

Analysis report of procurement standards and procurement praxis in Greece

Introduction

Public authorities could not only set an example, but also encourage market's shift towards a more sustainable direction. Total public procurement in the EU is estimated at about 19 % of the Union's gross domestic product or 2 trillion Euros. Hence, by using their purchasing power when choosing goods and services that respect the environment, public authorities can make an important contribution towards sustainable development. Regular demand for eco-efficient products would motivate suppliers to offer more products and services that comply with modern quality and environmental requirements.

In order to promote green public procurement, the EU has put in place several Directives and Regulations, while has set as target 50% GPP in all public contracts by 2010. Although this target was not reached, a lot of progress was made. Green procurement is the main procurement practice in many North European countries, while the majority of EU Members States have already elaborated National GPP Action Plans.

Unfortunately, Greece is lagging behind in this sector. Although the legislation foresees green obligations and restrictions in purchasing of products services and works (especially energy efficient obligations and standards), the share of contracts making use of "any form of green" criteria is below 20%, while the National GPP Action Plan is still under elaboration.

Current national procurement institutional framework

The "General Direction of Public Procurement/General Secretariat of Commerce/ Ministry of Development, Competitiveness, Infrastructure, Transport and Networks" coordinates and implements the necessary procedures for procurement of goods for the core public sector (ministries, hospitals etc.) as well as the Regional Authorities, according to the "Public Procurement Regulation" and on the basis of a yearly public procurement programme. More specifically, it is responsible for drafting and publishing the respective calls of tenders, evaluating the submitted offers and awarding the procurement contracts. However, responsible for supervising the implementation of the contracts is the appointed "Committee" set up in each public organization for this purpose. Moreover, the "General Direction of Public Procurement" provides know-how and support to other organisations of public sector.

Responsible for the coordination and implementation of necessary procedures for procurement of goods, services and works in Municipalities are their Departments of Finance and more specifically the Procurement Offices operating within them. The procedures for the procurement contracts of Municipalities are carried out according to the "Procurement Regulation of Local Authorities". Moreover, the Municipalities have the possibility, on a voluntary basis, to include their procurement contracts in the "yearly public procurement programme" run by the "General Direction of Public Procurement", in order to receive technical support and achieve lower purchase prices.

Lastly, the greater public sector organisations (public utilities etc) carry out their procurement procedures by themselves, through their own Procurement Offices/Departments of Finance and according to their own Procurement Regulations.

An Independent National Authority for Public Procurement was established in September 2011 (Law 4013/2011) in order to promote national public procurement strategy and policies, to secure the transparency, effectiveness, consistency and compliance of public contracts award and

implementation procedures with the respective national and European legislation, to improve the public procurement legislation framework and to supervise the application of procurement legislation by the public organizations and in general the public awarding authorities. The Authority is composed of 7 regular and 7 deputy members, who have important academic or professional experience in public procurement.

Current national procurement legislation

Procurement Legislation

Law 2286/1995 of “Public sector procurement and relevant issues”, as it was amended by Law 2741/1999 (artic.8) and Law 3065/2002 (artic.1), defines the legislative framework for procurement in public sector.

The Greek Presidential Decrees 60/2007 and 59/2007 in compliance with Directives 2004/18/EC and 2003/17/EC respectively, define the procedures for public supply and service contracts over a certain threshold set by Commissions Regulations, which varies based on the type of the public authority and the subject of the procurement contract. More specifically, the Presidential Decree 60/2007 “Compliance of Greek legislation with Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts”, as it was amended by Commission Regulation (EU) No 1251/2011, governs all the supply & service contracts greater than 130.000 EUR of the state authorities and organisations listed at ANNEX IV of the Decree, as well as all the supply & service contracts greater than 200.000 EUR of the other public contracted organisations. Moreover, it governs all the public works contracts greater than 5.000.000 EUR. On the other hand, the Presidential Decree 59/2007 “coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors”, as it was amended by Commission Regulation (EU) No 1251/2011, governs all the supply & service contracts greater than 400.000 EUR and all the public works contracts greater than 5.000.000 EUR.

The procurement contracts of the core public sector (ministries, regions etc) that are lower than the thresholds set in Greek Presidential Decrees 60/2007 and 59/2007, are carried out in alignment with the Presidential Decree 118/2007 “Public Procurement Regulation”, while the contracts of Local Authorities in alignment with the Ministerial Decision 11389/1993 (EKPOTA) “Common Procurement Regulation for Public Authorities”. Moreover, the contracts of other public sector organisations fell under this category are carried out according to their own procurement regulations.

The services and public works contracts are also defined by Law 3316/2005 “Award and implementation of public contracts for studies elaboration and provision of relevant services” and Law 3669/2008 “Verification of public works legislation’s codification”.

Green procurement legislation

The Greek Presidential Decrees 60/2007 and 59/2007 clearly foresee the possibility to use environmental criteria for awarding the contract to the “economically most advantageous tender”. More specifically, the Presidential Decree 60/2007 foresees the possibility to use as criteria the existence of environmental management systems and environmental labelling for procurers of services and public works (art. 46 and 48), the use of environmental criteria as award criteria (art. 51), the use of environmental attributes in technical specifications (art.53), as well as the use of contract performances clauses that cover environmental aspects (art.54). Similarly, the Presidential Decree 59/2007 foresees the use of environmental attributes in technical specifications (art.26), the use of contract performances clauses that cover environmental aspects (art.30), the application of

environmental management measures during the contract implementation in case of services and public work contracts (art.43), as well as use of environmental criteria as award criteria (art. 46).

At the moment, the use of environmental criteria in case of contacts not covered by Presidential Decrees 60/2007 and 59/2007, in other words for contracts of lower value than the thresholds foreseen in the Commission Regulation (EU) No 1251/2011, is not clearly foreseen. However, they can be used in technical specifications or as award criteria in case that the contract is awarded to the “economically most advantageous tender”, as far as this is not causing distortion in competition. Furthermore, the use of environmental attributes in technical specifications will be clearly foreseen at the upcoming modification of article 3, paragraph 2 of Presidential Decree 118/2007 “Public Procurement Regulation”, in which is given a definition of the term “technical specification”.

The last years the Greek Legislation, mainly being driven by the European Directives and Regulations, is getting stricter concerning the environmental and in particular the energy performance of goods (supply), services and works. The main legislation affecting the energy performance of both public and private contracts for procurement of buildings & building components, green electricity, household appliances, lighting, office equipment and vehicles is briefly described in the following paragraphs.

Buildings & Building Components

The Joint Ministerial Decree D6/B/5825/2010 “Energy Buildings Performance Regulation (KENAK)” sets minimum requirements for the total energy performance of new and fully renovated building, as well as minimum energy requirements based on their orientation, the characteristics of their envelope and their electro-mechanical systems (lighting, heating, cooling and ventilation), including the possible existence of passive features. Moreover, it establishes a Buildings’ Energy Performance Certification system.

The Greek legislation has not yet complied with Directive 2010/31/EU on the energy performance of buildings (EPBD Recast). However, the upcoming respective national Law will foresee that as of 31 December 2020, all new buildings will have to consume “nearly zero” energy, which should be produced “to a very large extent” from renewable sources. In addition, it will foresee that all public authorities that own or occupy a new building should set an example by building, buying or renting such “nearly zero energy building”, as of 31 December 2018.

Green Electricity

The Presidential Decrees 60/2007 permits public authorities to require, through technical specifications certain production processes and methods for a material, product, supply or service (ANNEX XI-Definition of certain technical specifications). However, unless it is justified by the subject matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain undertakings or certain products (art. 53, paragraph 8). In other words, the public authorities could require power generated from renewable energy sources in general, but not power generated by a specific technology or from a specific renewable energy source, e.g. from wind energy.

Household Appliances

The Joint Ministerial Decree D6/B/14826/2008 “Measures for energy efficiency and energy saving in public sector” foresees that both core and greater public sector’s organisations should procure electric appliances which have an energy-label and a certified indication of its energy performance,

as well as that air-conditions, refrigerators, freezers and cooking machines should be at least A class"(artic.7).

Lighting

The Joint Ministerial Decree D6/B/14826/2008 "Measures for energy efficiency and energy saving in the public sector" foresees that as of 31 May 2009 all incandescent or fluorescent bulbs in buildings used both by core and greater public sector should be minimum A or B energy class and should have electronic ballast (art.5, paragraph 1). In addition, it foresees that all the contracts for procurement of lighting systems for new buildings should comply with the aforementioned technical energy specifications (art.5, paragraph 2).

Moreover, the Joint Ministerial Decree D6/B/5825/2010 "Energy Buildings Performance Regulation-KENAK", foresees that all general lighting systems in tertiary sector buildings should have maximum luminous efficacy 55 lumen/watt (minimum buildings specifications: artic.8 (z)).

Office Equipment

The Commission Regulation (EU) No 106/2008 "on a Community energy-efficiency labelling programme for office equipment" foresees that all public contracts for procurement of office equipment, that fall under the provision of Directive 2004/18/EC, should specify energy-efficiency requirements not less demanding than those defined in the EU ENERGY STAR programme.

Furthermore, the Joint Ministerial Decree D6/B/14826/2008 "Measures for energy efficiency and energy saving in public sector" foresees that both core and greater public sector's organisations should procure electric office equipment which has an energy-label plus a certified indication of its energy performance, as well as that screeners, laptops, printers and fax machines should at least be certified with the "Energy Star" or at least comply with energy performance specifications equal to "Energy Star" (artic.7).

Vehicles

The Law 3982 /2011, in compliance with Directive 2009/33/EC foresees that the local Authorities should award public contracts for procurement of road vehicles, by taking into account the environmental impacts (fuel consumption, emissions of CO₂, NO_x, NMHC, PM) during the vehicle's life cycle. The cost of energy consumption and environmental impacts during vehicles' lifecycle is estimated according to the methodology given at the Annex of the Law (art. 65-71).

Moreover, the Ministerial Decision 90364 /2002 "Clients information programme about fuel efficiency and CO₂ emissions of new passenger cars", in compliance with Directive 1999/94/EC, defines the content of the information programme and sets mandatory the provision of information by the car sellers.

Other national laws and European Regulation encouraging green public procurement in Greece are the following:

- Presidential Decree 32/2010 "for establishing a framework for the setting of ecodesign requirements for energy-using products and for amending Presidential Decree 335/1993 and Joint Ministerial Decision D6/B/17682", in compliance with the Directive 2005/32/EC.
- Law 3855/2010 "on measures for energy end-use efficiency, energy services and other provisions", in compliance with Directive 2006/32/EC.

- Commission Regulation (EU) No 1221/2009 “on the voluntary participation by organizations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC”.
- Commission Regulation (EU) No 66/2010 “on the EU Ecolabel”.

Current national / regional practice

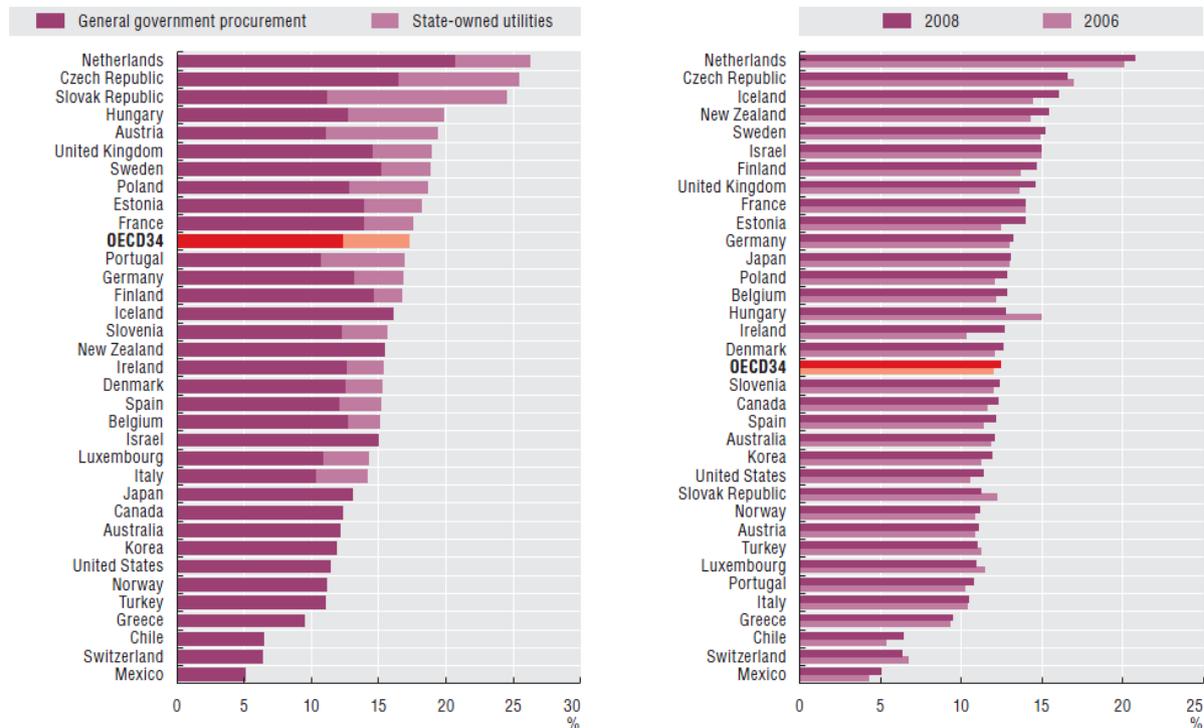


Fig.1 General government and state-owned utilities procurement as percentage of GDP in 2008 (left), Size of general government procurement as a percentage of GDP in 2006 and in 2008 (right), Source: OECD 2010 Survey on Public Procurement (OECD,2011)

According to “OECD 2010 Survey on Public Procurement” the Greek general government and state-owned utilities procurement in 2008 corresponded to approx. 9% of GDP (Fig. 1). However, it should be pointed out that Greece does not report separate data on social transfers in kind via market producers in its National Accounts. Spending in these areas may be reported under other categories included in general government procurement or may be accounted for elsewhere and not included in figure 1. (OECD, 2011)

A questionnaire survey has been carried out by the Centre for European Policy Studies (CEPS) and the College of Europe (CoE), in order to measure the level of uptake of EU core GPP criteria, in 10 products categories, by procuring authorities in the EU27 by 2010. The survey revealed that in Greece the share of contracts making use of “any form of green” criteria is below 20% both based on the number of the last awarded contracts and on the value of all contracts awarded in 2009-2010 (Fig.2 & Fig. 3). In other words, the level of uptake of the “core” GPP criteria by Greek contracting authorities was quite low, especially compared to Northern European counties. (CEPS, CoE, 2012)

Moreover, this survey revealed that the use of Life Cycle Costing (LCC) and/or Total Cost of Ownership (TCO) as tenders’ evaluation methods is limited. More specifically, Greek contracting

authorities reported having evaluated the 69% of the contracts based on their purchasing costs and only 8% based on LCC/TCO methods. (CEPS, CoE, 2012)

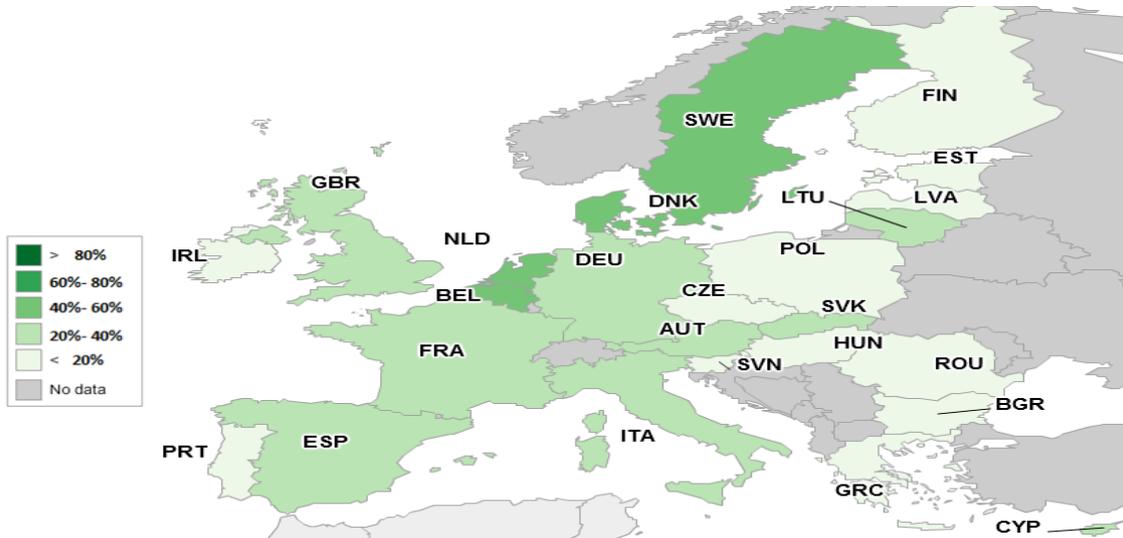


Fig.2 Uptake of EU GPP in the EU27 (share of last contracts – by number), Source: (CEPS, CoE, 2012)

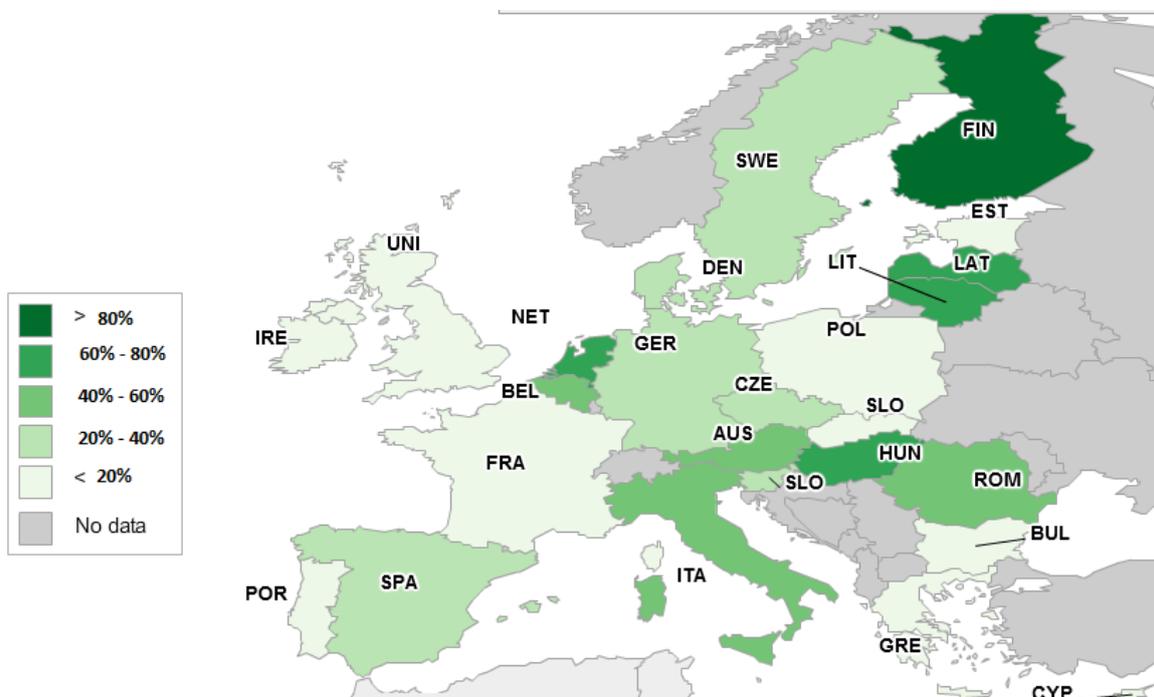


Fig.3 Uptake of GPP in the EU27 (share of all contracts in 2009-2010 – by value), Source: (CEPS, CoE, 2012)

The limited number of green procurement contracts till 2010 is mainly due to lack of a national green procurement strategy. More specifically, till 2010, Greece had not developed any concrete green

procurement policy and had not submitted, or had under elaboration, a National Plan for promotion of GPP. Just in August 2010, the country established through state Law 3855/2010, a Joint Ministerial Committee assigned to develop a national GPP policy and elaborate and monitor the National GPP Plan. The Committee has been composed of representatives of all major public procurement actors: the Ministry of Environment, Energy & Climate Change (YPEKA in Greek), the Ministry of Finance, the Ministry of Interior, Decentralization & Electronic Governance, the Ministry of Development, Competitiveness and Marine (currently renamed to Ministry of Development, Competitiveness, Infrastructure, Transport and Networks), the Ministry of Infrastructure, Transport and Networks (currently annexed into the Ministry of Development, Competitiveness, Infrastructure, Transport and Networks) and the Hellenic Centre of Renewable Energy and Energy Efficiency (CRES).

The Joint Ministerial Committee for GPP (JMC-GPP) aims to enforce not only the demand but also the supply of green products, services and works, as this way could both contribute to the development of national economy and the protection of the environment. Therefore, it has carried out (through a technical consultant) an on-line questionnaires survey in order to investigate if the Greek market is ready to supply green products and services. In total 4.401 procurers participated at the survey. 89,39% of them declared to be certified (ISO 9001 the 66,67%, ISO 14001/EMAS the 19,70% and other certifications the 27,27%), while 31,82% declared to have environmental certifications. (Sartzetakis, 2012)

Furthermore, the JMC-GPP initiated the establishment of a “GPP and Green Standards” Office in the Ministry of Environment, Energy and Climate Change (Ministerial Decision 45414-21/10/2010). The Office is expected to support the JMC-GPP in elaboration and implementation of National GPP Plan, while it will be responsible for the monitoring of EMAS and Eco label certification schemes. Nevertheless, the office hasn’t started its operation yet. (Sartzetakis, 2012)

The GPP National Plan is still under elaboration. However, a draft is already in place, while its final version is expected to be submitted to the respective Ministries in the next months. (Sartzetakis, 2012)

Recognised barriers

	Stages of procurement where green criteria are applied			Guidance to promote green procurement in practice			
	In the technical specifications	In the award phase	As a contract performance clause	Practical guide	Training materials	Ad hoc advice	Code of practice
<i>Austria</i>	●	●	●	●	○	○	●
<i>Belgium</i>	●	●	●	●	○	●	○
<i>Czech Republic</i>	○	○	○	○	○	○	○
<i>Denmark</i>	●	●	○	●	○	●	●
<i>Estonia</i>	●	●	●	●	●	●	○
<i>Finland</i>	●	○	○	●	●	●	○
<i>France</i>	●	●	●	●	●	●	●
<i>Germany</i>	○	○	○	●	●	○	○
<i>Greece</i>	○	○	○	○	○	○	○
<i>Hungary</i>	○	○	○	●	●	○	○
<i>Ireland</i>	●	●	○	●	○	○	○
<i>Italy</i>	●	●	●	●	●	●	○
<i>Luxembourg</i>	●	●	●	●	○	○	○
<i>Netherlands</i>	●	●	●	●	●	●	●
<i>Poland</i>	●	●	●	●	●	○	●
<i>Portugal</i>	●	●	○	○	○	○	○
<i>Slovak Republic</i>	○	○	○	○	○	○	○
<i>Slovenia</i>	●	●	●	●	●	●	●
<i>Spain</i>	●	●	●	○	○	●	●
<i>Sweden</i>	○	○	○	●	●	●	●
<i>United Kingdom</i>	●	○	○	●	●	○	○

Source: OECD 2010 Survey on Public Procurement.

Fig.4 Stages of procurement cycle where green criteria are applied and available guidance tools (2010),

European Project “Buy Smart+”.

Visit www.buy-smart.info for more information.

In 2007, an OECD survey indicated that a common barrier to successfully implementing green procurement was a lack of know-how among procurement officials on how to achieve it. To overcome these barriers many OECD countries have elaborated manuals, developed training materials, conducted codes of practice or offered ad hoc advice (OECD, 2011). However, as it is illustrated at Fig.4. Greece till 2010 had not taken any measure towards this direction.

The first semester of 2012, in the framework of EFFECT Project/South East Europe Programme, a survey took place in order to identify the main barriers faced by **public authorities** in up taking energy efficient public procurement. At the survey participated 20 municipalities of the Regions of Northern and Southern Aegean Sea, as well as two (2) national organizations (Civil Aviation Authority & General Secretariat of Commerce). According to the survey, the main barriers have been (EFFECT Consortium, 2012):

- Lack of a clear and concise national legislative framework concerning the energy efficiency of products and services.
- Lack of rules and procedures for integrating energy efficiency aspects in procurement tenders and contracts.
- Lack of adequate information and training on existing legislation. Lack of guidelines.
- Financial restrictions aggravated by the recent national financial crisis.
- Bureaucracy.

Moreover, in the framework of EFFECT Project/South East Europe Programme, a second survey took place in July 2012 in order to identify the main barriers faced by the **procurers** of public sector. At the survey participated 15 companies from 3 different sectors (10 construction companies, 3 lighting companies and 2 office equipment companies). According to the survey, the main barriers for implementing energy efficient public procurement tenders have been (Papamikrouli, 2012).

- Bureaucracy.
- Lack of flexibility and/or transparency.
- The documents used in “call of tenders” are usually long and incomprehensive.
- Procurement contracts are awarded based on purchasing cost and not based on Life Cycle Costs of products and services.

Opportunities

- The National GPP Action Plan is expected to be concluded in 2013. A first draft is already in place.
- Existence of energy efficiency standards and obligations in national and European legislation concerning buildings, vehicles, lighting, office equipment and household appliances.
- Almost 100 Greek Municipalities participate at the Covenant of Mayors (CoM). The CoM encourages up-taking of green procurement policies, as part of the Municipal Sustainable Energy Action Plans to be elaborated and implemented till 2020.
- Funding of green procurement projects (i.e. purchase of green cars, LED street lighting) through European Structural Funds and/or the National Green Fund.
- Financial restrictions urge both public and private sector to reduce operational costs (i.e. decrease of energy costs).
- The Hellenic Agency of Local Development and Administration (ETAA) is preparing a Green Procurement Guide for Public Authorities.

Relevant sources of information

- Hellenic Ministry of Environment and Climate Change (YPEKA):
 - Green Public Procurement : <http://www.ypeka.gr/Default.aspx?tabid=533&language=el-GR>
 - EMAS-Environmental Management Systems:
<http://www.ypeka.gr/Default.aspx?tabid=520&language=el-GR>
 - EU Eco-label: <http://www.ypeka.gr/Default.aspx?tabid=521&language=el-GR>
- General Direction of Public Procurement, General Secretariat of Commerce, Ministry of Development, Competitiveness, Infrastructure, Transport and Networks:
http://gge.gov.gr/?page_id=6
- Green Public Procurement: http://ec.europa.eu/environment/gpp/index_en.htm
- GPP Training Toolkit: http://ec.europa.eu/environment/gpp/toolkit_en.htm
- EU Eco-label: <http://ec.europa.eu/environment/ecolabel/>
- Effect Project: <http://www.effectproject.eu/EN/project.php>
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