



**Chambers  
Ireland**  
Advancing business together

**Chambers Ireland's submission for the Public  
Consultation by the Environmental Protection Agency  
on Green Public Procurement**

**November 2020**

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## Chambers Ireland's Perspective on Green Public Procurement

Chambers Ireland is the State's largest business representative network. We are an all-island organisation with a unique geographical reach; our members are the chambers of commerce in the cities and towns throughout the country – active in every constituency.

Each of our member chambers is central to their local business community and all seek to promote thriving local economies that can support sustainable cities and communities.

### **Chambers Ireland Priorities:**

Our network of chambers uses the Sustainable Development Goals to prioritise our policy analysis and recommendations.

We are anxious to see that this review of Green Public Procurement Guidelines support these aims. We believe that a well-executed Green Public Procurement regime will be of great benefit to our members, their wider communities, and the local economies which our chambers are at the heart of nurturing.

We see Green Public Procurement as a key element in delivering upon Climate Action (Goal 13), Sustainable Cities and Communities (Goal 11) and Decent Work and Economic Growth (Goal 8), Industry, Innovation and Infrastructure (Goal 9), and Responsible Consumption and Production (Goal 12).

Chambers Ireland also believes that if executed in conjunction with the European Commission’s “Think Small First” principles<sup>1</sup> (including the application of the “SME Test”, and simplifying the engagement process for SMEs with the state so that there is an effective passporting/‘one-stop-shop’ process that minimises the administrative overhead for small businesses) the Environmental Protection Agency’s Green Public Procurement Guidelines could act a driver for economic growth and resilience while also providing better value goods and services to state bodies.

This latter point is important in the context of the Covid-19 crisis. Clearly optimal goods and services provision should not be as reliant on the lowest price model which is predominant across the tendering processes of contracting bodies.

Quality, the resilience of supply continuity, and the long-run lifetime economic costs all figure within real costs of goods and services which contracting bodies tender for, and so the real value to the Irish people.

The present tendering regime is weighted too heavily towards the lowest price response to the tender which has long-run economic costs, immediate negative externalities for the environment, and provides a poorer service for meeting user needs.

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<sup>1</sup> <https://ec.europa.eu/docsroom/documents/2664/attachments/1/translations/en/renditions/native>

## Chambers Ireland observations on Green Public Procurement

### SME Engagement

What is the proposed stakeholder engagement plan for the rollout of new Green Public Procurement Guidelines?

Chambers Ireland's concern is that 2018's recommendations to contracting authorities that they include Environmental and Social considerations<sup>2</sup> in their tendering process was voluntary and had little real effect. Therefore, there is a considerable risk that the wider business community, and the SME sector in particular, will conflate this Environmental Protection Agency's update of the Guidelines with that other voluntary appeal to the contracting authorities.

As a result, many businesses will not, in the absence of a strategic engagement and communications programme, be aware that the guidelines are changing and that Green Public Procurement it is now government policy, and so mandatory.

Should there be a failure to prepare for the implementation of the Green Public Procurement, and should these guidelines be mandatory, then given the long delay in implementing this regime (relative to their European competitors which are operating in member states that have more advanced Green Public Procurement processes) many Irish firms will find that they are at a competitive disadvantage with respect to their continental rivals. Still more, if the weighing on the environmental considerations is sufficiently large, will find themselves excluded entirely from the tendering process.

Some of our member chambers have noted, with concern, that there are no business representative groups listed among those who have contributed to the redrafting of these

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<sup>2</sup> [https://ogp.gov.ie/wp-content/uploads/Social-Considerations-Information-Note-Final\\_12.12.2018.pdf](https://ogp.gov.ie/wp-content/uploads/Social-Considerations-Information-Note-Final_12.12.2018.pdf)

guidelines, and one has asked us to highlight that “Irish businesses need to be set up to succeed in an Irish [Green Public Procurement] context, this should be a goal set in the guidelines”.

Businesses which are currently struggling to survive, in the context of the Covid-19 and Brexit economic shocks, are being asked to invest in skills and technologies so that they may be able to participate in tendering processes (investments which may not be transferrable to private sector processes) in the hope that they might win tenders with contracting bodies. These contracting bodies often have complicated and heterogenous tendering processes which frequently require specific experience and knowledge to win – separate to the skills needed to provide their service in a Green fashion.

There is an urgent need to provide for an extensive engagement plan for the general SME community so that they can be prepared for a competitive environment where Green Public Procurement is the norm.

The alternative will see contracting authorities which are tendering to a restricted field of suppliers which has expensive barriers to entry. These contracting bodies will in that environment receive reduced value even as those that win such their contracts will be large firms which may not be resident here, which will sub-contract the activities to domestic SME service providers which have the skills to meet the user needs, but not the skills that are needed to win tenders.

### **Appropriate Weighting of the Green Component of Tenders**

Chambers Ireland welcomes the mandatory aspect of the Environmental Protection Agency’s Green Public Procurement Guidance and hope that the weighting of the ‘Green’ component of tenders will be significant enough to ensure that making a lowest price offer (but with poor ‘Green’ credentials) will not be sufficient to win contracts away from firms that take the risk of investing in the skills and technologies that allow them to deliver sustainable offerings.

## Needs Assessments

Chambers Ireland looks forward to a feedback loop between the needs assessment element of the procurement process (4.2) for contracting authorities, and the market engagement element (4.3). It is critical that the needs assessment element of the of the tendering process is carried out in partnership with service providers. Domain knowledge and experience are critical not only in accurately identifying needs, but also in determining what the best in class solutions may be to meet those needs. Too often the public procurement process is merely a revision of earlier tendering decisions, this often leaves contracting bodies in receipt of goods and services from dynamic industries which are a generation or more behind the state of the art. This has a significant impact on user utility but more importantly also limits the pool of potential suppliers to those that can deliver a stream of products to public bodies which private contracting bodies would not avail of.

By relying on specialist providers in this way contracting bodies create barriers of entry for smaller firms (given that the services which the market ordinarily demands are not services which meet the outdated criteria of the contracting agencies).

Drafting user requirements and tenders without adequate domain knowledge and experience thus leads to a reduction in both the quality of the services that are provided and also the value as there is less competition among service providers capable of delivering to the outmoded specification.

Secondly, poorly specified requirements have had the effect of discouraging potential service providers in many cases, and frequently leads to contracts having to be reviewed because the tender, as described, does not meet the final user needs. This leads to contracts having to be renegotiated while in they are in process, adding additional costs to the provision of goods and services to the contracting bodies.

It is therefore essential that as part of the training provision to contracting bodies that they are encouraged, if not mandated, to engage with service providers, and domain experts, during the needs assessment phase.

## **SME-Specific Impact of the Green Public Procurement Guidelines**

As it is best practice to consider how the creation and implementation of rules impact the SME sector<sup>3</sup>. Chambers Ireland is interested in knowing whether the Environmental Protection Agency has carried out economic assessments or evaluations to determine how best to mitigate any possible negative consequences specific to the SME sector which may arise as a result of this review of the 2014 Green Public Procurement Guidelines?

If there has been an economic assessment of the Green Public Procurement Guidelines, or if there are plans to conduct such an assessment we would be very interested in the following areas:

### Regulatory Impact Assessment

Given that currently SMEs engagement with the tendering process is low, what are the recommendations that have been suggested to mitigate the potential for further alienation of SMEs from the procurement process arising from this update to the Green Public Procurement Guidelines?

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<sup>3</sup> see the European Commissions “Think Small First” recommendations



## The Impact at the €25,000 Threshold for Open Procurement

What will the impact be of these new guidelines above, below, and at the existing €25,000 threshold?

For example, it is likely that if higher quality, longer lived products and services may require lengthier contracts which could (while making the lifetime cost of a product or service less expensive) tip the value of a particular product above the €25,000 threshold:

How do we avoid tipping relatively small contracts requiring tendering if the Most Economically Advantageous Tender is best considered at the multi-annual level?

Or, if the service is currently provided for on a year to year basis for a value of <€25,000, but would now be extended over a ten-year lifespan instead:

Would the overall value of that tender risk excluding smaller sole-traders and SMEs that are now be eligible to supply said goods and services on a year to year bases, but may not qualify to tender under the Green Public Procurement Guidelines because their turnover would be too small relative to the size of the tender, using a multi-annual contract value?

## Territorial Impact Assessment

What work has been done to look at the impact to cross border service provision, in light of Brexit, should differing standards of environmental protection rules be employed in the two jurisdictions?

## Tracking the Economic Impact of Green Public Procurement

It is likely that, given the need for sustainable goods and services to meet the needs determined by a Green Public Procurement process will be better quality and higher skilled, there is a

likelihood that such a process will result in greater degree of economic activation, relative to the existing largely “lowest price” model.

Is there a plan to determine whether Green Public Procurement has an Economic Multiplier effect which is less than, equivalent to, or greater than the current methodology?

It would be useful to consider this from the start as it would facilitate optimising our procurement models such that they can ensure that the Most Economically Advantageous Tender also supports the strongest sustained stimulatory effect, while also providing the best quality goods or services.

It would also be useful if we were able to demonstrate to people resident in Ireland, at the member state level, and within the broader international community that Green Public Procurement was associated with growth rather than as an economic encumbrance – as some typically frame it.

The availability of such data would be of great use in securing social acceptance of the Green Public Procurement policy, while pre-emptively collecting such data would ensure that myths about the undue expense associated with sustainable policy making could be readily exposed as false, should controversy emerge.