

# 1. INTRODUCTION AND DEFINITION

Every year, over 250,000 public bodies and agencies spend approximately the 14% of the EU Gross Domestic Product (GDP) on works, supplies and services. Therefore, public administration constitutes a key strategic market, able to contribute towards the change to a closed circle economy through its purchasing preferences.

More specifically, “Circular public procurement can be defined as the process by which public authorities purchase works, goods or services that seek to contribute to closed energy and material loops within supply chains, whilst minimising, and in the best case avoiding, negative environmental impacts and waste creation across their whole life-cycle” (EU Toolkit, 2019). Public procurement is seen as a means towards an environmentally sustainable economic and social activity.

This toolkit intends to integrate the European Union general rules and principles on public procurement with those linked to waste management. It focusses, both on public procurement procedures on waste management and on green public procurement to address waste prevention.

As it will be shown, a green public procurement (GPP) appropriate implementation has to define what needs to be purchased on the basis of an informed choice, as well as it has to make a skilled use of the technical specifications in the calls for tenders. Indeed, the contract award criteria, technical specifications and the conditions for performance of contracts will be the guidelines to define the service, work or supply to be acquired.

The contracting authority should be aware of its obligations and its ability to influence through public procurement. In order to ensure a GPP, it needs to consider how best integrate sustainable criteria with its needs of a service, work or supply.

To define the subject-matter of a public contract properly is important because the contract award criteria have to be linked to it, according to the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement.<sup>1</sup> Therefore, in addition to the real needs and the subject-matter nature itself, its main environmental impacts should be identified.

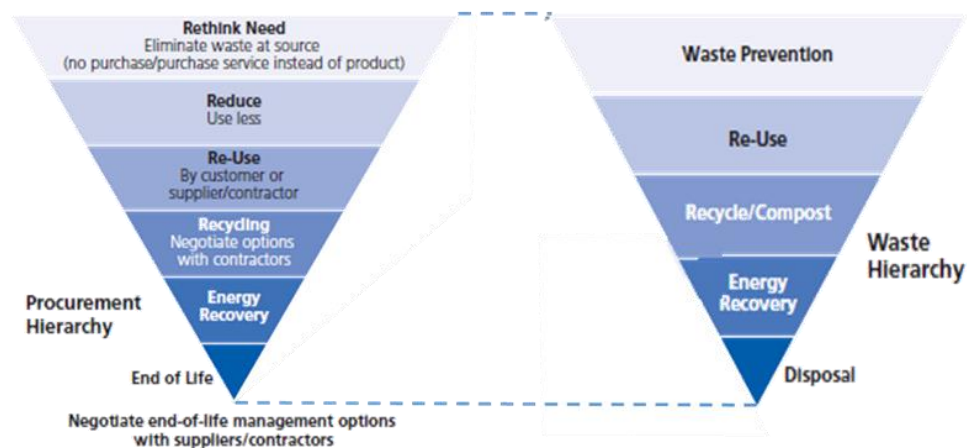
“These preparatory early stages of the procurement cycle provide the opportunity to challenge the need and adopt different approaches and more circular business models by asking questions, for example, do you need vehicles or mobility? Circular procurement requires an understanding of not just what products are made from and where they have come from, but also how they will be used and what happens to them after their first life” (EU Toolkit, 2019).

To define the subject-matter, attention should be paid to: avoidance (reducing consumption); reuse (considering options for purchasing reused or remanufactured items); encouraging markets for secondary materials (e.g. by specifying recycled content in new products); encouraging innovation for more circular products (and services); optimising the lifetime of products through repair and maintenance or servicing contracts and sell-on options and considering end-of-life options that help close product e.g. through take-back (EU Toolkit, 2019).

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<sup>1</sup> Art. 67 Public Procurement Directive 2014/24/EU.

Figure 1. Circular public procurement. Hierarchies.



Source: EU Toolkit, 2019.

An accurate definition of the subject-matter has to take into account the opinion of stakeholders and suppliers. For doing so, the Public Procurement Directive 2014/24/EU<sup>2</sup> sets out the preliminary market consultations. They allow civil servants and public workers to know how a service, work or supply they are planning could be performed by the potential contractors. It helps to evaluate if the procurement plans are feasible and their desirable scope and features. The consultation should in all cases comply with the principles of non-discrimination and transparency, and avoid distorting competition.

This system is useful to inform economic operators of the procurement plans and requirements for waste management and circularity and makes it possible for the contracting authority to understand what the market can provide.

Professional staff involved in the procurement procedure, including technical and market experts, should be committed to the environmental purchase and to its social performance. By doing so, contract award criteria aligned with GPP would be set up, to materialise the political will reflected in the regulations (Pernas, 2022).

<sup>2</sup> Art. 40, Public Procurement Directive 2014/24/EU.