EURECA Training

Module 3: Legislation and Policies

Target Audience:

Procurement officers; decision-makers; Public Sector policy makers;

ICT and Data Centre professionals; Legal and CSR professionals

DATA CENTER
eureca
PROJECT

Agenda

- Starting questions
- Structure of the EURECA courses
- Learning outcomes
- Course contents
  - Purpose and goals of (EU) legislation & policies
  - EU Directives and policies
  - Regional legislation & policies
  - Tips & Support initiatives (for EURECA context procurement)
- Starting questions to be answered
- References and further reading

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1. Name at least 3 key EU legislative directives that may be relevant to procurement of data centre products and services
2. Do you know which of your nation's legislation and policies are in response to (these) EU directives?

3. Stimulating Innovation through Public Sector procurement

   a) Why should public sector procurement stimulate market innovation?
   b) How can Public Sector approach this?

4. What is the benefit for both public and private sector to understand both (relevant) public sector and private sector legislation?

Please write down your responses. At the end of the module you will be asked again. You can compare both responses with the answers afterwards.

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Overview EURECA training KIT

EURECA Training Toolkit

Procurement

- Module 1: PPI for Public Sector Procurers and ICT Managers
- Module 2: Business Case Development
- Module 3: Legislation and Policies
- Module 4: Procurement Strategy
- Module 5: Tendering
- Module 6: Data Centre Contracts and Risks

Technical

- Module 7: Data Centre KPI's and Standards
- Module 8: The EU Code of Conduct for Energy Efficiency in Data Centres
- Module 9: The Data Centre Maturity Model

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Learning Outcomes

Public Procurement Perspective
- ➢ Understand why Public Sector procurement has an important role in making the sector greener / energy efficient.

EU Directives - Relevant European legislation:
- ➢ Learn which EU Directives are of importance to the procurement of environmentally sound data centre products and services by the public sector.

Importance of PPI & PCP related to legislation
- ➢ *Understand the reasoning behind EU and national legislation and its correlation with the value of PPI and PCP*
- ➢ *Know where to find information about PPI and PCP supporting initiatives*
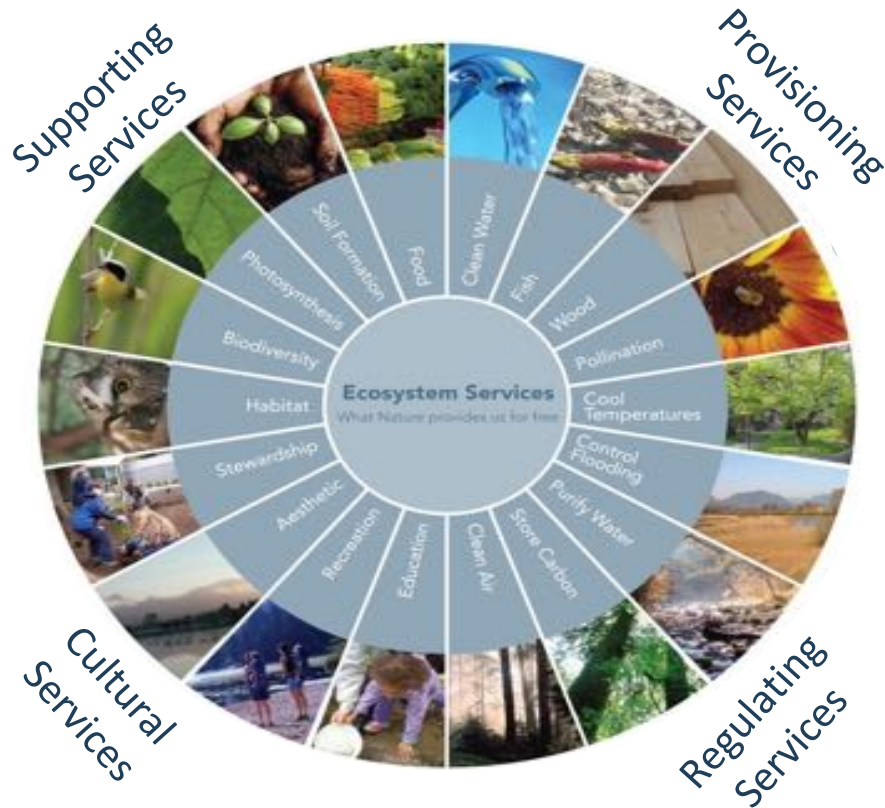
National legislation:
- ➢ Grasp key national legislation applicable to four member states (UK, NL, GER, FR) and how they related to European Directives (where applicable)

➔ *Of specific relevance to parties from or engaging with these countries in relation to procurement*

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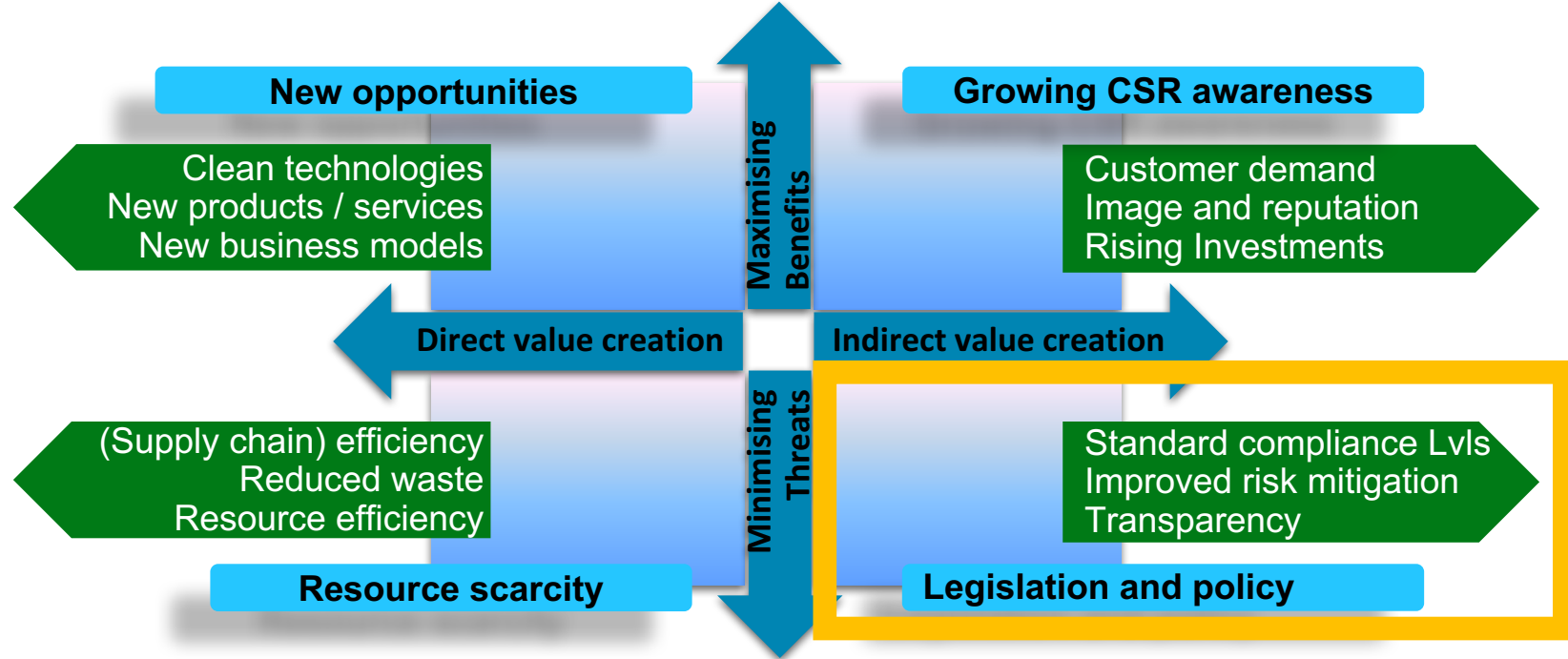
- References and further reading

Supporting Services

Provisioning Services

Cultural Services

Regulating Services

The need for…

- Reduction Resource use
- Changing energy sources
- Increasing Resource efficiency
- Reducing (hazardous) waste
- Smart choices regarding competing land & material uses
- Preparing for unpreventable climate change consequences

See **Module 1** for more in depth background context

Bring new challenges

- 'Business as usual' doesn't suffice
- Less mature areas of expertise
- Unproven or new innovative technology
- Contradicting claims
- Contradicting requests
- … etc.

New opportunities

Growing CSR awareness

Clean technologies
New products / services
New business models

Customer demand
Image and reputation
Rising Investments

Maximising Benefits

Direct value creation

Indirect value creation

Minimising Threats

(Supply chain) efficiency
Reduced waste
Resource efficiency

Standard compliance Lvls
Improved risk mitigation
Transparency

Resource scarcity

Legislation and policy

Legislation and policies, on EU and national level, have an important role to play

The relevant legislation and policies are meant to

- Battle the challenges
- Take advantage of the opportunities
- Support meeting the EU 2020 and 2030 targets
- Stimulate innovation and adoption

But they need to be applied wisely…
or they create the opposite effects of what they are aiming for.

EU PS Procurement perspective

By 2015, GDP in the EU-28 had reached EUR 14.6 trillion (EUR 14 635 billion)

Source: Eurostat

➔ Spanning 250,000+ EU based public authorities
➔ Public expenditure on goods, works, and services alone:

   approx. 19% of EU GDP = more than €2.3 trillion

Source: EC Single Market Strategy

(* based on 2014 statistics)

15

*What about **ICT** Public procurement expenditure?*

Based on study estimates, the total value of reported ICT public procurement contracts in the 29 countries within the scope of this study reaches about EUR 50.3 billion in 2011.

Source: EC on Public Procurement

Assuming same % of GDP on ICT procurement for 2015

'Approx 55.6 billion spend in 2015'

Total value of ICT contracts in 2011, EUR billion

Total of 50.3 billion EUR of ICT procurements identified in 29 countries

EU PS Procurement perspective

"Public procurement plays a key role in the Europe 2020 *[& 2030]* strategy, set out as one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth while ensuring the most efficient use of public funds."
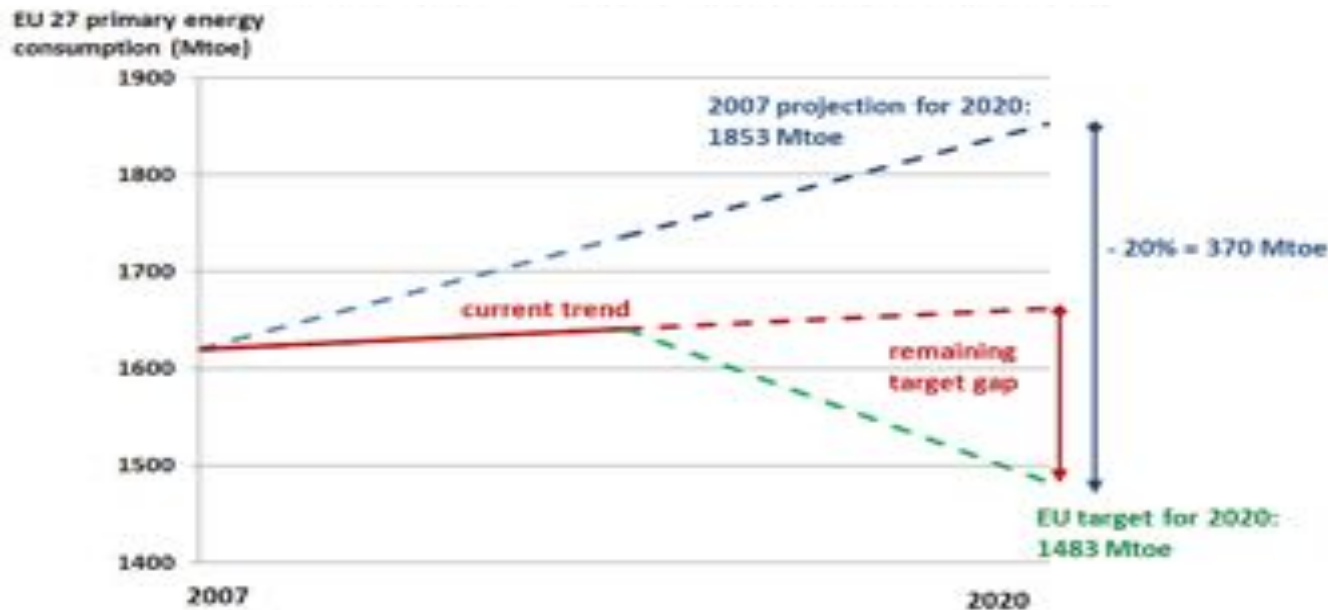

Climate change / energy 2030 targets

- *40% cut in greenhouse gas emissions compared to 1990 levels*
- *at least a 27% share of renewable energy consumption*
- *at least 27% energy savings compared with the business-as-usual scenario*

17

For example, PS procurement provides an excellent opportunity to contribute to closing the energy savings target gap:

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EU Directives for PPI and PCP
in EURECA context

Directive	PPI (Public Procurement of Innovation)	PCP (Pre-Commercial Procurement)
Procurement Directive Public Sector 2014/24	Fully abide	PCP exemptions as stated in resolution 2008/2139 *)
Energy Performance of Buildings Directive 2010/31	Applicable to New build Data Centre, renovation and retrofitting.	Applicable to New build Data Centre, renovation and retrofitting.
Energy Efficiency Directive 2012/27	Consult minimal criteria; supplied products should meet or exceed. Applicable to New build, renovation and retrofitting of Data Centre and products and services.	Consult minimal criteria; PCP R&D results should meet or exceed. Applicable to New build, renovation and retrofitting of Data Centre and products and services.
Standards CEN-CELENEC-ETSI Regulation 2012/1025	Consult minimal criteria; supplied products should meet or exceed. Useful for all Data Centre related buildings, products and services	Consult minimal criteria; PCP R&D results should meet or exceed. Useful for all Data Centre related buildings, products and services
RoHS [1] (2011/65) & WEEE [2] (2012/19) Directives	Consult minimal criteria for products or services containing EEE; supplied products should meet or exceed.	Consult minimal criteria for products or services containing EEE; PCP R&D results should meet or exceed.
ErP Ecodesign Directive 2009/125-Regulation 617/2013	Consult minimal criteria; supplied Energy-related Products (or product-using services) should meet or exceed	If applicable to Energy-related Products (or product-using services) from PCP R&D to meet or exceed.

*1) Restriction of Hazardous Substances

*2) Waste Electrical and Electronic Equipment

20

For EURECA context thresholds apply for the procurement of

- ✓ *Data centre new build*
- ✓ *Retrofit or refurbish existing entire data centre or server room facility*
- ✓ *Retrofit or refurbish existing internal facility components f.e.*
  - • *UPS / back-up*
  - • *Climate control*
  - • *Data floor design (isles, cabling etc.)*
- ✓ *ICT (managed or cloud) services*
- ✓ *ICT consultancy & training services*
- ✓ *ICT equipment refresh*

21

Procurement Directive Public Sector
CELEX 32014L0024

Current thresholds

Central Government authorities	Works contracts, subsidised works contracts	€ 5 225 000
	All services concerning social and other specific services listed in Annex XIV	€ 750 000
	All subsidised services	€ 209 000
	All other service contracts and all design contests	€ 135 000
	All supplies contracts awarded by contracting authorities not operating in the field of defence	€ 135 000
Sub-central contracting authorities	Works contracts, subsidised works contracts	€ 5 225 000
	All services concerning social and other specific services listed in Annex XIV	€ 750 000
	All other service contracts, all design contests, subsidised service contracts, all supplies contracts	€ 209 000

Note: For Defence and Utilities Public Sector some alternative thresholds apply. These and all current thresholds can be found here: https://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/thresholds_en

Types of public procurement procedures

Open procedure
> In an open procedure any business may submit a tender.

Restricted procedure
> Any business may ask to participate but only those who are pre-selected will be invited to submit a tender.

Negotiated procedure
> In a negotiated procedure the public authority invites at least 3 businesses with whom it will negotiate the terms of the contract.

Competitive dialogue
> Often used for complex contracts such as large infrastructure projects where the public authority cannot define the technical specifications at the outset.

Electronic auctions
> Public authorities can also award contracts by electronic auction, specific rules apply.

23

Public procurement rules on

Award criteria

Public authorities may use different criteria when evaluating tenders.

Possibilities for setting criteria:

✓ *Setting of minimum requirements*

✓ *Require tenderers to provide third-party verified evidence for award criteria.*

✓ *Possibility to perform comparative assessment of the tenders*

✓ *Use of clearly (objectively) defined criteria and clear weighting*

However, the criteria cannot directly or indirectly discriminate suppliers *)

Public procurement rules on

Publication

Certain notices must be published for any public tender exceeding the thresholds and for which EU-wide rules exist, such as:

✓ *Publishing of contract notice or notice of a design contest*

✓ *Publishing a notice of the contract award announcing the results of the public tender.*

✓ *Public authorities may choose to publish other information notices*

✓ *'Without prior publication' is only permitted under specific circumstances as described in the Directive *)*

Public procurement rules on

Transparency

In order to ensure transparency and traceability of the process, all stages should be duly documented.

Other key elements are:

- ✓ *Public authorities may only begin evaluating tenders after the deadline for submission has expired.*

- ✓ *All tenderers have the right to be informed as soon as possible after tender was awarded.*

- ✓ *The public authority must observe strict confidentiality regarding the exchange and storage of your data.*

- ✓ *excessive concentration of purchasing power should be avoided*

- ✓ *Contracting authorities may get independent advice prior to tender.*

Public procurement rules on

Technical specifications

Technical specifications define the characteristics of the service, supply or works that the public authority intends to buy. They can refer to:

✓ *Aspects of environmental performance, design, safety, quality assurance or conformity assessment.*

✓ *Tests, inspection and construction techniques (Works contracts)*

✓ *Technical specifications should not require the use of a specific brand, trademark or patent*

✓ *The need to allow competition as well as to achieve objectives of sustainability.*

Key focus areas:

This Directive is specifically aiming to increase the adoption of innovative solutions for Buildings (such as data centres) which Public Sector can stimulate via PPI or PCP.

- *energy performance certificates for all buildings*
- *Inspection schemes for heating and air conditioning systems (or with similar effect)*
- *All new buildings: nearly zero-energy by 31 December 2020 (public buildings by 31 December 2018)*
- *Energy performance requirements for new buildings and major renovation / retrofitting of buildings*
- *List national financial measures to improve the energy efficiency of buildings*

Together with **Energy Efficiency Directive** this Directive is the main legislation to stimulate the reduction the energy consumption of buildings.

3 main pillars

This Directive is specifically aiming to increase innovative solutions to enhance energy efficiency in buildings *), products and services which Public Sector can stimulate via PPI or PCP.
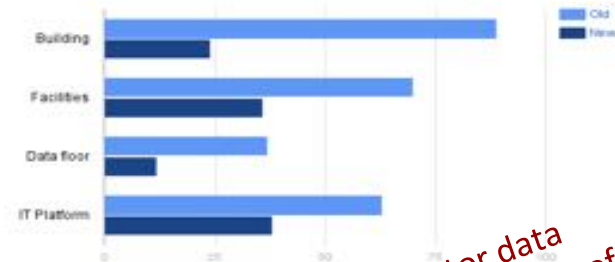
1. Set of measures (relation to 2030 targets) to help the EU to
   a. *Cuts in greenhouse gas emissions by 40% (from 1990 levels)*
   b. *Share renewable energy up to 27%*
   c. *Improve in energy efficiency by 30%*
2. Public sector should purchase energy efficient buildings, products and services.
3. More focus on monitoring, reporting and auditing which (in varying levels) applies for public and private sector.

*) In conjunction with the Energy Performance of Buildings Directive.

Key focus areas

For procurement **Article 6** is of interest from a 'purchasing rules perspective'. Other key elements in EED are useful for Public Sector procurement in engagements with the market.
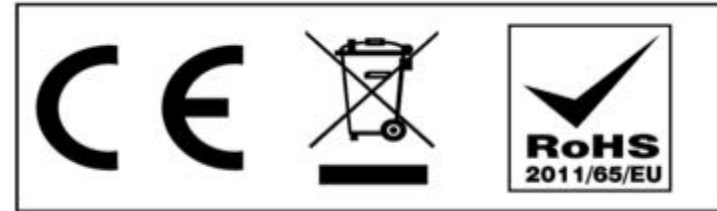
- *Energy distributors (DSO) or retail energy sales companies to achieve **1.5% energy savings** per year*
- ***other means** such as improving the efficiency of heating systems, installing double glazed windows or insulating roofs*
- ***Energy efficient renovations** on at least 3% of Public body buildings they own and occupy by floor area*
- ***Empowering energy consumers***
- ***Monitoring** efficiency levels re: generation*

Transferable to Public Sector data centre facilities (and procurement of relevant products and services) as well

RoHS

1. This Directive is specifically aiming to restrict the use of hazardous substances in electrical and electronic equipment in products and product-using services, which Public Sector can stimulate via PPI or PCP.

2. Targets all electrical and electronic equipment (EEE), cables and spare parts, with full compliance by 2019

3. Aims for more clarity, transparency, labeling and clarification on rules, definitions and related regulation

Should be used in conjunction with **WEEE Directive.** Together they are directed to stimulate and improve the collection and recycling of such equipment with less hazardous health and environmental impact.

31

WEEE

- This Directive is specifically aiming for appropriate treatment *) of WEEE and reduce the volume that go to disposal, which Public Sector can stimulate via PPI or PCP (for example by opting for new business services dedicated to reuse).

- Earlier version (from 2002) updated in 2012. Key elements are:
  - ✓ *Requirements are written with **improved product design to ease dismantling, recycling and reuse** in mind and stimulate national WEEE **collection points and processing systems***
  - ✓ *WEEE scheme requires **involvement from all stakeholders**: national and local government, manufacturers, distributors, vendors and customers / consumers.*
  - ✓ *Covers most EEE but there are specific **exclusions***

Should be used in conjunction with **RoHS Directive.** Together they are directed to stimulate and improve the collection and recycling of such equipment.

*) last known figures EU at +/-30%.

Addressing minimum eco-design requirements

Establishes a framework which energy consuming goods must meet before they can be used or sold in the EU (32013R0617 targets computers and computer servers in particular)

Key elements are:

- ✓ *Eco-design requirements cover **all stages of a product's life** and various **environmental aspects are assessed** by bodies designated by EU countries.*
- ✓ *Manufacturers must construct an **ecological profile** of their products*
- ✓ *Products which satisfy the requirements bear the **CE marking** and may be sold anywhere in the EU.*
- ✓ *Products that can be powered directly from the mains alternating current (AC) including via an external or internal power supply*
- ✓ *Extensive **list of definitions** for ecodesign requirements for the placing on the market of computers and computer servers.*

Can be seen in conjunction with **EED.** Together they are directed to effectively improve the energy efficiency of products & services.

European Standards Organisations (ESOs)

- ### CEN

  European Committee for Standardisation; body bringing together national standardisation bodies of 34 European countries.

- ### CELENEC:

  European Committee for Electro-technical Standardisation with members from 34 European countries.

- ### ETSI:

  European Telecommunications Standards Institute

  *With the '1025' regulation the European Committee formally recognised these organisations as **the** European Standards Organisations for Europe.*

34

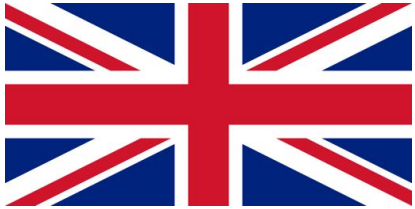## *Coordination Group on Green Data Centres*

Manages and coordinates European standardisation works related to data centres energy efficiency together with stakeholders of industry and EU projects.

In 2016, Published 'Standardisation Landscape - Energy management and environmental viability of data centres' covering:

- ✓ *existing standards addressing energy management of data centre*
- ✓ *identifies standardisation gaps*
- ✓ *recommendations and guidance to best practices for different DC areas*

Note: See References and Further reading at the end of the training module for links to the publication documents

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UK legislation & policies

1. Public Sector Procurement Policy

The Crown Commercial Service (CCS) is the body responsible for the development and implementation of the UK procurement policy framework. The framework covers a wide selection of policies which are made available for public sector.

There are **three main relevant policy frameworks** in place that are of specific relevance to EURECA context:

- ✓ *Procurement framework:* **G-Cloud**: *Find cloud technology and support - eg web hosting or IT health checks*
- ✓ *Procurement framework:* **Crown Hosting Data Centres**: *Buy physical data centre space for legacy systems - eg for services that can't be migrated to the cloud yet*
- ✓ *Procurement framework:* **Digital Services**: *Find specialists to work on digital projects - eg technical architects and user researchers*

2. *Climate Change Act*

The Climate Change Act includes the following:

- ✓ *Reduce emissions min. 80% in 2050 from 1990 levels (incl. GHG emissions from the devolved administrations, which currently accounts for around 20% UK total).*
- ✓ *Carbon Budgets. Legally binding 'carbon budgets'.*
- ✓ *A National Adaptation Plan.*

3. *Carbon Levy's and Climate Change Agreement Data Centres*

The levy is a taxation consisting of 2 different rates:

- ✓ *Main rate: applies **also** to organisations providing public services*
- ✓ *Reduced (CPS) rate: for energy intensive business that has entered into a Climate Change Agreement with the Environment Agency, a CCA for Data Centre industry is in place. Potential Public Sector suppliers may be incentivised to commit to the CCA.*

EU EED & EPoB Directives

4. ***The Waste Electrical and Electronic Equipment Regulations 2013***

The WEEE Regulations 2013 became law in the UK on the 1st of January 2014. The new Regulations transpose the main provisions of Directive 2012/19/EU on WEEE. These regulations also provide for a wider range of products to be covered by the Directive which come into effect from 1st January 2019.

Key focus areas:

- ✓ ***Application to 10 categories*** *and are supplemented by* ***4 additional reporting categories***
    - ▪ *From 15 August 2018 the scope is widened to include all EEE*
- ✓ ***Effective measures*** *are taken to control exposure to mercury and lead then normally the control of exposure to other hazardous substances should also be adequate.*

Note: In conjunction with 'UK RoHS Compliance and Guidance rules' provided by Gov.uk

40

NL legislation & policies

Regional NL content overview

1. *Public Procurement Act (2012)*

The recent transposition of EU Directives into the Public Procurement Act led to a number of changes, which include

- ✓ *facilitating better access for SMEs,*
- ✓ *reducing the administrative burden for contracting authorities and economic actors,*
- ✓ *granting contracting authorities more flexibility in how they organise their procedures.*

Furthermore, the Netherlands is increasingly investing in implementing **sustainable and innovation public procurement** mechanisms

EU PS Procurement Directive

2. *National Energy Agreement for Sustainable Growth*

The Agreement is concluded by the government with employers, trade unions, environmental organisations and others, contains provisions on energy conservation, boosting energy from renewable sources and job creation. Stimulated by this agreement's benefits and packages, combined with an increasing demand of relevant solutions in relation to DC products and services through Public Sector Procurement (PPI and PCP) will significantly contribute to meeting the national and public body's specific targets

3. *Environmental Management Act*

Environmental Management Act (Re. Energy) Every organisation using more than 50,000 kWh of electricity and 25,000 m3 of natural gas per year, is legally obliged to comply to the Activities Decree, part of the Environmental Management Act. Organisations are obliged to implement energy saving measures with possible return on investment of (within) five years. In addition, the Environmental Management Act legislation regarding waste, noise hindrance, water use et al.

EU EED, PoBD, RoHS & WEEE Directives

4. *Long Term Agreement Energy efficiency*

- ✓ *Negotiated agreements aimed at promoting energy savings in industry*
- ✓ *Specific LTA exists for ICT sector*
- ✓ *Participating organisations are required to make and update energy efficiency plans and agree to an additional list of requirements*
- ✓ *Participating organisations are exempt from EU EED energy audit requirement in addition to their required LTA reporting requirements*

EU EED Directive

GER legislation & policies

1. *Procurement and Contract Regulations*

✓ *Procurement Regulation for Public Works*

  (Vergabe- und Vertragsordnung für Bauleistungen – VOB/A)

✓ *Procurement Regulation for Public Supplies and Services*

  (Vergabe- und Vertragsordnung für Leistungen – VOL/A)

✓ *Procurement Regulation for Professional Services*

  (Vergabeordnung für freiberufliche Dienstleistungen – VOF)

EU PS Procurement Directive

2. German Energy Saving Act / ENEV – 'Energiesparverordnung' of the BMWI

✓ *Energy Efficiency Regulation for Buildings (Isolation, Heating, Cooling)*

✓ *Any building must have an "Energieausweis".*

✓ *Procurement shall take this into consideration for any build-out.*

✓ *Also applicable for data centres since 2014.*

✓ *A new version 2017 is foreseen to reflect more explicitly on DC Services.*

3. 'Blue Angel' for energy efficient data centres

✓ *RAL-UZ 161, 'Blauer Engel für Energieeffiziente Rechenzentrumsbetriebe' Full life cycle perspective*

✓ *First governmental-endorsed type I Ecolabel for data centres*

✓ *Used for federal-level DC procurement, encouraged to be used on lower administrative levels*

Guide for procurement, based on the „Blue Angel"

PPI guide published by German Government (KOINNO/BWMI) that supports decision makers and procurement officers with concrete advice on becoming more innovation-orientated.

✓ *Covers selected hardware, energy monitoring, operation*

✓ *Explores attention areas of hardware production*

✓ *Provides specific formulations for tenders*

✓ *Annexes to support evaluation of offers*

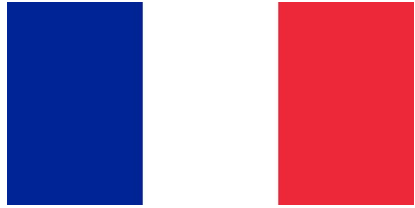✓ *Available financial support programme*

EU EED & PoBD Directives

4. ElektroStoffV (RoHS) & ElektroGesetz (WEEE)

Targets avoiding hazardous materials and waste from WEEE and strengthening the preparation for re-use. In conjunction they cover the following key areas:

- ✓ *Requirements for the manufacturer, importer and distributor*
- ✓ *CE marking and labelling*
- ✓ *Optional possibilities for local authorities*
- ✓ *Collection*
- ✓ *Treatment*
- ✓ *Increase opportunities for reuse*
- ✓ *Increase transparency of flows*
- ✓ *Prevent illegal exports of electrical and electronic equipment*

FR legislation & policies

EU PS Procurement Directive

1. *Decree for Public procurement and concession contracts*

✓ ***Standardization*** *of two decrees (Public Procurement and Concession Contracts) and their three implementation decrees*

✓ ***Replacement*** *of the Public Procurement Code*

More relevant, modernised and comprehensible framework for PP addressing

✓ *Better alignment with EU Directive updates,*

✓ *Stimulate innovative solutions that increase public service effectiveness and quality,*

✓ *Meeting sustainability objectives,*

✓ *Improve chances for SME's, and*

✓ *Simplification*

The public procurer has a solid legal basis for integrating an environmental dimension into its markets

52

2. The Energy Transition for the Green Growth (2015)

Objectives

✓ *Energy Efficiency: Reduction of final energy consumption by 50% in 2050*

✓ *Renewable energy: 23% in 2020 and 32% in 2030*

✓ *GHG: Reduction of 40% by 2030 and division by 4 by 2050*

- Scheme for the promotion of public procurement, socially and ecologically responsible
  - *When the total annual amount of purchases exceeds 100 million euros.*
- Specific section on the environmental and energy performance of procurement
- National Low-Carbon Strategy

Public procurement is positioned to play a major role in supporting this transition

3. *WEEE & RoHS Decree*

WEEE concerns the prevention and management of waste electrical and elect
equipment and RoHS aims to restrict the use of certain hazardous substances
electrical and electronic equipment.

Key elements are:

- ✓ *A reduction in the number of categories of equipment (change from 10 categories to 7) from 15 August 2018.*
- ✓ *The setting of new collection targets: From 2016, this is set at 45% of the average weight of EEE placed on the market in the last three years. In 2019, the target will be 65% of the average weight of EEE placed on the market in the last three years or 85% of WEEE produced by weight.*
- ✓ *The setting of more ambitious recycling and recovery targets.*
- ✓ *A strengthening of controls in the case of exports of EEE for re-use.*
- ✓ *Transposition of the important definitions' clarification, previously identified in the directive*
- ✓ *Obligations imposed on all economic operators, distributors and importers*

EU RoHS & WEEE Directives

Regional FR content overview

Legislation supporting sources

- General Administrative Specifications for the ICT market
  - ✓ *Sets out all the contractual aspects of a ICT contract*
  - ✓ *I.e: Contracts for the supply of computer or telecommunications equipment, commercial software; Development of information systems; Maintenance services*

- *Public Procurement Guide: Recommended Policies for Purchasing Strategies*
  - ✓ *Recommendations on how to put in place a relevant strategy to integrate the sustainable development*

- National Action Plan for Sustainable Public Procurement - 2015/2020
  - ✓ *Organize national actions for sustainable public procurement and ush each organization to think about sustainable purchasing*
  - ✓ *Goal for 2020: 30% of environmental clauses*

- Union of Public Purchasers' Groups (UGAP)
  - ✓ *Consideration of Sustainable Development to its purchases: 55% has sustainable aspects*
  - ✓ *Cloud Computing strategy: procurement of IT products and services*

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Under Horizon2020 the European Union has made budget available for PCP and PPI projects across the different 2016-17 Horizon 2020 work programmes.

The following funding opportunities exist for consortia of procurers:

- ✓ *To prepare and undertake together a PCP or PPI procurement*
- ✓ *To cooperate on identifying opportunities and preparing for future PCPs / PPIs (see the calls for coordination and support actions)*

Purpose for Public Sector Procurement:

- ✓ *For PPI to act as launching customer / early adopter / first buyer of innovative commercial end-solutions newly arriving on the market*
- ✓ *For PCP to steer the development of solutions towards concrete public sector needs, whilst comparing/validating alternative solution approaches from various vendors*

57

Other useful procurement platforms

Public Procurement Network:

The objective of the network is to strengthen the application and the enforcement of the procurement rules through mutual exchange of experience and benchmarking, and to create a reliable and effective informal co-operation including problem - solving in cross-border cases related to public procurement.

The European Commission has the status of observer to the PPN and supports the activities within the Public Procurement Network. http://www.publicprocurementnetwork.org

Procurement of Innovation Platform (and Forum):

This platform provides information on a variety of products or services procured by the Public Sector across Europe. It includes a forum for exchange of information between peers.

The Platform is developed and managed by ICLEI and additional regional organisations and was funded by the European Commission https://www.innovation-procurement.org

ISO20400 (Sustainable Procurement)

For PPI and PCP targeting environmentally sound or energy efficiency it is recommended to integrate sustainable procurement within the procurement organisation of the public body and to ensure its alignment with organisation wide relevant CSR strategy and objectives.

This new upcoming ISO standard provides a useful framework to realise this.

- ✓ *Voluntary (no certificate) standard and guideline*
- ✓ *Benefits organisation wide procurement*
- ✓ *Aligned with ISO26000 (Social Responsibility)*

First International Standard for sustainable procurement nears publication

The expert in anything was once a beginner.

- Know the key organisational drivers (if any) in the areas:
  - *Economic*
  - *Environmental*
  - *Social*
  - *Technical*
- Know your *current* and *aimed* maturity (improvement options) of applicable areas vs. the requirements from EU directives and policies. (see Modules 4, 5 & 9)
- Select best fit standards (EU CoC, ISO etc.) in line with directives and policies and aimed maturity levels (see Modules 6, 7, 8 and 9)
- Set targets (actual or relative; f.e. useful metrics and KPI's*) in line with key drivers and legislation and policies. (see Module 7)
- Utilise Procurement frameworks supporting PPI and PCP (see Modules 1, 2, 5 & 7)

*) Note: it is important all parties involved have a clear understanding of both the purpose and benefits as well as the limitations and pitfalls

- Starting questions

- Structure of the EURECA courses

- Learning outcomes

- Course contents
  - Purpose and goals of (EU) legislation & policies
  - EU Directives and policies
  - Regional legislation & policies
  - Tips & Support initiatives (for EURECA context procurement)

- **Starting questions to be answered**

- References and further reading

Testing your knowledge - Can you answer?

1. Name at least 3 key EU legislative directives that may be relevant to procurement of data centre products and services

2. Do you know which of your nation's legislation and policies are in response to (these) EU directives?

3. Stimulating Innovation through Public Sector procurement
    a) Why should public sector procurement stimulate market innovation?
    b) How can Public Sector approach this?

4.   What is the benefit for both public and private sector to understand both (relevant) public sector and private sector legislation?

Please write down your responses (again).
Check the answers on the next slide.

Answers should be (or for questions 3 and 4 wording to the same effect):

1) **Minimum of 3 named of the following a – f options:** Note: Any correct answer from a – f counts as a good answer, if three or more are scored the question is answered correctly.
   a) Procurement Directive PS
   b) Energy Performance of Building Directive
   c) Energy Efficiency Directive
   d) WEEE (Waste of Electronic of Electric Equipment) Directive
   e) RoHS (Restriction of Hazardous Substances) Directive
   f) Ecodesign for Energy related Products Directive

2) **Answer per region, either UK, NL, GER or FR:**
   ● **UK:** *Note: Any correct combination of a – d counts as a good answer, if three or more are scored the question is answered correctly.*
   a) EU PS Procurement Directive: Crown Commercial Service managed Public Sector Procurement Policy Framework
   b) EED / EPoB: Climate Change Act & Levy (CCL) and related Climate Change Agreement (CCA) for DC industry
   c) RoHS & WEEE: The Waste Electrical and Electronic Equipment Regulations 2013
   d) Ecodesign ErP: The Ecodesign for Energy-Related Products and Energy Information (Amendment) Regulations 2016, Energy label requirements for all ErP's
   ● **NL:** *Note: Any correct combination of e – h counts as a good answer, if three or more are scored the question is answered correctly.*
   e) EU PS Procurement Directive: Public Procurement Act (2012) [Aanbestedingswet]
   f) EED / EPoB: National Energy Agreement; LTA for ICT on Energy Efficiency
   g) RoHS & WEEE: Environmental Management Act [Milieuwet]
   h) Ecodesign ErP: Energy label requirements for all ErP's, but no other specific national legislations. Incentivised through R&D and innovation programmes and via procurement guidance guides
   ● **GER:** *Note: Any correct combination of i – l counts as a good answer, if three or more are scored the question is answered correctly.*
   i) EU PS Procurement Directive: VgV; VOB/A; VOL/A
   j) EED / EPoB: Der Blauer Engel; VgV §4, §6
   k) RoHS & WEEE: ElektroStoffV; ElectroGesetz

i) Ecodesign ErP: Ecodesign ErP: Energy label requirements for all ErP's, but no other specific national legislations. Incentivised through R&D and innovation programmes and via (innovation) procurement guidance guides
   ● **FR:** *Note: Any correct combination of m – p counts as a good answer, if three or more are scored the question is answered correctly.*
   m) EU PS Procurement Directive: Decree for Public procurement and concession contracts
   n) EED / EPoB: The Energy Transition for the Green Growth (2015)
   o) RoHS & WEEE: WEEE & RoHS Decree
   p) Ecodesign ErP: Energy label requirements for all ErP's, but no other specific national legislations. Incentivised through R&D and innovation programmes and via procurement guidance guides

3) **Stimulating Innovation through Public Sector procurement** *Note: For a) and b) both i and ii answers should be given to answer correctly (the key (bold) phrases suffices)*
   a) *Why:*
   i. PPI: stimulate **market access** to supplier
   ii. PCP: stimulate innovation of suppliers and create **market ready solutions (**and/or related services)
   b) *How:* Engage the market to fill Public Sector (functional) needs using
   iii. PPI: Function as a facilitator to establish a buyers group with **critical mass**
   iv. PCP: Function as **R&D purchaser**

4) **Benefits of understanding both relevant Public and Private sector legislation:** *Note: the key (bold) phrases should be mentioned to count as a good answer, if three or more to get full score.*
   a) Engaging the market through market navigation and **understand customer / supplier legislative requirements**;
   b) Formulating or answering tenders while keeping in mind the **minimum requirements** from the relevant Directives;
   c) Know what to look for when **evaluating bids**;
   d) **Knowledge development** of the (data centre and ICT solutions) market for the purpose of (future) procurement initiatives;
   e) **Identify innovation potential** (innovative (PCP and PPI) solutions should exceed or create better means to meet minimum requirement.

THANK YOU

Agenda

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- Starting questions to be answered

- **References and further reading**

References & Further Reading

- **Environmental Implementation Review & SOER**
  - http://ec.europa.eu/environment/eir/index_en.htm
  - http://www.eea.europa.eu/soer
- **PS Procurement Directive PCP exemptions**
  - Official EC Resolution 2008/2139 document
    http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52009IP0037
- **Rules, guidelines and initiatives on e-Procurement by EC**
  - EU vision of transition to e-procurement
    https://ec.europa.eu/growth/single-market/public-procurement/e-procurement/transition_en
- **(TED) SIMAP, the European portal for public procurement**
  - List of notices
    http://simap.europa.eu/enotices/changeLanguage.do?language=en
- **PS Procurement Directive types of procurements procedures**
  - Procurement rules overview:
    http://europa.eu/youreurope/business/public-tenders/rules-procedures/index_en.htm
- **EED Article 6**
  - Purchasing by public bodies
    http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013SC0446

References & Further reading

- **Additional measures packages from EC (30 Nov 2016) affecting multiple Directives**
  - Delivery:
    http://ec.europa.eu/energy/en/news/commission-proposes-new-rules-consumer-centred-clean-energy-transition
  - Energy efficiency measures:
    https://ec.europa.eu/energy/sites/ener/files/documents/technical_memo_energyefficiency.pdf
  - Renewable energy measures:
    https://ec.europa.eu/energy/sites/ener/files/documents/technical_memo_renewables.pdf

- **ESOs report Standardisation Landscape - Energy management and environmental viability of data centres**
  - Full report:
    ftp://ftp.cencenelec.eu/EN/EuropeanStandardization/HotTopics/ICT/GreenDataCentres/GDC_landscape_Ed3(2016).pdf
  - Executive summary:
    ftp://ftp.cencenelec.eu/EN/EuropeanStandardization/HotTopics/ICT/GreenDataCentres/GDC_Brochure_Ed3(2016).pdf

- **EC List of member states contact points for WEEE**
  - Link to PDF provided by EC
    http://ec.europa.eu/environment/waste/weee/pdf/contacts_ms_weee.pdf
  - FAQ
    http://ec.europa.eu/environment/waste/weee/pdf/faq.pdf

- **Ecodesign of Energy related Products Directive**
    - Full Directive:
      http://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:32009L0125
      http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0617
      http://ec.europa.eu/growth/industry/sustainability/ecodesign_en

- **Support initiatives**
    - Horizon2020 (for PPI & PCP)
      https://ec.europa.eu/digital-single-market/en/innovation-procurement
      http://ec.europa.eu/information_society/newsroom/image/document/201637/pcp_and_ppi_in_h2020_wp17update_16966.pdf
      https://ec.europa.eu/digital-single-market/en/ict-innovation-horizon-2020
      http://www.innovation-procurement.org/about-ppi/policy-support/
    - ISO20400
      http://www.iso.org/iso/home/news_index/news_archive/news.htm?refid=Ref2105
      http://www.iso.org/iso/home.html

- **EURLEX**
    - All European Commission Directives (and all related communications) can be found via the EURLEX database
      http://eur-lex.europa.eu/homepage.html

● **UK References**

○ Crown Commercial Services policy framework
https://www.gov.uk/guidance/public-sector-procurement-policy
http://www.legislation.gov.uk/uksi/2015/102/contents/made
https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-governent

○ WEEE UK regulation & guidance
http://www.legislation.gov.uk/uksi/2013/3113/contents/made
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/292632/bis-14-604-weee-regulations-2013-government-guidance-notes.pdf
http://www.hse.gov.uk/waste/waste-electrical.htm
https://www.gov.uk/topic/environmental-management/waste
https://www.gov.uk/guidance/rohs-compliance-and-guidance

○ Climate Change Act & UK National Energy Efficiency Action Plan
https://www.theccc.org.uk/tackling-climate-change/the-legal-landscape/global-action-on-climate-change/
https://ec.europa.eu/energy/sites/ener/files/documents/2014_neeap_united-kingdom.pdf
https://www.gov.uk/green-taxes-and-reliefs/climate-change-levy (tax)
https://www.gov.uk/topic/climate-change-energy/climate-change-agreements
https://www.techuk.org/focus/programmes/data-centres (climate change agreement data centres)
https://www.gov.uk/government/publications/climate-change-levy-main-and-reduced-rates/climate-change-levy-main-and-reduced-rates (2016 paper)

- **NL References**
  - National building renovation strategy for EED / PoBD
    https://ec.europa.eu/energy/sites/ener/files/documents/NEEAP_2014_nl-en.pdf
  - Alternative plan to EED artiicle 5
    https://ec.europa.eu/energy/sites/ener/files/documents/2013_nl_eed_article5_en.pdf
  - RVO Sustainability & Innovation topics & programmes
    http://english.rvo.nl/topics
  - Sustainable Public Procurement guidelines PIANOo
    https://www.pianoo.nl/public-procurement-in-the-netherlands/sustainable-public-procurement-spp
  - UII Innovatiekoffer (toolkit for innovation procurement)
    http://www.innovatiekoffer.nl
  - Environmental Management Act (Milieuwet)
    https://www.government.nl/topics/environment/contents/roles-and-responsibilities-of-central-government/environmental-management-act

- **GER References**
  - Public procurement
    http://www.bmub.bund.de/themen/bauen/bauwesen/bauauftragsvergabe/vergabe-und-vertragsordnung-vob/#c18780
    http://bmwi.de/DE/Service/gesetze,did=191324
    http://www.gesetze-im-internet.de/vgv_2001/BJNR011000001.html
    http://www.bmi.bund.de/EN/Topics/IT-Internet-Policy/it-internet-policy_node.html
    http://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/de.pdf
  - German Energy Saving Act / ENEV
    http://www.bmub.bund.de/themen/bauen/energieeffizientes-bauen-und-sanieren/energieeinsparverordnung/
    http://www.enev-online.com/enev_2014_volltext/index.htm
  - Der Blauer Engel (Blue Angel) für Energieeffiziente Rechenzentrumsbetriebe"
    https://www.blauer-engel.de/en/products/office/data-center-operation
  - Guide for procurement, based on the Blue Angel
    https://www.blauer-engel.de/de/produktwelt/buero/rechenzentren
  - Guide to stimulate innovation in public procurement
    http://de.koinno-bmwi.de/information/publikationen/impulse-fur-mehr-innovationen-im-offentlichen-beschaffungswesen
  - ElektroStoffV (RoHS) & ElektroGesetz (WEEE)
    http://www.gesetze-im-internet.de/elektrostoffv/
    http://www.bmub.bund.de/themen/wasser-abfall-boden/abfallwirtschaft/abfallpolitik/elektrog/

References & Further reading

- **French references**
  - ○ Public Procurement and Concession Contracts:
    http://www.economie.gouv.fr/daj/textes-marches-publics#actuels
    http://www.economie.gouv.fr/files/files/directions_services/daj/marches_publics/conseil_acheteurs/fiches-techniques/champs-application/MP-et-autres-contrats-2016.pdf
  - ○ Energy Transition Act for Green Growth:
    https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000031044385&categorieLien=id
  - ○ RoHS & WEEE Decree
    https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029387124&categorieLien=id
    https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028160672&dateTexte&categorieLien=id
  - ○ General Administrative Specifications for the ICT market
    http://www.economie.gouv.fr/daj/Cahiers-des-Clauses-Administratives-Generales
  - ○ Public Procurement Guide: Recommended Policies for Purchasing Strategies
    http://www.economie.gouv.fr/daj/guide-climat
  - ○ National Action Plan for Sustainable Public Procurement
    http://www.developpement-durable.gouv.fr/IMG/pdf/Plan_national_d_action_pour_les_achats_publics_durables_2015-2020.pdf
  - ○ Union of Public Purchasers' Groups
    http://www.economie.gouv.fr/files/files/directions_services/sae/doc/Note-Innovation-012015.pdf