

The new rules aim at facilitating a better integration of environmental considerations in procurement procedures. They include a horizontal clause relating inter alia to environmental requirements, provisions on the use of environmental labels, and the option to take account of environmental factors in the whole production process and a life-cycle costing approach.

**Horizontal clause**

- In the performance of public contracts enterprises have to comply with the applicable environmental obligations stemming from EU, international and national law.
- An enterprise which does not respect these environmental obligations can be **excluded** from the tender procedure.
- The enterprise that has submitted the best tender may be not awarded the contract if the tender does not comply with these environmental obligations.
- A tender has to be **rejected** where it is **abnormally low** in relation to the works, supplies or services because it does not comply with these environmental obligations.

**Labels**

- A **label** is a mark/document attesting that a given product fulfils established and predefined quality conditions and requirements. The new rules allow public purchasers to refer to a specific label or eco-label when laying down the environmental characteristics of the works, goods or services they wish to purchase.
- Certain **conditions** must however be met:
  - **all the requirements** that have to be met to obtain the concerned label must be **linked to the specific works, goods or services** to be purchased, i.e. they must characterise them. If the label includes requirements which relate to the enterprise itself or its policy in general, the label cannot be referred to by the public purchaser. In this case, reference can only be made to the specific requirements of the label which are linked to the purchased works, goods or services;
  - labels must be laid down in a transparent procedure by **independent bodies** in which all relevant stakeholders, such as government bodies, consumers, manufacturers, distributors and non-governmental organisations, can participate;
  - the label has to be based on **objective and non-discriminatory criteria** and **available to all interested parties**;
  - if an enterprise has been unable to obtain the label on time, **equivalent labels** or **other means of proof must be accepted** by public purchasers.

**Production process**

- Public purchasers can consider **all factors of the production process, provision or trading**, even where such factors do not form part of the material substance of the product. For example:

- when technically describing the products or services they want to purchase, they may require that they do not involve toxic chemicals or are produced/provided using energy-efficient machines;
- public purchasers may also decide that the contract will be awarded to the enterprise offering the products/services which meet these conditions in the best possible way; or they may favour the product which is of fair trade origin;
- public purchasers can assess value for money on the basis of environmental aspects, e.g. whether books were printed on recycled paper or paper from sustainable timber.

### **Life-cycle costing**

- The new rules promote a life-cycle costing approach. The notion of life-cycle costing includes **all costs over the life cycle** of a works, supplies or services contract. This means **internal costs as well as costs related to environmental factors**:
  - internal costs include costs for research and development, production, transport, consumption of energy, maintenance and end-of-life disposal;
  - externalities may include the emission of greenhouse gases, pollution caused by the extraction of raw materials used in the product or caused by the product itself or its manufacturing.
- **Costs related to environmental externalities** can only be taken into account if their monetary value can be determined and verified. If no common EU method exists for the calculation of life-cycle costs such methods can be established at national, regional or local level. However, they have to be general in the sense that they should not be exclusively designed for one specific public procurement procedure, be objective and the data required can be provided with reasonable effort by enterprises.