



# **Sustainable Public Procurement Manual**

## **for Government Procurement Officers**

**Colophon**

This manual for sustainable public procurement was prepared at the request of the Ministry of Infrastructure and the Environment (I&M).

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## 1. Introduction

The purpose of this manual is to assist procurement officers and other parties involved in public procurement processes to implement sustainable procurement practices. It is prepared in the context of the Ministry of Infrastructure and the Environment's programme Sustainable Procurement. The manual serves as an aid in the use of the criteria documents. The criteria documents describe the sustainability criteria that public authorities should use to implement sustainable procurement practices for approximately 45 products, services and public works.

The central government and other public authorities in the Netherlands have decided to set the proper example and implement sustainable procurement practices as a means of encouraging the market to implement sustainable production practices. Ambitious goals have been set for this purpose. For example, the central government (core departments and executing agencies) has set a target of 100% sustainable procurement in 2010. Municipalities have set their target at 75% in 2010 and 100% by 2015. Provinces and water boards have set their target at 50% in 2010 and 100% by 2015 as well. District water boards for the time being have set a minimum target of 50% for 2010.

Price and quality generally are the most important criteria in terms of the procurement of products, services and public works. Sustainable procurement adds a new dimension to this: from now on, you must also include social and environmental aspects as part of your considerations. The following considerations apply to this 'new' method of procurement:

- Market reviews or consultations must also include the identification of what the market has to offer in terms of sustainability and the associated costs.
- Sustainability criteria must be incorporated into your call for tenders document and/or your contract.
- Suppliers, contractors or service providers must be selected who comply with certain sustainability criteria.
- You must verify that the supplier, contractor or service provider complies with the agreed upon sustainability aspects in actual practice.

The next section contains additional information about the criteria documents. Section 3 explains the various stages that precede, constitute and follow the procurement process and the methods available for incorporating sustainability as part of each stage. Section 4 identifies ways in which to obtain more information about procurement or sustainable procurement.

### ***Information about procurement and tendering***

A certain level of basic procurement and tendering knowledge is desirable when using this manual. Readers who lack this knowledge or whose knowledge is not up to par are referred to the [PIANOO Expertisecentrum Aanbesteden](#) (PIANOO Dutch Public Procurement Expertise Centre) and to the [Metrokaart](#) (PIANOO Metro Map). This map provides information about procurement, European tendering practices, the procurement process, relevant laws and regulations and the procurement function. In addition, the Metrokaart contains interesting links and references to other documents on the PIANOO site. Furthermore, [Europa decentraal](#) – a European laws and regulations knowledge centre for local and regional government – hosts a website that includes information on tendering.

## 2. Criteria Documents

This Sustainable Public Procurement Manual serves as an aid in the use of the criteria documents. The latter describe the sustainability criteria that public authorities can use to implement sustainable procurement practices for approximately 45 products, services and public works. The criteria documents are based on the market situation and the regulations in effect for the product groups at the time these documents were prepared. Criteria documents are regularly expanded and updated. The most recent overview of these documents is contained on the [website on sustainable public procurement](#) of the PIANOo Dutch Public Procurement Expertise Centre.

### 2.1 The procurement process model as a stepping stone

Van Weele's popular procurement process model (Figure 1) was selected as the basis for developing the criteria documents. The first stage of this model consists of the 'specification' of the demand or procurement need. The criteria documents include criteria such as minimum requirements and award criteria for this stage. The specification stage is detailed in Section 3.2. Because each procurement starts with a preparatory stage during which decisions are made that affect the sustainability of the procurement result, a preparatory stage has been added to Figure 1. The criteria documents include points for consideration for this stage that are aimed at the procuring government organisations. These points for consideration are not intended to be incorporated in your procurement or call for tenders documents. For this reason they have not been legally vetted and remain beyond the scope of the sustainable public procurement monitor. They constitute suggestions related to the operation, policy or decisions of the procuring organisation that can affect the procurement or its sustainability. The preparatory stage is detailed in Section 3.1.

Following the completion of the procurement process, there are usually opportunities inherent in the use of a product, service or public works that contribute to sustainability. For this reason, a utilisation stage has been added to the model as well. The criteria documents also include points for consideration for this stage aimed at the procuring government organisations. The utilisation stage is detailed in Section 3.3.



Figure 1: The Procurement Process

#### **Procurement process model and construction projects**

*The procurement process model can also be used for construction projects (buildings and groundwork, road and hydraulic engineering). Construction projects are characterised by different process phases that can take many years. Roughly the following phases are completed:*

- Initiative/Plan
- Design
- Realisation
- Management and Maintenance

The initiative to undertake a project is always in the hands of government. This phase is consequently part of the preparatory stage of a tender. The activities in the subsequent phases can be carried out by a government organisation itself, by market players or by a partnership. In the last two instances, the design, realisation and management/maintenance can be tendered separately or in various combinations (the [Leidraad aanbesteden voor de bouw](#)<sup>1</sup> (Tendering Guidelines for the Construction Industry) contains further information on this subject). Regardless of whether these phases are tendered jointly or separately, the stages in the procurement process model can be completed as soon as the call for tenders is initiated. The criteria documents identify the criteria that apply to each stage.

<sup>1</sup> The Tendering Guidelines for the Construction Industry were developed by the Tendering Committee instituted by the Regieraad Bouw (Dutch Council for Innovation in Building and Construction). The Tendering Committee consists of representatives of government contracting authorities as well as market players, supplemented by independent experts. The author of this document is Prof Chris Jansen, professor of private law at VU Amsterdam. For further information visit [www.leidraadaanbesteden.nl](http://www.leidraadaanbesteden.nl).

## 2.2 Criteria for all public authorities for all procurements

The criteria for sustainable public procurement are structured such that they can be applied by *all* government organisations for *all* procurements and calls for tender. However, the way in which the criteria are used is determined by you. This in part also depends on the nature and the scope of the procurement.

### Procurement and Tendering

Tendering is a form of procurement. Government organisations must issue a European tender for purchases above a certain [threshold](#). This is a form of procurement conducted in accordance with rules and procedures prescribed by the European Union. These rules and procedures are set down in two [procurement directives](#): 2004/17/EC (for calls for tenders for utility sectors) and 2004/18/EC (for calls for government tenders for supplies, services and public works that are not provided by the utility sector). In the Netherlands, these directives have been implemented in the form of the *Besluit aanbestedingen speciale sectoren* (BASS) (Tendering (Special Sectors) Decree) and the *Besluit aanbestedingen overheidsopdrachten* (BAO) (Public Procurement (Tendering Rules) Decree). Government organisations are not required to issue European tenders for procurements below the thresholds. Many government organisations have established procedures for procurements that fall below the thresholds as part of their procurement policy. In addition to the abovementioned procedures, it is usually also possible [to put out a single or multiple private tender](#).

The criteria are structured such that they can be used for European tenders. However, for procurements below thresholds and for example a request for proposal issued to a single party (single private tender) you do not need to compare suppliers or proposals. In that case you will probably only include the minimum requirements and contract provisions from a criteria document. In case of a request for proposal issued to multiple parties or a request to the market to come up with (sustainable) solutions, you can also use other criteria from the criteria documents, such as award criteria. The possibility and necessity of applying different criteria will therefore differ from one procurement to the next.

Because it is not possible to develop project and location-specific conditions for inclusion in generic criteria, it will be necessary to develop some criteria in further detail to accommodate such conditions. This is particularly important for product groups in the construction and the groundwork, road and hydraulic engineering sector.

### *Monitoring sustainable public procurement*

The Ministry of Infrastructure and the Environment (I&M) measures progress against the objectives for sustainable public procurement every two years using the Sustainable Procurement Monitor. The Ministry uses this Monitor to report to the House of Representatives and participating government organisations are provided with insight into their performance.

The Monitor measures whether the procured product groups meet the applicable sustainability requirements, or the requirements for which a government body can justify that, using them, at least the same sustainability gain can be realised. The points for consideration and the award criteria are ignored in calculating the percentage of sustainable procurement. Additional information about the Monitor and the method for calculating the sustainable procurement score can be found on the websites of the [central government](#) and [PIANOo](#).

## 2.3 Legal framework

Procurement services must adhere to the European procurement directives for their procurements. In the Netherlands these directives have been implemented in the form of the *Besluit aanbestedingen speciale sectoren* (BASS) (Tendering (Special Sectors) Decree) and the *Besluit aanbestedingen overheidsopdrachten* (BAO) (Public Procurement (Tendering Rules) Decree). These regulations apply as soon as the [thresholds](#) for [public works, supplies or services](#) are exceeded. Whenever this is the case the contracting authority must follow one of the prescribed procurement procedures and comply with the three pillars of the European procurement legislation: proportionality, transparency and equal treatment (non-discrimination). While there are no

prescribed procedures for procurements below the thresholds, contracting authorities must nevertheless adhere to these principles. This is why all criteria have been assessed for legal viability by an inter-departmental Commercial legal advice committee (*Commissie bedrijfsjuridisch advies*) with experts in the area of procurement law. The legal assessment framework used for this purpose is contained in the appendix.

This does not for that matter mean that adherence to this manual and the criteria documents is sufficient to ensure that the procurement is legally properly executed. In all cases you remain responsible for this yourself. You may decide to use different sustainability criteria from those contained in the criteria documents. In that case it may be wise to carry out your own legal assessment. The appendix and PIANOo's [Metrokaart](#) (Metro Map) contain further information on this topic.

**Tip**

If there is no criteria document for a product group you wish to purchase, there are several ways in which to collect information about sustainability aspects.

- The [PIANOo](#) website: e.g. informational documents about product groups for which no criteria have been prepared and various practical examples.
- *PIANOo-desk*.  
You can request a [PIANOo-desk](#) account where you can submit concrete questions or answer questions submitted by procurement officers in other government organisations.
- *Non-Governmental Organisations (NGOs)*  
There are various social organisations that can assist you in thinking through the sustainability aspects. For example, you can contact the [Centrum voor Internationale Samenwerking \(COS Nederland\)](#) (Association of Centres for International Cooperation) or the [Stichting Natuur en Milieu \(SNM\)](#) (Nature and Environment Foundation).
- *Websites*  
The websites of the Belgian organisation [Milieukoopwijzer](#) and the Dutch organisation [Milieucentraal](#) contain environmental information for consumers.
- *Quality Marks*  
You can explore the background of various existing quality marks, such as the European Ecolabel and Milieukeur.

### 3. Sustainability in the procurement process

This section describes the various stages preceding, during and following the procurement process and the opportunities available to incorporate sustainability aspects. This section is structured as follows:

- 3.1 Preparing for procurement
  - 3.1.1 What to procure: formulating the demand or procurement need
  - 3.1.2 Procurement method: specifying the procurement process
- 3.2 Specification of the procurement need
  - 3.2.1 Qualifying suppliers
  - 3.2.2 Minimum requirements for supplies, services or public works
  - 3.2.3 Award criteria for supplies, services or public works
  - 3.2.4 Contract provisions
  - 3.2.5 Stages following the specification stage
- 3.3 Utilisation stage

#### 3.1 Preparing for procurement

A well-known expression in the procurement world is 'preparation is where the profit is'. What is meant by this is that the greatest influence on achieving objectives, such as a high level of quality at a low price, can be exerted at the start of the procurement process. This also applies to the objectives related to sustainability.

During the preparatory stage of the procurement, the basic principles governing the entire procurement process are established: *what* exactly will you be purchasing and *how* will you go about doing this.

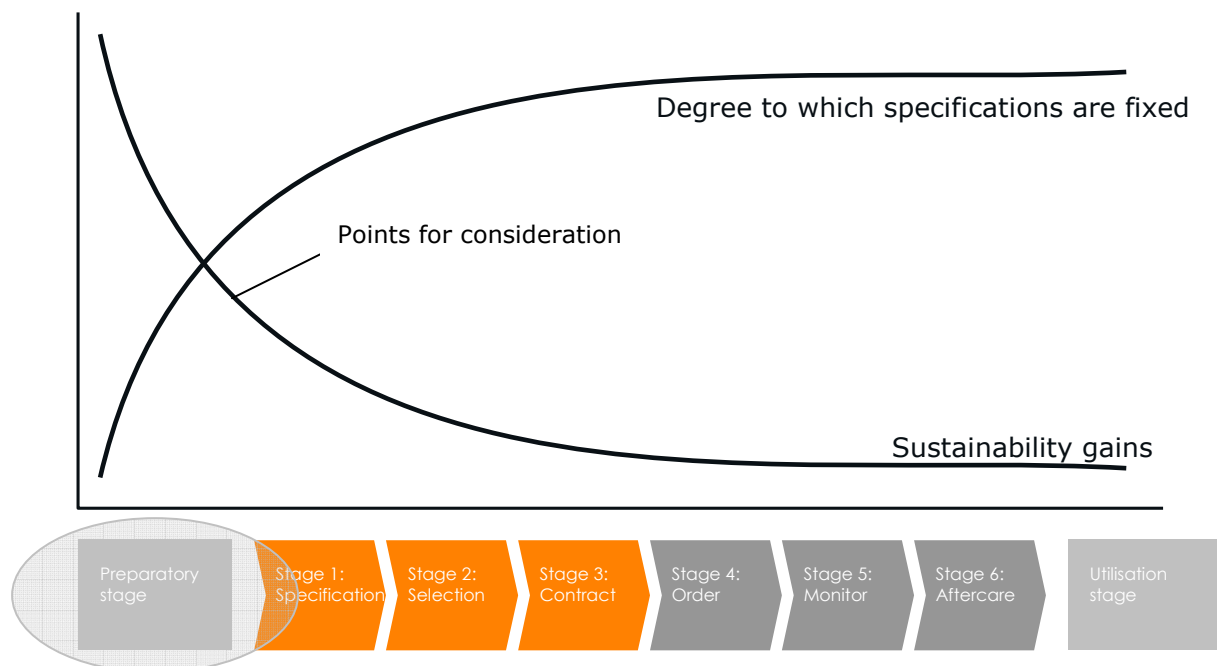


Figure 2: Preparing for the procurement process



### 3.1.1 What to procure: formulating the demand or procurement need

In the context of sustainable procurement, it is useful to review a request or procurement need expressed by the organisation with the person making the request or having the procurement need (your internal customer) and other affected parties. The proper definition of the demand or procurement need can provide new insight as a result of which sustainable solutions become part of the possible options. This can concern things such as:

- The possibility of acquiring *other* products or services that are superior from a sustainability perspective. For example, a smarter option may be to purchase combined, 'all-in-one' devices, rather than separate electronic duplicating devices (see example).
- The possibility of suppliers/executing parties to offer *solutions that are more sustainable*. You can create room for this by formulating the demand or procurement need at a more general level. For example, it makes a big difference whether you specify a procurement need as 'six leased cars' or as 'the transportation for six staff members'. In the latter instance, the tenderer can submit a proposal that in part calls for the staff members to make use of public transportation or in part drive together.

Sustainable procurement for that matter is not always about the purchase of sustainable products. Sustainable procurement can also consist of deciding not to purchase anything. Properly defining the demand or the procurement need can provide new insight that results in limiting the purchase. A municipality decided to first reuse office items, before proceeding with procurement. Using a web-based application, it became possible to make items that were no longer required by one department available to another department for use.

Sometimes it is also possible for sustainability considerations to cause the purchase to be increased. For example, you may decide to replace a component of a system that is not sustainable, or you may opt for an entirely new more sustainable system.

If relevant for a product group, Section 3.1 of the criteria documents contains points for consideration for formulating your demand or procurement need. These points for consideration are aimed at the procuring organisation. These points for consideration are not intended to be incorporated in your procurement or call for tenders documents. For this reason they have not been legally vetted and are not included in the calculation of the sustainable procurement percentage. They constitute suggestions related to the operation, policy or decisions of the procuring organisation that can affect the procurement or its sustainability.

#### **Example**

Point for Consideration (source: Reproduction Equipment criteria document)

Opt for multifunctional electronic or other equipment

A multifunctional device (MFD) or an 'all-in-one device' uses approximately 50% less energy than a standalone printer, scanner, fax machine or copier. This can also result in cost savings. An example on [www.eu-energystar.org](http://www.eu-energystar.org): a 100-person department can save approximately \$2,000 per year in electricity costs (assuming a rate of \$0.18/kWh) by replacing 8 departmental and 24 workstation printers, and 12 fax machines by 8 combined electronic copying/printing devices.

In addition to the use of the points for consideration from the criteria documents, a market survey or market analysis can be conducted via the internet or by speaking with market players. The purpose is to determine what the market is capable of offering, whether there are a sufficient number of suppliers and whether certain sustainability and other requirements are feasible. A market analysis is not always feasible, for example, when the product to be purchased is new. In that case you can organise a market consultation or technical dialogue. It may become apparent from market research or consultation that in the meantime more sustainable or other sustainable solutions have come on to the market, with which the existing sustainability criteria do not match up well. You can then modify the sustainability criteria accordingly.

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<sup>2</sup> Source: Handbook Buying Green!

### ***Embedding sustainable public procurement in policy***

A procurement often is the result of a policy decision, for example, a decision to tackle a traffic problem. From that point onward up to the actual procurement, a range of choices are made that affect the sustainability of the ultimate project. Is the traffic problem being resolved by modifying the existing infrastructure or by constructing new infrastructure? In case of new infrastructure: how are the capacity and the trajectory implemented? Although as purchasing officer you will be involved in the preparatory stage of the procurement, you generally have little influence over these types of decisions. This requires government to develop supplementary policy or procurement policy. This Manual does not deal any further with this issue. The document guide '[Aan de slag met duurzaam inkopen](#)'<sup>3</sup> (Initiating Sustainable Procurement) issued by the *Vereniging van Nederlandse Gemeenten* (Association of Netherlands Municipalities) (VNG), for example, contains additional information on this subject.

### **3.1.2 Procurement method: specifying the procurement process**

Once you have finalised what you intend to purchase in collaboration with your internal customer, the method of procurement must be determined. This is particularly important if you are going to issue a call for tenders. What procedure will you select? How do you intend to award the assignment? Are you going to divide the assignment into parcels or not? PIANOo's [Metrokaart](#) (Metro Map) contains basic information on this topic. Additional information on this subject specifically aimed at the construction industry is available in the [Leidraad aanbesteden voor de bouw](#) (Tendering Guidelines for the Construction Industry).

#### *Public or private tenders*

The most common methods of procurement are the [public procedure](#) and the [private procedure](#). The latter tendering procedure allows the number of bidders invited to submit a proposal to be limited (see section 3.2.1 for further details). For procurements that fall below the European tendering thresholds, you can furthermore opt for a [single or multiple private tender](#).

#### *Contract award based on 'lowest price' or MEAT*

Legally you are entitled to use two contract award criteria for a tender: [lowest price](#) or [MEAT](#) (Most Economically Advantageous Tender). In the first case, you establish the minimum requirements following which you assess the proposals that meet these requirements, exclusively on price. In the second case, in addition to price, you also formulate other qualitative criteria and you subsequently assess the proposals, in addition to price, also on the basis of these qualitative criteria. Quality can also cover sustainability aspects. Contract award on the basis of MEAT can challenge the market to come up with the most sustainable solution at a good price (see section 3.2.3 for further details).

#### *Consider a subdivision into parcels with one or more sustainable parcels*

A parcel is a logically demarcated portion of an assignment. Sometimes it is possible to [split up a tender into parcels](#) and to subsequently impose particularly high sustainability requirements on one of these parcels.

#### ***Example***

A single parcel for especially clean vehicles.

The central government in 2008 issued a tender for service vehicles. In addition to a number of parcels for regular classes of vehicles, the government also defined a parcel that specified especially severe sustainability requirements (for example, by exclusively demanding vehicles running on alternative fuels). With this parcel the government focused on a specific segment that could only be met by a limited number of market players.

<sup>3</sup> *Aan de slag met duurzaam inkopen, een handreiking voor raadsleden, collegeleden en ambtenaren* (Initiating Sustainable Procurement, A Guide for Councillors, Mayors and Aldermen and Public Servants), VNG, September 2008.

### *Teamwork*

(Sustainable) procurement requires teamwork. The size of the team will depend on the scope and complexity of the assignment. You can in any case involve the user and possibly a subject matter expert. Furthermore, it may be wise to involve the budget holder (the person with the purchasing mandate), a lawyer with knowledge of procurement law and, for example, a sustainability coordinator.

### *Electronic procurement*

Procurement via the internet, or 'electronic procurement' offers benefits in terms of efficiency as well as sustainability. It is a method with the potential for reducing paper. Electronic procurement will increasingly become the norm in the future, definitely once [TenderNed](#) becomes nationally available. TenderNed will become the system of choice for electronic tendering in the Netherlands. Already at the present time a European tender is initiated with an announcement in the Official Bulletin of the European Union via [TED](#) (Tenders Electronic Daily). In the Netherlands it is also possible to issue an announcement via the [Aanbestedingskalender](#) (Tendering Calendar) and be published nationally as well as directly on TED. TenderNed will in the future comprise the entire tendering process and also offers options such as electronic information, auctions, submissions and the assessment of tenders. If the contract exceeds the European thresholds, TenderNed also automatically publishes the announcement on TED.

### *Framework agreements*

Government organisations regularly enter into [framework agreements](#) for the purpose of gaining pricing benefits and reducing administrative costs. A framework agreement applies when the contracting authority wants to purchase certain supplies or services from, or wants to assign public works to, a single bidder or a selected group consisting of at least 3 bidders during a specific period (maximum of 4 years) and wants to negotiate terms in advance with the bidder(s) about, for example, rates, the quality to be delivered, quantities and delivery terms. It is possible to incorporate sustainability criteria into calls for tenders for framework agreements as well. Furthermore, depending on the type of framework agreement, there may also be room to further specify the conditions, for example, in relation to the area of sustainability, when specific orders are placed within the context of the signed framework agreement.

## **3.2 Specification of the procurement need**

Once the principles governing the procurement process are established, a concrete procurement or call for tenders document is prepared during the specification stage. During this stage of the procurement process, you can still make considerable gains in the area of sustainability. Reference points for this purpose include:

1. Supplier qualification criteria (3.2.1)
2. Minimum requirements for the products, services or public works (3.2.2)
3. Award criteria for the products, services or public works (3.2.3)
4. Contract provisions (3.2.4)

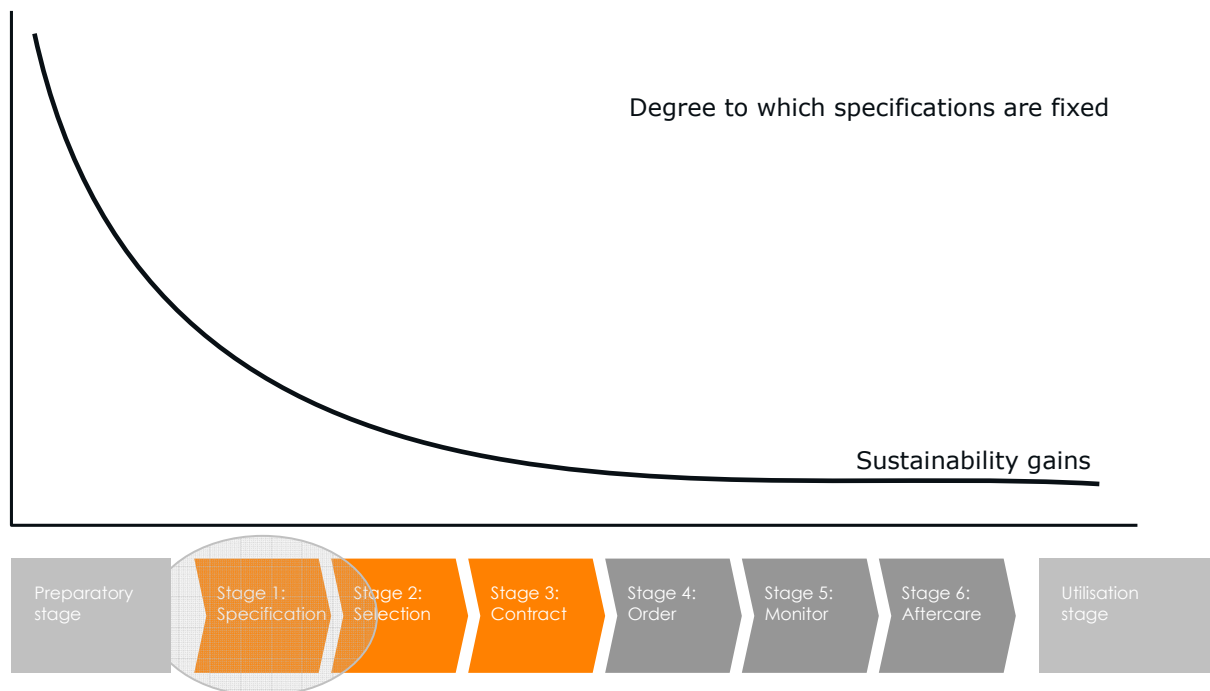
Using these four types of criteria you define how the tenderer with the best proposal will be selected and you prepare a procurement contract. The different criteria are explained below. The legal basis for these criteria is incorporated into the European procurement directives and consequently into the BAO and BASS.

### **3.2.1 Qualifying suppliers**

Qualification criteria pertain to suppliers. Their purpose is to select the most suitable market players for executing a government contract as required. The criteria can be subdivided into:

- [Grounds for exclusion](#)
- [Suitability requirements](#)
- [Selection criteria](#)

You can use these criteria to select suppliers that score well in the area of sustainability. These criteria are described below.



**Figure 3: Preparing specifications as part of the procurement process**

Aside from a few exceptions, the criteria for the qualification of suppliers are not detailed in the criteria documents. You may carry out your own assessment to decide whether to include these types of criteria in your request for proposal or call for tenders document. Before including criteria for the qualification of suppliers, you will have to assess whether they are sufficiently relevant, are in proportion to the nature and scope of the assignment and are not discriminating. Furthermore, the content and the 'bar' for each criterion must be clearly developed. In other words, you must carry out an assessment to ascertain the legal viability of the criteria. Also see the assessment framework in the appendix for this purpose.

#### *Grounds for exclusion*

Government departments must apply certain grounds as a basis for excluding suppliers from a procurement or call for tenders process. In addition, there are several [grounds for exclusion](#) whose application is optional. The BAO offers the possibility of excluding suppliers who have committed an offence that conflicts with the rules of professional conduct or who in exercising their profession have committed a serious error in the sense of a transgression of the environmental regulations. It is recommended, however, for a contracting authority to define ahead of time when a serious error or offence is considered to exist, i.e. on the basis of which a supplier would be excluded.

#### *Suitability requirements*

[Suitability requirements](#) are used to determine whether a bidder is capable of carrying out an assignment. There are two types of suitability requirements:

- requirements pertaining to the supplier's financial and economic strength;
- requirements related to the supplier's technical and professional competence.

Requirements pertaining to the supplier's [financial and economic strength](#) are included to ensure that the contractor is sufficiently financially healthy to be able to properly execute the contract. Lawyers have differing opinions in terms of the possibility of taking sustainability aspects into account in this respect. In terms of including the consideration of sustainability aspects in the qualification of a supplier, the requirements pertaining to the supplier's technical and professional competence would appear to be more suitable (see below).

In terms of assessing the [technical and professional competence](#) of a supplier, the BAO provides a broad basis. The following components pertain to sustainability:

- Experience with similar assignments
- Employees' education and professional diplomas

– Environmental management measures (only applies to public works or services).  
These three areas are described below.

#### *Experience with similar assignments*

To assess experience with similar assignments you can ask for references. Critical sustainability elements can relate to aspects such as the scope of the assignment, the method of execution and the sustainability characteristics of the reference contracts. The advantage of a suitability requirement like this may be that only those bidders who have carried out 'sustainability projects' before will register. The disadvantage may be that it excludes parties who still have to make a start with sustainable enterprise.

#### *Employees' education and professional diplomas*

In relation to education and professional diplomas, you can impose requirements on the study programme, education or training level of the employees assigned. In the area of sustainability, the concern is about education and training programmes that are focused on the sustainable execution of activities.

#### *Environmental management measures*

You can make the ownership of an environmental management system mandatory for public works or services only – i.e. not for supplies (products). The system must fit the assignment, however, or in other words, the execution of the assignment must have the potential for endangering the environment and require mitigation measures to prevent this. The two most important environmental management systems are the European Environmental Management and Audit System (EMAS) and the European/international standard for environmental management systems (EN/ISO 14001). To demonstrate that the supplier has an environmental management system, bidders can be asked to provide an EMAS or ISO 14001 certificate. You must however also accept equivalent certificates or descriptions.

#### *Selection criteria*

[Selection criteria](#) are an extension of the suitability requirements, but are more in the nature of wishes rather than requirements. Selection criteria can only be used in private procedures. For public tendering procedures you must limit yourself to grounds for exclusion and suitability requirements.

### **3.2.2 Minimum requirements for supplies, services or public works**

For those suppliers who are not excluded and who meet the suitability requirements and the selection criteria, if applicable, it is necessary to compare the proposals. Minimum requirements, also referred to as specifications, are the characteristics that the products, services or public works to be procured must at a minimum comply with. Proposals that do not comply with the minimum requirements are rejected.

The BOA provides the means for preparing [technical specifications](#) (the technical requirements for a product, service or public works) or [functional specifications](#) (focused on the intended purpose or performance). All of the specifications are documented, at a greater or lesser level of detail, in the form of a Schedule of Requirements (SoR), also referred to as a statement of requirements or requirements specifications. Section 3.2.2 of each criteria document contains an overview of the relevant minimum requirements for each product group, including explanatory notes and information concerning means of proof and verification methods (also see Section 3.2.5).

#### **Example**

Minimum requirement for production process (source: Printed Services criteria document)

As part of the offset printing production process, a cleanser with a minimum flashpoint of 55 °C must be used for the daily process-based cleaning (not consisting of repairs or maintenance activities) of the print press. A cleanser classified as Class K3 is considered to meet this requirement in any event.

**Example**

Functional requirement (source: Renovation of Office Buildings criteria document)

**Environmental performance of a building** (*assuming complete renovation*)

The tenderer renovates the building in such a way that the building environmental index (MIG) calculated using GreenCalc+ is improved by at least 60 points or becomes at least equal to 200. The current performance score is [xx].

GreenCalc+ is a calculation method for determining the environmental performance of a building on the basis of Life Cycle Assessments (LCAs). GreenCalc+ is available from the DGMR consulting firm ([www.dgmr.nl](http://www.dgmr.nl)).

Furthermore, the measures U677 and U678 specified in the National Sustainable Building Package (*Nationaal Pakket Duurzaam Bouwen*) with respect to the internal environment must also be complied with.

These measures are further specified in the National Sustainable Industrial & Commercial Buildings Package (*Nationaal Pakket Duurzaam Bouwen Utiliteitsbouw*, [www.npdb.nl](http://www.npdb.nl)) published by the Building Research Foundation (*Stichting BouwResearch*). In this, the measures are provided with a unique number and a description of each measure is included (specification sheet).

Or

The tenderer renovates the building in such a way that the score for each module (energy, environment, health, user quality, future value), calculated using GPR (*Gemeentelijke Praktijk Richtlijn Gebouw* - Municipal Practice Guideline Building) version 4.0, is improved by at least 2 points or becomes at least equal to 7. The current performance score is [xx].

GPR Gebouw is a calculation method for determining the environmental performance of a building based on LCAs. GPR is available from W/E adviseurs (<http://www.npdb.nl>).

**Basic principles**

As indicated in Section 3.2, all criteria in the criteria documents have been subjected to a legal assessment by an inter-departmental Commercial legal advice committee (CBA). In addition to an assessment for proportionality, transparency and discrimination principles, the Commercial legal advice committee also took the basic principles below into account with regard to the minimum requirements and award criteria. These basic principles may also be important in situations where you would like to add more or different minimum requirements to the SoR other than those specified in the criteria documents.

- *Production process requirements*

The SoR may include requirements to be met by the production process. These requirements must, however, pertain to the object of the assignment. This means that the requirements that can be included must exclusively pertain to the production of the product and must contribute to its characteristics, without therefore having to be visible. Whether this is in fact or not the case differs for each situation. The following is an example of a requirement pertaining to the production process.

- *Reference to quality marks*

It is not possible to make quality marks a mandatory requirement. This applies to national quality marks (such as Nordic Swan or Blaue Engel) as well as international quality marks (such as EU Ecolabel). A key reason for this is that this could constitute discrimination. In addition, quality marks could include criteria related to, for example, the management practices of a company that consequently no longer adequately pertain to the object of the assignment. This problem has been addressed in the criteria documents by incorporating the most important sustainability aspects and elements from a quality mark into the requirement and by identifying the quality mark itself in the means of proof.



**Example****Reference to quality marks (source: Workwear criteria document)****Substances present in final product**

The quantities of harmful substances in the workwear to be supplied do not exceed the limit values as stipulated in appendix 1.

**Means of proof:**

1. Statement to be included in this tender by the tenderer to confirm compliance with this minimum requirement.
2. Certificate to be included in this tender as evidence of compliance with this minimum requirement. Workwear with the Öko-Tex 100 label is considered to be in compliance with this requirement in any event.

- *Demonstrating equivalence*

If a standard or quality mark is mentioned in the means of proof, then a tenderer must always be given the opportunity to propose an equivalent solution. When a standard or quality mark is referenced it is therefore necessary to always add the term 'or equivalent'. The burden of proof for demonstrating equivalence lies with the tenderer. The duty to verify lies with you, the purchaser. A purchaser must be able to substantiate why he/she rejects the solutions offered by other market players. This issue has been solved in the criteria documents by indicating that a product with quality mark X is *in any event* considered to be compliant with the minimum requirement.

- *Transportation distance requirement*

It is not possible to specify requirements related to transportation distance because such requirements may be discriminatory. It is, however, possible to specify requirements related to the vehicles employed for a service or for a public works. In addition, it is possible to specify requirements designed to limit the number of transport kilometres travelled within the region in which the assignment is carried out (for example, for the procurement of public transportation or waste collection).

### **3.2.3 Award criteria for supplies, services or public works**

The contract award criteria are also focused on the supplies, services or public works to be procured. The BAO uses two contract award criteria: [lowest price](#) or [MEAT](#) (Most Economically Advantageous Tender). It is up to you to determine the method used to award a contract. For contract award based on lowest price, [minimum requirements](#) are prepared after which the proposals that meet these requirements are evaluated solely on price. This criterion may be used when quality is a given or if the specifications precisely define the performance to be delivered. If you want to receive proposals that exceed the minimum requirements or if you want to leave it up to the tenderers to come up with a solution to your problem, then it is better to make use of the MEAT award criteria. In the case of MEAT-based award, in addition to price, you also formulate qualitative criteria and you subsequently assess the proposal, in addition to price, also on the basis of these qualitative criteria. Quality can also cover sustainability aspects. The criteria formulated for MEAT-based contract award are formally referred to as sub-award criteria. When the quality or sustainability aspect is further detailed in various components (such as the criteria documents), they are formally referred to as 'sub-sub-award criteria'. To keep things simple, these criteria are referred to as 'award criteria' in the criteria documents and this term is used accordingly in this manual.

Few government entities currently use the MEAT-based award approach. In the context of sustainable public procurement, this approach is however recommended, because it can further enhance the sustainability of the procurement, over and above the minimum requirements. In this regard it is important for sustainability to be given a clear place in the award and to ensure that it is assigned sufficient weight.

The award criteria that you will be using should be detailed in a separate component of the request for proposal or call for tenders document. Section 3.2.3 of the criteria documents should be used

**Example****Award Criterion (source: Road Services criteria document)****Deployment of renewable energy sources**

To the extent that more renewable energy resources are deployed during the execution of road activities, the tender is assigned a higher valuation.

This criterion is assessed on the quantity of renewable energy to be used expressed in kWh.

The following are included in the evaluation:

- technically feasible content;
- impact on schedule.

[weighting to be further specified by the purchaser]

The tender will be evaluated as follows: [...]

for this purpose. If you wish to include more demanding or supplementary sustainability criteria in relation to those specified in the criteria documents, you should also take the basic principles identified in Section 3.2.2 of this manual into consideration.

The award criteria are also formulated for use by all government organisations for all purchases. Because it is not possible to develop project and location-specific conditions for inclusion in generic criteria, it will be necessary to develop some award criteria in further detail to accommodate such conditions. This is particularly important for product groups in the construction and the groundwork, road and hydraulic engineering sector.

In the description of the award criteria you must specify how the different (sub-)award criteria will be mutually *weighed up* and how the submissions will be *evaluated*. These matters must be clearly documented in writing so that bidders gain an understanding of your requirements and can respond accordingly.

***Weighing of criteria***

The precise weight to be assigned to each award criterion is not specified in the criteria documents and is something that you must specify yourself each time depending on the priorities set by you. The weighting factor determines the relative importance of sustainability in relation to the other award criteria. By assigning a relatively high weighting to the sustainability award criteria, the decision is heavily influenced by the evaluation of the sustainability aspect. However, at the same time it is clear to the bidders that as contracting authority, you attach importance to this area.

***Evaluation***

There are different methods to assess the different proposals, such as the 'points method'. With this method, price and quality are expressed in terms of points. To the extent that the price of a tender is higher, *fewer points* are assigned to the price criterion and to the extent that the quality is higher, *more points* are assigned to the quality criterion. The contract is ultimately awarded to the bidder who scores the highest number of points on all criteria jointly. In addition, there are methods whereby quality is translated into euros and are deducted from or added to the price or whereby the number of points scored is divided by price. The report [\*Gunnen op Waarde\*](#) (Value-based Contract Award) developed for the building sector contains further information about weighing methods. It is up to you to select the method that is best suited to your purpose from all possible methods.

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<sup>4</sup> *Gunnen op waarde; hoe doe je dat? Praktische handreiking voor bouwopdrachten PSIBouw O20B* (Value-based Contract Award; how do you do that? Practical guide for construction contracts. PSIBouw O20B. Report issued in the context of the PSIBouw Value-based Contract Award Programme (O20b). 15 May 2007. PSIBouw is a network formed by companies, government, other organisations and universities designed to further the regeneration of the Dutch construction industry.



**Example**

Contract provision (source: Construction Works criteria document)

**Management and maintenance plan**

During the handover of the construction works, a management and maintenance plan must be supplied, in which the maintenance measures which are necessary to maintain the construction works are described. The plan should describe the means of management and maintenance necessary to maintain the sustainable aspects of the construction works.

The plan should at a minimum consist of the following sections:

- description of the management measures to be taken into account with inspection intervals for a period of XX years, with associated instructions (at least describing inspection points, methods, estimated number of person-hours);
- description of the maintenance intervals to be taken into account for a period of XX years, with associated instructions (at least describing maintenance activities and necessary materials and an estimate of the number of person-hours and any relationship with other activities for which for example excavation is necessary).

In actual practice, frequent use is made of the so-called 'relative evaluation' method. With this method the outcome of the sum that determines the most economically advantageous tender becomes dependent on the quality and price of another tender. This method is recommended against, because in this way a single tenderer can have a major impact on the final score of all other tenderers. Furthermore, tenderers must be able to estimate the value of their proposal ahead of time.

### 3.2.4 Contract provisions

The last activity of Stage 1, Preparing the specifications, is the preparation of a [contract](#). The contract contains the provisions subject to which the contractor is going to carry out the contract. The contract provisions can pertain to matters such as pricing, liability and risk sharing, as well as sustainability. The contract can be used to incorporate incentives designed to promote its sustainable execution. For example, a bonus or discount (bonus/malus) that is linked to an increase in sustainability (for example, energy savings) during the execution or the service provision. Such conditions are meaningful provided that the term of the contract is sufficiently long.

Other than with regard to the abovementioned criteria, contract provisions may not set any standards. They cannot be disguised suitability requirements, selection criteria, minimum requirements or award criteria and every tenderer must be able to apply them. The contract provisions must already be stated in the call for tenders documents, so that tenderers can familiarise themselves with them and take them into account in preparing their proposals. Contract provisions must always pertain to the execution of the contract.

For some product groups, use can be made of the information in Section 3.2.4 of the criteria documents in preparing the contract provisions. Due to the abovementioned restrictions, contract provisions have to date been prepared for only a few product groups. An example of a product group for which contract provisions were prepared follows. An exception is the detailing of the social aspects that will be effected via the contract provisions. These are (expected) to be added to all product groups in 2011. A separate manual will be developed for the application of social criteria. This manual will be published in 2011.

### 3.2.5 Stages following specification stage

#### *Selection Stage*

The actual tendering process takes place during Stage 2 of the procurement process, the Selection Stage. This includes the entire period from the moment that the tender is officially announced up to and including the completion of the evaluation of the submissions. This section is primarily concerned with the latter topic and this of course in relation to the specified sustainability criteria. During this stage it is still possible to affect the scope of the sustainability objectives, but only to a limited extent. This does not obviate the fact that this stage is very important, because it is now that you secure the earlier defined sustainability effects.

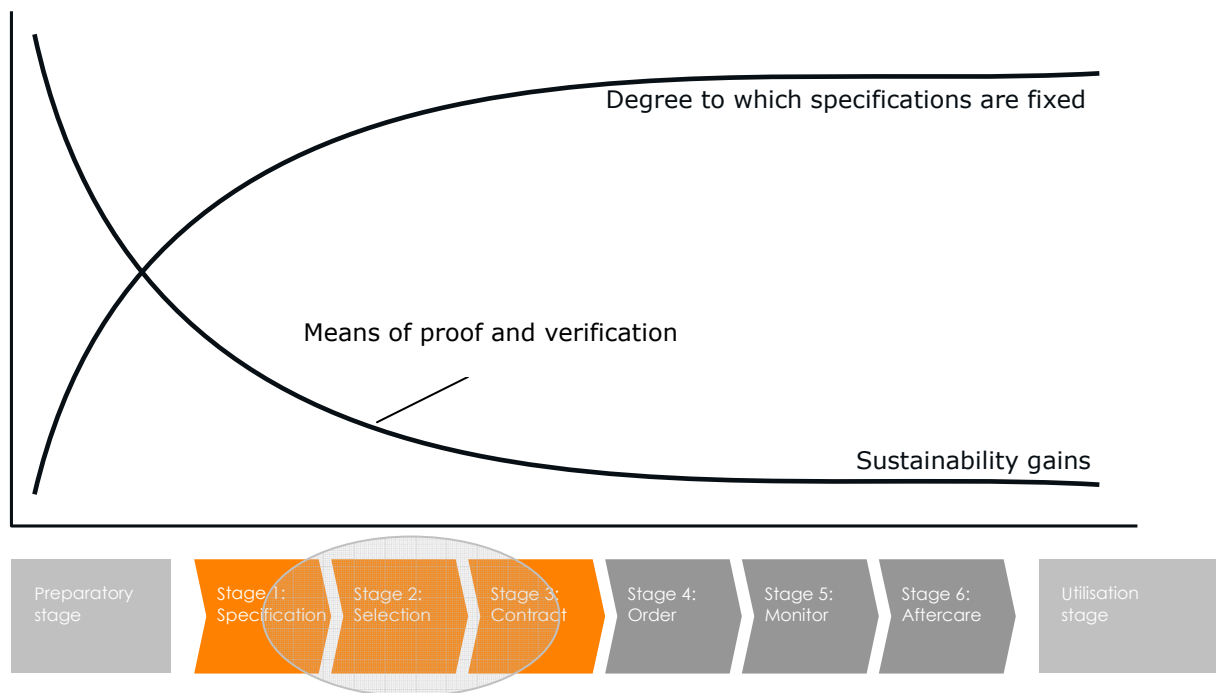


Figure 4: Selection stage in the procurement process

#### Alternative offers

It may happen that, during the tendering phase, a tenderer indicates that his product or service is at least as sustainable as, or much more sustainable than, that required, but does not comply strictly with the sustainability criteria imposed. This may happen for example if the criteria were prepared some time previously, and innovations have occurred in the interim. The purchaser can in this case assess whether his criteria are indeed having a restrictive effect on new sustainable solutions and consider modifying the criteria concerned. When modifying criteria, there is however a high probability that you will have to withdraw the call for tender and issue a new one. Always seek expert legal advice about an intended modification of the criteria.

#### Means of proof and verification

To make it possible to select the best tenderer and proposal during this stage, the tenderers must in their proposals demonstrate that they comply with or respond to the criteria included in the request for proposals or call for tenders document. This must be effected on the basis of the means of proof that you described in the document.

It is mandatory for the tenderers to submit means of proof. It is the purchasing officer's task to verify these means of proof. You must verify that the means of proof are accurate. The method used to verify a means of proof varies by product group and criterion.

It must in principle always be possible to verify a means of proof. The means of proof in the criteria documents are consequently geared accordingly. An exception to this are the criteria related to the method used to execute the contract. It is impossible to verify ahead of time whether the service will be provided as specified in the proposal. In these situations, verification during the execution of the contract is key.

In asking for means of proof, it is important to take the administrative burden of the tenderer into consideration. Sometimes it is necessary to request a fully detailed plan, while sometimes it is sufficient for the tenderer to submit a declaration stating that he complies with a minimum requirement.

Section 3.2 of the criteria documents contain the means of proof that can be requested, for each criterion. These should be included with the relevant criterion in the request for proposals or the call for tenders document. If relevant, multiple types of means of proof are listed for each criterion.

The tenderer finally determines for himself which means of proof to submit. In practice, only a self-declaration is usually supplied upon tendering.

The criteria documents also contain information about the way in which means of proof can be verified. Each type of means of proof requires a different method of verification. For example, to verify a 'bidder's statement', you may request a certificate or another document. If the means of proof is a certificate, verification is usually no longer necessary, unless you doubt the certificate's authenticity. The example below contains an example of the method of verification of a means of proof.

**Example**

Means of proof and verification (source: Audiovisual Equipment criteria document)

Means of proof:

1. A statement by the tenderer submitted as part of his proposal confirming that he complies with this requirement in the Schedule of Requirements.
2. A statement identifying the video equipment to be supplied.
3. The submission of certificates or other documents as evidence of compliance with this requirement.

Verification of means of proof:

1. A request to provide further detailed information/documentation about the equipment to be supplied.
2. A request to submit certificates or other documents as evidence of compliance with this requirement.
3. Verification with certifying body.

*Contracting, ordering and monitoring*

Once the winning proposal has been selected, a contract is signed with the bidder who won the tender. In most cases there now no longer is any room for negotiation, and there is only an opportunity to agree on operational matters. This is followed by the [ordering, monitoring and aftercare](#) stages. These three stages as such have the least impact on sustainability and are not further detailed in the criteria documents. They are however important for ensuring that the results of the sustainability aspects achieved during previous stages are in fact safeguarded.

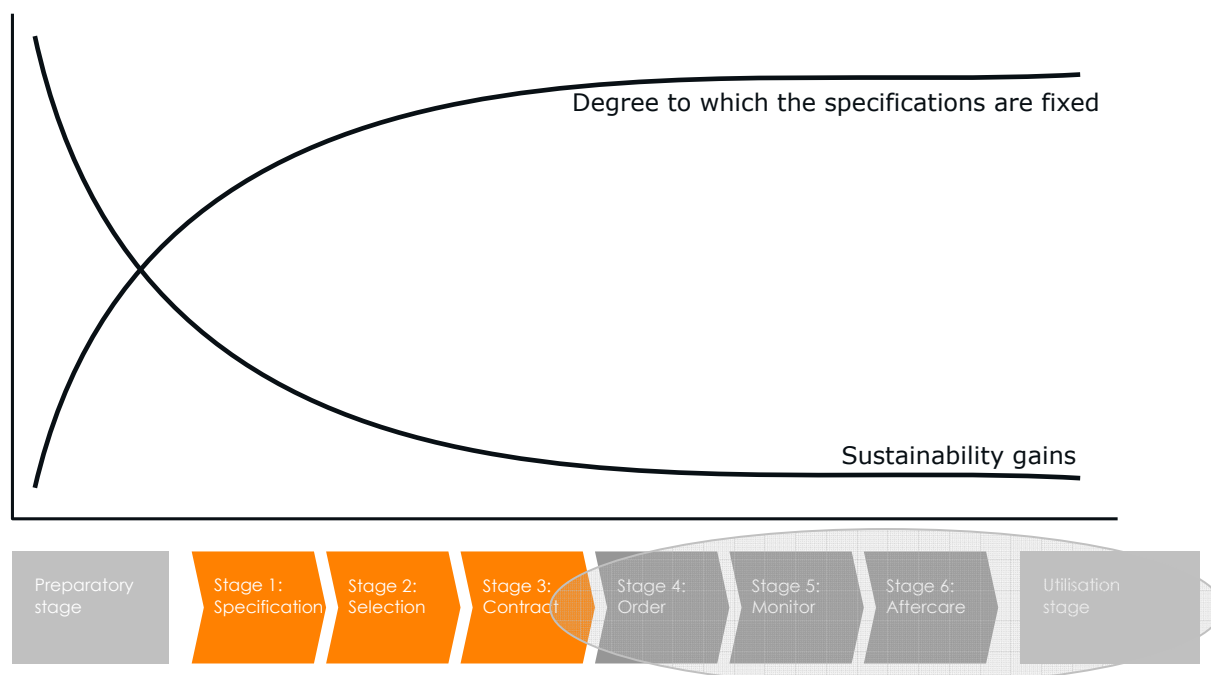


Figure 5: Contracting, ordering, monitoring and aftercare in the procurement process

### *Aftercare*

The procurement process for the most part is a 'paper exercise'. Real sustainability only emerges after the contracting stage, which is when the contractor is expected to deliver on the agreements put in place in relation to sustainability. The key in the [aftercare stage](#) is to properly monitor that when a sustainable product, public works or service is being delivered this is indeed the case. This is why performance indicators are often built into the contract during a professional procurement initiative. Particularly for contracts with an extended duration it is important for the contractor to consistently comply with what was agreed upon. As purchaser the onus is on you to verify this on a fairly regular basis.

Furthermore, it is important to verify whether your internal customer is satisfied with the procurement results. This way you can collect information for use with similar future procurements and share experience such that the organisation, as well as other government organisations, can profit from the knowledge and experience gained.

### **3.3 Utilisation stage**

Once the procurement process is complete and a product, service or public works has been procured, there are often opportunities for sustainable use. What happens in this stage can be a contributing factor to the ultimate gains achieved from sustainable procurement.

Section 3.3 of the criteria documents contains points for consideration for activities during the utilisation stage. These points for consideration are not intended to be incorporated into your procurement or call for tenders documents. For this reason they have not been legally vetted and are not included in the calculation of the sustainable procurement percentage. They constitute suggestions related to the operation, policy or decisions of the procuring organisation that can affect the procurement or its sustainability. Below are two examples.

#### **Example**

Point for consideration for the utilisation stage (source: Hardware criteria document)

By setting the proper energy management options, the energy saving potential of the purchased products is used. The [EU Energy Star® website](#) also contains tips for managing the energy consumption of computers and monitors.

#### **Example**

Point for consideration for the utilisation stage (source: Public Spaces Cleaning Services)

As manager, activate residents to keep play areas litter-free and areas with trees and open squares free of weeds. Every neighbourhood has an active resident who keeps an eye on the environment, who informs the municipality about pollution in the area and/or cleans the street him/herself. The commitment of these residents can be reinforced by making them officially responsible. The neighbourhood resident can keep the vicinity of containers tidy, for instance, and immediately report inadequacies. The municipality provides cleaning materials for this and responds immediately when it receives a report from the resident. Places like squares, clusters of trees, etc. that are vulnerable to weeds (and dog dirt) can also be adopted by residents.

#### 4. Additional information

For additional information and advice in the use of this manual and the criteria documents please contact PIANOo Dutch Public Procurement Expertise Centre by sending an e-mail to [info@pianoo.nl](mailto:info@pianoo.nl). If you would like to know more about sustainable public procurement visit [PIANOo's sustainable procurement website](#). The website contains background documents, news, practical examples, aids and information about the programme's goals. The website of the [central government](#) also contains information about sustainable public procurement under the header sustainable procurement.

The following websites also contain further information about (sustainable) procurement and tendering:

- PIANOo <http://www.pianoo.nl/>  
*Dutch Public Procurement Expertise Centre*
- Metrokaart (Metro Map) <http://www.pianoo.nl/metrokaart-inkopen-aanbesteden-faq>
- PIANOo-desk <http://www.pianodesk.nl/>
- Leidraad aanbesteden bouw <http://www.leidraadaanbesteden.nl/>  
*Tendering Guidelines for the Construction Industry*
- Handreiking VNG <http://www.vng.nl/>  
*Guide issued by the Association of Netherlands Municipalities*
- TenderNed <http://www.tenderned.nl/>
- Aanbestedingskalender <http://www.aanbestedingskalender.nl/>  
*Tendering Calendar*
- TED <http://www.ted.europa.eu/>  
*Tenders Electronic Daily*
- Europa decentraal <http://www.europadecentraal.nl/>  
*European laws and regulations knowledge centre for local and regional government*
- MVO Nederland <http://www.mvonederland.nl/>  
*CSR Netherlands*
- Marktplaats duurzaam inkopen <http://www.marktplaatsduurzaaminkopen.nl>  
*Sustainable Public Procurement Marketplace*

## Appendix – Legal Assessment Framework for Sustainable Public Procurement

No.	Assessment Element	Description
1	Proportionality	Proportionality is considered to exist when: <ul style="list-style-type: none"> <li>a. The criterion is directly related to the object of the assignment (Finnish Buses, Wienstrom).</li> <li>b. The criterion is related to the characteristics (including the scope, risk of non-performance or complexity) of the assignment.</li> </ul>
a	Directly related to the object of the assignment?	'Directly related to the object of the assignment' means that it must be possible to relate what is being requested to the object of the assignment, in other words to the object that is being tendered (public works, supplies or services). This is a formal proportionality, focused on the object of the tender. Example of a situation where there does <u>not</u> exist a direct relationship: <ul style="list-style-type: none"> <li>• Requirements that a consulting bureau allocates at least 5% of its revenues to charitable causes when the object of the assignment is the 'engagement of consultants'.</li> </ul>
b	Related to the characteristics of the assignment?	The criterion is proportional if it is furthermore related to the characteristics (including the scope, risk of non-performance or complexity) of the assignment. This is rather a substantive proportionality focused on the content of the assignment. Example of a criterion that is <u>not</u> related to the nature and scope of the assignment: <ul style="list-style-type: none"> <li>• In a tender for waste removal, a requirement for experience that is many times higher than the number of addresses to which the assignment applies.</li> </ul>
2	Transparency	Transparency is considered to exist when: <ul style="list-style-type: none"> <li>a. The content of the criterion itself is clear.</li> <li>b. It is clear how high the bar is set and how the criterion will be applied.</li> </ul>
a	Content clear?	The content of a criterion must be clear. This means that tenderers substantively know what is expected of them (substantive performance). There are two elements to this: <ul style="list-style-type: none"> <li>- The identical interpretation by purchaser and supplier. The formulation may not be so unclear that it can cause misunderstanding about the content of the criterion. It must be clear enough so that the suppliers can be reasonably expected not to interpret what is requested differently from what the contracting authority intended.</li> <li>- An identical interpretation by different suppliers among themselves (however, often interrelated to the above).</li> </ul> Examples of terms that are <u>not</u> clear: <ul style="list-style-type: none"> <li>• 'environmentally friendly'</li> <li>• 'innovative solution'</li> </ul>
b	Clear where the bar is?	The rules of the game must be clearly spelled out ahead of time. This must include a clear indication of what facts lead to what conclusions. The requirements must clearly identify how high the bar is being set, when one is compliant or not, and what this is based on. For award criteria it must be clear how these will be applied and precisely how the ranking will be applied on the basis of which facts. This also means that the weighting factors as well as the evaluation methodology must be made sufficiently clear ahead of time and that there are no other elements in play that can substantively affect the outcome without having been communicated ahead of time.
3	Non-discrimination	Non-discrimination is considered to exist when: <ul style="list-style-type: none"> <li>a. There is no discrimination on the basis of nationality.</li> <li>b. All bidders are treated equally.</li> </ul>
a	No discrimination based on nationality?	A criterion must not discriminate on the basis of nationality. Suppliers within the EU and GPA countries must be given equal opportunities to acquire the contract and may not be disadvantaged on the basis of nationality.

		<p>For example, you <u>cannot</u>:</p> <ul style="list-style-type: none"> <li>• Demand that a supplier be located within the same region as the customer or that all products are produced locally.</li> <li>• Demand that a supplier complies with criteria of a regional or national character (for example, the vehicles to be used must be APK inspected). You can insist, however, that a vehicle meets the safety requirements applicable in the country of establishment.</li> </ul> <p>Note! Discrimination is not limited to direct discrimination alone, but can also operate indirectly when it is easier for bidders in certain countries to make an offer than for bidders from other countries.</p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Do not ask for energy generated by wind (benefits Denmark, but disadvantages France), but rather ask for energy generated by sustainable sources.</li> </ul>
b	Equal?	<p>All bidders must have the same starting position. The inclusion of a criterion or requirement must not result in suppliers being favoured or disadvantaged on the basis of spurious or irrelevant grounds. Furthermore, it must also be possible to ensure equal treatment during the evaluation of the specified requirements or wishes.</p> <p>For example, you <u>cannot</u>:</p> <ul style="list-style-type: none"> <li>• Ask for specific brands or for specific functionalities related to brands.</li> <li>• Ask for experience with certain concepts or methods that are relatable to only one or only a few companies.</li> <li>• Give certain companies (additional) opportunities to prove themselves, for example, by giving a presentation, while denying other companies the same opportunities.</li> </ul>
4	Does the criterion lend itself to being verified?	<p>The following 3 elements designed to verify a requirement or wish are of importance in evaluating the tender:</p> <ul style="list-style-type: none"> <li>- Demonstrable: means of proof that substantiate the company's claim must be available. For example, this can be a technical report (heavy variant), or sometimes a bidder's declaration (light variant). The use of this is dependent on the nature of the assignment, including the financial weight, the risk of non-performance or the impact on the primary process.</li> <li>- Comparable: means of proof must be comparable. I.e. they must be of the same nature. No comparison of apples with oranges.</li> <li>- It must be <u>possible</u> to verify criteria. This means that it must be <u>possible</u> for the purchasing officer to verify whether the means of proof are 'authentic'. The factual circumstances must allow for this as well. The method of verification that can be applied will vary by product group and by criterion, for example, on the basis of quality marks, certificates or a company visit.</li> </ul>
5	Is the criterion of the proper form?	<p>Sustainability criteria can be integrated into a tender in various places.</p> <ul style="list-style-type: none"> <li>- Qualification of suppliers → suitability requirement or selection criterion</li> <li>- SoR → minimum requirement in relation to supplies, services, public works</li> <li>- Award criteria → award criterion in relation to supplies, services/ public works</li> <li>- Contract → contract provisions</li> </ul>
6	Have other matters stipulated in the regulations been taken into account?	<p>This includes, among other things, preconditions related to:</p> <ul style="list-style-type: none"> <li>- the request for an environmental management system;</li> <li>- the demand for requirements pertaining to the production process (the criteria must be related to the production of the product and contribute to its characteristics, without therefore having to be visible, for example chlorine for bleaching paper);</li> <li>- the reference to quality marks.</li> </ul>