organic products in total food procurement • Percentage of fish coming from stocks that are within safe biological limits according to research by the Marine Society
3	Procurement of sanitary tapware	Percentage of water savings on a monthly basis
4	Official workwear and footwear	CO ₂ emission savings (gr)/kg of purchased textiles (if 20% of purchased textiles are of organic origin)
5	Procurement of toners	<p>Number of recycled/reused toners and cartridges used</p> <p>Number of printed pages/mass of consumables (gr)</p>
6	Postal services	CO ₂ emission savings (g CO ₂ /km) compared to the public procurement procedure without the application of green criteria
7	Procurement of hygienic consumables –means for professional use	Percentage of the total volume of procured means with reduced impact on the environment (%/l)
8	Procurement of printing services	<p>Percentage of the total number of used products sent to:</p> <ul style="list-style-type: none"> • Reuse • Processing • Recycling

5. ALTERNATIVE GREEN APPROACH TO PUBLIC PROCUREMENT

5.1. Procurement of printing paper

The subject of the tender documentation No. 01-16-11-42-4/18 of 27 March 2018 of the Service for Joint Affairs of the Institutions of Bosnia and Herzegovina is procurement of office supplies whose procurement is foreseen through a competitive procedure for submission of bids with a framework agreement for 24 months. Among other, the mentioned procurement plans for the purchase of A4 copy paper 80gr, specifically 3000 packages of 500 sheets per package. In total, these are 1,500,000.00 sheets of paper set by the Service as the upper limit of 24-month consumption. Also, the Service annually procures toner and cartridges, servicing of copiers, etc.

An alternative approach to this procurement would be the procurement of printer and copier rental services, meaning printing services with low environmental impact during the life cycle. The Service may arrange for the retention of existing printing and copying equipment unless it is purposeful to procure new printing and copying equipment. The supplier may undertake to service the equipment, replace the cartridges and toners, supply the printing paper, dispose of the waste and refill/recycle the toner and cartridges. Also, the supplier may be responsible for providing managed print services (MPS) or services for active management and optimisation of devices for printing documents and related business processes.

In this way, the number of necessary procedures for printing documents, as a basic need that the Service wishes to meet under these procurement procedures, is reduced. The payment per print system can certainly positively influence the Service to use printing and copiers and paper more rationally by prescribing clear printing procedures (which documents are allowed to be printed, font size, mandatory double-sided printing, tracking of print logs, wider use of electronic documents and alike).

5.2. Procurement of laundry services

An analysis of public procurement plans and related tender documents shows that a large number of employees within the Service are required to wear official and work uniforms according to the rules of the service. In order to express its commitment to green public procurement, the Service could in the future plan the procurement of laundry services for official and work uniforms, that is, laundry services that would fall under the EU Green Public Procurement Criteria.⁵³

The service can adjust the issue of laundry to green public procurement in two phases:

1. Procurement of textiles – by selecting textiles so that the use of energy for drying and ironing is reduced to a minimum,
2. Procurement of laundry services – by prescribing criteria related to energy consumption and selection of detergents with reduced environmental impact.

5.3. Procurement of plastic bags

In its procurement plans for hygienic consumables, the Service foresees the procurement of plastic bags. Thus, in the tender documentation No. JN01-16-11-105-7/20 dated 9 October 2020, which implies the conclusion of a framework agreement for 24 months, the Service had foreseen the procurement of the following:

- 30,000 disposable plastic bags (light-weight carrier bags),
- 1,900,000 garbage bags,
- 3,000 freezer bags.

Directive 2019/904EU⁵⁴ of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (Single-Use Plastics Directive) prescribes various measures for certain plastic products, including

⁵³ EU green public procurement criteria for textiles products and services, https://ec.europa.eu/environment/gpp/pdf/criteria/textiles_2017.pdf
⁵⁴ Directive (EU) 2019/904EU on single-use plastic, <https://eur-lex.europa.eu/eli/dir/2019/904/oj>

disposable plastic bags, all with the aim of reducing waste in seas, as well as the impact of plastic waste on the environment and human health.



With the support of UNDP, a special report [Transposition of the Single-Use Plastics Directive and its Impact on the Economy of Bosnia and Herzegovina](#) was prepared in order to identify the current status of the EU Single-Use Plastics Directive, analysis of plans for adaptation of those industries that use single-use plastics covered by the Directive in their business, and the possibility of its transposition in BiH legislation.

It is recommended that the Service foresees the procurement of biodegradable bags, which are certainly not a completely green alternative, but surely have a lower environmental impact. It is necessary to raise awareness of the harmfulness of the use of plastic bags for the environment, in order to reduce their consumption.

Also, the Service can use reusable bags as much as possible, pack more products in the same bag if possible, and when it comes to garbage bags, in addition to reusable bags, the Service can establish a sorting system for recyclable and non-recyclable waste.

5.4 Procurement of compost

The Service also includes the procurement of horticultural material in its procurement plans. The analysis of the tender documentation No. JN01-16-11-31-5/20 dated 26 February 2020, which refers to this specific subject of procurement, it is evident that the procurement of fertilisers is also planned (for example, for orchids and lubrihumus).

In accordance with the remarks from the previous point concerning the separation of waste, in the case of organic waste, meaning food waste, which the Service certainly generates in certain quantities due to its business operations, this waste could be used for compost production following a do-it-yourself or DIY system, which could certainly reduce the cost of procuring organic fertiliser as part of the procurement of horticultural material. In this way, the principles of circular economy are achieved.

6. CONCLUSION

Bosnia and Herzegovina is lagging behind in the introduction of the 2014 Directives for more than 5 years now compared to the European Union Member States. This fact also influenced the decision of the contracting authorities not to apply the green public procurement criteria in practice, although the existing PPL provides for such a possibility. Bosnia and Herzegovina does not have a clearly defined green procurement strategy that would demonstrate green commitment, nor is there a formal approach, guides for contracting authorities and bidders, web presentations and similar materials, which would promote the implementation of green public procurement. All this is indicative of the importance of this pilot project. The Service for Joint Affairs of Institutions of Bosnia and Herzegovina should also be credited for its courage to show by its example that green public procurement is nonetheless possible in Bosnia and Herzegovina.

Recommendations in this Report indicate countless possibilities for the application of green criteria in public procurement, both those defined by various pre-prescribed criteria, which facilitates their application, as well as innovative and creative actions on the part of the contracting authority itself.

Thus, the recommendations themselves show that the contracting authority has the possibility to:

- Define green criteria as qualification requirements of potential bidders,
- Determine technical specifications by applying green criteria in order to obtain environmentally friendly goods, services or works,
- Set green criteria for awarding contracts in a way that gives greater priority to those bidders who offer more environmentally friendly solutions,
- Determine special green criteria in the provisions of the contract that are related to the manner of execution of a specific contract for the supply of goods, services or works,
- Approach individual procurements in an alternative green way in order to achieve the same procurement goal but in a more environmentally friendly way, etc.

The most important factor, however, in the implementation of green public procurement is the ‘green commitment’ of the contracting authority and its genuine intention for a greener approach that concerns not only its procurement process but also the overall behaviour and attitude towards the environment.

The pilot project implemented by the Service for Joint Affairs of the Institutions of Bosnia and Herzegovina with the support of UNDP, of which this Report is a part, will try to point out that the application of green criteria in the public procurement system in Bosnia and Herzegovina is not impossible, that green approach has its direct and indirect benefits, and thus influence other contracting authorities to encourage the application of green criteria in their public procurement procedures. Also, it is necessary to encourage the competent institutions to see the potential of green procurement as a powerful instrument of environmental protection because, as mentioned above, contracting authorities are major consumers of goods, services and works in Bosnia and Herzegovina, and could be generators of domestic economy towards green, more environmentally friendly and innovative solutions. The green approach of national authorities and other contracting authorities can have a positive impact on individuals and raise environmental awareness of society as a whole in Bosnia and Herzegovina.