

Zero-Draft

Guide on Green and Sustainable PPP Procurement for the SDGs

Disclaimer:

This preliminary draft is provided for discussion purposes only to participants of the 8th edition of the [UNECE International PPP Forum](#). It is made available as received by the drafting team, and represents ongoing work that will be enhanced through dialogue and input from attendees. Following this collaborative feedback, the guide will undergo a rigorous peer-review process and is expected to be submitted for consideration by UNECE member States at the Working Party on PPPs in November 2024.

Avant propos

(...)

(This document is intended to create awareness of the importance of sustainable and green PPP procurement. The present Guidelines thus provide informative context for member States to develop an enabling environment that promotes green and sustainable procurement policy & practices through the use of the United Nations Economic Commission for Europe (ECE) approach of Public- Private Partnerships for the Sustainable Development Goals (PPPs for the SDGs).

More broadly, these Guidelines aim to encourage a transition towards a more green and sustainable PPP procurement process. Material for further reading is available in Annex XX for those seeking further details.

The ECE is currently working on separate guidelines that will complement the present document and cover topics related to PPPs for the SDGs in the fields of sustainable finance, digital and green transformations for sustainable development....)

Introduction

The Sustainable Development Goals (SDGs) require a massive transformation of our economies and societies, and a shift towards more sustainable patterns of production and consumption. Public-Private Partnerships (PPPs) are a powerful tool to support this transformation, as they can mobilise private sector capital and expertise to deliver public services and infrastructure that are aligned with the SDGs. In fact, it is becoming widely recognized that in order to meet the critical timeframes that the UN is applying to the SDGs and achieving Net Zero, i.e. the 2030 and 2050 targets, simply cannot be met without a significant increase in the use of PPPs. The 'infrastructure funding gap' is further standing in the way of their achievement and is estimated at anywhere between \$800 billion and 2 trillion a year. Therefore, public-private partnering and deployment of Private capital will be vital, both in closing the funding gaps but also in reaching global leadership's worthy, but aspirational goals. Governments, businesses, and civil society see this and are increasingly recognizing the central role of public procurement and PPPs to advance the SDG agenda and deliver positive environmental and social outcomes in the process.

This is no easy task, however, and not only are more PPPs needed but those projects must also be better implemented to realise the full potential of every PPP advance the SDGs. Practically speaking this means that PPPs and their procurement must be well-structured to deliver optimised environmental and social outcomes. This is intrinsic and reflected in the new ESG pre-occupations too, i.e., ESG metrics that have moved centre-stage in the financial, regulatory and corporate governance fields.

This guide identifies ways and makes recommendations on how governments can adopt green and sustainable PPP procurement practices and policies, and do so in ways that will better achieve the SDGs ('PPPs for the SDGs'). It also addresses some of the challenges that come with integrating these social and environmental sustainability considerations throughout the PPP procurement and implementation process in practice and policy.

PPPs present unique opportunities

Unlike traditional public contracts, PPPs involve procuring long-term, privately financed and integrated arrangements between public and private actors. The contract term, the risk-sharing approach, the

whole-life costing, the integration of functions and the use of performance based criteria and 'output' specifications give governments on the one hand a unique opportunity to craft SDG-driven projects. On the other hand, as companies are seeking more and more to invest in ESG driven (and/or compliant) projects, it offers private partners unique opportunities to set up and support 'PPPs for the SDGs.'

Of course setting up green and sustainable PPPs requires governments to adopt the right policies and instruments to ensure that those considerations are integrated throughout the 3 stages of a PPP and its procurement. These are 1) Planning (including needs assessment and project identification); 2) Process (including soliciting, bidding, evaluation and award); and 3) Implementation (including operations, project maintenance, and contract management).

Green and sustainable PPPs and 'PPPs for the SDGs'

In furtherance of the UN SDGs and SDG 17.17 in particular, the ECE has developed the PPP for the SDGs approach that focuses on the achievement of the SDGs in PPPs. The main objectives of PPPs for the SDGs is to ensure projects deliver value for money, value for "people" and for the "planet" in the use of the model. PPPs for the SDGs are thus designed to achieve public infrastructure and service needs while ensuring the following five desirable outcomes:

- (i) Access and Equity;
- (ii) Economic Effectiveness and Fiscal Sustainability;
- (iii) Environmental Sustainability and Resilience;
- (iv) Replicability; and
- (v) Stakeholder Engagement.

PPPs for the SDGs are thereby an enhanced model of PPPs, designed to implement the SDGs and be "fit for purpose". In ensuring value for people and for the planet, this PPP process is designed to overcome some of the weaknesses of both traditional procurement and traditional PPP models.

The ECE has developed and published several materials to support the implementation of PPPs for the SDGs. Notably, it has developed Guiding Principles on PPPs in Support of the SDGs¹⁵ in 2019, ¹⁶ as well as a PPP Evaluation Methodology for the SDGs in 2021¹⁷ to assist governments in assessing whether a PPP and infrastructure project meet the above-mentioned five desirable outcomes for the SDGs.

ECE has further established a team of international experts to develop a practical guide for public officials on green and sustainable PPP procurement. UNECE has also organised several workshops and policy discussions on this topic in the last two years, involving stakeholders from governments, private sector, academia and civil society. These events have helped to promote green and sustainable procurement in PPPs and collect insights and recommendations on how they can be applied along the three stages of PPP procurement. The knowledge of the experts and stakeholders gathered was used to develop this guide on green and sustainable PPP procurement for the SDGs.

Green and sustainable PPP procurement policy and legislation

Green and sustainable agenda in the SDGs

As the PPPs for the SDGs approach is modelled upon the SDG framework, there are a large number of green and sustainable objectives embedded and weaved within and across the SDGs and the PPPs for

the SDGs approach in various ways. The table below highlights some of environmental and social objectives contained with the SDG agenda and applicable to PPPs for the SDGs model that are relevant in relation to this guide.

SDG 12.7.1 promotes "public procurement practices that are sustainable, in accordance with national policies and priorities".	
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Further Relevance/examples

Public procurement wields enormous purchasing power, accounting for an average of 12 to 20 percent of gross domestic product (GDP) in OECD countries, and even up to 28 percent of GDP in developing countries. Leveraging this purchasing power by promoting public procurement practices that are sustainable, in accordance with national policies and priorities, plays a key role in achieving Sustainable Consumption and Production (SDG 12) and in addressing the three pillars of Sustainable Development.

For this reason many countries and organisations including the European Union are also promoting and facilitating sustainable public procurement implementing specific initiatives. Initiatives include setting up and creating Sustainable Public Procurement policies and/or SPP legislation/ and or improve policy and legal frameworks.

In the last decades, for example, sustainable development has become a fundamental objective of the EU. Many strategies have been launched to strengthen environmental policies and develop a market for greener products. In this context, public procurement is playing a crucial role as the market-based instrument being used to achieve various sustainability objectives. The potential has been increasingly recognised, and over recent years, there has been growing political commitment at EU member states level and at the EU itself. This evolution is reflected in EU legislative and policy approaches to public procurement.

To give some examples, the in-force Public Procurement directive package adopted in 2014 has clarified the scope for permissible sustainable procurement decisions. With regard to the public sector (Directive 2014/24/EU), environmental considerations are currently provided in many of its provisions, such as Art. 18 on procurement principles; Artt. 42 and 43 on technical specifications and labels; Artt. 56 and 67 on contract award; Art. 57 on exclusion grounds; Art. 68 on life-cycle costing; Art. 69 on abnormally low tender; Art. 70 contract performance clauses; and Art. 71 on subcontractors. To not interfere too heavily with the Member States and contracting authorities, the procurement directives left the pursuit of environmental consideration in procurement mostly discretionary, opting for sectoral mandatory requirements. As such, some EU sectoral legislation requires contracting authorities to make their procurement "greener". Examples include the Regulation (EC) No 106/2008, which demands that contracting authorities require a certain level of energy efficiency in their public contracts. The second one is Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019, amending Directive 2009/33/EC on promoting clean and energy-efficient road transport vehicles on clean vehicles.

From a policy perspective, the EU has often intervened to spur green purchasing. Several communications have been aimed at stimulating the dissemination and development of greener products, facilitating access and awareness in public procurement. The EU's agenda can be divided into three blocks: policies before the former directive package of 2004, which set for the first-time guidance on the possibilities of integrating environmental considerations into procurement; policies between 2004 and 2014, which influenced the currently in-force procurement package, and policies after 2014 which are impacting the setting of new and sectoral minimum mandatory GPP criteria.

Recent policy documents include:

Policies after 2014

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Closing the loop - An EU action plan for the Circular Economy, COM/2015/0614 final
- EU Commission, Directorate-General for Environment, Buying green! – A handbook on green public procurement, Publications Office, 2016;
- European Green Deal: Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee and the Committee of the Regions: The European Green Deal, COM/2019/640 final;
- EU Commission, A new Circular Economy Action Plan for a cleaner and more competitive Europe, COM/2020/98 final.

Developing a well-considered policy that promotes green and sustainable public procurement can also contribute to the creation of green and sustainable PPP projects. However, a general green and sustainable procurement policy often will not suffice. The focus is most of the time on traditional public contracts and therefore the traditional public procurement of works, goods and services. It is submitted that PPPs are very different from traditional public contracts, as is their procurement and the dynamics involved. In fact the procurement process in PPPs is oftentimes longer and more complicated, as is the evaluation and as are the tender documents. Furthermore because of their long term and their scope PPPs offer additional opportunities for greening infrastructure and creating sustainability in service and infrastructure provision. The PPP approach provides bidders more incentives to offer innovative solutions, including over the long-term life of a typical PPP contract. For example a PPP could be used to green a (part of a) city. Because of this there is a risk that traditional Procurement policies are not fully fit for PPPs or that opportunities are missed.

(Other)

Recommendations

- 1. Be aware of the differences and the opportunities**

Educate stakeholders about the characteristics and potential benefits of green and sustainable PPP procurement compared to traditional procurement methods.

Highlight how incorporating sustainability into PPP procurement can lead to long-term cost savings, improved environmental outcomes, SDG alignment and more general enhanced social value.

2. Create specific policies for green and sustainable PPP procurement

Develop tailored PPP procurement policies that address the distinctive features of green and sustainable PPP projects, such as their longer-term nature and focus on environmental and social outcomes.

Take inspiration from existing guidance, such as the UK's framework for incorporating green issues into PPPs,¹ to inform the development of specific policies, and identify and develop readily and usable 'standards' and criteria in this area

3. Implement specific green and SPP policies:

Translate policies into actionable strategies and initiatives that promote green and sustainable practices, including nature based solutions, within PPP projects.

Enhance knowledge management and stakeholder engagement to ensure effective implementation and alignment with broader organizational goals.

4. Pay attention to policy implementation:

Design nudges and incentives to encourage desired behaviours and outcomes in PPP projects, considering factors such as taxation and permitting.

Develop specific policies to facilitate the participation of small and medium-sized enterprises (SMEs) in PPPs, addressing barriers to entry and promoting inclusivity.

5. Create a pipeline and incentivize the right projects:

Prioritize the procurement of PPP projects that align with sustainability goals and contribute to community and social benefits.

Incentivize the development of green and sustainable PPP projects through measures such as tax credits and accelerated permitting.

6. Effective monitoring and reporting against SDGs:

Establish robust monitoring and reporting mechanisms to track progress against Sustainable Development Goals (SDGs) and other relevant sustainability targets.

Ensure transparency and accountability in reporting on the environmental, social, and economic performance of PPP projects.

7. Create standard clauses and standardized processes:

Develop standardized documents, clauses and procurement processes to streamline the PPP procurement process, create familiarity and standardized expectations in the bidding market and reduce administrative burden.

¹ <https://www.thenbs.com/PublicationIndex/documents/details?Pub=OGC&DocID=266643>

Combat lengthy documentation processes by providing clear and standardized templates for PPP contracts and agreements.

8. Stakeholder engagement and fairness:

Consider the appointment of an independent fairness advisor to oversee the procurement process and ensure transparency, openness, and fairness and increase market confidence and market participation in the projects.

Recognize the diverse needs and interests of stakeholders and tailor engagement strategies accordingly to build trust and foster collaboration.

Consider establishing a multi-stakeholder advisory committee comprising representatives from government agencies, private sector partners, civil society organizations, and local communities to ensure broad-based input and alignment with sustainability priorities.

9. Diversify policy approaches:

Acknowledge that different sectors have unique characteristics and requirements, and tailor policies and strategies accordingly.

Recognize the diversity of PPP projects and adjust policy frameworks to accommodate varying project types, such as ports, roads, and waste facilities.

10. (Recommendation)

11. (Recommendation)

Green and sustainable PPP procurement in project/ practice

Relevance

In an era defined by escalating environmental challenges and a growing urgency for sustainable development, the integration of green principles into Public-Private Partnership (PPP) procurement

processes has emerged as a critical imperative. As the global community grapples with issues such as climate change, resource depletion, and biodiversity loss, the traditional paradigms of PPP procurement-and indeed PPP structures themselves-are undergoing a profound transformation.

This part of the guide offers a roadmap for governments seeking to navigate this complex terrain with purpose and efficacy. Grounded in a commitment to environmental stewardship and responsible resource management, the recommendations outlined herein serve as a blueprint for reimagining PPP procurement practices through a green and SDG lens. By integrating best practices into the PPP procurement process, organizations can effectively deploy procurement as a powerful lever for driving positive environmental outcomes and fostering a culture of sustainability. From refining the project pipeline and setting clear prequalification and award criteria, to incorporating performance clauses and functional specifications that enforce sustainability commitments, each step represents an opportunity to advance sustainability goals and contribute to a more resilient and equitable future. Through strategic alignment of procurement practices with sustainability objectives, PPPs can emerge as drivers of positive change, catalyzing innovation and creating lasting value for communities and ecosystems alike.

Recommendations

1). Planning and Preparation:

At the heart of green and sustainable PPP procurement lies the imperative of thoughtful planning and meticulous preparation. A robust needs assessment forms the cornerstone of this process, transcending conventional notions of demand analysis to encompass a holistic consideration of SDG priorities. By embracing principles of circularity, waste minimization, biodiversity protection and carbon neutrality, governments and organizations can unlock synergies between economic efficiency and environmental preservation, laying the groundwork for procurement strategies that prioritize resource conservation and resilience.

Conduct a comprehensive **needs and sustainability impact assessment** at the outset of the procurement process to identify opportunities for maximizing environmental benefits and minimizing negative impacts across the project lifecycle.

Effective collaboration among stakeholders is indispensable for the success of any sustainable procurement initiative. A comprehensive stakeholder alignment study serves as a catalyst for engendering shared understanding and collective commitment to sustainability goals. By fostering open dialogue and cultivating a sense of ownership among diverse stakeholders, organizations can forge partnerships that transcend traditional boundaries, driving collective action towards common sustainability objectives.

Leverage the PIERS methodology (ECE PPP and Infrastructure Evaluation and Rating System) to guide the project preparation, and foster the design and implementation of sustainable SDG outcomes. This may need training and capacity building as PIERS continues to be rolled out.

For the procurements, leverage and build in within performance standards (and resulting contractual obligations) existing standards and/or resilience rating systems (e.g. Envision rating system); LEED - Leadership in Energy and Environmental Design; PIEVC - Public Infrastructure Engineering Vulnerability Committee; and standards (e.g. SuRe Standard for Sustainable and Resilient Infrastructure).

Consider Third-Party Verification throughout the process. In an era marked by heightened scrutiny and accountability, the importance of third-party verification in validating sustainability claims cannot be overstated. By subjecting procurement processes to independent scrutiny, organizations can enhance transparency, build trust, and mitigate the risk of greenwashing. Through rigorous verification of outputs and outcomes, stakeholders can ensure that sustainability remains more than a mere buzzword, but rather a tangible commitment upheld through concrete actions and measurable results. Engage reputable third-party certification bodies or sustainability experts to conduct independent audits and assessments of procurement practices, ensuring adherence to established sustainability standards and performance metrics.

(Recommendation)_

(Recommendation)

2) Process (including bidding, evaluation and award)

The procurement process within Public-Private Partnerships (PPPs) is a multifaceted journey characterized by its complexity. From the initial stages of pre-qualifying, bidding and evaluation to the ultimate awarding of contracts, each phase presents opportunities to embed sustainability principles and drive positive environmental outcomes. This part of the guide explores best practices and considerations for integrating sustainability into the PPP procurement process, with a focus on prequalification criteria, bidding, evaluation, award stages, choice of award criteria, and the inclusion of performance clauses.

Establishing Well-Thought Prequalification Criteria.

Develop a comprehensive set of sustainability criteria for supplier prequalification, including indicators related to environmental management systems, greenhouse gas emissions reduction targets, and social responsibility practices.

The establishment of rigorous prequalification criteria is foundational to embedding sustainability into PPP procurement practices. By prioritizing suppliers with a proven track record of environmental stewardship and innovation, organizations can catalyze market transformation and drive the adoption of sustainable practices across supply chains. Developing a comprehensive set of sustainability criteria for supplier prequalification is essential to ensure alignment with sustainability objectives. These criteria may include indicators related to (experience with) environmental management systems, greenhouse gas emissions reduction targets, and social responsibility practices. By setting clear expectations from the outset, organizations can create a framework that incentivizes sustainability performance and fosters a culture of continuous improvement.

Integration of Life Cycle Assessment (LCA) and Total Cost of Ownership (TCO) Considerations.

Utilize life cycle costing tools and databases to evaluate the long-term environmental footprint and cost implications of different offers, enabling informed decision-making based on a comprehensive understanding of lifecycle impacts.

PPPs offer a unique opportunity to focus on life cycle assessment (LCA) and total cost of ownership (TCO) considerations. By accounting for the full spectrum of environmental impacts and long-term costs associated with goods and services, private partners can make holistic choices that optimize long-term value and minimize environmental harm. Utilizing robust methodologies and transparent award criteria, governments can prioritize investments that deliver enduring social, environmental, and

economic benefits. This empowers decision-makers to make informed choices based on a comprehensive understanding of lifecycle impacts, ensuring that sustainability remains a guiding principle throughout the procurement process.

Choice of Award Criteria.

Set award criteria that prioritize sustainability performance, including factors such as [environmental technical capacity] and supply chain management measures. Assess lifecycle costs when comparing tenders and reject abnormally low bids that do not comply adequately with environmental standards.

The choice of award criteria and proper weightings in a PPP procurement process is a critical determinant of procurement outcomes and will significantly influence supplier behaviour. Organizations should align award criteria with sustainability objectives, incentivizing suppliers to deliver superior environmental performance. Award criteria may include factors such as [environmental technical capability and supply chain management measures. By setting award criteria that prioritize sustainability performance, both governments awarding projects and private partners placing sub-contracts can signal their commitment to environmental stewardship and drive market demand for greener products and services. Additionally, governments should assess lifecycle costs when comparing tenders and reject abnormally low bids in PPPs that do not comply adequately with environmental standards. This ensures that sustainability considerations are integrated into the evaluation process and that PPP contracts are awarded to bidders and suppliers who demonstrate a genuine commitment to environmental responsibility.

Inclusion of Performance Clauses:

Integrate performance clauses that enhance sustainability objectives into contract agreements, outlining specific environmental requirements, performance expectations, and measurable targets. Implement monitoring mechanisms to track progress and ensure compliance with sustainability commitments throughout the contract lifecycle, reinforced where appropriate by incentive/penalty mechanisms

Performance clauses in PPP contracts play a crucial role in ensuring that sustainability commitments are upheld throughout the contract lifecycle. These clauses, often referred to as “green clauses,” outline specific environmental requirements and performance expectations, primarily amongst the KPIs (key performance indicators) in the contract, that contractors must meet. For example, performance clauses may require contractors to adhere to stringent environmental standards, implement energy-efficient practices, or incorporate renewable materials into project delivery. By incorporating measurable targets and monitoring mechanisms, performance clauses enable organizations to track progress, identify areas for improvement, and hold contractors accountable for achieving sustainability goals. Penalty clauses can impose liability for liquidated damages, whilst incentive payments can result in bonuses for achieving high standards.

Integration of Functional Specifications:

Integrate functional specifications that prioritize sustainability objectives into procurement documents, emphasizing desired outcomes such as energy efficiency, resource conservation, and waste reduction. Provide private partners [and suppliers] with flexibility to propose innovative solutions that meet sustainability criteria while delivering value for money.

Functional specifications offer a unique opportunity to enhance green and sustainable objectives within PPP procurement processes. By delineating the desired outcomes and performance requirements of goods and services, functional specifications allow governments and organizations to prioritize sustainability considerations without prescribing specific technical solutions. For instance, functional specifications may emphasize energy efficiency, resource conservation, or waste reduction, providing private partners [and suppliers] with flexibility to innovate and propose environmentally friendly solutions. By integrating functional specifications that align with sustainability goals into procurement documents, organizations can foster competition, drive innovation, and accelerate the adoption of sustainable practices across supply chains.

(Recommendation)_

(Recommendation)

3) Implementation (including contract management)

Focus on effective contract management ensuring sustainability commitments are upheld.

Once a PPP contract is awarded, effective contract management becomes paramount in ensuring that sustainability commitments are upheld throughout the project lifecycle. The public partner must actively monitor and evaluate contractor performance against sustainability targets, utilizing key performance indicators (KPIs) and reporting mechanisms to track progress. Regular audits and assessments conducted where appropriate with the support of reputable third-party organizations, help validate sustainability claims, avoid greenwashing and ensure compliance with contractual obligations.

(Recommendation)_

(Recommendation)

ANNEX XX