

Procurement Monitoring Report Template

In view of the Member States' reporting process under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU

Fields marked with * are mandatory.

I. Information about reporting authority

By clicking in this box you indicate that you have read the privacy statement and provide your consent for the processing of your personal data

[EUSurvey Privacy Statement-2020.pdf](#)

* Country

Malta

* Name of National Authority

Department of Contracts

* Name of Unit/Department

The Compliance & Monitoring Unit / Department of Contracts

* E-mail address

compliance.contracts@gov.mt

Name of contact person (not published)

E-mail address of contact person (not published)

II. The public procurement framework

1. Legal framework

- * Please indicate links to the main legal instrument implementing the public procurement Directives and its main amendments that occurred during the current reporting period.

5000 character(s) maximum

Please list the links in the text box below. You can link multiple links.

Public Procurement Regulations (Subsidiary Legislation 601.03) - <https://legislation.mt/eli/sl/601.3/eng>

Public Procurement of Entities Operating in the Water, Energy, Transport and Postal Services Sectors Regulations (Subsidiary Legislation 601.05) - <https://legislation.mt/eli/sl/601.5/eng>

Concession Contracts Regulations, 2016 (Subsidiary Legislation 601.09) - <https://legislation.mt/eli/sl/601.9/eng/pdf>

2. Procurement institutional framework

Please provide key bodies and institutions regarding public procurement matters, in charge of:

	Relevant bodies <i>(multiple entries possible)</i>
Body of normative regulatory function (including transposition) and policy development	Department of Contracts, Ministry for Finance (MFIN).
Bodies responsible for monitoring and reporting	Compliance and Monitoring Unit (CMU), Department of Contracts
Review bodies	Public Contracts Review Board
Bodies responsible for the e-procurement and the functioning of the public procurement web portal	eProcurement System and Development Unit, Department of Contracts
Centralised procurement bodies	Schedule 4 of the Public Procurement Regulations 2016; Subsidiary Legislation 601.03: <ul style="list-style-type: none"> • Department of Contracts • Malta Information Technology Agency (MITA)
Competence centres	N/A
Other bodies	The Office of the State Advocate Commercial Sanctions Tribunal

III. Key quantitative indicators on public procurement

1. The total number of awarded contracts

Total number of contracts awarded **above** EU thresholds (in a yearly breakdown)

	2021	2022	2023
Number	602	725	890

* Please describe the methodology on collection of data and/on the source (in case of a database(s)) of data collected:

5000 character(s) maximum

Data was collected through the Electronic Public Procurement System (ePPS) which is the national platform for eProcurement, In cases where the procurement procedure was conducted through the traditional method (calls not published through the ePPS), relative data was provided by the responsible contracting authorities.

Total number of contracts awarded **below** EU thresholds (in a yearly breakdown)

	2021	2022	2023
Number	6170	6455	6599

* Please describe the methodology on collection of data (in case of assessment based on a sample) and/on the source (in case of a database(s)) of data collected:

5000 character(s) maximum

Data was collected through the Electronic Public Procurement System (ePPS) which is the national platform for eProcurement, In cases where the procurement procedure was conducted through the traditional method (calls not published through the ePPS), relative data was provided by the responsible contracting authorities.

2. The total value of procurement

Total value of contracts awarded **above** EU thresholds (in a yearly breakdown)

	2021	2022	2023
Value (in EUR million)	930,644,288	1,062,083,650	942,674,256

* Please describe the methodology on collection of data and/on the source (in case of a database(s)) of data collected:

5000 character(s) maximum

Data was collected through the Electronic Public Procurement System (ePPS) which is the national platform for eProcurement, In cases where the procurement procedure was conducted through the traditional method (calls not published through the ePPS), relative data was provided by the responsible contracting authorities.

Total value of contracts awarded **below** EU thresholds (in a yearly breakdown)

	2021	2022	2023
Value (in EUR million)	298,662,679	304,570,309	334,085,583

* Please describe the methodology on collection of data (in case of assessment based on a sample) and/on the source (in case of a database(s)) of data collected:

5000 character(s) maximum

Data was collected through ePPS. In cases where the procurement procedure was conducted through the traditional method (calls not published through the ePPS), relative data was provided by the responsible contracting authorities. Data collected encompasses procurement above €10K excluding VAT.

IV. Sources of wrong application or of legal uncertainty (including possible structural or recurring problems)

1. Preparation and launch of a public procurement procedure:

Which are the main sources of wrong application (or aspects with which legal uncertainty is related)?

In case your answer to question 2, 7, 8 or 9 is yes, additional options will appear.

- 1. Preliminary market consultation
- 2. Estimation of contract value (if yes, please specify below)
- 3. Wrongful setting of deadlines
- 4. Inappropriate selection criteria (too restrictive, tailor made for a particular economic operator, not related to subject matter of contract)
- 5. Discriminatory technical requirements
- 6. Conflict of interest
- 7. Procedures without publication (if yes, please specify below)
- 8. Inappropriate use of specific procedures (if yes, please specify below)
- 9. Other issues (if yes, please specify below)

2. Estimation of contract value:

- Underestimation of contract value to avoid application of EU public procurement rules
- Artificial splitting of the contract (including no aggregation of value of similar contracts)

Indicate best practices that are aimed at mitigating the issues identified in the previous answers and provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

In case your answer to any of the question in this section was 'Yes', please provide further information on these elements, if applicable. You can list multiple links separated with 'enter'.

Estimation Of Contract Value

2. Estimation of contract value was ticked at 1 but none of the options at 2. were ticked because the reason why estimation of contract value is deemed as being a main source of wrong application is the fact that at times the estimated budget would have been drawn up incorrectly or not taking in consideration current market considerations, resulting in either offers being too above the estimated budget or in some cases also abnormally low. However, in terms of avoidance of application of EU PP rules and artificial splitting, it is not deemed that this is a main source of such in Malta.

Regrading best practices, Contracting Authorities are constantly reminded, even through training, to carry out market analysis prior to calls for tender contributing to enhancing the quality and reflecting the reality of the market. Contracting authorities implement market analysis for every procurement procedure to better understand the price quotation to estimate the value of procurement and/or drafting technical specifications which reflect what is available in the market.

Discriminatory Technical Requirements

Contracting Authorities are constantly reminded when drafting technical specifications of Reg. 53 (6) of the Public Procurement Regulations 2016 S.L.601.03 which states that "technical specifications shall afford equal access of economic operators to the procurement procedure and shall not have the effect of creating unjustified obstacles to the opening up of public procurement to competition".

2. Evaluation of tenders and contract award:

Which are the main sources of wrong application (or aspects with which legal uncertainty is related)?

In case your answer to question 8 is yes, additional options will appear.

- 1. Unlawful exclusion of tenderers/rejection of offers
- 2. Non compliance with mandatory exclusion grounds
- 3. Unlawful exclusion of third country bidders covered by GPA or by other international agreement
- 4. Incorrect evaluation of award criteria
- 5. Incorrect application of rules related to abnormally low tender
- 6. Lack of publication of contract award notice
- 7. Unlawful modification of the tender conditions before conclusion of the contract
- 8. Other reason (if yes, please specify below)

8. Other reasons, please specify:

5000 character(s) maximum

The evaluation goes beyond the validity of the offers which policy is currently 90 days from the deadline for submission of offers, which may lead to a cancellation of the procedure altogether.

This sometimes occurs in view of lack of resources to finalise, technical knowledge gaps in finalising evaluation on the ePPS or also particularly in relation to large-scale projects whereby the clarifications /rectifications/sample requests lengthen significantly the process since the policy currently stands at 5 working days for each communication.

Indicate best practices that are aimed at mitigating the issues identified in the previous answers and provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

In case your answer to any of the question in this section was 'Yes', please provide further information on these elements, if applicable. You can list multiple links separated with 'enter'.

Evaluation Stage

Appointment of Evaluation Committees, both nominations and approvals are done prior the publication of the respective call for tenders in order to ensure that the Committee Members are on board to evaluate once the tender closes.

The Department of Contracts publishes a Standard Operating Procedures (SoP) which serves as guidelines for tender evaluation committees which they must follow. The recommendations made by the evaluation committees must then be approved by the respective Departmental Contracts Committee, for tenders published by the Sectorial Procurement Directorate. Recommendations by the evaluation committees for tenders published by the Department of Contracts require the approval of the General Contracts Committee. It is common practice that the Committee Secretaries scrutinise the presented evaluation reports before they are presented to the respective Committee.

3. Contract implementation:

Which are the main sources of wrong application (or aspects with which legal uncertainty is related)?

In case your answer to question 2, or 3 is yes, additional options will appear at the end of STAGE 3 to provide further details.

- 1. Illegal contract modifications
- 2. Wrong application of procurement instruments (if yes, please specify below)
- 3. Other reasons (if yes, please specify below)

Indicate best practices that are aimed at mitigating the issues identified in the previous answers and provide a link to any publicly available document relevant for the issues you indicated.

In case your answer to any of the question in this section was 'Yes', please provide further information on these elements, if applicable. You can list multiple links separated with enter.

None of the offered reply choices are applicable in MT case.

4. Problems that may originate at different stages:

Which are the main sources of wrong application (or aspects with which legal uncertainty is related)?

In case your answer to question 4 is yes, additional options will appear.

- 1. Wrong application of centralised or joint procurement
- 2. Failure to comply with legal deadlines (prescribed by EU or national law)
- 3. Biased prior involvement of candidates or tenderers
- 4. Other issues (if yes, please specify below)

Indicate best practices that are aimed at mitigating the issues identified in the previous answers and provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

In case your answer to any of the question in this section was 'Yes', please provide further information on these elements, if applicable. You can list multiple links separated with enter.

None of the offered reply choices are applicable in MT case.

5. Which are the specific legal provisions of EU public procurement law that raise problems?

Directive 2014/23/EU ('Concessions Directive')

Directive 2014/24/EU ('Classical Directive')

Directive 2014/25/EU ('Utilities Directive')

Directive 2007/66/EC ('Remedies Directive')

Please list the articles of the Directives and describe the issue you face (e.g., unclear, too strict/vague, meets contradictory interpretations or practices):

5000 character(s) maximum

None

6. Which are the patterns and behaviours that do not stem from wrong application or of legal uncertainty, but indicate possible problems in the application of public procurement rules?

In case your answer to any of these questions is yes, additional options will appear below to provide further details.

- 1. Preference for lowest price as award criteria negatively affective quality of the purchase (if yes, please specify below)
- 2. Frequent use of derogatory procedures (if yes, please specify justifications used for derogatory procedures)
- 3. Frequent use of shortest possible deadlines (if yes, please specify below)
- 4. Recurrent award of contracts to the same economic operator
- 5. Recurrent award of contracts to third country economic operators not covered by GPA or by other international agreement (if yes, please specify justification below)
- 6. Contract awarded in suspected situation of unfair competition (if yes, please see below)
- 7. Low use of green requirements or award criteria (if yes, please provide us with further explanation below)
- 8. Low use of social requirements or award criteria (if yes, please provide us with further explanation below)
- 9. Low use of procurement of innovation (if yes, please provide us with further explanation below)
- 10. Lack of monitoring of implementation of contract (if yes, please specify below)
- 11. Other issues (if yes, please specify below)

1. Preference for lowest price as award criteria negatively affective quality of the purchase, caused by:

- Lack of professionalisation
- Lack of resources
-

Budgetary constraints

- Purchase of commonly used or off-the-shelf products, works or services

Indicate best practices that are aimed at mitigating the issues identified in the previous answers and provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

In case your answer to any of the question in this section was 'Yes', please provide further information on these elements, if applicable. You can list multiple links separated with enter.

During the past years MT has increased the use of the Best Price Quality Ratio (BPQR) use as award criteria, which gives more space to innovation, best value for money and less rigid specifications.

V. Qualitative reporting on application of public procurement review system

1. Please indicate relevant figures for the national review system in the table below, as described below.

(A) **Number of first instance review decisions** (all the first instance review decisions),

(B) **Median length of first instance reviews - median length of all the first instance reviews** (the number of calendar days between a starting date and an end date, where the starting date is when the complaint/action is registered and the end date is when the review decision is issued) and

(C) **Number of first instance review decisions that were appealed to the (next) judicial level and its results** - (all the first instance review decisions that were appealed to the (next) judicial level, both on merit or procedural reasons, in addition, it shall include the number of first instance review decisions that were

a) (primarily) upheld;

b) (primarily) rejected; or

c) neither upheld nor rejected by the (next) judicial level (e.g. because they were not yet decided, retracted).

	2021	2022	2023
A. Number of first instance review decisions	140	157	115
B. Median length of first instance reviews	16 days	12 days	10 days
C. Number of first instance review decisions that were appealed to the (next) judicial level and its results	25	25	23

2. Indicate best practices that are aimed at reducing the number of obstructive complaints/actions for review (A)

5000 character(s) maximum

The procurement process in Malta, through the implementation of the ePPS provides for a high level of transparency in its competitive processes and a clarification system in place during publication that enables economic operators to query, rather than lodge a remedy. Furthermore the letters to unsuccessful bidders provide for the full details for reasons of non-compliance.

3. Indicate best practices that are aimed at reducing the length of first instance review decisions as marked in the previous column (B)

5000 character(s) maximum

Cooperation between all stakeholders.

4. Indicate best practices that are aimed at reducing the number of first instance review that were appealed to the next judicial level as marked in the table above (C)

5000 character(s) maximum

Monitoring of case law at central level and aligning policy with decisions.

VI. Fraud, corruption, conflict of interests and other serious irregularities

Describe the actions undertaken and/or mechanisms put in place to ensure prevention, detection and adequate reporting of case of public procurement serious irregularities including fraud and corruption and conflicts of interests.

1. Regulatory requirements on:

- Enhanced rules on the application of whistle-blower system
- Enhanced rules on transparency
- Enhanced rules on conflict of interest
- Enhanced rules on anti-corruption
- Enhanced rules on the application of exclusion grounds
- Other rules (if yes, please describe below)

Other rules, please describe:

5000 character(s) maximum

Legislative Mechanisms - Legislation helps prevent and detect public procurement irregularities. In cases where a public contract is rendered ineffective, regulation 280 of the Public Procurement Regulations empowers the Public Contracts Review Board to apply penalties on the authority responsible for the tendering process and the contracting authority after assessing in its decision all relevant factors, including the seriousness of the infringement and the behaviour of those authorities. Regulation 72 of the Public Procurement Regulations provides for the receipt of complaints and formal investigation by the General Contract Committee.

Commercial Sanctions Tribunal

The Commercial Sanctions Tribunal was set up to strengthen efforts in eliminating precarious employment by companies and individuals participating in public tenders and awarding of contracts. The Tribunal's remit is regulated by the Financial Administration and Audit Act (Chapter 174 of the Laws of Malta); the Public Procurement (Amendment) Regulations; and Legal Notices (L.N.) 68 of 2015, L.N. 351, 352 and 353 of 2016. The mentioned Regulations stipulate that any person, whether a legal or natural person, found to be in breach of the Public Procurement Regulations and Employment Legislation, could be liable to various sanctions, which includes cancellation of any ongoing contracts. The Commercial Sanctions Tribunal is also empowered to blacklist offending parties precluding them from bidding in public tenders for a period, which can extend from six months to two years. Once blacklisted, a company or individual is prohibited from carrying out any procurement within the public sector whether directly or as a sub-contractor, member of a consortium or joint venture.

Commercial Sanctions Tribunal - https://finance.gov.mt/public-bodies/commercial_sanctions_tribunal/

Guidance On Ethical Conduct For Public Administration Staff

The PSMC is assigned the legal status of a directive under the Public Administration Act, whereby the provisions of the Code are binding and enforceable in terms of article 15(2) of the PAA, reinforcing the importance of this Code as reflected by Directive No 1. The PSMC has undergone a simplification process to ensure that it is useful for managers and employees alike. It is complemented by a number of manuals relating to specific areas. As the PSMC deals with people management, it is dynamic and constantly evolving with a view to enhancing policies, standard practices and procedures aimed at facilitating management-employee relations. Through regular updating and fine-tuning, the PSMC aims to define and regulate the people management function, as well as the rights and obligations of employees

Guidance On Ethical Conduct For Public Administration Staff - <https://publicservice.gov.mt/en/Pages/The%20Public%20Service/PSMC.aspx>

Guidance On Fighting Bribery Practices

The Financial Intelligence Analysis Unit is a government agency established under the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta). The FIAU is an autonomous agency falling under the remit of the Ministry for Finance and Employment and is governed by a Board of Governors, acting as a non-executive, policymaking, and governance oversight body, appointed in terms of the Prevention of Money Laundering Act

FIAU - <https://fiaumalta.org/>

Fraud & Anti-Corruption Strategy

On a national level, in 2008, Malta adopted a National Anti-Fraud and Corruption Strategy (NAFCS), which was revised in May 2021. The NAFCS aims to continue providing a normative, institutional and operational framework, for the effective and efficient fight against fraud and corruption in Malta, reflecting local requirements, EU, and other international obligations. The main thrusts of the strategy are prevention, deterrence, detection, investigation, and prosecution of fraud and corruption, whilst encouraging and facilitating transparency and accountability. The update of the strategy was revised following consultation with all members of the Co-ordinating Committee setup in terms of the Internal Audit and Financial Investigations Act, (Chapter 461 of the Laws of Malta).

1.1. Best practices.

If available, indicate best practices aimed at detecting irregularities as marked in the previous column and provide a link to any publicly available document relevant for the issues you indicated.

Please provide quantitative data e.g.: number of cases detected and pursued further by the competent authorities.

5000 character(s) maximum

Please provide further information on these elements, if applicable. You can list multiple links separated with enter.

Enhanced Rules On Conflict Of Interest

Members of the Evaluation Committee are required to confirm any potential conflict of interest through direct or indirect relationship with any of the tenderers. The ePPS provides for a Declaration of Confidentiality and Impartiality prior the committee members are given access to the offers received. .

2. Enforcement measures:

- Reporting/monitoring system in place to prevent/detect fraud, corruption, conflict of interest and other serious irregularities
- Reporting/monitoring system in place to measure fraud, corruption, conflict of interest and other serious irregularities
- Systemic audit in place to prevent/detect fraud, corruption, conflict of interest and other serious irregularities
- Sanction system in place to remedy fraud, corruption, conflict of interest and other serious irregularities
- Other rules (if yes, please describe below)

2.1. Best practices.

If available, indicate best practices aimed at detecting irregularities as marked in the previous column and provide a link to any publicly available document relevant for the issues you indicated.

Please provide quantitative data e.g.: number of cases detected and pursued further by the competent authorities.

5000 character(s) maximum

Please provide further information on these elements, if applicable. You can list multiple links separated with enter.

Commercial Sanctions Tribunal

The Commercial Sanctions Tribunal was set up to strengthen efforts in eliminating precarious employment by companies and individuals participating in public tenders and awarding of contracts. The Tribunal's remit is regulated by the Financial Administration and Audit Act (Chapter 174 of the Laws of Malta); the Public Procurement (Amendment) Regulations; and Legal Notices (L.N.) 68 of 2015, L.N. 351, 352 and 353 of 2016. The mentioned Regulations stipulate that any person, whether a legal or natural person, found to be in breach of the Public Procurement Regulations and Employment Legislation, could be liable to various sanctions, which includes cancellation of any ongoing contracts. The Commercial Sanctions Tribunal is also empowered to blacklist offending parties precluding them from bidding in public tenders for a period, which

can extend from six months to two years. Once blacklisted, a company or individual is prohibited from carrying out any procurement within the public sector whether directly or as a sub-contractor, member of a consortium or joint venture.

Commercial Sanctions Tribunal - https://finance.gov.mt/public-bodies/commercial_sanctions_tribunal/

3. Soft law/Policy measures

- Guidance related to the prevention of fraud, corruption, conflict of interest, serious irregularities
- Recommendations related to the prevention of fraud, corruption, conflict of interest, serious irregularities
- Guidance on ethical conduct for public administration staff
- Guidance on fighting bribery practices
- Guidance on the detection of collusion/bid-rigging practices
- Guidance on compliance with competition rules
- National strategy to prevent fraud, corruption, conflict of interest, serious irregularities
- Action plan for the implementation of practices to prevent fraud, corruption, conflict of interest, serious irregularities
- Training/conference related to the prevention of fraud, corruption, conflict of interest, serious irregularities
- Reinforced cooperation among different state bodies
- Establishment of open-access information system to enhance transparency (public registry, declarations)
- Other measures (if yes, please describe below)

3.1. Best practices.

If available, indicate best practices aimed at detecting irregularities as marked in the previous column and provide a link to any publicly available document relevant for the issues you indicated.

Please provide quantitative data e.g.: number of cases detected and pursued further by the competent authorities.

5000 character(s) maximum

Please provide further information on these elements, if applicable. You can list multiple links separated with enter.

The Compliance & Monitoring Unit

The Compliance & Monitoring Unit within the Department of Contracts - As the central government authority charged with the regulation and administration of public procurement procedures the Department of Contracts ensures compliance through its Compliance and Monitoring Unit (CMU). The Unit follows up on flags received through its compliance email and collects information, analyses findings and proposes actions deemed necessary/applicable to the Director General (Contracts).

Guidance On Ethical Conduct For Public Administration Staff – The Public Service Management Code (PSMC)

The PSMC is assigned the legal status of a directive under the Public Administration Act, whereby the provisions of the Code are binding and enforceable in terms of article 15(2) of the PAA, reinforcing the importance of this Code as reflected by Directive No 1. The PSMC has undergone a simplification process to ensure that it is useful for managers and employees alike. It is complemented by a number of manuals relating to specific areas. As the PSMC deals with people management, it is dynamic and constantly evolving with a view to enhancing policies, standard practices and procedures aimed at facilitating management-employee relations. Through regular updating and fine-tuning, the PSMC aims to define and regulate the people management function, as well as the rights and obligations of employees.

VII. Level of SMEs' participation in public procurement

SMEs' participation

SMEs are defined in the Commission Recommendation (2003/361/EC) as having less than 250 persons employed and an annual turnover of up to EUR 50 million or a balance sheet total of no more than EUR 43 million.

Further information is available at http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

1. Qualitative reporting on SME participation

Policy measures:

- Policy initiatives launched to support SMEs participation in public procurement;
- Measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities);
- Measures targeting the participation of start-ups and scale-ups in public procurement;
- Measures ensuring that payment for public contracts are made on time, especially in the case of SMEs;
- Measures addressing the payments to subcontractors;
- Guidelines for contracting authorities on the application of 'divide or explain' principle (concerning division into lots);
- Policy measures in place to monitor SME participation in subcontracting
- Other measures (if yes, please describe below)

1.1. Best practices.

Indicate best practices that are aimed at encouraging the participation of SMEs in public procurement as marked in the previous column.

Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

Measures Targeting SME Participation

The Malta National Statistics Office statistics provide that in 2022, there were approximately 33,442 SMEs operating in Malta, with the vast majority of these (30,903) being micro-sized enterprises that employed between zero and nine people. <https://nso.gov.mt/registered-business-units-2022/>

It is acknowledged that lack of access to finance has repeatedly been cited as one of the major problems faced by SMEs. The Department of Contracts, as the central government authority, attempts to mitigate such difficulties through several measures implemented over the years:

- Experience may be requested for tenders exceeding €500K Exc.VAT;
- The Performance Guarantee for contracts below €500K Exc.VAT is 4% instead of the standard 10% and is requested for contracts above €10K Exc. VAT;
- The encouraged use of the Single Bond wherein economic operators have the possibility to provide a

Single Bond covering the performance guarantees for all contracts with the same Contracting Authority;

- Currently the Tender Guarantee (Bid Bond) requirement is suspended. At the discretion of the Director General (Contracts) if a Tender Guarantee (Bid Bond) is requested, this is done only for tenders where the estimated value exceeds €2,000,000 Exc. VAT. When a CfT is divided into lots, no Bid Bond is requested for individual lots having an estimated value lower than €2,000,000 Exc. VAT. When the CfT allows submission for one lot, any lot, or all of the lots, the tenderer may add up the values of the individual lots and submit one whole Bid Bond. The Bid Bond is submitted at tendering stage electronically, whilst the original is presented at the DoC within 5 working days from opening of offers;
- Provision of hands-on training free of charge to all Economic Operators on the ePPS by the Department of Contracts through the Institute for Public Service. The training workshop organised for the Economic Operators is a 3-hour practical run through on how to use the ePPS.
- Contracting Authorities are encouraged to divide tenders into lots (Contracts Circular N° 05/2021).

2. Quantitative reporting on SME participation

Please quantify the impact of these best practices in the table below:

2.1. Value of contracts directly awarded to SMEs over total value of awarded contracts – above threshold

	2021	2022	2023
Value (in EUR million)	263,903,022	449,294,693	456,544,181

2.1.1. Value of contracts directly awarded to SMEs over total value of awarded contracts – below threshold

	2021	2022	2023
Value (in EUR million)	187,341,468	176,690,232	177,245,120

Please explain the calculation/assessment method used for collection of data.

Data was collected through ePPS. In cases where the procurement procedure was conducted through the traditional method (calls not published through the ePPS), relative data was provided by the responsible contracting authorities.

2.2. Number of contracts directly awarded to SMEs over total number of awarded contracts – above threshold

	2021	2022	2023
Number	519	553	700

2.2.1. Number of contracts directly awarded to SMEs over total number of awarded contracts – below threshold

	2021	2022	2023
Number	3605	3061	2959

Please explain the calculation/assessment method used for the collection of data.

5000 character(s) maximum

Data was collected through the Electronic Public Procurement System (ePPS) which is the national platform for eProcurement, In cases where the procurement procedure was conducted through the traditional method (calls not published through the ePPS), relative data was provided by the responsible contracting authorities.

VIII. Practical implementation of national strategic procurement

1. Green procurement ('GPP')

Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured." [1] A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008.

[1] Commission Communication (COM (2008) 400) "Public procurement for a better environment".

1.1. What is the state of play of green procurement in your Member State? (regulatory requirements and policy measures related to GPP)

1.1.1. How do you in general evaluate the degree of the GPP implementation in your country:

Please assess based on:

- Existence of enabling public procurement legal framework,
 - Existence of GPP policies/action plans,
 - Provisions of practical support to practitioners,
 - Results of monitoring of contracts which include sustainability requirements,
 - Results of monitoring of sustainable outcomes.
- Implementation is advanced
- Implementation is in progress
- Implementation is low

The broad objectives in GPP policies are met:

- Yes
- Partially
- Not yet

1.1.2. Existing GPP regulatory requirements in your Member State:

- General legal obligation imposing GPP goals
- Sectoral regulations requiring sustainable development including public procurement
- Sectoral regulations encouraging sustainable development including public procurement
- Other regulatory requirements (if yes, please describe below)

If other regulatory requirements, please describe:

5000 character(s) maximum

Malta's first Green Public Procurement National Action Plan (GPP 1st NAP) was adopted in 2011. In 2015, a review of the GPP 1st NAP was undertaken to assess its implementation, that led to the drafting of GPP Second National Action Plan (2022-2027) (GPP 2nd NAP) which came into force as of 1 January 2022. The scope of the GPP 2nd NAP is primarily to strengthen the achievements as well as address any identified challenges encountered during the implementation of the GPP 1st NAP. Secondly, it also aims to promote, motivate and incentivise the implementation of GPP practices, production and consumption, thus, reinforcing and integrating the concept of circular public procurement. The mission of the GPP 2nd NAP is to 'enhance the GPP function, recognising the opportunity to limit further the environmental footprint whilst driving markets towards greener products and services'. In fact, its vision is to progressively increase the share of Government's GPP to 90% by 2027.

Furthermore, GPP is also integrated in Malta's Sustainable Development Strategy for 2050 which was launched for public consultation in 2022. In fact, GPP is listed as one of the tools to achieve Strategic Objective 2 Responsible and Efficient Use of Resources which Safeguards Environmental and Socio-Economic Wellbeing. Furthermore, the following target has been included in Annex I to the Strategy: By 2027, progressively increase the share of government's procurement in greener products to 90% of tenders which fall under the scope of GPP.

GPP 2nd NAP: [https://environmentcms.gov.mt](https://environmentcms.gov.mt/en/decc/Documents/environment/gpp/secondNap/greenPlanBook.pdf)

[/en/decc/Documents/environment/gpp/secondNap/greenPlanBook.pdf](https://environmentcms.gov.mt/en/decc/Documents/environment/gpp/secondNap/greenPlanBook.pdf)

Malta's Sustainable Development Strategy for 2050: <https://sustainabledevelopment.gov.mt/wp-content/uploads/2022/12/Maltas-Sustainable-Development-Strategy-for-2050.pdf>

Indicate best practices that are aimed at encouraging the use of GPP criteria. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

As indicated in the reply to question 1.1.2. Malta has a robust governance mechanism of coordination in place stemming from the GPP NAP. Although, the Ministry for Environment, Energy and Regeneration of the Grand Harbour (MEER) is the GPP Focal Point responsible for coordinating and monitoring the implementation of the GPP NAP, yet compliance to the provisions of the NAP falls on every Ministry. In fact, all Ministries have their own GPP Coordinator whose role is to guide the Contracting Authorities falling within their remit, screen procurement calls and provide GPP clearances prior to publication. The GPP Focal Point is also responsible for the delivery of training and information sessions to public entities and the monitoring and drawing up of reports related to GPP in consultation with the GPP Coordinators while also managing a GPP Helpdesk.

In the GPP 1st NAP, the GPP requirements were only mandatory for Calls for Tenders. By virtue of the GPP 2nd NAP, which came into force on 1 January 2022, the GPP requirements now also apply to Calls for Quotations, thus, leading to a considerable cumulative environmental contribution. Accordingly, the GPP 2nd NAP necessitates that all Procurement Calls, irrespective of Procurement Type (Services, Supplies, Works), specifically having an Estimated Procurement Value equal to or above €5,000 excluding VAT to incorporate a set of GPP Technical Criteria, as applicable and necessary. Further information is available at the following link: https://environmentcms.gov.mt/en/decc/Documents/environment/gpp/newsEvents/Circ06_2022%20Green%20Public%20Procurement%20-%20Implications%20of%20Second%20National%20Action%20Plan.pdf

A GPP module has been integrated in the electronic Public Procurement System (ePPS) and green data

collection is carried out by the GPP Focal Point directly from the system thus facilitating the monitoring of GPP. The e-PPS requires the Contracting Authority to tick whether a call for procurement falls within the scope of a GPP criteria or not. If the call falls within the scope of GPP, then the Contracting Authority is required to indicate the budget spent on the 'greened' products/services/works.

1.1.3. GPP policy measures applied in your Member State:

- Guidelines to encourage the use of GPP
- National strategy to encourage the use of GPP
- National action plan to implement measurable objectives in GPP
- National target of GPP in certain sectors/in public procurement
- Monitoring/reporting on the use of GPP criteria
- Existence of national competence centre/national network of experts to promote the use of GPP
- Existence of specific working groups to promote the use of GPP in specific sectors
- Mandatory regular trainings for the promotion of GPP
- Optional trainings/events/workshops for the promotion of GPP
- Online information tool on the use/on best practices of GPP
- Other policy measures (if yes, please describe below)

Indicate best practices that are aimed at encouraging the use of GPP criteria. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

Malta's first Green Public Procurement National Action Plan (GPP 1st NAP) was adopted in 2011. In 2015, a review of the GPP 1st NAP was undertaken to assess its implementation, that led to the drafting of GPP Second National Action Plan (2022-2027) (GPP 2nd NAP) which came into force as of 1 January 2022. The scope of the GPP 2nd NAP is primarily to strengthen the achievements as well as address any identified challenges encountered during the implementation of the GPP 1st NAP. Secondly, it also aims to promote, motivate and incentivise the implementation of GPP practices, production and consumption, thus, reinforcing and integrating the concept of circular public procurement. The mission of the GPP 2nd NAP is to 'enhance the GPP function, recognising the opportunity to limit further the environmental footprint whilst driving markets towards greener products and services'. In fact, its vision is to progressively increase the share of Government's GPP to 90% by 2027.

In 2022, the Department of Contracts issued the Contracts Circular No. 6/2022, Green Public Procurement: implications of the Second National Action Plan, in order to provide contracting authorities with the guidance on GPP. Further information is available at the following link: https://environmentcms.gov.mt/en/decc/Documents/environment/gpp/newsEvents/Circ06_2022%20Green%20Public%20Procurement%20-%20Implications%20of%20Second%20National%20Action%20Plan.pdf

Furthermore, GPP is also integrated in Malta's Sustainable Development Strategy for 2050 which was launched for public consultation in 2022. In fact, GPP is listed as one of the tools to achieve Strategic Objective 2 Responsible and Efficient Use of Resources which Safeguards Environmental and Socio-Economic Wellbeing. Furthermore, the following target has been included in Annex I to the Strategy: By 2027, progressively increase the share of government's procurement in greener products to 90% of tenders which fall under the scope of GPP.

As indicated in the reply to question 1.1.2. Malta has a robust governance mechanism of coordination in place stemming from the GPP NAP. Although, the MEER is the GPP Focal Point responsible for coordinating and monitoring the implementation of the GPP NAP, yet compliance to the provisions of the

NAP falls on every Ministry. In fact, all Ministries have their own GPP Coordinator whose role is to guide the Contracting Authorities within their remit, screen procurement calls and provide GPP clearances prior to publication. The GPP Focal Point is also responsible for the delivery of training and information sessions to public entities and the monitoring and drawing up of reports related to GPP in consultation with the GPP Coordinators while also managing a GPP Helpdesk. The Helpdesk plays a crucial role in providing timely advice, information, and guidance on GPP requirements and processes.

A user-friendly digital platform is currently being developed to consolidate all information related to the GPP.

In terms of trainings, during the past years, MEER in conjunction with the Institute for the Public Services (IPS) developed a Training Programme for all Public Administration Officers involved in public procurement, which aims to impart Government's policies in favour of environmental safeguards and wiser use of materials /resources through its procurement procedures. The Training Programme also provides guidance in relation to the correct implementation of the GPP requirements in Procurement Calls.

1.2. What are the key challenges for the uptake of green public procurement?

- Lack of professionalisation of public procurement staff
- Lack of capacity of public procurement staff
- Risk or a perception of a risk amongst public buyers of higher procurement costs
- Risk of no available offer on the market or a perception of some public buyers that such risk exists
- Risk of legal actions for wrong application of GPP criteria or a perception of some public buyers that such risk exists
- Lack of policy guidance and support on GPP
- Lack of policy strategy on GPP
- Lack of guidance on implementation of GPP requirements/criteria in procurement procedures
- Lack of strategic planning by the buyers
- Lack of interest
- Other reasons (if yes, please explain below)

Indicate best practices that are aimed at encouraging the use of GPP criteria. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

The procurement departments, at Ministerial level, are highly wrought by personnel turnover, risking knowledge gaps and delays. This is also true for the GPP Coordinators. In order to mitigate this factor, the GPP Focal Point provides continuous support to the newly appointed GPP coordinators and shadows them to enable a smooth transition.

In the early part of 2022, the period of transition between the 1st and 2nd NAP posed some challenges to the Contracting Authorities. One significant change during this transition was the inclusion of GPP criteria for quotations of €5,000 or more, which resulted in the cancellation and re-issuance of several quotations due to non-compliance with GPP requirements. Additionally, the implementation of the 2nd NAP necessitated the issuance of two waivers for the transport criteria due to insufficient demand in the current Maltese market.

One of the challenges faced in promoting green public procurement at the local level is the insufficient number of compliant bidders meeting certain GPP criteria. Consequently, contracting authorities tend to

refrain from incorporating GPP criteria due to concerns that the market has not yet adapted to such criteria.

2. Socially responsible public procurement ('SRPP')

Socially responsible public procurement is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility.

2.1. What is the state of play of SRPP in your Member State?

2.1.1. How do you in general evaluate the degree of the SRPP implementation in your country:

Please assess based on:

- Existence of enabling public procurement legal framework,
 - Existence of SRPP policies/action plans,
 - Provisions of practical support to practitioners,
 - Results of monitoring of contracts which include social requirements,
 - Results of monitoring of social outcomes.
- Implementation is advanced
- Implementation is in progress
- Implementation is low

The broad objectives in SRPP policies are met:

- Yes
- Partially
- Not yet

2.1.2. Existing SRPP regulatory requirements in your Member State:

- General legal obligation imposing SRPP goals
- Mandatory requirements regarding employment from vulnerable groups
- Respecting minimum criteria on human- and labour rights in the value chain
- Specific SRPP requirements for the performance of contracts
- Mandatory exclusion grounds related to SRPP
- Sectoral regulations requiring equal treatment and non-discrimination

Indicate best practices that are aimed at encouraging the use of SRPP. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

Contracting Authorities/Entities are bound by certain Legal Obligations in relation to Social and Labour Law established by the European Union, National Law/s and Collective Agreements as well as some International Agreements (such as the International Labour Organization (ILO) Fundamental Conventions). Accordingly, the provisions emanating from such commitments must be complied with in Public Procurement Contracts. However, the EU Public Procurement Directives make it clear that Contracting Authorities/Entities may take into consideration additional social aspects throughout the procurement cycle. Nonetheless, despite all the

attributed benefits and good progress, the application of SRPP in Malta is still in its infancy.

For the past years, since 23 December 2014, in an effort to mitigate precarious working conditions, the Government, in collaboration with the Department of Industrial and Employment Relations (DIER), assisted by the Department of Contracts publishes an annual Circular, whereby the minimum hourly rates payable to the contractor working in the field of precarious services is established. In addition. The said Circulars also established the minimum hourly rates payable by the contractors to their employees.

Further to the above and in line with the Government of Malta's plea to mitigate precarious working conditions, the Department of Contracts aligned the Provision of specific Services Strategy to National Policy requirements. Accordingly, for the past years, since April 2016, it was established that the provision of services with high intensity of precarious and low-quality jobs shall be procured through the Best Price Quality Ratio (BPQR) Award Mechanism instead of price or cost only. It was deemed that the BPQR approach was the best tool to safeguard the Contractors' employees. To this end, currently, the most salient SRPP practice relates to Social Award Criteria as part of the BPQR Evaluation Table.

In order to assist Contracting Authorities to appropriately develop the Award Criteria for the BPQR approach, a Procurement Policy Note illustrating Sample/Model Award Criteria (including a set specifically related to Social Aspects) that may be utilised by Contracting Authorities/Entities was originally published in 2016. However, since then it was updated as necessary. In fact, the latest version was published in May 2023.

The BPQR 'Social Aspects' Award Criteria for specific Services includes 'Mandatory Social Criteria' whereby the bidders are expected to submit proof showing that as part of the Service Contract to be provided they shall:

- Meet the Legal requirements for the Employment of Persons with Disability.
- Provide Employees with a written Contract of Employment.
- Pay Employees by credit transfer where all costs are borne by the contractor.
- Employees are provided with a Payslip.
- Honour Vacation Leave Days already booked and approved by the current/previous outing Contractor within the limitations established by any prevailing law.
- Ensure that Employees are free to have a Trade Union Membership.

Bidders are also to provide a Health and Safety Resources Report (including Quality Assurance Systems) detailing the measures to ascertain a good/safe working environment for the employees.

Moreover, the Award Criteria Model include also 'Non-Mandatory Social Criteria'. In such instances, bidders that offer their employees an Insurance Cover relating to an Employers' Liability Insurance and/or a Collective Agreement is enacted (through the competent channels/authorities), are awarded extra points in the BPQR computation of scores.

The above Social Award Criteria are updated and refined from time to time to ascertain that the criteria are reflective of the necessary mitigation measures vis-à-vis a particular working condition malpractice.

The utilisation of the BPQR Award Mechanism is still deemed to be somewhat sensitive, therefore, invariably, the vast majority of the BPQR Award Criteria are screened and approved by the Department of Contracts prior to publication. From a SRPP perspective, such a filtering process ascertains that the challenge that the aforementioned Social Award Criteria are not properly articulated and interpreted, is mitigated to an extent as possible.

The Concept of Pegged Rates stems from one of the European Union's ideologies as depicted in Article 157 of the Treaty on the Functioning of the European Union (TFEU), which relates to the 'principle of equal pay

for male and female workers for equal work or work of equal value'. Accordingly, Pegged Rates and Social Award Criteria no longer relate to precarious Services only. In fact, such requirements have also been extended to other Service Contracts, namely for services which tend to be associated with pay discrimination⁴, both from a gender perspective as well as from a generic holistic perspective, including economic and social rights.

2.1.3. SRPP policy measures applied in your Member State:

- Guidelines to encourage SRPP
- National strategy to encourage SRPP
- National action plan to implement measurable objectives in SRPP
- National target of SRPP in certain sectors/in all sectors
- Monitoring/reporting on the use of SRPP criteria
- Existence of national competence centre/ specific working groups to promote the use of SRPP
- Mandatory regular trainings for the promotion of SRPP
- Optional trainings/events/workshops for the promotion of SRPP
- Online information tool on the use/on best practices of SRPP
- Other policy measures (if yes, please describe below)

Indicate best practices that are aimed at encouraging the use of SRPP. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

Malta's Public Administration promotes the use of the BPQR mechanism in procurement procedures to improve the working conditions in the sectors with low quality jobs.

The Best Price Quality Ratio (BPQR) is obligatory to be utilised for the services falling within the pegging of rates scheme. Where the BPQR is used, a Contracting Authority can take into account other criteria in addition to – or other than – the price, such as the after-sales services. Each chosen criterion is given a relative weighting by the Contracting Authority, which reflects the relative importance that it has. The purpose of the BPQR is to identify the tender that offers best value-for-money.

The concept of value-for-money recognises that goods, works and services are not homogenous and that they differ in quality. The point of seeking value-for-money is that Contracting Authorities should aim to procure the optimum combination of features that satisfy their needs.

A balance of quality and price can be created by allocating a number of points out of 100. It is important to note that the 'Award Criteria' shall be proportionate to the services being requested and linked to the subject-matter of the contract.

Invariably, any BPQR criteria, even if the BPQR is being utilised for other procurements that do not fall within the pegging of rates scheme, for quotations and tenders are to be approved by the Department of Contracts prior to publication⁴ for Schedule 2 and 16 Contracting Authorities as well as any Contracting Entities pursuing activities in line with S.L. 601.05. Accordingly, all BPQR tables will be moulded in terms of the exigencies of the procurement in question and therefore the criteria will be subject to tweaking as necessary, and the Contracting Authorities shall be guided accordingly.

Case in point, specifically for security services meeting or exceeding the value of Euro2 million (or as may be directed by the Department of Contracts) the criterion regarding Implementation Service Quality Standards is to be included as part of the BPQR table as a mandatory one. Nevertheless, in approving any BPQR table,

the Department of Contracts reserves the right to request the inclusion of applicable ISOs or any other relevant criteria as well as to impose any other condition as may be deemed appropriate for the specific BPQR table under review. In addition, DoC have developed procurement policy notes to guide contracting authorities opting to use BPQR.

Equal Opportunities

Regarding socially responsible clauses, as part of the General Rules Governing Tenders, Malta has the below article in respect of Gender Equality, which applies to all Call for Tenders:

In carrying out his/her obligations in pursuance of this contract, the tenderer shall ensure the application of the principle of gender equality and shall thus 'inter alia' refrain from discriminating on the grounds of gender, marital status or family responsibilities. Tenderers are to ensure that these principles are manifest in the organigram of the company where the principles aforementioned, including the selection criteria for access to all jobs or posts, at all levels of the occupation hierarchy are amply proven. In this document, words importing one gender shall also include the other gender.

Working Conditions

To mitigate precarious working conditions, the Government, in collaboration with the Department of Industrial and Employment Relations (DIER), assisted by the Department of Contracts continued to publish several Circulars, whereby the minimum hourly rates payable to the contractor working in the field of precarious services were established.

Experience has shown that in numerous instances, Economic Operators submitting an offer were bidding with the same exact rate/price, that is, the identical minimum rate as per the circulars.

Thus, to overcome this challenge and continue to curb precarious employment, through National Policy, such services were procured through the BPQR Award Mechanism.

The BPQR approach was deemed the best tool to safeguard employees as well as attain a high standard service since a Contracting Authority may establish other criteria (such as the quality, delivery, and after-sales) in addition to the price. Each chosen criterion is given a relative weighting by the Contracting Authority, reflecting its relative importance. Thus, identifying the tender that offers the best value-for-money. The utilisation of the BPQR Award Mechanism is still deemed to be somewhat sensitive, therefore, invariably, BPQR criteria for quotations and tenders are screened and approved by the Department of Contracts prior to publication

2.2. Key challenges – What are the key challenges in the uptake of SRPP?

- Lack of professionalisation of public procurement staff
- Lack of capacity of public procurement staff
- Risk or a perception of risk amongst public buyers of higher procurement costs
- Risk of no available offer on the market or a perception of some public buyers that such risk exists
- Risk of legal actions for wrong application of SRPP or a perception of some public buyers that such a risk exists
- Lack of policy guidance and support on SRPP
- Lack of policy strategy on SRPP
- Lack of guidance on implementation/insufficient implementation of policies on SRPP
- Lack of strategic planning by the buyers
- Lack of interest
- Other reasons (if yes, please explain below)

Indicate best practices that are aimed at encouraging the use of SRPP. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

Public authorities can engage in socially responsible public procurement by buying ethical products and services, and by using public tenders to create job opportunities, decent work, social and professional inclusion and better conditions for disabled and disadvantaged people.

Consultation with Stakeholders: Reserved Contracts

As per MT's Public Procurement Regulations (2016) S.L 601.03 (LN352-2016), Reserved Contracts, which are a form of SRPP are defined as follows:

"A contracting authority may reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled or disadvantaged persons or may provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least 30% of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers."

In the last quarter of 2023, the Department of Contracts was in contact with representatives from the Malta Co-operative Federation (MCF) and the Social Entrepreneurs Association Malta (SEAM) to explore the possibility of adopting and encouraging the utilisation of Reserved Contracts and/or Social and other Specific Services. It is envisaged that such a collaboration shall ensue in the coming future with the scope of introducing the Light Touch Regime for certain services such as social, cultural and health.

Consultation with Stakeholders: Social Economy

Further to the adoption of the EU's Social Economy Action Plan, in September 2023, the Department of Contracts participated as a stakeholder in the EU Social Economy Action Plan Stakeholder Round Table event (titled 'Shaping the Future: Bridging the Gap Between the EU's Social Economy Vision and Tangible Action').

In Malta, work on promoting the social economy is ongoing. The Social Enterprise Act, to regulate social enterprise organisations and administration, was published in 2022 but still needs to enter into force. Further consultations with regard to its entry into force and implementation are underway. It is opined that once in force, promoting SRPP will be more timely as this would yield a more receptive and achievable approach towards its practical implementation. It should be noted, however that in terms of initiatives, Malta Enterprise will be amending the Micro Invest scheme to include social enterprises eligible for funding. Eligible social enterprises will be supported through a tax credit calculated as a percentage of eligible expenditure, which also covers increase in wage costs.

In February 2024, Malta signed the Liège Roadmap for Social Economy in the European Union which touches on various important elements which will contribute to ensuring social enterprises can develop further.

Workshop on Strategic Public Procurement

In 2023, the Department of Contracts was approached by the Contractors (PwC and ICLEI) of the Procurement Dialogues initiative, specifically in the context of the project entitled 'Organisation of workshops in the 27 Member States to develop a dialogue on the use of strategic public procurement (green, social and innovation)' to organise a workshop on Strategic Public Procurement in Malta. The said workshop was held in Malta on 18th October 2023. Participants were encouraged to participate and contribute to the discussions by identifying challenges and suggesting potential solutions, with the ultimate goal being the creation of a roadmap that would guide the development of a more strategically focused public procurement system.

From a Socially Responsible Public Procurement perspective, some of challenges mentioned were as follows:

- Lack of Resources
- Political Intrusion
- Contractual Management
- Capacity Building

The Department of Contracts shall be analysing such challenges and accordingly creating a Roadmap to enhance the promotion and uptake of SRPP. The following are some of the Proposed Mitigating Initiatives:

- Information Sharing
- Recruit skilled Procurers
- Cultural Change
- Use of Artificial Intelligence

3. Public procurement of Innovation

An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report on both dimensions.

3.1. What is the state of play of procurement of innovation in your Member State?

3.1.1. How do you in general evaluate the degree of the innovation procurement implementation in your country:

Please assess based on:

- Existence of enabling public procurement legal framework,
- Existence of innovation policies/action plans,
- Provisions of practical support to practitioners,
- Results of monitoring of contracts which include innovation aspects,
- Results of monitoring of innovation procurement.

- Implementation is advanced
- Implementation is in progress
- Implementation is low

The broad objectives in policies supporting innovation are met:

- Yes
- Partially
- Not yet

3.1.2. Innovation policy measures applied in your Member State:

- Guidelines to describing the procurement of innovation
- National strategy to encourage the procurement of innovation
- National action plan to implement measurable objectives to procure innovation
- National target to procure innovation in certain sectors/in all sectors
- Monitoring/reporting on the procurement of innovation

- Existence of national competence centre/specific working groups develop policies on the procurement of innovation
- Mandatory trainings related to the procurement of innovation
- Optional trainings/events/workshops related to the procurement of innovation
- Online information tool on the use/on best practices related to the procurement of innovation
- Other policy measures (if yes, please describe below)

Indicate best practices that are aimed at encouraging the procurement of innovation. Please provide a link to any publicly available document relevant for the issues you indicated.

5000 character(s) maximum

Malta has limited experience with procurement for innovation and does not have a stand-alone procurement for innovation policy. However, existing procurement structures and regulations do allow for procurement for innovation to take place and a number of examples of the application of procurement for innovation exist.

3.2. Key challenges – What are the key challenges for the uptake of Procurement of Innovation?

- Lack of professionalisation of public procurement staff
- Lack of capacity of public procurement staff
- Risk or a perception of a risk amongst public buyers of higher procurement costs
- Risk of no available offer on the market or a perception of some public buyers that such a risk exists
- Risk of legal actions for procedures carried out wrongly
- Lack of policy guidance and support on Innovation
- Lack of policy strategy on procurement of innovation
- Lack of strategic planning by the buyers
- Lack of interest
- Other reasons (if yes, please explain below)

Indicate best practices that are aimed at mitigating indicated issues.

5000 character(s) maximum

Malta has prepared a National Research and Innovation Strategic Plan through the Malta Council for Science and Technology that spans the years 2023–2027. In accordance with national goals and strategic objectives of the European Union, the plan seeks to present a comprehensive vision for the advancement of research and innovation in Malta.

<https://mcst.gov.mt/wp-content/uploads/2023/01/%E2%80%A2RI-Report-Final.pdf>

Malta Digital Innovation Authority Strategic Plan

The goal of Malta's Digital Innovation Authority Strategic Plan is to provide a common goal for the organization's resources and actions.

<https://www.mdia.gov.mt/news-events/mdia-strategic-plan-2023-2025/>

IX. The level of competition in public procurement

1. Do you monitor the level of competition in public procurement in your Member State?

To assess please consider in particular: proportion of single bids, proportion of negotiated procedures without prior publication, proportion of cancelled tenders

- Yes, the level of competition is monitored
- Yes, the level of competition is partially monitored (not comprehensive for all the procurement markets)
- No, the level of competition is not monitored

If the reply to the previous question is yes, please indicate whether the level of competition compared to the previous reporting period:

- Increased
- Remained unchanged
- Decreased

If the reply to the above question is yes, please provide best practices (e.g.: including on the tools used, methodology, indicators, etc.)

5000 character(s) maximum

e-Forms

Implementation and integration to the ePPS of the e-Forms to be used by all Contracting Authorities when publishing notices on the EU Official Journal (Tenders Electronic Daily (TED)) through ePPS.

E-Forms have been successfully implemented as of 14 May 2023.

In essence, e-Forms increase data-driven decisions about public expenditure as well as reduce administrative burden and enhance transparency.

2. Did you launch/complete a comprehensive analysis of main causes of the lack of competition on the public procurement market during the current reporting period?

- Yes, a comprehensive analysis of main causes of the lack of competition was launched/completed in the current reporting period
- No, a comprehensive analysis of main causes of the lack of competition was not launched/completed in the current reporting period
- No, a comprehensive analysis of the main causes of the lack of competition was not launched/completed in the current reporting period as the level of competition is satisfactory

3. What are the sectors mostly concerned by low competition?

Please list the sectors concerned:

5000 character(s) maximum

No information available for this reporting period.

Please list other relevant factors (for example regions, areas, level of administrative level, type of public buyer, calendar period):

5000 character(s) maximum

N/A

4. What are the main causes for the decrease in competition?

- 1. Structure of the market (e.g. size of the market)
- 2. Market concentration in the sectors concerned
- 3. Recurrent, particularly low number of bidders due to (if yes, please specify below):
- 4. Low attractiveness of the public procurement market, in particular (if yes, please specify below):
- 5. Anticompetitive market practices (collusions)
- 6. Other reasons (if yes, please specify below)

Please provide a link to any publicly available document relevant for the issues you indicated:

5000 character(s) maximum

N/A

X. Additional information

Please provide any other information you consider relevant:

5000 character(s) maximum

N/A

Contact

GROW-C2@ec.europa.eu