

ANALYTICAL REPORT

ON PROGRESS OF THE IMPLEMENTATION OF SUSTAINABLE PUBLIC PROCUREMENT IN UKRAINE IN 2017-2019

The report was prepared by the All-Ukrainian NGO Living Planet under the contract with the UN Environment Programme (UNEP) of 27.01.2020 № SB 013764-03-02-14AC0006-11236M99 in the framework of the implementation of the EU-funded EU4Environment project in Ukraine (Kyiv, Ukraine, July 2020).

This report was produced with the financial support of the European Union. Its contents are the sole responsibility of the All-Ukrainian NGO Living Planet.

The views expressed herein can in no way be taken to reflect the official opinion of the European Union, its members or the Governments of the Eastern Partnership Countries. This report and any content included herein are without prejudice to the status of, or sovereignty over, any territory, to the delamination of international frontiers and boundaries, and to the name of any territory, city or area.

Action implemented by:



TABLE OF CONTENT

List of terms and abbreviations	3
Summary	5
Introduction	7
I Amendments to the Law of Ukraine “On Public Procurement”	10
II Development of the criterion base for Sustainable Public Procurement	16
III Analysis and evaluation of the Sustainable Public Procurement monitoring system	19
IV Application of Sustainable Public Procurement criteria	22
V Laws and regulations adopted in 2017-2019 having an impact on enhancing the potential of Sustainable Public Procurement implementation in Ukraine	31
VI Training in the field of Sustainable Public Procurement and professionalization of public procurement	41
VII Analysis and evaluation of the implementation of the Communication Strategy for the promotion of Sustainable Public Procurement	43
VIII The recommendations on the next steps in the framework of EU4Environment project	50
Annex. Communication channels recommended for further Sustainable Public Procurement promotion and methods of application	58

LIST OF TERMS AND ABBREVIATIONS

Academy	State Ecological Academy of Postgraduate Education and Management
AMCU	The Antimonopoly Committee of Ukraine
Association Agreement	The Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States.
Authorized Person	an official or other person who is an employee of the Contracting Authority and responsible for organizing and carrying out procurement (simplified procurement) procedures under Law of Ukraine "On Public Procurement" on the basis of the Contracting Authority 's own administrative decision or employment contract.
BI ProZorro	Business Intelligence module BI ProZorro
BMZ	GIZ team in Ukraine on behalf of the German Federal Ministry for Economic Cooperation and Development
CA	Contracting Authority, (-ies): Organizations and legal entities designated in accordance with Article 2 of the Law of Ukraine "On Public Procurement", which procure goods, works and services in accordance with the Law
CDB	Central Data base
CPO	Centralized Procurement Organization
DBN	Ukraine's National Building Code
Derzhspozhyvstandart	State Committee for Technical Regulation and Consumer Policy
DSTU	State Standard of Ukraine
DSTU ISO 14024	DSTU ISO 14024:2002 Environmental labels and declarations. Type I environmental labelling. Principles and Procedures (ISO 14024:1998, IDT). <i>In 2018, the International Organization for Standardization adopted the updated version of this standard, which was implemented in the national standardization system as DSTU ISO 14024:2018 Environmental labels and declarations. Type I environmental labelling. Principles and Procedures (ISO 14024:2018, IDT). This standard is effective from 01.01.2020. At the same time, DSTU ISO 14024:2002 remains in force until January 01, 2022. The new edition has no significant differences from the previous one.</i>
EaP GREEN	European Union funded Programme "Greening Economies in the European Union's Eastern Neighborhood"
EN	Standards developed by the European Committee for Standardization which are in force in the EU
EU	The European Union
EU4Environment	The European Union for Environment Action
GMO	Genetically Modified Organism
GPA in UA	The organization providing consulting services on the participation in international tenders of the WTO Agreements on Government Procurement (GPA) (https://www.facebook.com/gpainua/)
HACCP	Hazard Analysis and Critical Control Points is a system of hazard analysis and critical control points that identifies, evaluates, and controls hazardous factors that are critical to food safety.
ISO	The standards developed by the International Organization for Standardization
Law on PP	Law of Ukraine of 25.12.2015 № 922-VIII "On Public Procurement", entered into force on 01.08.2016
LCCA	Life-cycle cost analysis

Lifecycle	Consecutive and interconnected stages of a product lifecycle system from acquisition or production from natural resources or raw materials to final disposal
Living Planet	All-Ukrainian Non-Governmental Organization “Living Planet” (NGO Living Planet)
Ministry of Economy	The Ministry of Economic Development, Trade and Agriculture of Ukraine (the Ministry for Economic Development and Trade of Ukraine, until September 03, 2019)
Ministry of Ecology	The Ministry of Ecology and Natural resources (the Ministry of Energy and Environmental Protection of Ukraine (until May 27, 2020)
NAP	National Environmental Action Plan
NCO	National Coordinating Organization
New version of the Law on PP	Law of Ukraine "On Public Procurement" (as amended by Law № 114-IX of September 19, 2019, which entered into force on April 19, 2020)
NGO	Non-Governmental Organization
OCDS	Open Contracting Data Standard
OCED	Organization for Economic Co-operation and Development
ProZorro	Electronic procurement system in which, in accordance with the Law of Ukraine "On Public Procurement", all public procurement in Ukraine is carried out
Road Map	Decree of the Cabinet of Ministers of Ukraine “On the Strategy of Reforming the Public Procurement System (“Road Map”) dated 24.02.2016 No. 175-p.
SASU	State Audit Service of Ukraine
SCCD	Slovak Center for Communication and Development
SDGs	Sustainable Development Goals
SE	State Enterprise
SMGP	Single Market for Green Products
SMM	Social Media Marketing
SPP	Sustainable Public Procurement
SPP EaP GREEN	The Project was implemented as part of the implementation of Component 1 of EaP GREEN Project “Governance and financial instruments for sustainable production and consumption (SCP) and green economy” (2014-2017)
TC 82	National Technical Committee for Standardization TC 82 “Environmental Protection”
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Program
UNIDO	United Nations Industrial Development Organization

SUMMARY

Analytical report on the implementation of sustainable public procurement in Ukraine in the period 2017 - 2019 prepared by the NGO "Living Planet" under the agreement with the United Nations Environment Program (UNEP) in the framework of implementation of the EU-funded EU4Environment project in Ukraine.

Section I analyzes the main provisions of the new version of the Law on Public Procurement, which came into force on 19.04.2020, focusing on the provisions that enhance the potential of SPP in Ukraine. In particular, it is noted that the new version of the Law on PP includes references to environmental characteristics and other selection and selection criteria, environmental labeling, non-price criteria and life cycle costing. The social dimension is enhanced by the need to take into account inclusive interests and reduce the impact on human health. The latter is related to the environmental characteristics of the restriction of the use of hazardous chemicals and the ability to apply the requirements of the environmental criteria of eco-labeling programs.

Section II describes the development of the criteria base for SPP after the completion of the EaPGREEN project in 2016, in particular, within the activities of the Technical Committee for Standardization TC 82 "Environmental Protection" and technical support projects "Non-price criteria in public procurement" (September 2018 - April 2019, within the framework of the incubation program for civil servants of the EU Association Lab), "Energy Efficiency in Communities II" (GIZ Ukraine on behalf of the Federal Ministry for Economic Cooperation and Development of Germany (BMZ)).

Section III analyzes the existing system of public procurement monitoring and the difficulties in monitoring SPP in Ukraine. Necessary measures have also been identified, the implementation of which will allow for proper monitoring of SPP in Ukraine.

Section IV analyzes the practice of applying the SPP criteria in 2016 - 2019 and gives examples of successful procurement. The results of a survey (interview) of customers conducted in February 2020 to determine their level of knowledge, needs and problems related to the application of SPP criteria are also presented.

Section V analyzes the changes in the legislation of Ukraine that took place in 2018-2019 and significantly expand the possibilities of customers' application of energy efficiency, resource efficiency, safety and improved quality characteristics of food, environmental labeling and organic standards. Such changes, in turn, increase the potential for further development of SPP and the market for green products in Ukraine. The list of goods, works, services for which it is recommended to consider expediency of development of criteria of SPP is also defined.

Section VI mentions the measures to improve the skills of customers using the training program and materials developed under the SPP project EaP GREEN, which were carried out in 2018-2019. It also mentions the new standards for professionalization of public procurement, which will be implemented from 01.01. 2022 in accordance with the new version of the Law of Ukraine "On Public Procurement", and provides recommendations for measures to provide customers with the necessary information and knowledge about SPP.

Section VII analyzes the state of implementation of the Communication Strategy for the implementation of SPP in Ukraine for 2016 - 2019, which was developed in the framework of the EaP GREEN project. It also describes the activities carried out in other technical support projects and aimed at promoting SPP in Ukraine (cases "Transfer of SPP experience from Slovakia to Ukraine",

"Non-price criteria in public procurement", "Energy efficiency in communities II"). Recommendations for further improvement of the communication strategy and for measures to optimize communication tools, intensify PR activities and form a partner network, consultations and technical support to customers on the application of sustainability criteria in procurement.

Section VIII recommends the following steps to strengthen the capacity of SPP in Ukraine in Ukraine, based on the results obtained, conclusions and recommendations. In particular, a list of measures related to:

- development of normative-legal and methodological support of application of SPP criteria;
- technical support for the integration of SPP criteria into the ProZorro electronic procurement system, SPP monitoring and reporting;
- development of training in the field of SPP and professionalization of public procurement;
- development of communications for the promotion of SPP;
- tools and communication channels.

INTRODUCTION

The support for the development and implementation of SPP policies, the SMGP and the circular economy have become part of the EU4Environment program, which is being implemented in six EaP countries with financial support from the European Union: Azerbaijan, Belarus, Armenia, Georgia, Moldova and Ukraine and will last until 2023.

About EU4Environment

The EU4Environment Programme is funded by the EU and implemented by a consortium of international partners, including the OECD, UNIDO, UNEP, UNECE and the World Bank.

Together with other Eastern Partnership countries, Ukraine is moving towards achieving the Sustainable Development Goals and fulfilling other international commitments. The EU4Environment regional Programme supports the countries in their transition to greener, more efficient and sustainable economic model principles, as well as in addressing the environmental issues. EU experience will be systematically used to fulfill the objectives of the Programme. The implementation of the Programme is linked to the work of the Eastern Partnership Panel on Environment and Climate Change within the framework of Platform 3 “Communication, Energy Efficiency, Environment and Climate Change”.

The aim of the EU4Environment Programme

The aim is to help the EaP countries (including Ukraine) maintain their natural capital and increase the environmental well-being of the population by supporting the environmental protection activities, demonstrating and opening up the opportunities for greener growth, and implementing the mechanisms to better manage the environmental risks.

Aims of the current report

The analysis of the implementation of the SPP in Ukraine in 2017-2019 aims to assess the effectiveness of the implementation of the SPP Action Plan, as well as recommendations and pilot projects developed within the framework of the SPP EaP GREEN Project.

The study conducted by the NGO Living Planet’s team of experts provided the following analysis:

- a) Implementation of the SPP Legislative Review Roadmap;
- b) Implementation of the SPP Action Plan;
- c) Effectiveness of the existing SPP monitoring system.

The results of the study identified the shortcomings and needs for the policy development and tools for further implementation of SPP in Ukraine. Based on data analysis and stakeholder consultations, the recommendations were made on how to proceed and manage the decisions to enhance the potential of SPP in Ukraine.

Partners in Ukraine

There are two national focal point agencies in Ukraine for the implementation of the EU-funded project “EU4Environment”: the Ministry of Economy (<https://www.me.gov.ua/>) and the Ministry of Ecology (<https://menr.gov.ua/>).

The NGO Living Planet was nominated by the Ministry of Ecology as an implementing organization of SPP activities of the EU4Environment in Ukraine. NGO Living Planet is a member of the One Planet¹ Platform, implements the recommendations prepared in the framework of EaP GREEN and the SPP Communication Strategy in partnership with the Ministry of Ecology, Ministry of Economy, Regional State Administrations, EU Association Lab , SE “ProZorro”, SE “State Environmental Academy of Postgraduate Education and Management”, subject matter institutions, NGO’s and other interested organizations.

The NGO Living Planet in Ukraine has joined the Circular Economy and New Growth Opportunities component, which includes the following areas:

- Support in the development and implementation of SPP policies;
- Support SMGP.

Sustainable public procurement is a process whereby organizations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organization, but also to society and the economy, whilst minimizing damage to the environment².

SPP policies and activities are now found around the world. A 2002 OECD Council Recommendation urges governments to build on these efforts by providing appropriate policy frameworks and support³. In March 2004, the European Union Parliament and Council adopted a directive to coordinate procedures in public procurement for works and services in all European Union Member States⁴ that allows for the inclusion of environmental criteria along with best “value for money” criterion. The European Commission is also working towards the inclusion of social criteria into public procurement of Member States.

The SMGP initiative calls for the use of the Methods for Environmental Trace Analyses as one of the possible ecolabeling schemes for EU export-oriented industries.

EaP GREEN project: Management, the SPP Roadmap and Action Plan

The beneficiaries of the EaP GREEN project in Ukraine were the Ministry of Ecology and Ministry of Economy. The State Environmental Academy of Postgraduate Education and Management – National Coordinating Organization - subordinated to the Ministry of Ecology, in partnership with the All-Ukrainian NGO Living Planet, SE “ProZorro” and other interested organizations, participated in the implementation of SPP in Ukraine in 2014-2017.

¹ <https://www.oneplanetnetwork.org/all-ukraine-ngo-living-planet>

² Source: Procuring the Future – the report of the UK Sustainable Procurement Task Force, June 2006. Definition adopted by the Marrakech Task Force on Sustainable Public Procurement. The footnote to the definition reads: Sustainable Procurement should consider the environmental, social and economic consequences of: Design; non-renewable material use; manufacture and production methods; logistics; service delivery; use; operation; maintenance; reuse; recycling options; disposal; and suppliers’ capabilities to address these consequences throughout the supply chain.

³ OECD, 2002 “Recommendation of the Council on Improving the Environmental Performance of Public Procurement” (2002). See: <http://tinyurl.com/dxuzygs>

⁴ EU Directive 2004/18/CE of 31 March 2004, recital 5. For more information on Green public procurement policies in the European Union. See: http://ec.europa.eu/environment/gpp/index_en.htm

UNEP is one of EaP GREEN's major international partners in promoting sustainable production and consumption in national policy based on strategic planning, as well as in the introduction of SPP mechanisms. The UNEP experts and national SPP experts were involved in the implementation of the project. The activities of NCO under EaP GREEN were supported by small-scale funding, which was implemented in accordance with agreements concluded with UNEP.

The SPP Roadmap and Action Plan, as well as the recommendations for monitoring the SPP, were developed as part of the implementation of the SPP EaP GREEN project, in accordance with the documents for UNEP guidance.

These documents were approved by the NCO Steering Committee and submitted for consideration to the Ministry of Economy and the Ministry of Ecology. The developed recommendations were used during strategic documents and plans preparation, amending legislation and introducing new instruments, as detailed in the relevant sections of this report.

In 2014-2015, EaP GREEN carried out the following activities to determine the potential of the SPP implementation:

- a) CA surveys;
- b) Research to determine the priorities of the SPP (industries and product categories);
- c) Analysis of market readiness for such product categories as detergents, paints and thermal insulation materials⁵ - further priority products for the SPP;
- d) Review of the legislation with the recommendations on the changes needed to implement the SPP.

In 2015-2017, EaP GREEN carried out the following SPP activities:

- a) The policy and Action Plan for the implementation of the SPP were developed and approved by the NCO Steering Committee;
- b) An analysis of available eco-labeling schemes was being carried out;
- c) The environmental criteria for SPP priority product categories were developed and adopted⁶;
- d) The SPP Guidelines were developed to define the technical specification criteria, the recommended criteria and the standard tender documentation for priority product categories;
- e) The communication strategy for the promotion of the SPP was developed and approved by the NCO Steering Committee;
- f) Pilot public procurement was carried out using the recommended criteria and the standard tender documentation for the SPP priority product categories;
- g) The training program was developed and training for CA was conducted;
- h) A draft Roadmap for amending the legislation needed to implement the SPP was developed;
- i) The final conference on the SPP EaP GREEN project was held (November 2017).

⁵ These categories have been identified as priorities for the implementation of pilot projects on SPP, based on the research on prioritization

⁶ The environmental criteria were adopted through the introduction into the criterion base of the Ukrainian type I ecolabelling program (in accordance with DSTU ISO 14024).

I. AMENDMENTS TO THE LAW OF UKRAINE ON PUBLIC PROCUREMENT⁷

On April 19, 2020, the Law of Ukraine “On Amendments to the Law of Ukraine “On Public Procurement” and Some Other Legislative Acts of Ukraine on Improving the Public Procurement” came into force, adopted on September 19, 2019.

The updated new version of the Law On PP provides the following changes: strengthening responsibility of CA, bidders and suppliers, the transition from the tender committee to authorized persons, the introduction of new electronic tools for e-procurement, the introduction of a new procedure - bidding with limited participation, new fines for CA organizations for violation of the legislation in the field of procurement.

The transition from the tender committee to authorized persons means a liquidation of the tender committees. In order to increase the professional level during procurement process, the organization and conduct of bidding will be engaged by the CA’s authorized persons. The CA may also transfer the functions of procurement and framework procurement agreements to the CPO. This is described in more detail in *Section VI “Training in the field of SPP and professionalization of public procurement”* of this Report.

The changes were made to improve the public procurement system, in part concerning the following:

- a) The development of competitive environment and fair competition.
- b) The improvement of the efficiency of procurement.
- c) Ukraine's fulfillment of its public procurement obligations under the EU-Ukraine Association Agreement and international obligations, in particular:

Article 152 of the Association Agreement obliges Ukraine to ensure the implementation of Directive 2014/24/EU⁸ in the public procurement system, which will ensure greater integration of environmental criteria into the goods, works and services procured, in particular in accordance with:

- product quality certification and international eco-labeling standards (Articles 74 and 77 of Directive 2014/24/EU);
- - the requirements and methods for determining the value of the goods, works and services purchased in calculating their full life cycle and the additional costs of environmental, social and technological consequences of their use (operation) (Articles 31, 68, 78-82 of Directive 2014/24/EU).

The reforms support team of the Ministry of Economy and the People’s Deputies of Ukraine who worked on the Updated Law “On Public Procurement” took into account the recommendations based on the results of research conducted within the EaP GREEN Project, as well as the requirements for rule-making practice. As a result, the new version of the Law on Public Procurement provides references to environmental performance and other selection criteria such as eco-labeling, non-price criteria and LCCA. The social aspect is extended by the requirement to take into account inclusive interests and reduce the impact on human health. The latter fact is related to

⁷ <https://zakon.rada.gov.ua/laws/show/922-19>

⁸ DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

the environmental characteristics aimed at restriction of the of hazardous chemicals usage and with the ability to apply the requirements of ecolabeling program's environmental criteria.

The application of the environmental criteria to the procurement subject, combined with the life cycle assessment method will contribute to the achievement of the strategic goals of state environmental policy such as:

- Increase of energy and water efficiency;
- Reducing the environmental impacts of the life-cycle of the purchased goods, works and services;
- Reducing production and consumption waste;
- Prevention of climate change.

In the social sphere, this approach will help creating a safer and more comfortable environment for learning, work and life.

In economic terms, the full cost of life cycle assessment provides an objective assessment of the economic benefits of the offer and the overall procurement effectiveness.

In accordance with the new version of the Law on Public Procurement from 19.04.2020, the CA has an opportunity to apply the requirements to the environmental characteristics of the procurement object as requirements of technical specifications or non-price criteria (without restrictions).

The CA independently decides on the need to apply the criteria, provided that the feasibility is justified, and the following principles are observed:

- a) Fair competition among participants;
- b) Maximum savings, efficiency and proportionality;
- c) Openness and transparency at all stages of procurement;
- d) Non-discrimination and equal treatment of participants;
- e) Impartial determination of the winner of procurement / simplified procurement procedures;
- f) Prevention of corruption and abuse.

Adherence to the above principles can be justified by the fact that the CA has formulated the requirements for the environmental characteristics of products, guided by:

- a) Requirements of the legislation;
- b) Technical regulations;
- c) International, European, national standards, other common technical European standards, other technical reference systems recognized by the European standardization bodies or national rules and regulations;
- d) Availability of products that meet the established market requirements.

Technical specifications. The technical specification criteria are mandatory for the participants of procurement procedures . The new version of the Law on PP replaces *"the need for environmental protection measures"* with *"the application of environmental performance requirements for goods, services or works"* and introduces significant specifics on the application of this provision.

The law defines the basis for the CA to assess the compliance with the established requirements:
When establishing the requirements for the environmental performance of a product, work or service, the contracting entity must indicate in the tender documentation which labels, test reports or certificates can attest to the conformity of the subject of the procurement with those characteristics.

A new requirement is established for the authority that issued the document certifying the compliance:

Labels, test reports and certificates must be issued by the conformity assessment bodies whose competence is verified by accreditation or by other means specified by law.

In case the contracting authority refers in the tender documents to specific labels, test reports or certificates, it is obliged to accept the labels, test reports or certificates attesting conformity with equivalent requirements and issued by conformity assessment bodies whose competence is confirmed by accreditation or otherwise as defined by law. If the procurement subject does not meet any requirement of the technical specifications, the CA must reject the offer, regardless of the offered price.

Non-price criteria. The law removes the restrictions on the conditions of application of "non-price criteria". Prior to that, the CA was only able to apply them if the procurement was complex (including the purchase of consulting services, experiments, research or development) and there is no permanent market.

From April 19, 2020 the CA can apply the non-price criteria for any purchasing. The weight of each non-price criterion and their number will be determined by the CA independently, but the total specific weight of the non-price criteria cannot be higher than 30%.

The non-price criterion will not affect the selection of offers, but may affect the selection, favoring the sustainability criteria of up to 30% of the lowest price offered.

The law stipulates that the quoted price is the price indicated by the supplier in the tender offer and recalculated taking into account the indicators of other assessment criteria according to the formula determined by the CA in the tender documentation.

$$\text{Present Value} = \text{Quoted price} / \text{Correction Factor (CF)}$$

The formula for calculating the Correction Factor

$$CF = 1 + (F1 + F2 + \dots + Fn) / PV$$

where: *CF* - Correction Factor,

F1...Fn - the value of each non-price criterion selected by the supplier,

PV - weight of the Price criterion.

An example of the application of several non-price criteria. Let's consider an example of purchase with several non-price criteria of a material for *thermal insulation (mineral wool)*.

The CA can set the following non-price criteria and their gradations (limits):

The estimated lifetime on the building facade - *max weight 10%*

- More than 35 years - 10%
- From 25 to 35 years - 5%
- Up to 25 years - 0%

Type I Ecolabelling (according to ISO 14024) - *max weight of 10%*

- Yes - 10%
- No - 0%

Content of recovered / recycled material⁹ - *max weight 10%*

- More than 30% - 10%
- Up to 30% - 5%
- No - 0%

Price - *weight 70%*

The bidder, who makes an offer in the amount of UAH 100 000, states that:

- The estimated lifetime on the building facade – 40 years, which is confirmed by the certificate of the accredited body - and it is equal to the value of 10% according to this criterion;
- The product is ecologically certified by an accredited body, which is confirmed by a certificate of compliance with the environmental criteria for life cycle assessment and an agreement on the right to use Type I Ecolabeling - and it is equal to the value of 10% according to this criterion;
- the content of slag (recovered) materials in the product is 15-20%, which is confirmed by declaration in accordance with DSTU ISO 14021 - and equal to the value of 5% by this criterion.

Thus, the correction factor for this proposal will be equal to:

$$CF = 1 + (0,1 + 0,1 + 0,05) / 0,7 = 1,79$$

Then the given price, Present Value, with which the supplier will participate in the auction will be equal to:

$$UAH 100,000 / 1.79 = UAH 55,865.92$$

Thus, the offer of UAH 100,000, which meets the total value of non-price criteria, is equal to UAH 55,865.92 in a competitive auction regarding the price offer of bidders who do not meet the non-price criteria requirements.

It is important to know that ProZorro electronic procurement system calculates all *indicators* automatically. The customer only needs to fill in the forms correctly when announcing the purchase and prescribe non-price criteria and their values in the tender documentation, the rest will be done by the electronic system.

The non-price criterion should be applied if the CA intends to set the *environmental performance criteria*, while it cannot be sure:

⁹ Must be declared in accordance with DSTU ISO 14021:2016 Environmental labels and declarations – Self-declared environmental claims (Type II environmental labelling) (ISO 14021:2016, IDT).

- a) Whether there are adequate competitive conditions on the Ukrainian market for the products that meet the established requirements;
- b) The price of such products (higher, lower, or the same as the average market price) will allow procurement within the budgeted expenditures;
- c) Whether there is a supplier of such products that meets other criteria of the technical specifications, etc.

Establishing the environmental performance requirements, one should ensure them to be:

1. Directly related to the subject of procurement;
2. Clearly defined;
3. Non-partial, measurable and verifiable.

Where a reference to a standard or ecolabel is used, such reference should always be accompanied by the words "or equivalent".

Confirmation of compliance

The law stipulates that a participant of the procurement procedures should submit the supporting documents for compliance with the established requirements. The kind of document depends on the requirements of the technical regulations or standards to which it refers.

However, if the contracting authority refers in the tender documentation to specific labels, test reports or certificates, it is obliged to accept the labels, test reports or certificates attesting conformity to equivalent requirements issued by the *conformity assessment bodies*, whose competence is confirmed by accreditation or by other means determined by legislation.

This clarification is due to the fact that market operators and contracting authorities are not competent in the evaluation of the activities of such bodies and cannot be sure of the integrity of the activities of the non-accredited body and trust the results of its evaluation.

The accreditation procedure is carried out in accordance with the Law of Ukraine "On Accreditation of Conformity Assessment Bodies". The National Accreditation Agency of Ukraine assesses the competence of conformity assessment bodies (laboratories, certification bodies, etc.). The Agency's accreditation activities are recognized at European and international levels.

Life cycle assessment. The innovation of the updated legislation in the field of public procurement is the application of the Life-cycle costing criterion. Life cycle costing can be calculated as the sum of all life cycle costs divided by the unit of account of the item purchased. Therefore, this approach will allow purchasing organic products in terms of their economic and other efficiency.

Compliance of electrical appliances with the Technical Regulations requirements on eco-design will save energy and (or) water, combined with reduced noise pollution. Energy efficient buildings are much more profitable on heat costs during exploitation.

Concentrated eco-friendly detergents have a high detergent capacity and can be several times more economical for washing 1 kg of laundry than conventional counterparts. Therefore, when choosing a proposal, it is necessary to be guided not by the purchase price but by the cost according to its

functional characteristics. This approach will ensure the economic efficiency of procurement. In addition, this approach demonstrates that some products that have a relatively higher cost, are cheaper for functional purposes (more cost-effective, more economical)

Example of calculating the cost of detergent:

Unit of measurement	Price per 1 kg / liter	Costs for (type of activity)	Unit of measurement	Cost by functional purpose
Eco - product for white bleaching and removing stains TM TORTILLA				
kg	UAH 49,95	1 kg of laundry washing	7,5 g/kg	UAH 0,37
Eco gel for Color washing TM TORTILLA				
l	UAH 50,38	1 kg of laundry washing	18,5 ml/kg	UAH 0,93



CONCLUSIONS AND RECOMMENDATIONS

The new version of the Law on Public Procurement expands the customer capabilities and strengthens the potential of SPP in Ukraine. To achieve the best result, it is necessary to update existing and develop new tools that the CA needs to apply this approach.

The application of the life cycle assessment requires the development and establishment of the recommended methods, taking into account the category of the subject of procurement and the standards of the DSTU ISO 14040 "Life Cycle Assessment". More on this is in the following sections of given Report.

II. DEVELOPMENT OF THE CRITERION BASE FOR SPP

In 2016, within the framework of the EaP GREEN Sustainable Public Procurement (SPP) project, led by UNEP, criteria for the following three categories of products were developed and implemented:

- Detergents and cleaning products;
- Paint and varnish materials;
- Thermal insulation materials.

The EaP GREEN project was completed by conducting of several pilot tenders in 2017, but over the time the application of the recommended criteria has expanded. Guided by the methodological recommendations developed under the EaP GREEN SPP Project, some CAs have initiated the application of the SPP approach to other categories of products.

In 2017-2019 development of the SPP criterion base was also encouraged by TC 82 “Environmental Protection” and other technical support projects.

TC 82 “Environmental Protection”

According to Article 8 of the Law of Ukraine “On Standardization”, technical committees of standardization are the subjects of standardization. According to Article 15 of this Law, the Technical Committee for Standardization is a form of cooperation between interested legal entities and individuals for the purpose of the organization and performance of works on the international, regional, national standardization in certain spheres of activity and on the assigned objects of standardization. Technical standardization committees do not have the status of a legal entity.

The powers of technical committees of standardization include, in particular, the development and approval of standards, codes of practice and changes to them.

Since 2005, the functions of the TC 82 Secretariat according to the order of State Committee for Technical Regulation and Consumer Policy (Derzhspozhyvstandart) of Ukraine dated 11.03.2005 №63 have been performed by the State Ecological Academy of Postgraduate Education and Management.

Criteria for thermal *insulation materials* were revised by the TC 82 working group in accordance with the Plan of revision of ecological criteria of the Ukrainian Type I ecolabelling program (“Green crane”) in 2018.

The list of environmental criteria can be found on the Ecolabeling Certification Body website¹⁰.

Non-price criteria in public procurement

Target region: Ukraine

Implementation period: September 2018 - April 2019

As part of the incubation program for civil servants, the EU Association Lab¹¹ formed the team “Non-Price Criteria in Public Procurement”. The EU Association Lab was founded jointly with the

¹⁰ <https://www.ecolabel.org.ua/katehorii-tovariv>

¹¹ <https://www.eulab.com.ua/>

Government Office for the Coordination of European and Euro-Atlantic Integration and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. It is an integral part of the EU-Ukraine Association Advisory Fund, funded by the Federal Government of Germany.

The “Non-Price Criteria in Public Procurement”- team includes the representatives from the Ministry of Economy, Ministry of Ecology, SE “ProZorro”, NGO Living Planet, GPA in UA, NGO GoLOCAL, the State Ecological Academy of Postgraduate Education and Management, the Institute of Ecological Management and Balanced Resource Use, Transparency International Ukraine.

Within the incubation program:

- The non-price criteria for 3 product categories was revised (detergents, cleaners and paints);
- The non-price criteria for 10 new product categories were developed using the SPP approach:
 - Road repair;
 - Repair and construction work;
 - Computer equipment and office equipment;
 - Catering services;
 - Furniture (school, office);
 - Linen (bedding, underwear);
 - Cable products;
 - Office paper and paper products;
 - Timber;
 - Cleaning services.

Energy efficiency in communities II

Target region: Ukraine

The project is being implemented by GIZ team in Ukraine on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ)¹².

In 2019, SPP criteria for two more product categories were developed under the project “Energy Efficiency in communities / Municipalities II”

- Household appliances and equipment;
- Outdoor lighting.

The Type I ecolabelling program’s ecological criteria may also be considered by the CA as SPP criteria in a case if:

1. They are established in accordance with DSTU ISO 14024, which is confirmed by an independent expert assessment;
2. Take into account all the recommended requirements for the sustainability of the procurement subject;
3. The competence of the body which confirmed compliance with the established criteria is accredited in accordance with the Law of Ukraine “On accreditation of conformity assessment bodies”.

¹²<https://www.giz.de/en/worldwide/57268.html>

An overview of the ecolabeling available on the Ukrainian market and recommendations for their use for SPP is provided in the *Analytical Report of the Ecolabelling Practices in Ukraine*.



CONCLUSIONS AND RECOMMENDATIONS

In total, currently the base of SPP criteria available to CA includes 15 product categories, including those developed under the EaP GREEN in Ukraine.

III. ANALYSIS AND EVALUATION OF THE SPP MONITORING SYSTEM

The new Law on Public Procurements defines “procurement monitoring” as an analysis of the CA's compliance with the legislation in the field of public procurement during the procurement procedure, as well as at the stage of concluding the procurement contract and during its validity term, in order to prevent violations of public procurement legislation.

Pursuant to Article 8 of the new Law on Public Procurement, monitoring of the procurement procedures are carried out by the State Audit Service of Ukraine - central executive body that implements the state policy in the field of public financial control and its interregional territorial bodies. One of the reasons for starting procurement monitoring may be the data of automatic risk indicators implemented in the ProZorro electronic procurement system. At present, automatic risk indicators mainly relate only to *procedural violations of the Law*.

Using them it is impossible to analyze the content of the *qualification criteria or non-price criteria* established by the tender documentation. In addition, the SASU, as the procurement supervisor, pays more attention to reducing the price in the procurement process than to the quality of the purchased products, including compliance with sustainability criteria. This often serves as a barrier for customers to apply other evaluation criteria than price.

In addition to the monitoring of procurement by the SASU, the new Law on Public Procurement (Article 7, paragraph 5) establishes the possibility of public control. This is ensured through free access to all information on public procurement, which must be disclosed in accordance with this law, in particular by analyzing and monitoring the information posted in the electronic procurement system, as well as by informing the authorized bodies through the electronic procurement system (or in writing form) about the revealed signs of violation of the legislation in the field of public procurement.

In order to analyze and monitor the information in the electronic procurement system, the business intelligence module *BI ProZorro*¹³ was created. It displays the real-time information on public procurement in Ukraine and allows for a comprehensive data analysis.

The *BI ProZorro* module is owned by Transparency International Ukraine. The NGO Living Planet gained access to the *BI ProZorro* analytics module in January 2020.

Currently, *BI ProZorro* has implemented templates of reporting and analytical forms, which allows making an analysis by the following parameters: the name of the customer and supplier, the subject of procurement, the purchase price and the price according to the contract.

The module also allows to analyze the market, competitors, customers, obtain information about tenders, draw conclusions about which products (and in what quantity) are in demand, and for which there are no tender offers or low competition. *BI ProZorro* is integrated with the ProZorro electronic procurement system. Its functionality can be improved, as provided by the recommendations of the SPP EaP GREEN project.

¹³ <https://bi.prozorro.org/>

According to the SPP EaP GREEN Project recommendations, SPP criteria should be integrated into the ProZorro e-procurement system. For this purpose, it was necessary to create an electronic criteria database and to allocate sustainability criteria in it. If applicable, the procurement should be labeled as "fully sustainable" (meets the full set of criteria) or "partially sustainable" (taking into account certain SPP criteria - energy efficiency, resource conservation, waste aspects, climate, chemical safety, inclusiveness, etc.).

These recommendations have not been implemented due to the fact that in the current ProZorro e-procurement system the tender documentation is downloaded in .doc, .docx or pdf format. The lack of technical ability to enter information on the technical characteristics of the procurement subject (including SPP criteria) in machine-readable form, does not provide an opportunity to analyze the information in the *BIProZorro* for SPP monitoring.

In December 2019, consultations were held on this issue between experts of the NGO "Living Planet", GPAinUA, Transparency International Ukraine, the management of the Public Procurement Department of the Ministry of Economy and SE "ProZorro". The purpose of the consultations was to determine the prospects and conditions for the implementation of the recommendations of the SPP EaP GREEN project regarding the further development of the criteria base for SPPs and their monitoring using BI ProZorro.

As a result, it was determined that the recommendations of the SPP EaP GREEN project on SPP monitoring can be implemented only after the introduction of electronic tender documentation and electronic contracts into the ProZorro electronic procurement system, which are scheduled for the second half of 2020.

In addition, in order to implement the recommendation of the EaP GREEN SPP project, it is necessary:

1. To agree the list of fields of the ProZorro electronic procurement system, required for further analysis and monitoring of SPPs using the BI ProZorro module (with the developers working on the implementation of electronic tender documentation)
2. To agree the list of template forms for SPP monitoring using the BI ProZorro (with Transparency International Ukraine).
3. To develop the recommended SPP criteria taking into account the recommendations set out in Section IV of given Report.
4. To develop the instructions for users (text, slides, videos) on the use of SPP criteria with their subsequent publication on the websites of the Ministry of Economy, Infobox ProZorro, DOZORRO, as well as on procurement sites and other resources.
5. To conduct a series of trainings for the SASU on the importance of applying SPP criteria in public procurement.

Technical support is required to implement all the mentioned tasks.



CONCLUSIONS AND RECOMMENDATIONS

At present, it is not possible to monitor the procurement according to the SPP criteria using the above-mentioned electronic services.

1. Developing the terms of reference for the improvement of the *ProZorro e-procurement system* (in order to implement electronic tender documents and e-contracts), it is necessary to envisage the task of creating appropriate fields for the SPP criteria. The application of SPP criteria in the ProZorro e-procurement system should be integrated into the *BI ProZorro module* by developing appropriate template forms. The complexity of these measures will ensure the functioning of the electronic SPP monitoring system in Ukraine.
2. The SPP criteria may be *included* to the electronic tender documents if a list of recommended SPP criteria is created. Recommendations on this issue are set out in *Section IV* of this Report.
3. The application of the SPP criteria requires the development of additional instructions and training for CAs and participants of the electronic procurement system *ProZorro*, as well as for *BI ProZorro* users. In addition, it is necessary to conduct a series of trainings for the *SASU* in order to explain the importance of the SPP implementation.
4. The practical implementation of the listed tasks is not possible without technical support

IV. APPLICATION OF THE SPP CRITERIA

SPP Criteria Application in 2016 - 2019

Based on the information provided in the previous Section III, monitoring of the application of SPP criteria in Ukraine so far can only be carried out “manually”.

The data operated by the NGO Living Planet in their reports were mainly obtained from the CA who contacted the organization's experts for advice or assistance in the procurement process.

Since 2016 NGO Living Planet, with guidance of SPP EaP GREEN experts together with partner organizations have been continuously advising CA on the benefits of the SPP approach, on the application of the SPP criteria, as well as on the resolution of disputes at the stage of appeal against the customer's actions, etc.

While working with CA, the organization conducts the SPP monitoring by analyzing the tender's effectiveness of customers who applied for consultations. Below are some examples of successful procurement held under the expert support.

Construction Work

Procurement № UA-2018-05-03-001651-b¹⁴

Procurement value: 174 802 873, 00 UAH

“Holosiivo-budinvest”, a capital construction, reconstruction and investment municipal enterprise, applied the resource and energy efficiency criteria, as well as the selection of the building materials with improved ecological characteristics in its procurement. The bid on renovation of the building of the gymnasium №59 named after O.M. Boychenko, in Kyiv and building some additional annexes and facilities included references to the ecological criteria of internationally recognized Type I ecolabelling¹⁵.

In particular, the customer set the following requirements:

In order to ensure environmental protection measures, the Bidder must confirm the proper environmental management by providing the following supporting documents:

- a) the results of inspections on compliance with environmental legislation on construction sites for the last 6 (six) months, or
- b) the results of the environmental audit in accordance with the Law of Ukraine "On Environmental Audit" or
- c) the effectiveness of the environmental management system in accordance with DSTU ISO 14001 (or equivalent of this standard):
 - a. implemented environmental policy, goals and measures aimed at its implementation or
 - b. a valid certificate of conformity of the environmental management system in accordance with DSTU ISO 14000 (or equivalent of this standard).

The participant must provide information on the use of environmentally certified building materials, paints and varnishes with reference to the valid certificates of compliance with the environmental

¹⁴ <https://www.dzo.com.ua/tenders/2359408/questions>

¹⁵ <https://www.globalecolabelling.net/assets/Documents/GEN-2020-Building-Criteria-and-Certifications.pdf>

criteria of the Type I eco-labeling program in accordance with DSTU ISO 14024 (or equivalent of this standard).

Certificates of conformity provided by the Bidder as supporting documents must be issued by conformity assessment bodies whose competence has been confirmed by accreditation in accordance with the Law.

After finishing work the Contractor must ensure the removal of construction waste formed during the works, specified in the contractual obligations on the subject of procurement, in the manner prescribed by applicable law.

To ensure the proper state of the environment, the Contractor must fulfill the following obligations:

- to ensure proper environmental management and take the necessary environmental protection measures;
- to prevent emergencies timely;
- to prevent and reduce the construction waste generation;
- to minimize noise pollution;
- to give preference to environmentally certified building materials, paints and varnishes according to the certification scheme in accordance with DSTU ISO 14024;
- to ensure proper collection, sorting and storage of waste generated during the construction works specified in the contractual obligations regarding the subject of procurement;
- to avoid spillage of oil products, lubricants and other chemicals on the soil.

The Procurement Winner is responsible for meeting these requirements.

In this example and further in the technical requirements to confirm the quality of the product requires the provision of conformity certificate(s), which confirms that the product meets the environmental criteria developed in accordance with DSTU ISO 14024:2002. According to the Law, the certificate of conformity is issued by a certification body whose competence is confirmed by accreditation. Bodies operating the type I eco-labeling program in accordance with DSTU ISO 14024 must be guided by the requirements of DSTU EN ISO / IEC 17065:2014 Conformity assessment. Requirements for certification bodies for products, processes and services (EN ISO / IEC 17065: 2012, IDT). Therefore, such a body must be accredited in accordance with DSTU EN ISO / IEC 17065 in the field of certification in accordance with the established environmental criteria in accordance with DSTU ISO 14024. Accreditation is carried out by the National Accreditation Agency of Ukraine.

Repair and Maintenance Services

Procurement № UA-2020-02-26-001418-c¹⁶

Procurement value: 2 150 000,00 UAH

In the bid of the Ministry of Ecology for services in repair and maintenance of electrical and mechanical equipment of buildings, the suppliers were required to provide contracts for the transfer of hazardous waste, as well as justify the availability of Type I ecolabels for the production.

Detergents and cosmetics

¹⁶ <https://prozorro.gov.ua/tender/UA-2020-02-26-001418-c>

Procurements № UA-2020-01-29-000288-a¹⁷ (toilet soap and household soap), UA-2020-01-31-000119-b¹⁸ (detergents), UA-2020-02-14-001420-c¹⁹ (detergents), UA-2019-11-15-000959-a²⁰, №UA-2019-11-14-003188-b²¹, etc.

Paints and varnishes

Procurement № UA-2019-12-05-000997-c²², UA-2019-10-09-001217-b²³, № UA-2019-06-24-000395-b²⁴, UA-2017-05-23-000122-b²⁵, etc.

CA a required to provide a Certificate of Conformity of the proposed products with the environmental criteria for products developed in accordance with DSTU ISO 14024:2002.

Pipes (water, sewer)

Procurements № UA-2020-01-23-000168-a²⁶, UA-2019-02-13-001787-a²⁷, № UA-2019-10-23-002378-b²⁸, etc. There were about 30 procurements in total applying the requirement of the Certificate in accordance with DSTU ISO 14024.

The technical requirements stated: “A document to approve the conformity of ecological characteristics of pipes to the Type I environmental labelling according to DSTU ISO 14024:2002 for products made of polymeric materials” or submission of “the Certificate of Conformity to requirements of DSTU ISO 14024: 2002 for pipes of polypropylene, issued by the relevant authorized body valid for the entire period of delivery of products”.

Fruit and vegetable juices

Procurement № UA-2020-01-03-000555-a²⁹

Procurement value: 202 830,00 UAH

There was a requirement to provide a Certificate for environmental certification and product labelling system DSTU ISO 14024: 2002 (ISO 14024: 1999, IDT).

Glass

Procurement № UA-2019-08-29-001254-a³⁰

Procurement value: 111 630,96 UAH

The technical specifications contained a demand to provide a copy of the Certificate of Compliance with the environmental criteria requirements, developed in accordance with DSTU ISO 14024.

Textile products

¹⁷ <https://prozorro.gov.ua/tender/UA-2020-01-29-000288-a>

¹⁸ <https://prozorro.gov.ua/tender/UA-2020-01-31-000119-b>

¹⁹ <https://prozorro.gov.ua/tender/UA-2020-02-14-001420-c>

²⁰ <https://prozorro.gov.ua/tender/UA-2019-11-15-000959-a>

²¹ <https://prozorro.gov.ua/tender/UA-2019-11-14-003188-b>

²² <https://prozorro.gov.ua/tender/UA-2019-12-05-000997-c>

²³ <https://prozorro.gov.ua/tender/UA-2019-10-09-001217-b>

²⁴ <https://prozorro.gov.ua/tender/UA-2019-06-24-000395-b>

²⁵ <https://prozorro.gov.ua/tender/UA-2017-05-23-000122-b>

²⁶ <https://prozorro.gov.ua/tender/UA-2020-01-23-000168-a>

²⁷ <https://prozorro.gov.ua/tender/UA-2019-02-13-001787-a>

²⁸ <https://prozorro.gov.ua/tender/UA-2019-10-23-002378-b>

²⁹ <https://prozorro.gov.ua/tender/UA-2020-01-03-000555-a>

³⁰ <https://prozorro.gov.ua/tender/UA-2019-08-29-001254-a>

Procurements № UA-2019-12-27-001892-b³¹ (industrial clothing), UA-2019-10-25-000611-c³² (bed linen), UA-2019-11-12-003785-b³³ (bed linen), UA-2019-11-28-000818-c³⁴ (home textile), etc. There was a requirement that products must comply with Oeko-TexStandart 100.

Paper products

Procurement № UA-2019-10-24-001895-c³⁵ (office paper)

Procurement value: 95 000,00 UAH

The tender documentation required the submission of a photo of the product or packaging with ecolabels (Type I).

In 2017-2019, over 150 tender procedures gained support from the NGO Living Planet with guidance of SPP EaP GREEN Project experts, on how to apply the SPP approach. None of the appeals procedures (if applied by the participant in the procurement procedures) identified violations of the Law on PP by the CA having applied the recommended SPP criteria. In case where the AMCU cancelled the tender, the motivational part of the decision stipulated other violations of the public procurement legislation. The decision generally required the customer to amend the tender documentation under the procurement procedure in order to address violations referred to in the motivation part.

It is still not possible to determine the number of tenders applying SPP criteria in Ukraine using the ProZorro electronic system, which is described in more detail in *Section III Analysis and Evaluation of the SPP Monitoring System* of this Report. However, it can be assumed that the number of tenders applying SPP criteria was exceeded 150 tenders, for which an expert support was provided.

Guidelines and recommended SPP criteria developed under SPP EaP GREEN and others are freely available on the ProZorro website as well as other communication channels. CA are able to use them on their own account without an expert support.

CAs Survey

NGO Living Planet conducts periodically surveys among CA (in form of questionnaires or interviews) to determine their level of knowledge, needs, and issues related to the SPP criteria. As usual, the mentioned researches constitute an integral part of trainings, seminars, etc.

The latest survey (interview) was held in February 2020. The majority of 50 interviewees who are tender committees' members (in ministries, central executive authorities, state enterprises and agencies) expressed their interest in implementing SPP criteria in tender documentation both in kind (qualification requirements, technical specifications or terms of reference), and non-price criteria relevant to the subject matter of the procurement. Such criteria include criteria of quality, safety, efficiency, in particular, resource efficiency (made from secondary raw materials), energy efficiency (for energy-intensive products), as well as criteria that recognize the improved environmental performance of the subject of procurement.

³¹ <https://prozorro.gov.ua/tender/UA-2019-12-27-001892-b>

³² <https://prozorro.gov.ua/tender/UA-2019-10-25-000611-c>

³³ <https://prozorro.gov.ua/tender/UA-2019-11-12-003785-b>

³⁴ <https://prozorro.gov.ua/tender/UA-2019-11-28-000818-c>

³⁵ <https://prozorro.gov.ua/tender/UA-2019-10-24-001895-c>

Regarding the practical application of the SPP criteria, the survey showed the following results (also see Figure 1.):

- 90% of the interviewees do not see possibility of applying SPP criteria in qualification requirements for the participants in procurement procedures. The CA refer to Article 16 of the Law on PP ³⁶ which clearly defines the qualification requirements to be applied in tender documentation. Nevertheless, one of the respondents mentioned that he had requested an Energy Management System Certificate³⁷ in the qualification requirements when procuring the thermal isolation services for construction objects.
- 100% of interviewees always apply the multicriterial approach in technical qualifications (or terms of reference).
- Non-price criteria are applied either very rarely (10%) or often (10%). In most cases (80%) the respondents never apply non-price criteria referring to their inappropriateness.

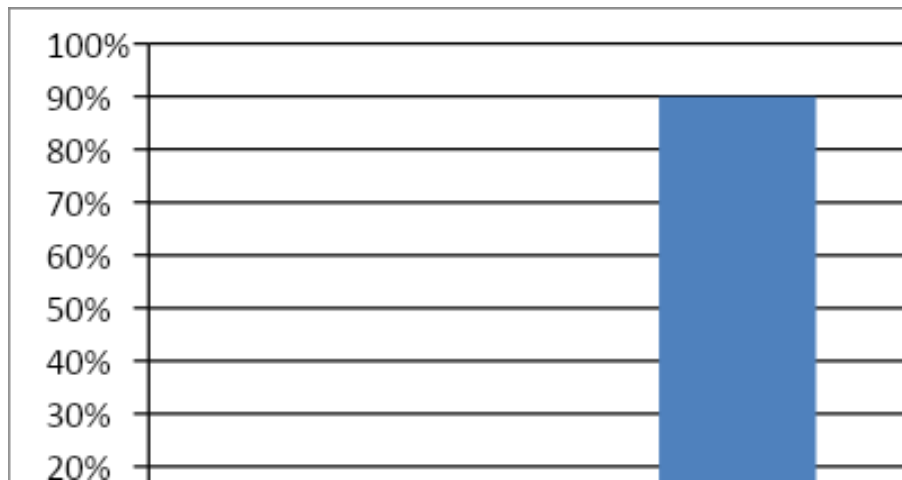


Figure 1. Application of the multicriterial approach in tender documentation
(as of the time of the survey; all 50 respondents).

Thus, to date we can have an objective estimation only concerning the application of the multicriterial approach in technical specifications (or terms of reference) towards the subject matter of the procurement. In particular the respondents have confirmed the use of the following criteria (see Figure 2.):

- Safety: always – 90%, often – 10%;
- Quality: always – 80%, often – 10%, rarely – 10%;
- Efficiency: always – 70%, rarely – 10%, sometimes – 10%, never – 10%;
- Innovation: rarely – 60%, never – 40%;
- Environmental criteria³⁸: always – 20%, often – 60%, rarely – 10%, never – 10%.

When responding to the question on environmental criteria application, the interviewees mentioned the common practice of requesting from the participants in procurement procedures the

³⁶ According to the Law the customer may apply one or several of the following qualification requirements: availability of equipment and basic infrastructure; availability of qualified staff with necessary expertise and experience; documented experience of performing a similar contract.

³⁷ According to DSTU ISO 50001:2014 Energy saving. Energy management systems. Requirements and guidelines for application (ISO 50001:2011, IDT).

³⁸ Environmental protection measures

information document on the application of environmental protection measures without going into details, specific requirements, any clear figures and supporting documents.

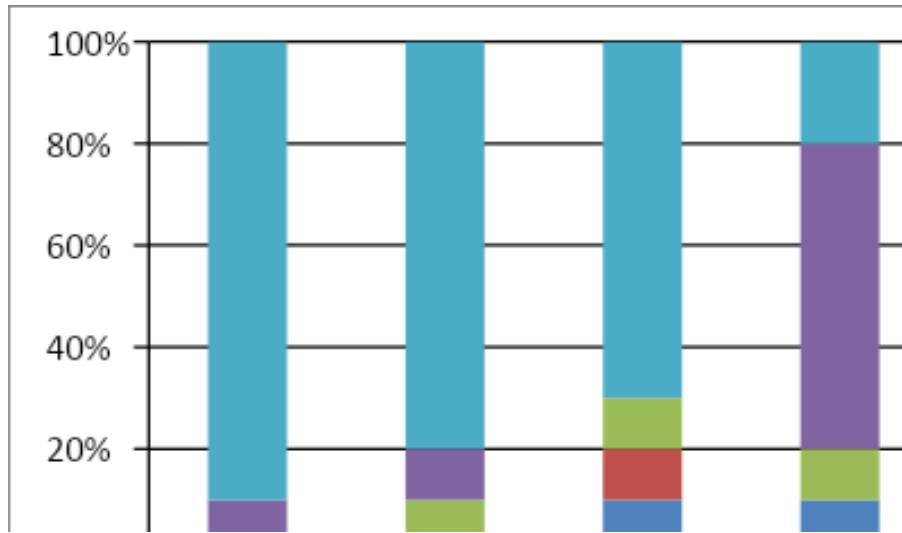


Figure 2. Correlation of application by CA of different groups of criteria

Defining requirements to the subject matter of procurement, all CA (100%) apply the criteria of conformity with technical regulations and other acts of law, compliance with DBN and DSTU, which sets the technical conditions of production.

As to the conformity to other standards, 60% of respondent never apply such a requirement, and 40% apply this requirement either rarely or often, depending on CA' needs and the procured item. In particular, the respondents provided examples of compliance requirements setting demand for compatibility of equipment, and safety in accordance with DSTU EN 62471³⁹ and standards for different testing methods. The surveyed CA almost do not apply the requirements for certified Quality Management Systems (in accordance with ISO 9001) and Environmental Management System (in accordance with ISO 14001). Only 20% of respondents mentioned that these requirements were rarely applied to service providers or construction contractors. Each and every customer purchasing food products requires the availability of a Certified Food Safety Management System (HACCP). 30% sometimes apply the requirement to Energy Management System (if relevant to the subject matter of the procurement). Considering the energy-dependent products, 30% of the respondents – always do, and 10% - sometimes require compliance with the Energy Class.

There is no practice of applying requirements for water consumption and recycled material content at all.

The condition for service providers and works contractors to adhere to the requirements of the environmental legislation is always stated in 50% of specifications, often – 10% and sometimes - in 30% respondents.

30% of interviewees sometimes require the purchased item to be ecological, 20% rarely require the products to be organic. At the same time the CA do not clearly understand what standards the mentioned products should meet and what supporting documents should the participants in procurement procedures submit.

³⁹ DSTU EN 62471:2017 Photobiological safety of lamps and lamp systems (EN 62471:2008, IDT; IEC 62471:2006, MOD).

Half of the respondents apply (rarely or always) other eligibility criteria, namely: existence of waste disposal contracts, state registration of production facilities, absence of GMOs, availability of Safety Passports (Safety Data Sheets), garbage trucks - not lower than Euro 5.

Regarding the availability of supporting documents, all CA require Certificates (Passports) of Quality for goods and products issued by the manufacturer. The availability of Certificates of Compliance of production with DSTU issued by certification body is not required in 100% of cases.

Test Reports (Research Protocols) that serve as supporting documents, are always required by 50% of the interviewees, often or occasionally – by 30%, are not required at all in 20% of cases.

40% of CA always require Safety Data Sheets (SDS) for chemical or other products.

Declarations of Conformity to the Technical Regulations are always required by 40% of CA, sometimes by 20%.

10% of respondents apply the requirement regarding Certificates of Compliance with environmental criteria (ecolabelling) or organic standards (organic labelling). Such a low percentage is associated, mostly with the incompetence of CA in various types of eco-labels and ways to confirm compliance, as well as behavior during appeal against the procurement procedure (often participants in procurement procedures use such a procedure if the CA applies a new requirement, especially if it is not mandatory for all market operators).

Only 10% require Certificates, Safety Passports, Test Reports in procurement procedures participants' offers to be issued by duly *accredited*⁴⁰ Conformity Assessment Bodies (certification bodies, laboratories). This requirement is not applied at all to Declarations of Compliance to Technical Regulations, Management Systems Certificates, Certificates of Conformity to environmental criteria or organic standards, etc.

Another 10% of CA stipulated that they demand the Calibration Certificate when procuring any devices.

CA having confirmed the use of environmental criteria to the subject matter of the procurement applied them when purchasing toys, equipment for cooking (food boiler), detergents, paints and varnishes, building materials for interior works.

Only one CA (among those interviewed) referred to the environmental criteria of the Type I environmental labelling and required the ecolabelling and environmental certification for compliance confirmation.

60% of interviewees are familiar with the life cycle cost assessment approach (TCO) regarding the public procurement and all they can explain the essence of the approach. 83% among them consider that it is appropriate to apply the mentioned approach depending on the purchased item, as it will increase the efficiency of the procurement.

⁴⁰ According to the Law of Ukraine "On the accreditation of conformity assessment bodies". The accreditation procedure requires the National Accreditation Agency of Ukraine to certify that the conformity assessment body complies with the requirements of national standards harmonized with relevant international and European standards or complies with the requirements of international or European standards, or, if needed, with any additional requirements for accreditation in the relevant fields to conduct specific conformity assessment activities.

The explanations of the Ministry of Economy and other methodical materials posted on Infobox ProZorro have no legal force, so the vast majority of customers are afraid to apply any innovations when conducting competitive procurement procedures or open bidding.

The overwhelming majority of the CA expressed the idea that in order to enhance the implementation of SPP multicriterial approach, the following measures should be taken:

1. A Methodology on SPP application should be introduced by the Order of the Ministry of Economy (in the form of a recommendation);
2. Introduction of recommended non-price criteria;
3. Introduction of recommended methods of life cycle cost assessment for certain categories of goods, services and works;
4. Launching of professional and certification training on how to apply the SPP approach for public CA;
5. Introduction of a special requirement in the compulsory testing program to certify that the CA has professional qualification on SPP;

The respondents have also identified as equally important, but with less impact on the SPP development the following measures:

6. Availability of standard eligibility criteria (technical standards or specifications) for different categories of goods, services and works on ProZorro e-procurement system resources (in the form of a recommendation);
7. Promotion of demo projects, as well as an overview of the successfully conducted SPP, in particular regarding the practice of procurement appeals procedures.



CONCLUSIONS AND RECOMMENDATIONS

The SPP EaP GREEN Project has made a significant contribution to the implementation of the SPP in Ukraine. But the practical implementation of project documents and recommendations depends on many factors related to public procurement reform in general.

1. The introduction of electronic tender documents with the relevant monitoring fields will help to monitor the SPP progress and show a wide range of stakeholders the benefits of implementing this approach in Ukraine. The recommendations for the practical implementation of the system of SPP analysis and monitoring in BI ProZorro are given in *Section III Analysis and evaluation of the SPP monitoring system of this report*.
2. The issue of SPP criteria “legalization” is no less important. The consultations with stakeholders⁴¹ as well as the practice of applying SPPs in Ukraine and numerous CA’s surveys indicate the need to approve the procedure for establishing SPP criteria.

An example of establishing a criteria base could be the EU practice. The recommended environmental criteria are approved by the European Commission. They are available on a separate page on the Commission website - EU GPP criteria⁴², together with the technical reports that justify the use of the criteria, the life cycle assessment method and ecolabeling, e.g. For example, EU environmental procurement criteria for paints, varnishes and road

⁴¹ More detailed information on these consultations is provided in *Section III* of this Report.

⁴² https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm

markings⁴³. Currently, the European Commission has approved the environmental criteria for 19 categories of goods, works and services. At the national level, a broader set of criteria is generally applied, mainly with reference to the environmental criteria for type I ecolabeling programs.

Another example is Japan, where the principles of sustainable public procurement to purchase goods, works and services was implemented since 2000. Currently, in Japan there is a governmental benchmark for 276 (!) priority category of goods, services and works⁴⁴ which defines their improved environmental performance over mandatory requirements.

3. According to the UNDP methodology, the SPP criteria should be systematically revised and new ones developed. The Body responsible for this process must be identified.
4. The established SPP criteria should be integrated in the form of machine-readable data for the possibility of electronic monitoring of public procurement, their analysis and monitoring using BI ProZorro business intelligence module. More detailed recommendations on this issue are provided in *Section III "Analysis and Evaluation of the SPP Monitoring System"* of this Report.

⁴³ http://ec.europa.eu/environment/gpp/pdf/criteria_for_paints_varnishes_and_road_marking.pdf

⁴⁴ http://www.env.go.jp/en/laws/policy/green/h31bp_en.pdf

V. LAWS AND REGULATIONS ADOPTED IN 2017-2019 HAVING AN IMPACT ON ENHANCING THE POTENTIAL OF SUSTAINABLE PUBLIC PROCUREMENT IMPLEMENTATION IN UKRAINE

1. Sustainable Development Goals of Ukraine for the period up to 2030

The Decree of the President of Ukraine "On the Sustainable Development Goals of Ukraine for the Period up to 2030" dated September 30, 2019 № 722/2019 declares a list of goals previously adopted by the UN in its document, in particular, ensuring the transition to rational consumption and production models.

According to this Decree, the Sustainable Development Goals of Ukraine for the period up to 2030 are the guidelines for the development of program documents drafts, draft normative legal acts in order to ensure the balance of economic, social and environmental dimensions of sustainable development of Ukraine.

2. State Environmental Policy of Ukraine for the period up to 2030 ⁴⁵

On March 31, 2019, the Law of Ukraine "On the Fundamental Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030" came into force.

According to that Law, which came into force on January 1, 2020, the main principles of the state environmental policy are:

- a) Maintaining a condition of the climate system that makes it impossible to increase the risks to human health, well-being and the environment;
- b) Ukraine's achievement of the SDGs;
- c) Integration of environmental requirements in the development and approval of state planning documents, sectoral, regional and local development and in the process of deciding on the implementation of planned activities of the sites that can have a significant impact on the environment;
- d) The implementation of sustainable consumption and production tools, in particular:
 - 1) the implementation of environmental management systems, the development of voluntary;
 - 2) environmental certification, labeling of the products, environmental audit;
 - 3) the implementation of sustainable public procurement;
 - 4) intersectional partnerships and stakeholder involvement, etc.

The implementation of the principles of state environmental policy is carried through:

- Openness, accountability, publicity of public authorities;
- Public participation in state policy making;
- Respect for environmental rights of citizens; promotion of environmentally responsible business and environmentally conscious behavior of citizens;
- Prevention of environmental damage;
- International cooperation and European integration.

⁴⁵ <https://zakon.rada.gov.ua/laws/show/2697-19>

The Cabinet of Ministers of Ukraine had to develop and approve the NAP by October 1, 2019.



At present, the NAP has not been adopted, but its draft takes into account all the recommendations according to the SPP Action Plan in Ukraine, are given by SPP EaP GREEN⁴⁶. The draft of the NAP is published on the website of the Ministry of Ecology.

Regarding environmental goods, works and services, the legislation of Ukraine does not clearly define by what criteria goods, works or services can be classified as environmental or those that have the improved environmental characteristics. The recommendations on this issue are provided in *Section IV* of this Report.

3. Waste Management

The National Waste Management Plan till 2030⁴⁷, approved by the Decree of the Cabinet of Ministers of Ukraine №117-p dated 20.02.2019 and developed to implement the *National Waste Management Strategy in Ukraine* until 2030⁴⁸, provides:

- the approval of the methodological recommendations for sustainable (green) public procurement in 2020;
- the introduction of economic incentives for the introduction of environmentally friendly production technologies and the expansion of recycling opportunities;
- the establishment of requirements for packaging labeling and design, restrictions on the use of hazardous substances in packaging.



Except the Decree of the Cabinet of Ministers of Ukraine dated 04.12.2019 № 1420-p “On the use of production waste in road construction”, the aforementioned measures have not been implemented.

4. Low Carbon Development Strategy of Ukraine until 2050 and the Related Laws

According to the National Inventory of Anthropogenic Emissions and Greenhouse Gas Absorption in Ukraine from 1990 to 2015, the carbon intensity of Ukraine's gross domestic product is 1.9 times higher than in the world, 2.4 times - that of the OECD countries and 3.3 times higher that of 28 EU countries.

Ukraine's low-carbon development Strategy until 2050 defines a nationally agreed stakeholder vision to separate the country's further economic growth and social development from the increase in greenhouse gas emissions.

At the national level, the Strategy is a tool for the public administration and the formation of a climate-responsible behavior of business and citizens, and at the international level, it supports the

⁴⁶ <https://menr.gov.ua/news/33731.html>

⁴⁷ <https://zakon.rada.gov.ua/laws/show/117-2019-%D1%80>

⁴⁸ <https://zakon.rada.gov.ua/laws/show/820-2017-%D1%80>

global goal of stabilizing the greenhouse gas concentrations in accordance with the approved scenario of maintaining the global average at less than 2 °C.

The implementation of the Strategy requires significant changes in the areas of the economy such as: energy supply, transport, waste management, agriculture and forestry, as well as the reduction of energy consumption in industry and housing and communal services.

The decarbonization of Ukraine's energy is one of the main goals of the Strategy, as the share of the energy sector in total GHG emissions will be 65%.

The Strategy is the basis for developing and implementing economic instruments to support Ukraine's transition to low-carbon development and attract the innovative technologies and international financial resources.

According to the Strategy, the public procurement system is one such instrument that should promote the following reforms:

- Introduction of energy systems that involve the use of low carbon energy sources;
- Improving energy efficiency in all sectors of the economy;
- Application of climate change management and management systems and technologies leading to the increased absorption and retention of greenhouse gases, etc.

The abovementioned justifies the feasibility of CA using the carbon footprint of the product as criteria for technical specifications or for non-price criteria.



Such an indicator may be established based on the best available techniques, calculated according to ISO 14067 and ISO 14025, with reference to the appropriate labelling. Details on the use of such labelling are set out in the *Analytical Report on the Ecolabelling Practices in Ukraine*.

5. Increasing the share of electric cars in the vehicle fleet of budget organizations

With this purpose, at the initiative of the Ministry of Ecology and the Ministry of Infrastructure, the Cabinet of Ministers of Ukraine amended two resolutions of April 4, 2001 №332 and December 26, 2011 № 1399, which expand the use of electric vehicles for public authorities, institutions and organizations.

Prior to these changes, each Ministry had the opportunity to purchase cars within established amounts and quantities. For the Ministries, the maximum limit was UAH 1.2 million, for other authorities - UAH 900,000. However, there is a limit on the cars number, and for ministries it is only 1 car .

According to the accepted changes, in case of purchase fuel-efficient electric car for budgetary funds, this restriction may not apply if the CA has obtained the appropriate permission from the Ministry of Finance.



COMMENT

Due to the resolutions adopted by the Cabinet of Ministers of Ukraine, the CA will have more opportunities to expand the fleet of electric vehicles. These changes are also aimed at complying with the Paris Climate Agreement ratified by the Verkhovna Rada of Ukraine, which was concluded for international response to global climate change.

The use of such an opportunity requires the market readiness analysis, establishing SPP criteria for this product category, LCCA method and price limits. All this should be the basis for obtaining permission from the Ministry of Finance. Unreasonable removal of restrictions on the cars number and prices only on the basis of "electric car" can lead to violations of the public procurement principles.

6. Eco-design

In Ukraine, a system for defining eco-design requirements for energy products has been developed to ensure the free movement of such products in the Ukrainian market.

The Resolution of the Cabinet of Ministers of Ukraine dated 03.10.2018 №804 approved the Technical regulation on the establishment of a system for determining the requirements for eco-design of energy products⁴⁹.

Technical Regulations on eco-design requirements for a number of energy products were adopted in 2018-2019, in particular:

1. Household ovens, hobs and hoods⁵⁰;
2. Fluorescent lamps without integrated ballast, high intensity discharge lamps, ballasts and luminaires designed to operate with such lamps⁵¹;
3. Water heaters and storage tanks⁵²;
4. Air conditioners and fans designed for personal comfort⁵³;
5. Household washing machines⁵⁴;
6. Computers and computer servers⁵⁵;
7. household dishwashers⁵⁶;
8. TV-sets⁵⁷;
9. Directional household lamps⁵⁸;
10. Electricity consumption of electrical and electronic household and office equipment in a standby mode, off mode and network standby mode⁵⁹;
11. Household tumble driers⁶⁰;

⁴⁹ <https://zakon.rada.gov.ua/laws/show/804-2018-%D0%BF>

⁵⁰ <https://zakon.rada.gov.ua/laws/show/742-2019-%D0%BF>

⁵¹ <https://zakon.rada.gov.ua/laws/show/741-2019-%D0%BF>

⁵² <https://zakon.rada.gov.ua/laws/show/740-2019-%D0%BF>

⁵³ <https://zakon.rada.gov.ua/laws/show/739-2019-%D0%BF>

⁵⁴ <https://zakon.rada.gov.ua/laws/show/738-2019-%D0%BF>

⁵⁵ <https://zakon.rada.gov.ua/laws/show/737-2019-%D0%BF>

⁵⁶ <https://zakon.rada.gov.ua/laws/show/736-2019-%D0%BF>

⁵⁷ <https://zakon.rada.gov.ua/laws/show/735-2019-%D0%BF>

⁵⁸ <https://zakon.rada.gov.ua/laws/show/734-2019-%D0%BF>

⁵⁹ <https://zakon.rada.gov.ua/laws/show/733-2019-%D0%BF>

12. Directional lamps, LED lamps and related equipment⁶¹;
13. Vacuum cleaners⁶²;
14. Water pumps⁶³;
15. Electric motors⁶⁴;
16. Small, medium and large power transformers⁶⁵;
17. Household fridges⁶⁶;
18. Simple digital TV receivers⁶⁷;
19. Fans with a motor rated at 125 W to 500 kW⁶⁸;
20. Sealless autonomous circulation pumps and sealless circulation pumps integrated in the device⁶⁹;
21. Electricity consumption by external power sources in non-load mode and their average active efficiency in active mode⁷⁰.



All the adopted Eco-design Technical Regulations comply with the requirements of EU legislation. The technical regulations on products set clear mandatory requirements for their energy efficiency, noise pollution, water consumption and can be applied without further justification by the CA in the development of tender documents.

7. New Energy Efficiency Standards in Construction

On July 23, 2018, the Law of Ukraine “On Energy Efficiency of Buildings” came into force. This law will bring Ukraine closer to the emergence of zero energy homes that meet the international standards and will significantly save on utilities.

The law introduces a mandatory energy certification and definition of classes of buildings according to the European method. In particular, construction sites and already constructed buildings will have to undergo the energy efficiency certification in order to determine the actual indicators, assess the compliance of these indicators with the set minimum requirements for the energy performance of buildings.

According to the evaluation results, each home will be assigned a specific class. Moreover, if a household improves its energy efficiency class, it will receive the state support.

Mandatory energy efficiency certification is subject to:

⁶⁰ <https://zakon.rada.gov.ua/laws/show/534-2019-%D0%BF>

⁶¹ <https://zakon.rada.gov.ua/laws/show/264-2019-%D0%BF>

⁶² <https://zakon.rada.gov.ua/laws/show/155-2019-%D0%BF>

⁶³ <https://zakon.rada.gov.ua/laws/show/154-2019-%D0%BF>

⁶⁴ <https://zakon.rada.gov.ua/laws/show/157-2019-%D0%BF>

⁶⁵ <https://zakon.rada.gov.ua/laws/show/152-2019-%D0%BF>

⁶⁶ <https://zakon.rada.gov.ua/laws/show/158-2019-%D0%BF>

⁶⁷ <https://zakon.rada.gov.ua/laws/show/156-2019-%D0%BF>

⁶⁸ <https://zakon.rada.gov.ua/laws/show/151-2019-%D0%BF>

⁶⁹ <https://zakon.rada.gov.ua/laws/show/153-2019-%D0%BF>

⁷⁰ <https://zakon.rada.gov.ua/laws/show/150-2019-%D0%BF>

- Objects of construction, buildings and parts of buildings that are leased for more than a year;
- Buildings with a heating area of more than 250 m², in which the government bodies are located, and the reception of citizens is carried out;
- Buildings in which thermo-modernization is carried out, which is supported by the government and is aimed at achieving the energy efficiency class of the building not lower than the minimum requirements.



Without additional justification the CA may refer to the provision of this Law “On Energy Efficiency of Buildings” and apply the requirement for the appropriate energy efficiency class of the building in case it is an object of new construction, or establish a class to be achieved after the reconstruction or thermal modernization works have been carried out.

8. Using Production Wastes in Road Construction

According to the Decree of the Cabinet of Ministers of Ukraine № 1420-p dated December 4, 2019, the State Agency of Automobile Roads of Ukraine, Kyiv Oblast and Kyiv City State Administrations are recommended to use non-price “environmental” criterion with a specific gravity of at least 10 percent, which will be characterized by an indicator "the level of utilization of production waste and road construction materials obtained with their use as placeholders" for the public procurement of works for the construction and the services for the maintenance of public roads.

In the contracts for the construction or provision of services for the maintenance of public roads in Zaporizhzhya, Donetsk, Luhansk, Dnipropetrovsk, Mykolaiv, Kirovograd oblasts, provisions should be used on the expediency of using production wastes (metallurgical slag, ash removal, etc.) according to the normative documents, including ecolabelling.



It is currently the only ordinance of the Cabinet of Ministers of Ukraine concerning the criterion base in the public procurement system. There was great resonance in the media, which drew attention both to its content and to such a tool as "non-price criteria". It is important in the near future to analyze the implementation of these recommendations in practice, with a further revision due to the fact that in the new Law the term "environmental characteristics of the procurement item" is used instead of "environmental protection measures".

9. New Requirements for Food Safety

On September 20, 2019, the Law of Ukraine "On Basic Principles and Requirements for Food Safety and Quality" establishes a requirement for all food market operators to have prerequisites for the implementation of the HACCP system⁷¹.



The CA may, without further justification, refer to the provision of this Law to the requirement to confirm the validity of the HACCP system to the food supplier or food service provider. The

⁷¹ HACCP (Hazard Analysis and Critical Control Points) is a system of hazard analysis and critical control points that identifies, evaluates, and controls hazardous factors that are critical to food safety.

certificate of conformity of the management system in accordance with DSTU ISO 22000⁷² may be considered as a supporting document.

10. Urgent Measures on Children Healthcare

The Decree of the President of Ukraine dated December 07, 2019 №894/2019 "On the urgent measures to improve the health of children" was the prerequisite for the introduction of a healthy diet and the preservation of good health of the younger generation. It mandated the Cabinet of Ministers of Ukraine within two months to develop a draft National Strategy for creating a safe and healthy educational environment in a new Ukrainian school, aimed in particular at creating a safe environment in educational institutions, organizing healthy and safe food for students, the dissemination of knowledge and skills of healthy food. Also, the Cabinet of Ministers of Ukraine should take effective measures in order to strengthen the control over the organization of feeding in educational establishments, in particular by providing students with sufficient quality food.



When setting selection criteria and / or food selection for educational institutions, CA may order natural or organic products, given their price and availability on the market.

11. Natural Food Products

On August 6, 2019, the Law of Ukraine "On Information for Consumers on Food Products" entered into force. It brings a number of changes and clarifications that directly relate to the quality of the products and the availability of information to the consumer. In particular, the Law establishes the requirements for the use of the word "natural" in its designation of food products.

The international standard ISO / TS 19657: 2017⁷³ was introduced in the national standardization system by a validation method in May 2018. DSTU ISO / TS 19657: 2018 establishes a method for the exchange of information on the ingredients considered to be *natural*, which should promote the practice of good faith.



Based on the requirements of this Law and the provisions of DSTU ISO / TS 19657, CA may require the supply of natural products that meet the established criteria, which is documented by the results of independent assessment.

12. Organic production, Circulation and Labeling of Organic Products

An important step in the development of the organic sector in Ukraine was the adoption in 2018 of the Law of Ukraine "On the basic principles and requirements for organic production, circulation and labeling of organic products", which came into force on August 02, 2019.

⁷²DSTU ISO 22000: 2007 Food safety management systems. Requirements for any food chain organization (ISO 22000: 2005, IDT), effective till 01.07.2021. An updated version of this DSTU standard ISO 22000: 2019 (ISO 22000: 2018, IDT) will go into effect from this date.

⁷³ISO/TS 19657: Definitions and technical criteria for food ingredients considered as natural.

The law establishes the requirements for the production of organic products, their circulation, labelling and sale, as well as the mechanism of certification of organic production. It provides for the creation of registers of operators, certification bodies, organic seeds and planting material.

Another document that focuses on the organic sector is the “Strategy for the Development of the Agricultural Sector for the Economy until 2020”, approved by the decree of the Cabinet of Ministers of Ukraine №806-p. The Strategy also identifies food security of the country as a priority for achieving strategic goals by promoting the development of organic farming, especially in private peasant and medium-sized farms.

Organic agriculture has significant environmental advantages over conventional, contributes to the reduction of carbon dioxide, nitrous oxide and methane emissions that contribute to global warming. At the same time, organic agriculture, firstly, reduces the risk of health deterioration for farm workers, because they are most vulnerable to the effects of pesticides and other chemicals used in conventional production. Secondly, organic products are more beneficial to consumers by minimizing the health effects of toxic and persistent chemicals. Average conventional vegetables and fruits can contain more than 20 pesticides. Meat and milk, in turn, may contain antibiotics, hormones, growth promoters. Organic products for children are especially useful because the baby's organism is more vulnerable to pesticide residues, nitrates, heavy metals, and antibiotics in food.

Organic farming practices improve soil condition and fertility without the use of hazardous chemical fertilizers and drugs. Weed and pest control is carried out without the use of toxic pesticides, thus protecting land and water resources from contamination by toxic compounds. The mandatory use of crop rotations, the use of locally adapted seeds and breeds and the restoration of functional biodiversity contribute to further enhancing the environmental balance.

The social advantage of organic farming is that it has a high potential to support the livelihoods of the rural population and revitalize the work of small farms. As the organic sector grows, the employment of the local population will increase as organic farming is less mechanized and usually requires more manual labor.

Organic production can therefore become an effective tool for preserving the health of the nation and for promoting a healthy nutrition culture. Children, elderly people and people who need to improve their health should become priority consumers of these products.



In December 2019, the Organic Movement Federation of Ukraine, in partnership with the NGO Living Planet conducted an analysis of the readiness of the organic products market in Ukraine. (Earlier, another study on organic food was prepared by UNEP in the framework of EaP GREEN project: <http://www.green-economies-eap.org/resources/Ukraine%20A%20ENG%2027%20Jun.pdf>).

It is recommended to consider such cereals as buckwheat, millet and oat flakes as priority categories given the volume of production and the presence of organic producers in the regions of Ukraine, the need for annual deliveries of certain groups of organic products in the public procurement for the needs of preschool, school and other educational institutions.

Analyzing the bids for these organic and conventional cereals, the lowest organic price is comparable to the highest conventional price. For example, the average market price of regular oat flakes is 37-55 UAH per kg, organic - 57-150 UAH per kg. It should be noted that the sales of conventional products are much higher than the sales of organic products (by similar product groups). Therefore, with an increase in production and sales, organic producers have the potential to review their selling prices and reduce them.



CONCLUSIONS AND RECOMMENDATIONS

The changes in the legislation of Ukraine that took place in 2018-2019 significantly expand the possibilities of CA to apply the criteria of energy efficiency, resource efficiency, safety and the improved quality characteristics of food, ecolabelling and organic standards. This in turn enhances the potential for further development of the SPP and the Ukrainian green products market.

Taking into consideration the SPP Eap GREEN Project research on data on the most purchased goods, works and services⁷⁴, and the prioritization by economic sectors, it is recommended to consider the feasibility of developing SPP criteria for procurement of the following products:

TOP-15 goods

CPV class of the lot (aggregated)	Total, UAH
34110000-1 Cars	5 967 422 400,05
15890000-3 Food and dried products	4 708 489 107,17
30230000-0 Computer equipment	2 904 008 502,64
35810000-5 Individual outfit	2 557 102 701,53
03410000-7 Wood	2 316 962 675,56
39160000-1 School furniture	2 052 122 493,59
30190000-7 Office supplies and accessories	1 767 841 595,10
14210000-6 Gravel, sand, rubble and fillers	1 749 600 161,39
18810000-0 Shoes, except sports and protective	1 145 075 194,38
39710000-2 Electrical appliances	684 592 688,58
18110000-3 Uniforms clothing	660 020 377,91
19520000-7 Plastic products	626 923 852,60
18130000-9 Industrial clothing	512 216 574,06
39520000-3 Finished textile	405 842 780,04
44420000-0 Construction products	357 570 363,69

⁷⁴ Obtained through the public analytics module BI – ProZorro.

TOP-5 works

CPV class of the lot (aggregated)	Total, UAH
45230000-8 Construction of pipelines, communication and transmission lines, highways, roads, airfields and railways; alignment of surfaces	171 108 550 017,11
45450000-6 Other final construction work	81 095 087 362,25
45210000-2 Construction of buildings	36 712 121 497,46
45440000-3 Painting and glazing	1 215 027 747,88
45330000-9 Plumbing and sanitary works	1 130 028 844,04

TOP-10 services

CPV class of the lot (aggregated)	Total, UAH
60100000-9 Road transport services	10 003
90500000-2 Waste and waste management services	9 061
50700000-2 Services in repair and maintenance of building structures	8 792
77200000-2 Services in the field of forestry	7 920
55500000-5 Canteen and catering services	6 064
71500000-3 Services related to construction	4 832
90900000-6 Cleaning and hygiene services	3 578
55200000-2 Camping services and other non-residential facilities	2 127
50800000-3 Repair and maintenance services	1 181
55100000-1 Hotel services	1 037

Taking into account the prioritization, and due to the fact that CPO conduct procurements of clearly defined categories of goods⁷⁵, it is recommended to consider the feasibility for the State Agency "Professional Procurement" to apply the SPP criteria when purchasing the following categories of products:

- 30120000-6 Photocopying and printing equipment for offset printing
- 30190000-7 Office supplies and accessories
- 30230000-0 Computer equipment
- 48820000-2 Servers
- 15980000-1 Non-alcoholic beverages
- 22810000-1 Paper or cardboard logs
- 32320000-2 Television and audiovisual equipment
- 39830000-9 Cleaning products
- 31510000-4 Electric incandescent lamps
- 31530000-0 Parts for lamps and lighting equipment
- 33760000-5 Toilet paper, handkerchiefs, hand towels and napkins
- 39150000-8 Furniture and accessories
- 39510000-0 Home textile
- 34110000-1 Cars
- 39710000-2 Electrical appliances

⁷⁵ <http://cpb.org.ua/services.html>

VI. TRAINING IN THE FIELD OF SPP AND PROFESSIONALIZATION OF PUBLIC PROCUREMENT

In 2018-2019, in partnership with the State Ecological Academy of Postgraduate Education and Management, NGO Living Planet, SE ProZorro, a series of procurer training activities were carried out using the curriculum and materials developed within the SPP EaP GREEN project, in particular:

- a) 6 trainings for CA and suppliers on priority product categories in the SE ProZorro, Kyiv⁷⁶ 163 participants;
- b) training "The Implementation of Sustainable Public Procurement in Ukraine", Lutsk - 35 participants⁷⁷;
- c) training "Requirements for Environmental Protection Measures and Life Cycle Assessment in Public Procurement", November 22, 2018, Kyiv - 40 participants⁷⁸.

New standards of professionalization of public procurement

The new version of the *Law On Public Procurement* stipulates that from January 1, 2022, an *authorized person*⁷⁹ is responsible for organizing and conducting the procurement (simplified purchase) procedure.

CA need to take comprehensive steps to move to a new format for organizing and conducting public procurement, as from this date the Law on PP does not provide for the possibility of procurement by tender committees.

To carry out their functions, authorized persons must confirm the level of knowledge (basic) in the field of public procurement on the web-portal of the authorized body by passing free testing.

The procedure for organizing the testing of authorized persons will be developed by the Ministry of Economy. In view of the above, persons who may be identified as authorized should use the available free sources of information in advance to obtain relevant knowledge of the application of procurement law.

The information on the open sources, which will help in obtaining the necessary knowledge and materials related to the transition to the new format of work, is available on the official website of the Authorized Body at www.me.gov.ua, in the section "Public Procurement", under the heading "Professionalization". However, for a consistent understanding of the functions of the person who will be responsible for organizing and conducting the procurement procedure, the Ministry of Economy has developed a professional standard for the profession "Public Procurement Specialist", which was approved by the order of the Ministry of Social Policy of Ukraine dated 23.02.2019 № 234 and posted on the official website of the Ministry of Economy in the section "Public procurement" under the heading "Professionalization".

Methodical materials, explanatory articles, on-line self-study courses, a library of sample specifications and a forum for discussing public procurement issues between CA, participants, representatives of SE ProZorro and the Ministry of Economy are posted on the Infobox ProZorro⁸⁰ resource and other information resources.

⁷⁶ <http://www.greenmind.com.ua/novyny/12-06-2019-novi-servisi-prozorro-dlya-efektivnikh-zakupivel-remontno-budivelnikh-robot.html>

⁷⁷ <http://www.zhiva-planeta.org.ua/novuny/471-new.html>

⁷⁸ <http://www.greenmind.com.ua/novyny/22-11-2018-vimogi-do-zakhodiv-iz-zakhistu-dovkilliya-ta-vartist-zhittevo-go-tsiklu-pri-zdijsneni-publichnikh-zakupivel.html>

⁷⁹ According to the Law, an authorized person (s) - an official or other person who is an employee of the procurer and is responsible for organizing and carrying out procurement (simplified procurement) procedures under this Law on the basis of the procurer's own administrative decision or employment contract.

⁸⁰ <https://infobox.prozorro.org/>



CONCLUSIONS AND RECOMMENDATIONS

In the near future, exemplary training programs on public procurement will be reviewed in connection with the reform and operation of the new version of the Law on PP. In this regard, it is necessary:

1. To provide a revision of the curriculum and materials for the SPP developed under the SPP EaP GREEN. The revision should take into account the changes to the Law, examples of successful SPP practices in Ukraine, new opportunities to apply this approach related to the entry into force of the new version of the Law, new criteria for sustainability of the life cycle assessment methodology, etc.

In the course of revision one should take into account the materials that remain relevant in the available content and content of the on-line training course for the CA of Green Public Procurement Implementation, which is described in more detail in *Section VII, "The Analysis and evaluation of the implementation of the Communication Strategy for the SPP promotion"* of this Report.

2. As a result of the review, a training module on SPP should be developed, along with methodology, presentation, training materials and tests to test knowledge - as an integral part of the Procurement Professionalization Training. This program was developed by the Kyiv School of Economics and is the basis for universities and procurer training institutions.
3. To implement an online training course "The Implementation of Sustainable Public Procurement" on the basis of the training module with a knowledge test system. The testing program for authorized persons should take into account the main issues related to the SPP.
4. To conducting trainings (webinars) for the trainers (lecturers) of customer trainings ("training for trainers").

VII. THE ANALYSIS AND EVALUATION OF THE IMPLEMENTATION OF THE COMMUNICATION STRATEGY FOR THE SPP PROMOTION OF SUNSAINABLE PUBLIC PROCUREMENT

The communication activities for the SPP implementation in Ukraine in 2016 - 2019 (hereinafter - the Communication Strategy) was developed within the framework of SPP EaP GREEN Project.

The Communication Strategy was approved by the steering committee of the SPP EaP GREEN Project (NCO) in 2016. The State Environmental Academy of Postgraduate Education and Management was responsible for the implementation of the communication strategy in a partnership with Living Planet, SE Prozorro, the Institute of Environmental Management and Balanced Nature with the involvement of other project experts.

Target audience:

- Authorities responsible for the implementation of SPP policy: The Ministry of Economy, the Ministry of Ecology, the Ministry of Social Policy of Ukraine;
- Local authorities and supervisory authorities;
- SE “ProZorro”, authorized electronic platforms ;
- CA in the public procurement system;
- Manufacturers and suppliers.

The main channels of information:

- Conferences and trainings;
- Internet resources (sites, social networks);
- Publications in the media.

Activities developed under the SPP EaP GREEN Project:

The Guidelines for CA are available on the State Environmental Academy of Postgraduate Education and Management website, the GREEN MIND Sustainability Platform and Infobox ProZorro, in particular:

- a. Guidance on sustainable procurement for paints, detergents and insulation materials (in English and Ukrainian)⁸¹;
- b. Guidelines “How to apply the environmental protection measures when procuring goods, works and services”⁸².

The content of the aforementioned materials was used in the compilation of the guidelines “Towards green economy modernization: a model for sustainable consumption and production” of the “Library of Environmental Knowledge” series. The directory was commissioned by the State Ecological Academy of Postgraduate Education and Management in December 2017 with a circulation of 500 copies and it is free available in .pdf on the Academy website⁸³.

Also, in April 2017, the Institute for Environmental Management and Balanced Resource Use, in partnership with the NGO Living Planet, issued a guide on eco-labeling in a format as Questions and Answers. The methodical manual and a selection of information materials on the principles and methods of applying ecolabels Type I, II and III (including in the public procurement system) are published on the official site of the Ministry of Ecology in a separate section “Eco-labeling”⁸⁴.

⁸¹ <http://www.zhiva-planeta.org.ua/novuny/474-new.html>

⁸² <https://infobox.prozorro.org/articles/yak-zastosovuvati-zasobi-zahistu-dovkilliya-pri-zakupivli-tovariv-robot-ta-poslug>

⁸³ <https://dea.edu.ua/img/source/Book/2.pdf>

⁸⁴ <https://menr.gov.ua/content/ekologichne-markuvannya2.html>

These publications are used by universities, advanced training institutions and other interested institutions and organizations.

The following activities were carried out:

- Seminar-training “Sustainable procurement in the public and private *economy sectors*. Principles, methods, tools and practices”, July 29, 2016, Dnipropetrovsk Chamber of Commerce and Industry, 30 participants.⁸⁵
- Speech with the report “Environmental standards and sustainable consumption principle”, July 26, 2016, Kyiv National University of Trade and Economics, 150 participants.⁸⁶
- Report on sustainable consumption and environmental standards at the International Scientific and Practical Conference “Ecology. Man. Society”, May 12-13, 2016, National Technical University of Ukraine “Kyiv Polytechnical Institute”, 80 participants.⁸⁷
- Seminar-training “Implementation of SPP”, April 25-26, 2017, Ministry of Ecology, 90 participants.⁸⁸
- Conference “SPP: Principles, Methods and Experience of Implementation in Ukraine and in the World”, November 23, 2017, International Exhibition Center, Kyiv, 60 participants.⁸⁹

In 2018-2019, SPP EaP GREEN experts participated as trainers or speakers in a number of CA training events organized by authorized electronic platforms . Experts published 15 articles in specialized editions on SPP and the benefits of this approach, and conducted TV and radio interviews in thematic programs. For example: publications of the National Technical University “KPI. Igor Sikorsky”, Kyiv National University of Trade and Economics, National University of Life and Environmental Sciences⁹⁰ , Proceedings of the International Scientific and Practical Conference “Modern mechanisms of competition policy in Ukraine in the globalization context– 2016”, AMCU, Materials of the X International Investment Forum “Tavrian horizons: cooperation, investments, economic development” (Nova Kakhovka), in the magazines “Business Bulletin” of the Chamber of Commerce and Industry of Ukraine and Volyn Chamber of Commerce and Industry⁹¹, as well as in the newspaper “Business”, magazines “Hotelier Restaurateur”, “PROriteyl”, “Building Materials”⁹², “Ecology of the enterprise”, “Prof Build”.

In order to further implementation of the Communication Strategy, the SPP EaP GREEN Project experts provided the following proposals:

- To include as an additional component other technical support projects implemented in Ukraine in the period 2016-2018 in the field of public procurement reform or those related to the implementation of certain sustainability criteria;
- Inclusion in the draft NAP of the list of measures envisaged by the Communication Strategy in the part related to the implementation of such strategic tasks as “introduction of sustainable

⁸⁵ <http://www.zhiva-planeta.org.ua/novuny/418-new.html>

⁸⁶ <http://www.zhiva-planeta.org.ua/novuny/417-new.html>

⁸⁷ <http://www.zhiva-planeta.org.ua/novuny/413-new.html>

⁸⁸ <http://www.zhiva-planeta.org.ua/novuny/446-new.html>

⁸⁹ <http://www.zhiva-planeta.org.ua/novuny/468-new.html>

⁹⁰ <https://nubip.edu.ua/node/30465>

⁹¹ <https://ucci.org.ua/press-center/ucci-news/minprirodi-vdoskonalit-pravila-dlia-virobnikiv-iekoproduktsiyi-zghidno-mizhnarodnikh-standartiv>

⁹² <http://ndibmv.kiev.ua/stroitelnye-materialy-n-1-2-za-2017/>

consumption and production instruments”, “introduction of the green procurement system in Ukraine”.

The Communication Strategy was linked to technical support projects through the following common goals:

- Raising awareness and understanding of the SPP approach;
- Explanation of the SPP benefits;
- Promoting the SPP regulatory approval;
- Training (formation and training of experts);
- Increasing the interest of manufacturers and suppliers in the production of sustainable goods and services, the introduction of eco-innovations, eco-labeling, eco-management systems, etc.

SPP promotion activities in Ukraine, which were carried out within the framework of other technical support projects, are grouped into 3 cases.

CASE STUDY 1: Sharing experience of Slovakia on SPP in Ukraine

Target region: Kyiv Region

Implementation period: April 2017 - September 2018.

Partners: SCCD with the financial support of the Slovak Development Agency SlovakAid.

Within the framework of the NGO GoLOCAL Project (Ukraine)⁹³, the experts of the NGO Living Planet provided the development of an online training course “The Implementation of GPP” for the CA funded by SCCD. The course contains three training modules, the guidelines and tests for knowledge assessment. The NGO Living Planet provided financial support for IT services to host the course on the *Infobox ProZorro*⁹⁴ web resource.

In the framework of this project, a joint training for the CA⁹⁵ was held at SE “ProZorro”.

On September 29, 2018, the conference for CA representatives “SPP: Sharing Experience from Slovakia to Ukraine” was held. The main speakers of the conference were the representatives of the Government Office for European and Euro-Atlantic Integration, the Ministry of Ecology, the Ministry of Economy, SE “ProZorro”, NGO GoLOCAL, NGO Living Planet, Kyiv Regional State Administration⁹⁶.

CASE SDUTY 2: Non-price criteria in public procurement

Information on this project is provided in *Section II Development of the Criterion Base for SPP* of this Report. But in addition to technical support were also implemented the following:

- An electronic service was created which allows the CA to formulate the non-price criteria for a certain category of products with a proper justification for the expediency of their application and to establish the specific weight⁹⁷;
- The Guidelines for CA “How to make effective purchases using non-price criteria” were developed and published on Infobox ProZorro⁹⁸;
- 12 Trainings for CA were carried out for each product category⁹⁹.

⁹³ <https://golocal-ukraine.com/projects/zeleni-publichni-zakupivli-peredacha-dosvidu-zi-slovachchini-v-ukrayinu/>

⁹⁴ <https://infobox.prozorro.org/courses/zeleni-publichni-zakupivli-modul-1>

⁹⁵ <http://www.zhiva-planeta.org.ua/novyny/485-new.html>

⁹⁶ <http://www.zhiva-planeta.org.ua/novyny/489-new.html>

⁹⁷ www.nk.prozorro.ua

⁹⁸ <https://infobox.prozorro.org/articles/yak-zdiysnyuvati-efektivni-zakupivli-iz-zastosuvannyam-necinovih-kriterijiv>

⁹⁹ <http://www.greenmind.com.ua/novyny/12-06-2019-novi-servisi-prozorro-dlya-efektivnikh-zakupivel-remontno-budivelnikh-robot.html>

The publications about the electronic service advantages with the SPP criteria were placed on the web portals “Bagnet”¹⁰⁰, “Nova Vlada”¹⁰¹, “Dosye”¹⁰², “UkrpressInfo”¹⁰³, “Stolytsya”¹⁰⁴, “Enigma”¹⁰⁵, “Meta”¹⁰⁶, “I.UA”¹⁰⁷, “Linkodrom”¹⁰⁸, the newspaper “Holos Ukrainy”¹⁰⁹ (the Voice of Ukraine).

According to the results of the incubation program, the team won the nomination “Most Influential”¹¹⁰.

Until April 19, 2020, the application of non-price criteria was limited by Law on PP. The CA was only able to apply them if the procurement was complex (including the purchase of consulting services, experiments, research or development) and there was no permanent market. The Law on PP did not define the meaning of the term "complex nature of procurement". The Law limited the list of possible criteria such as payment terms, lead time, warranty service, operating costs, technology transfer and training of management, research and production staff. For these reasons, non-price criteria had been used very rarely. According to *ProZorro*, as of January 1, 2019, less than 0,01% of customers took advantage of this opportunity.

CASE STUDY 3: Energy efficiency in communities II

Target region: Ukraine

The project is being implemented by *GIZ* team in Ukraine on behalf of the German Federal Ministry for Economic Cooperation and Development (*BMZ*)¹¹¹.

In November 2019, NGO GoLOCAL, in partnership with the NGO Living Planet, hosted 2 training sessions for contracting authorities on improving public procurement through the implementation of the SPP approach.

During the training, the SPP criteria were presented: sustainability, energy efficiency, safety, life cycle assessment of goods or services, etc. The NGO Living Planet experts provided advice for two procurement cases: for a school and kindergarten reconstruction.

In addition, the SPP implementation potential in Ukraine may enhance the application of this approach in the CPO activities.

The state institution “Professional Procurement” is the first CPO in Ukraine¹¹².

¹⁰⁰ <http://www.bagnet.org/news/politics/399113/novi-servisi-prozorro-dopomozhut-virishiti-globalni-ekologichni-problemi-ta-zekonomiti-30-mlrd-griven-na-rik-zmi>

¹⁰¹ http://novavlada.info/gosudarstvo/novosti/zakupivli-remontno-budivelnih-robot-za-novoyu-kriterialnoyu-bazoyu-prozorro?fbclid=IwAR2awX33F1u9Kx1K3IbuL4byWDoWDwR1B4sdzUZ8_ZBtdoOrbEC6AGiDI6U

¹⁰² <http://www.dosye.com.ua/articles/2019-06-12/prozorro-prodovzhu-vprovadzhuvaty-nov-servi-si-jak-nablizhajut-ukra-nu-do-vropeiskih-standart-v/187953/>

¹⁰³ http://www.ukrpress.info/2019/06/13/minekonomroztvitku-ta-prozorro-vprovadzhuje-novi-instrumenti-dlya-pidvischennya-efektivnosti-publichnikh-zakupivel/#_ftn1

¹⁰⁴ <http://stolica-ua.com/2019/06/zakupovuye-derzhava-kontrolyuyesh-ti-shho-treba-znati-pro-novi-servisi-prozorro/>

¹⁰⁵ https://enigma.ua/articles/novi-servisi-prozorro-dopomozhut-zamovnikam-remontno-budivelnikh-robot-obirati-bilsh-yakisni-ta-ekologichni-materiali#_ftn1

¹⁰⁶ <http://blog.meta.ua/~ogladach/posts/i6343756/>

¹⁰⁷ <http://blog.i.ua/user/7402176/2291655/>

¹⁰⁸ <https://linkodrom.com/links/601170.html>

¹⁰⁹ <http://www.golos.com.ua/article/318200>

¹¹⁰ <http://www.zhiva-planeta.org.ua/novyny/489-new.html>

¹¹¹ <https://golocal-ukraine.com/projects/trening-z-pidvishhennya-efektivnosti-publichnikh-zakupivel/>

CPO conducts procurement procedures in the interests of both national and local CA.

In addition to conducting tenders and procurement using Framework Agreements, the CPO also administers the e-catalog Prozorro Market, which allows CA to purchase consumer goods the value of which is less than the value established in paragraphs 1 and 2 of the first part of Article 3 of the New version of the Law on PP ("**threshold" purchases**).

There was a Competence Training Center at the CPO, which organized and conducted seminars on public procurement, with the involvement of industry experts, where CA and contractor's representatives could get practical advice and skills on procurement.



CONCLUSIONS AND RECOMMENDATIONS

The Communication Strategy was implemented partially with technical support under the SPP EaP GREEN and other technical support projects. Also, the measures of the Communication Strategy were integrated into the NAP draft, which has not yet approved by the Government of Ukraine.

Communication Strategy goals were achieved partially for the following reasons:

- Short-term nature of projects containing the communication component of the SPP;
- Lack of stable technical support for the coordination and systematic implementation of communication activities;
- Lack of relevant communication tools.

Communication Strategy can be financed from the following sources

- 1) funds from the State Budget of Ukraine;
- 2) funds provided for the implementation of programs and projects;
- 3) own and borrowed funds of business entities;
- 4) other funding sources are not prohibited by law.

Substantial public procurement reform took place in 2019, called the Second Procurement Revolution. Therefore, further implementation of the Communication Strategy developed under SPP EaP GREEN Project requires a major revision taking into account new communication channels and potential participants in the partner network, as well as need to optimize communication tools and adapt communication activities.

Taking into account the above information, the following is recommended:

1. Review and update the Communication Strategy developed under SPP EaP GREEN Project

During 2019, in cooperation with international donors, public procurement entities and NGOs, existing communication channels were updated and created new. Therefore, it is necessary to revise the Communication Strategy: the channels of communication recommended for further SPP promotion and the recommended methods of application are given in *Annex to this Report "Communication channels recommended for further Sustainable Public Procurement promotion and methods of application"*.

¹¹² According to the order of the Cabinet of Ministers of Ukraine from September, 25 2019 № 846-r.

2. Optimization of the communication tools

It is necessary to focus on the development and optimization of the following basic communication tools:

- The review of the best practices of the SPP use in Ukraine;
- The updated guidance for CA on the application of sustainability criteria in technical specifications and non-price criteria for the identified¹¹³ and new priority categories of goods, works and services;
- New analytical reports on the availability on the Ukrainian market of prioritized categories of goods, works and services that meet the recommended sustainability criteria;
- The recommended methods of life cycle assessment and costing for different categories of goods, works and services;
- At the beginning of the implementation of the information measures for each topic, it is necessary to specify the target audience, identify priority channels of communication and ensure the development of *Message Box* and *Press Kit*.
 - *Message Box* generates the main idea for each topic and adapts it for the target audience and for the placement in each of the priority communication channels.
 - *Message Box* for each topic (including target audience, channel of communication and partner opportunities) develops *Press Kit* materials that will be used during the company: text, video and visuals (presentation, posters, infographics, etc.).
 - *Videos*: It is proposed to develop 3 motivational videos (viral video) on the benefits of SPP and to disseminate them through the communication channels and social network given in Annex.

3. Intensification of PR activities and partner network creation

Communication activities should be supplemented by the following:

- 1) Placing SPP tools and materials on accessible electronic services and communication channels.
- 2) Organizing and holding round tables, meetings, conferences.
- 3) Participation of SPP experts in activities conducted by the authorities, training and information events in the field of public procurement
- 4) Interviewing SPP experts, preparing articles and posting them in the media.
- 5) SMM and targeting on social networks.

For more successful implementation of events, it is necessary to form a partner network (opinion leaders, international and European experts, leaders of the public movement, politicians, representatives of business associations, etc.), taking into account national peculiarities combined with One Planet¹¹⁴ capabilities.

4. Consultations and expert support for CA on the application of sustainability criteria in procurement

The practical experience of implementing SPP during the implementation of the EaP GREEN project has proven an outstanding role for this component of the communication strategy.

Without understanding the level of knowledge and problems of the CA it is impossible to make the offer he wants that would be accepted by him and put into practice.

100% of all successful public procurements with the use of the sustainability criteria developed under the SPP EaP GREEN project required the involvement of project experts to advise the CA, taking into account the specific procurement conditions, their capabilities and needs.

¹¹³ Within the framework of the SPP EaP GREEN project - paints and varnishes, detergents and thermal insulation materials

¹¹⁴ <https://www.oneplanetnetwork.org/>

In addition to the constant participation of the experts of the NGO Living Planet in the work with the CA at the stage of the tender documentation, consultation is usually continued at the stage of contesting the criteria by the participants of the procurement procedures (in the case of appeals) and the conclusion of the contract.

With expert support, CA are more confident in taking steps to apply sustainability criteria than they did before using the guidelines and other tools they had been provided with.

CPB can also be considered as one of the SPP "headliners" and procure goods using SPP criteria, which can significantly affect the development of the SMGP in Ukraine.

5. Evaluation Effectiveness of the taken measures

- 1) The development of feedback questionnaires for CA, suppliers, consumers;
- 2) Conducting various forms of surveys and analyzing the results obtained.

The implementation of the given recommendations should result in the following:

- Raising awareness of the SPP methods and benefits among CA, suppliers and other stakeholders;
- Increasing confidence in the use of the SPP approach;
- Increasing the number of purchases with the use of SPP criteria;
- Using monitoring tools for the application of SPP criteria

VIII. THE RECOMMENDATIONS ON THE NEXT STEPS IN THE FRAMEWORK OF EU4ENVIRONMENT PROJECT

Given the findings of the Analytical report, its conclusions, recommendations and explanations described above, in the framework of the EU4Environment project's activities on SPP in Ukraine, we suggest the following.

Action Plan on capacity-building on SPP in Ukraine

No	Activity	Term of realization, working days	Term of planned implementation ¹¹⁵	Possible technical assistance (donor)	Compliance with the EU4Environment activities
Development of regulatory and methodological framework for the application of SPP criteria					
1	Development and support (until adoption) of the Guidelines for the use of SPP criteria ¹¹⁶	15	II half-year 2020	EU – UN Environment ¹¹⁷	Activity 2.3.1 Conduct national SPP assessment of the policy, legal, regulatory and institutional gaps for inserting sustainability objectives in the procurement process.
2	Identification of priority categories and market readiness analysis ¹¹⁸	20	II half-year 2020	EU – UN Environment ¹¹⁹ , GIZ ¹²⁰ , World Bank ¹²¹	Activity 2.3.1 Conduct market readiness analysis to identify the potential responsiveness of the market to supply sustainable goods and services for SPP tenders, including the use of eco-labelling systems.

¹¹⁵ Considering measures provided by Decree of the Cabinet of Ministers of Ukraine "On the Strategy of Reforming the Public Procurement System ("Road Map") dated 24.02.2016 No. 175-p. <https://zakon.rada.gov.ua/laws/show/175-2016-%D1%80#Text>

¹¹⁶ The procedure must comply with legislation, UNEP methodology for establishing sustainability criteria in technical specifications and non-price criteria.

¹¹⁷ As part of the implementation of the EU4Environment component - "Circular economy and new growth opportunities", support in the development and implementation of SPP policy and the SMGP.

¹¹⁸ According to the UNEP methodology.

¹¹⁹ As part of the implementation of the EU4Environment component - recommended for chemical products, products of wood and light industry, tourism services, food and food services

¹²⁰ GIZ Project "Energy efficiency reforms in Ukraine" - in the field of construction, construction sites and building materials, design works, construction (reconstruction, repair and thermal modernization).

¹²¹ World Bank Project "Development of green public procurement in Ukraine" – recommended for energy products, vehicles and services related to their use / repair and maintenance.

					<p>Assist countries (procurement authorities) to launch new pilot tenders for priority goods and services in selected countries and assess the results.</p> <p>Assist selected beneficiary countries to review or develop new SPP policies, laws and regulations, manuals and guidelines for sustainability criteria for priority product groups to implement SPP and eco-labelling.</p>
3	Update and revision of the developed SPP criteria ¹²²	15	II half-year 2020		
4	SPP criteria development for 30 new categories ¹²³	15 = 1 new category	II half-year 2020-2021		
5	Conducting pilot SPP on the application of updated / developed criteria ¹²⁴ (development of tender documents and expert assistance until the signing of the contract)	10 = 1 tender	2021		
6	Establishment of updated / developed procurement criteria in accordance with the Guidelines	unlimited	2021	Ministry of Economy	
7	Development of an updated structure of BI ProZorro module templates and their implementation	10	II half-year 2021	EU – UN Environment	

¹²² Criteria for 15 product categories have been developed.

¹²³ Recommendations for defining the goods, works and services categories are provided in Section V of this Report on p. 32

¹²⁴ Provides organization of bidders – CA selection in pilot SPPs, consultation on writing technical specifications, establishing non-price criteria requirements and LCA methods in certain priority categories. The CPO is considered as one of the CA of pilot procurements.

8	Update of the SPP Guidelines in Ukraine ¹²⁵	20	2021		
Technical assistance for the integration of SPP criteria into the ProZorro system, SPP monitoring and reporting¹²⁶					
1	Develop a Technical requirement for the development of an electronic service for the integration of SPP criteria into Prozorro Market , which will include:	15	September 2020	EU – UN Environment	Activity 2.3.1 Identify the potential market response to the supply of sustainable goods and services for SPP, including the application of eco-labeling program criteria.
a)	definition and integration of SPP criteria into the product profile				Provide technical assistance to assess SPP results .
b)	decision support module on the choice of goods according to certain SPP criteria				
c)	completion of the Bidder's Cabinet				
d)	development of guidance documents for users and directories on SPP criteria				
2	Develop a Technical requirement on the inclusion in the electronic tender	15	I half-year 2021		

¹²⁵ The guideline was developed in 2016 as part of the EaP GREEN SPP Project. Contains information on the benefits and advantages of SPPs, step-by-step explanations on how to make the procurement process sustainable and put it into practice. The publication provides detailed information on the integration of sustainability criteria with procurement processes, including supplier qualifications, technical characteristics, criteria for concluding contracts and essential conditions with examples for three priority product groups (paints and insulation materials, detergents and cleaning products and cleaning services). The publication is freely available on Infobox ProZorro: <https://infobox.prozorro.org/articles/stali-publiczni-zakupivli>

¹²⁶ Listed scope of work is not exhaustive and will be clarified at the stage of setting the task and developing the TOR. At the stage of preparation of the TOR the schedule (Gantt Chart) and the estimate of works will be developed. Further implementation of TOR measures may be carried out in parallel and will depend on the available resources and risks of the project.

	documentation of the relevant fields on the SPP criteria and extension of the functionality of the BI ProZorro analytics module, which will include:				
a)	scaling CDB considering increasing load on the system				
b)	completion of the functionality analytics module				
c)	Finalization of the electronic tender documents considering experience of procurement with using SPP criteria				
d)	Completion of functionalities of the Technical specifications and non-price criteria Constructor				
e)	development of a module for life cycle cost calculators using SPP criteria				
f)	creation of SPP criteria Directory and providing content				
g)	integration with the BI analytics module				
h)	develop a method of data analysis and ensure its implementation through the BI analytics module				
i)	completion of the Contracting Authority 's Cabinet				
j)	completion of the				

	Bidder 's Cabinet				
k)	k) testing and experimental use of developed services				
l)	development of User Guides and SPP criteria directories				
3	Development and implementation of a training course for service users	10	II half-year 2021		
Development of training in the field of SPP and professionalization of public procurement					
1	Development of new training modules on SPP ¹²⁷	10 = 1 new category	2020-2021	EU – UN Environment, GIZ, World Bank	Activity 2.3.2 Conduct training workshops for the business sector, including SME's and business associations, to build capacity of businesses to respond to public tenders;
2	Integration of the training module into the Procurement Professionalization Program	10	I half-year 2021		
3	Integration of tests provided by the training module into the authorized persons testing program	5	II half-year 2021		
4	Preparation and creation of video lectures on SPP for the course Public Procurement Specialist and Procurement Manager	20	II half-year 2021		
5	Preparation and conducting training	5 = 1 webinar			

¹²⁷ Developed on the basis of the revised curriculum and materials on SPP developed within the framework of the EaP GREEN SPP Project, taking into account the updated Law, the current content of the online training course for CA "Implementation of green public procurement" and best practices in the application of SPP in Ukraine and EU. The training module should contain methods, presentation and training materials, knowledge tests.

	webinars on the application of SPP criteria ¹²⁸				
6	Preparation and holding workshops on the SPP criteria application	5 = 1 workshop	II half-year 2021-2022		
7	A selection of SPP criteria application best practices for the year (2021, 2022)	20 (10+10)	December 2021,2022	EU – UN Environment	Activity 2.3.2 Disseminate information on SPP and ecolabelling to business and stakeholders raise their awareness on their benefits
Development of communications to promote SPP					
1	Development of the Communication Strategy for the period 2020 - 2022. ¹²⁹	15	II half-year 2020	EU – UN Environment	Activity 2.3.2 Disseminate information on SPP and eco-labelling to business and stakeholders raise their awareness on their benefits
2	Establishment of a Working Group on SPP implementation	unlimited	2020	Ministry of Economy Ministry of Ecology EU – UN Environment	
3	Development and implementation of a 2-day training course for journalists and other stakeholders	10	I half-year 2021	EU – UN Environment	
5	Introduction of the annual All-Ukrainian	5	II half-year 2020	EU – UN Environment,	

¹²⁸ Webinars are planned for each of the priority categories.

¹²⁹ The Communication Strategy should take into account the implementation of SPP promotion measures for the period 2016 -current period 2020, the updated stakeholder map and recommended Communication channels (listed in Annex to this Report).

	competition of SPP application best practices			GIZ	
6	<i>Message Box Development</i>	15	II half-year 2020		
7	Creation of an Information partners network	unlimited	II half-year 2020		
8	<i>Press Kit Development</i>	15	II half-year 2020		
9	Scheduling Implementation of first-priority measures plan № 1 (2020-2021)	5	September 2020		
10	Conducting activities according to the schedule № 1 and their performance measurement.	30	II half-year 2020-2021		
11	Scheduling of the second stage measures plan № 2 (2021-2022)	5	January – March 2021		
12	Conducting activities according to the schedule № 2 and their performance measurement.	30	March 2021-2022		
Communications Tools and channels					
1	Generalized letters of recommendation for the SPP use	unlimited	2020-2022	Ministry of Economy Ministry of Ecology	
2	Section on the official website of the authorized body - the Ministry of Economy	unlimited	2021	Ministry of Economy	
3	Updated section on the official website of the Ministry of Ecology	unlimited	2021	Ministry of Ecology	
4	Videos of educational	3 = 1 event	II half-year 2021-	EU – UN	2.3.2 Activity

	activities (training videos)	6 hours. VS video (up to 30 min)	2022	Environment	Provide training and technical assistance for business related to eco-labelling for SPP.
5	Publications	unlimited	2020 – 2022 II half-year 2020- 2022		
6	Thematic sections on Infobox ProZorro and e-mailings	unlimited	II half-year 2020- 2022	SE ProZorro	Disseminate information on SPP and eco-labelling to business and stakeholders raise their awareness on their benefits
7	SMM and social media targeting	45	II half-year 2020- 2022	EU – UN Environment	
8	Annual survey of customers, manufacturers and participants of procurement procedures	10	2021 – 2022		

ANNEX. THE COMMUNICATION CHANNELS RECOMMENDED FOR FURTHER SPP PROMOTION AND APPLICATION

1. The information resource of the *Authorized Body*

<http://www.me.gov.ua>

An information resource has been created on the official website of the Ministry of Economy, the main task of which is to disseminate the information on the application of **public procurement law**, as well as to provide general advice and free consultations.

The Ministry prepares generalized letters containing the answers to the most current questions of the entities of the procurement area and placed under the heading "**Generalized answers**", and there has been implemented the function of providing free consultations with the possibility of searching by topics and keywords (tags) in the section "**Consultations**". Placing all inquiries and consultations makes it easier for the users to access the information and answers to similar questions provided to the public procurement entities.

The Ministry of Economy together with the EU Technical Assistance Project "Supporting the Implementation of the Public Procurement Reform Strategy / Roadmap for Harmonization of Legislation in Ukraine" developed the **Guidelines on Ethical Behavior of CA and participants in Public Procurement**, which are posted on the website.

The needed SPP communication measures:

- 1) Post in the "**General Answers**" section the clarification regarding the application of the SPP multicriteria approach for the selection of goods, works, and services.
- 2) Post in the "**Consultations**" section the information on the application of the SPP principle, multicriteria approach and confirmation of compliance.
- 3) Post periodically the information in the newsfeed on the SPP implementation, best practices, decisions on appeals procedures, event announcements, etc.

2. The web-portal of the *Authorized Body*

<http://prozorro.gov.ua>

It is the official portal that publishes the information on public procurement. The portal allows searching for purchases, viewing the documents published by CA and participants during the procurement, monitoring the auction, etc.

The needed SPP communication measures:

- 1) Add the standard SPP criteria for the selected priority product categories to the Specification Designer Library block;
- 2) In the electronic catalog, place in addition blocks for carrying out threshold purchases "Prozorro Market" the product description information on additional characteristics, the indicators for the implementation of SPP (resource-intensity, recyclability, content of recycled materials, eco-labels, etc.) should be included in the form of iconography. An example of such information is the Eco-products Directory¹³⁰ guides, which have been prepared annually by the Asian Productivity Organization (APO)¹³¹ since 2003.

¹³⁰ https://www.apo-tokyo.org/publications/wp-content/uploads/sites/5/Eco-products_Directory_2012_web.pdf

¹³¹ <https://www.apo-tokyo.org/about/>

3. Infobox ProZorro

<http://infobox.prozorro.org>

It is Public Procurement Portal for the useful information materials administered by ProZorro, containing the articles and videos on the electronic public procurement system, sample specifications library, and discussion forum.

The needed SPP communication measures: post a section on SPP.

4. Electronic venues for public procurement

At the auction venues, where the CA and bidders publish the procurement documents, one can search for purchases, browse, monitor the auction, etc. There are 19 resources in total.

The needed SPP communication measures: post a link on the SPP section at **Infobox ProZorro** and other resources for the CA.

Online Course “Public Procurement”

<https://prometheus.org.ua>

The Ministry of Economy together with the EU Project “Harmonization of the Public Procurement System in Ukraine with EU Standards” created a *free online course “Public Procurement”*, which is available on the Prometheus platform. This course is designed for buyers as well as anyone interested in procurement and spending taxpayers costs effectively. The course has two levels - basic and advanced.

The needed SPP communication measures: include the SPP training module in the training course for professional purchasers.

Non-price criteria design tool

<https://nk.prozorro.ua>

The constructor is being developed and provides for the creation of a convenient electronic tool for the creation of non-price criteria, which will contain specific parameters of non-price criteria for the selected list of goods of various categories, which are most often purchased by the CA, as well as the recommendations for their application for the evaluation of tender proposals.

The needed SPP communication measures: add the developed non-price criteria for new product categories to 12 existing ones.

DOZORRO Monitoring Portal

<https://dozorro.org>

It is a platform where each member of the system (supplier, CA, controlling authority, citizen) can give feedback to the CA on a specific tender. Leaving feedback, the system subjects fill out a questionnaire assessing the purchase options. A descriptive section can be added for each answer. In addition, this portal is intended to help protect the interests of the participant by informing them about the possible ways of appealing and preparing appeals to law enforcement and regulatory authorities.

The needed SPP communication measures: post periodically the information on SPP in the newsfeed, project accomplishments, announcements of events, cases of successful use of SPP, etc.

- **The Procurement Improvement Center of Kyiv School of Economics**

The Procurement Professionalization Program <https://cep.kse.ua/program/index.html> is a 3-month program to enhance the competencies of strategic procurement managers of the public and commercial sectors.

The needed SPP communication measures:

- 1) Include the SPP topic in the Training Program of Procurement Professionalization, namely Modules № 1, № 3 and № 4;
- 2) Include the questions on the SPP application principles in the course tests to control students' knowledge.

- **Clarity Project**

<https://clarity-project.info/tenders>

It is a volunteer project to monitor and analyze the electronic procurement information across different dimensions, conduct bidding research and identify the risk indicators and the relationships among bidders.

The needed SPP communication measures: to create an additional monitoring tool - the of SPP criteria application.

- **Monitoring of road construction and repair costs**

www.roads.brdo.com.ua

The Ministry of Infrastructure of Ukraine and the Office of Effective Regulation (BRDO) have jointly launched a road monitoring portal for road building and repairs, which provides an opportunity to check how public money is spent on state and local road repairs, what tenders are being advertised. It also allows to monitor how much is being spent on traffic safety and the costs actually spent by the CA. The portal has a calculator where a driver can calculate how much he will pay by refueling the car and where the money will be sent.

The needed SPP communication measures: create an additional monitoring tool – the SPP criteria application.

- **Consumer Portal**

<http://www.gpp.in.ua/>

It is a resource that raises public awareness of the quality and environmental aspects of consumption; total cost of production, taking into account operating costs; understanding the value of various food and industrial product labels; rational use of resources in everyday life (electricity, water, heat); responsible waste management and the use of vehicles.

The needed SPP communication measures: create a section explaining the benefits of using the SPP approach.

- **The platform of the international forum for sustainable business development GREEN MIND**

<http://www.greenmind.com.ua/>

GREEN MIND is an ongoing platform for communicating with business, government, and the public with the experts who offer tools and new ideas for continuous improvement on a sustainable development basis.

The needed SPP communication measures: announcement of events, news, discussion of legal acts and initiatives related to the development of SPP in Ukraine and in the world.

- **One Planet**

<https://www.oneplanetnetwork.org/>

The One Planet network is formed to fulfill 10YFP commitments. It is a multilateral partnership for sustainable development that creates the collective impact through six programs: public procurement, sustainable construction, tourism, food systems, consumer information, and sustainable lifestyle and education.

The needed SPP communication measures: publish the information about the created tools and the implemented measures for the development of SPP in Ukraine.

- **The Global Ecolabelling Network**

<https://www.globalecolabelling.net/>

A resource of an international nonprofit association that brings together 27 regional and national Type I ecolabeling programs operating worldwide in accordance with ISO 14024.

The needed SPP communication measures: publish the information about the created tools and implemented measures for the development of the SPP and type I ecolabeling in Ukraine.