



COURSE ON GREEN PUBLIC PROCUREMENT

DIDACTIC UNIT No. 3

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TABLE OF CONTENTS:

1. Examples of permissible ecolabels in public procurement

- 1.1. The European Ecolabel (*EU Ecolabel*)
- 1.2. The Organic Production Logo of the European Union (*EU organic logo*)
- 1.3. The Möbius Strip
- 1.4. The Green Dot Symbol (*Der Grüne Punkt*)
- 1.5. AENOR Environmental Certifications (the Spanish Association for Standardisation and Certification).
- 1.6. The Energy Star Label
- 1.7. The EU Energy Label
- 1.8. The Blue Angel Label (*Der Blaue Engel*)
- 1.9. Pan-European Forest Certification (PEFC)
- 1.10. FSC Certification (Forest Stewardship Council)
- 1.11. The Madera Justa Label
- 1.12. Labels related to the use of chlorine in paper (ECF, TCF and PCF).
- 1.13. The White Swan or Nordic Swan Label
- 1.14. The World FairTrade Organization Product Label
- 1.15. The International FairTrade Certification Mark
- 1.16. The Directorate-General for Traffic Environmental Badge

2. Good practices in green public procurement: A selection of case studies

- 2.1. The Regional Government of Andalusia's Framework Agreement to Standardise the Supply of Vehicles with Low Environmental Impact (2018).
- 2.2 Supply contract for electric vehicles and charging stations for the City Council of Calpe (2017).
- 2.3. Supply contract for clean energy in buildings and other equipment in the City Council of Zaragoza (2016).
- 2.4. Greening of the specifications for supplying office material to the Provincial Council of Gipuzcoa (2009).

2.5. Model contract clauses for energy supply and energy management contracts for public buildings, drawn up by the Institute for Energy Diversification and Saving (IDAE, 2009).

2.6. Contract to clean the facilities at the Ministry of Public Works and Transport (2013).

1. Examples of permissible ecolabels in public procurement

As we discussed in didactic unit 2, an **environmental certificate or label** (or *ecolabel*) is a document which certifies that a good or service complies with certain environmental requirements. Their admissibility and use are regulated in Article 127 of the LCSP (Law on Public Sector Contracts).

The first section of this unit will present the most common ecolabels in public procurement. We will start with the most comprehensive as they include a variety of areas. Next, we will analyse several of the most commonly used labels that are related to specific sectors and products.

1.1. The European Ecolabel (*EU Ecolabel*)



The European Ecolabel was created in 1992 as a voluntary scheme used by companies to generate consumer confidence in products from an environmental perspective. Its regulation has been subject to two revisions: one by Regulation (EC) No 1889/2000, and a second by Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 *on the EU Ecolabel*. The latter is the regulation that is currently in force for the EU Ecolabel. The EU Ecolabel is included in the *Sustainable Consumption and Production and*

Sustainable Industrial Policy Action Plan of the European Union [2008, COM (2008), 397 final], and therefore has the support of the environmental authorities in the European Union and the different Member States.

The aim of the EU Ecolabel is to promote the marketing of products with a reduced environmental impact as compared to products of the same category, thus contributing to the efficient use of resources and a high level of environmental protection. This is achieved by providing consumers with guidance and accurate, non-deceptive and science-based information on such products.

The EU Ecolabel falls within the category of *Type I* labels that have following summarised characteristics:

- Producers can acquire and use them on a **voluntary** basis.
- The labels aim to **identify and promote** organic products.
- They are established for different product **categories**.
- They are based on multiple criteria throughout the product's **entire life cycle**.
- The criteria for awarding them are established by an **independent organisation** with no market influence.
- Their use is controlled by a **certification and auditing** process (with specific requirements according to ISO 10424).

In order for applicants to be authorised to use the EU Ecolabel on their products, they must submit an application to the Member State where the product is made. If the product's origin is located outside the European Community, the application may be filed in any of the Member States where the product will be placed on the market. In Spain, the Autonomous Regions are responsible for designating the competent authority that will award the EU Ecolabel, the application for which must be addressed to those competent authorities in the Autonomous Regions where the products are made. In Andalusia, the authority responsible for awarding this label is the Directorate-General for Environmental Quality and Prevention, under the Ministry of the Environment and Spatial Planning of the Regional Government of Andalusia.

The European Union authorises the competent authorities to charge an application fee of between €200 and €1,200, which is reduced to a maximum of €600 for SMEs and €350 for micro-enterprises. It also authorises them to charge an annual fee to use the EU Ecolabel, although Spain has decided to waive this fee.

1.2. The Organic Production Logo of the European Union (*EU organic label*)



The Organic Production Logo of the European Union is governed by Regulation (EU) No. 271/2010 of 24 March 2010, *which amends Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007, as regards the organic production logo of the European Union*. This label is awarded to products derived from organic agriculture and livestock that contain at least 95% organic ingredients or components. Organic production encompasses all stages of production, preparation and distribution, including: storage, processing, transport, sale or supply to the final consumer, labelling, advertising, import, export and subcontracting. Unlike the EU Ecolabel, the EU organic label is **mandatory for organic food supplied in bulk and produced in the European Union**.

The main criteria used to award the EU organic logo are the following:

- Minimisation of the use of non-renewable resources and off-farm inputs.
- Recycling plant and animal waste and by-products as resources for agricultural or livestock production.
- No use of synthetic chemical products such as fertilisers, pesticides, antibiotics and food additives.
- No use of genetically modified seeds.
- Protection of animal health by using appropriate breeds and husbandry practices.
- Procurement of livestock products from animals raised on organic farms since birth.
- Minimising the use of food additives.
- Strict separation between organic products and non-certified products.

1.3. The Möbius Strip



The Möbius Strip was created in 1970 by Gary Anderson, and it was the winning design in a contest organised that same year by the Container Corporation of America, which is comprised of the main cardboard box producers in the United States. It is recognised as the international recycling symbol, and each of the three arrows that form it represents the three key stages of recycling:

- a) Collection
- b) Processing
- c) Reuse

The symbol of the Möbius strip, or *band*, can be used in its original design without any additional marks (meaning that the product or packaging can be recycled), or framed inside a circle (which indicates that recycled products were used to produce it). There may even be a number inside the circle that shows the percentage of recycled products that were used to make it.

1.4. The Green Dot symbol (*Der Grüne Punkt*)



The Green Dot symbol was created in 1991 by Duales System Deutschland AG, a German company, and indicates that the company complies with current waste regulations, thus ensuring that the materials used to manufacture the products can be recycled in a sustainable manner. The products and packaging that can display this symbol are ones that are made with the following materials:

- a) Metal
- b) Plastic
- c) Cardboard (including cartons)
- d) Paper
- e) Glass

In Spain, this symbol identifies the products that are accepted by the *Integrated Waste Management System* (SIG), which is managed, among other entities, by *Ecoembes*, a non-profit organisation that promotes sustainability and caring for the environment through recycling, and *Ecovidrio*, a non-profit organisation in charge of managing glass containers in Spain, which includes the recycling chain, sustainability and the circular economy, *responsible citizens* and a valuable commitment to the environment. Other entities that have joined the Integrated Waste Management System are *Ambilamp* (lamps), *Ecofimática* (printers, copiers and faxes), *Ecopilas* (batteries), *Ecolec* (household appliances) and *Sigre* (medicines).

Integrated Waste Management Systems are in charge of the collection, transport, storage and recycling of waste, as well as for the supervision of these operations and disposal sites. Since the approval of Law 11/1997 of 24 April, *on packaging and packaging waste*, packaging companies are required to recover packaging waste from the products they put on the market so that they can be recycled and valued. To fulfil this obligation, the packaging companies can join an Integrated Waste Management Packaging System, made up of non-profit organisations (such as those mentioned above) that are responsible for the proper management of products placed on the market at the end of their useful life.

1.5. AENOR Environmental Certifications (the Spanish Association for Standardisation and Certification)



The Spanish Association for Standardisation and Certification (AENOR) has an extensive catalogue of environmental certifications, some of which have arisen from the application of standards established by the International Organisation for Standardisation (ISO), and others from the implementation of other European or international regulations. This organisation administers the following environmental certifications:

a) Environmental Management:

- Environmental management systems (ISO 14001)
- EMAS verification
- Ecodesign management (ISO 14006)
- Sustainable mining management (UNE 22480)

b) Energy Efficiency:

- Certification of energy management systems (ISO 50001)
- Energy audit verification
- Response by wind power facilities to voltage dips
- Response by photovoltaic power facilities to voltage dips
- Classification of energy service providers

c) Climate Change:

- Regulatory verification of greenhouse gas (GHG) emissions
- Voluntary verification of greenhouse gas (GHG) emissions inventories (ISO 14064)
- Validation and verification of clean development mechanism projects
- Determination of joint implementation projects
- Carbon footprint for products, services, organisations and events

d) Forest Management:

- Sustainable forest management systems
- Chain of custody of forest-based products
- *Biomassud* certification of solid biofuels for domestic use
- *ENplus* certification of wood pellets for thermal uses

E) Environmental Certification of Products and Services

- Treatment facilities for end-of-life vehicles
- Collection and recovery centres for paper and cardboard
- AISE brand, sustainability for detergents
- Biological pest control
- *Leaf Marque* (fruit and vegetable production)
- *Tesco Nurture* (fruit and vegetable production)
- *AENOR GlobalEPD* (a verified Environmental Product Declaration)

1.6. The Energy Star Label



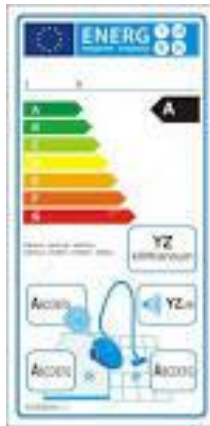
The *Energy Star* programme was created by the US Environmental Protection Agency (EPA) in 1992 to reduce electricity consumption by promoting energy-efficient electronic devices. This is a voluntary programme that began by labelling computer equipment, and has since expanded to include other products such as lighting, office equipment, appliances and even residential, commercial and industrial buildings.

There is currently an Energy Star Programme within the European Union (the *EU Energy Star programme*, which labels energy efficient office equipment) that arose out of an agreement with the US Government to coordinate the energy labelling of office equipment. This agreement, which expired in February 2018,

will be replaced in the near future by a new, similar plan. The EU Energy Star label is placed on office equipment that meets certain energy specifications in terms of its performance, which allows consumers to easily identify the least energy-intensive electronic devices. These devices are the following:

1. Computers
2. Computer displays
3. Photocopy machines
4. Printers
5. Digital duplicators
6. Facsimile (fax) machines
7. Franking machines
8. Multifunctional equipment
9. Scanners

1.7. The EU Energy Label



The new EU Energy Label is regulated by Regulation (EU) 2017/1369 of 4 July 2017, *setting a framework for energy labelling and repealing Directive 2010/30/EU*. As its predecessors, it indicates to consumers the level of water and energy consumption of “energy-related products,” i.e. any good or system that has an impact on energy consumption during its use which is placed on the market and/or put into service, and includes parts intended to be incorporated into energy-related products that have an impact on energy consumption and which are placed on the market and/or put into service for end-users (Art. 2.1). This label ranks the energy consumption of products into seven classes that are identified by the first seven letters of the alphabet: *A* identifies the products with the highest energy efficiency and *G* identifies those with the lowest energy efficiency. The *A+++*, *A++* and *A+* ratings, which appeared in previous versions of the EU Energy Label, have been removed from the scale.

1.8. The Blue Angel Label (*Der Blaue Engel*)



The Blue Angel Label is the oldest ecolabel, in addition to being one of the most demanding and internationally renowned. It was created in 1978 by four German institutions: The Ministry of the Environment, which owns the label; the Federal Environmental Agency (UBA), which develops the criteria; the German Institute for Quality Assurance and Certification (RAL), the awarding body; and an independent Environmental Label Jury, which includes representatives of all relevant social groups. This label certifies that a product fulfils a series of criteria

related to its low environmental impact during the various stages of manufacturing, packaging, use, emission, collection, recycling and disposal. In addition to specific environmental criteria, the Blue Angel label also includes criteria such as quality, safety and energy consumption, among others.

Since its creation, the Blue Angel certificate has been awarded by the *Umweltzeichen* jury, a group of thirteen people who are from the industry sector, consumer protection groups or other organisations that represent citizens' interests. Each product is certified with a label bearing the Blue Angel logo and a text around it specifying its category (RAL-UZ + category number; e.g. RAL-UZ 14: recycled paper). There are a multitude of products certified with the Blue Angel label: abrasives, atomised diesel burners, silent car tyres, surveillance screens for children, rechargeable batteries, bituminous adhesives, bituminous coverings, construction materials made from glass or recycled paper, buses, cardboard, transport bags, chain lubricants for chainsaws, chainsaws, agglomerated panels, cleaning rags, cleaning services, electricity-heat combined cycle systems with liquid or gaseous fuel, etc.

1.9. Pan-European Forest Certification (PEFC)



This label certifies that the wood used in the manufacturing of a product complies with the requirements of the Pan-European Forest Certification System (PEFC). This is a voluntary private sector initiative that was inspired by the European Ministerial Conferences held in Helsinki (1993) and Lisbon (1998), and it was promoted in 1998 by the Confederation of European Forest Owners (CEPF), among others. PEFC's objective is to ensure that forests are managed responsibly and that their many different uses are protected for present and future generations. Forest products (wood, paper, cork, mushrooms, resins, essential oils, etc.) certified with the Pan-European Forest Certification guarantee consumers that they are buying products made with wood and derivatives from sustainably managed forests. The Pan-European Forest Certification system is strongly committed to internalisation and expansion beyond its designated boundaries, and it is currently the most widely implemented forest certification system in the world.

1.10. FSC Certification (Forest Stewardship Council)



The Forest Stewardship Council (FSC) is a German non-governmental certification and accreditation organisation whose objective is to promote environmentally appropriate, socially beneficial and economically viable forest management. The Forest Stewardship Council develops standards and policies for sustainable forest management and accredits certification bodies to evaluate candidates for forest certification. Business owners who use wood, paper or other forest derivatives in their products may apply for certification to show their compliance with the principles and standards of the Forest Stewardship Council.

The Forest Stewardship Council has drawn up a list of ten principles and criteria that the forestry industry must meet in order for its wood to be certified sustainable. They are listed as follows:

1. **Compliance with laws.** The organisation must comply with all applicable laws, regulations, treaties, conventions and agreements on the subject.
2. **Workers' rights and employment conditions.** The organisation must maintain or enhance the social and economic well-being of its workers.
3. **Indigenous Peoples' rights.** The organisation must identify and uphold Indigenous Peoples' rights of ownership and use of the land and its resources.
4. **Relationship with communities.** The organisation must maintain or enhance the social and economic well-being of local communities.
5. **Forest benefits.** The organisation must maintain or enhance the long-term economic, social and environmental benefits provided by the forest.
6. **Environmental values and impacts.** The organisation must maintain or restore the ecosystem, its biodiversity, resources and landscapes.
7. **Management planning.** The organisation must have an implemented, monitored and documented management plan.

8. **Monitoring and evaluation.** The organisation must demonstrate progress towards achieving the management objectives.
9. **High Conservation Values.** The organisation must maintain or enhance the attributes that define this type of forest.
10. **Plantations.** The organisation must plan and manage plantations in accordance with the Forest Stewardship Council Principles and Criteria.

There is also an FSC label for paper made from 100% recycled paper fibre, i.e. from previously used paper (FSC Recycled).



1.11. The Madera Justa Label



Madera Justa (Fair Wood) is a platform created to promote forest conservation and the eradication of poverty through the responsible consumption of forest products that are made under fair trade conditions and certified by the Forest Stewardship Council (FSC). This development activity is aimed at citizens as well as public, social and economic agents. The Madera Justa platform has three main objectives:

1. To raise awareness and encourage society's responsible consumption of forest products that are certified with the Forest Stewardship Council (FSC) label and created under fair trade conditions.
2. To create a network of companies and organisations that actively participate in promoting the campaign, support the work of community-

based companies and cooperatives that operate under fair trade conditions and meet the criteria of the Forest Stewardship Council (FSC).

3. To contribute to improved forest management and to a reduction in logging and uncontrolled exports.

The Madera Justa label was created in 2013, and its objective is to support small- and medium-scale forest producers who have difficult access to the market due to their problems in acquiring certification given the time and costs involved in the process. The Madera Justa label guarantees the final consumer that the products being purchased are sourced from sustainably managed forests, that marketing is conducted under the ethical criteria of fair trade, and that workers' rights are respected. There are several types of Madera Justa labels:

a) For businesses:

- i. **Sponsoring organisation.** For organisations that cannot be certified because they do not sell wood, but they want to promote the Madera Justa seal (non-governmental organisations, public entities, etc.).
- ii. **Certified organisation.** For companies that meet the requirements established by Madera Justa and, therefore, are guaranteed to be responsible, although they do not have certified suppliers in their supply chain. This seal can be used on company materials such as websites or advertising media, but never on the product itself.

b) For products:

- i. **Madera Justa Commitment.** *This label can be placed on the products of companies that are in the process of becoming certified.*
- ii. **Madera Justa Seal:** *There are two types (100% Madera Justa and Mixed Madera Justa). These labels are placed on products and indicate the percentage of certified Madera Justa they contain. It can be used by companies that have met the criteria set by the Madera Justa platform and have passed the required audits.*

1.12. Labels related to the use of chlorine in paper (ECF, TCF and PCF).



There are three labels that indicate the level of chlorine used in the paper bleaching process:

- a) **ECF** (*Elemental Chlorine Free*): paper has been **bleached without any elemental chlorine** (liquid).
- b) **TCF** (*Totally Chlorine Free*): paper has followed a **totally chlorine-free** manufacturing process.
- c) **PCF** (*Processed Chlorine Free*): No chlorine was used in the final stage of paper production, but it is unknown whether it was used in any of the others. It is therefore a less demanding label than TCF, which confirms that chlorine was not used at any time.

1.13. The White Swan or Nordic Swan Label



The White Swan or Nordic Swan label was adopted in 1989 by Norway and Sweden in the Nordic Council of Ministers, an intergovernmental organisation for cooperation between the five Nordic countries. Soon thereafter, Finland (1990), Iceland (1991) and Denmark (1997) joined this initiative. The Nordic Swan label is a voluntary eco-labelling scheme that assesses the environmental impact of products throughout their entire life cycle by looking at the following factors: energy and water use, types of chemicals used, recycling and reuse of waste. One of the unique characteristics of this label is that the criteria used to award it are continually analysed to ensure ongoing improvement, which is one of the core principles of the scheme. There are currently more than 10,000 products certified with the Nordic Swan label.

This ecolabel is particularly important in the paper industry in Nordic countries and, above all, in the processes related to pulp production. Scandinavian companies cannot export pulp to other countries as a raw material to produce different kinds of paper unless they meet the criteria imposed by this label. Applying this ecolabel to the initial pulp product ensures that strict environmental controls have been followed and that the impact of the final product is ecologically tolerable.

1.14. The World FairTrade Organization Product Label (*International FairTrade Certification Mark*)



This label was created in 2002 by the World FairTrade Organisation (WFTO), which brings together different cooperatives of fair trade producers, export marketing companies, importers, retailers, national and regional fair trade networks, and organisations supporting fair trade. The World Fair Trade Organisation has five regional branches: Africa, Asia, Latin America, Morocco, and Europe and North America and the Pacific Rim. In addition, several members from Africa, Asia, Europe and Latin America have come together to form regional WFTO associations: *Cooperation for FairTrade in Africa* (COFTA), *WFTO Asia*, *WFTO Europe*, *WFTO-LA* (World FairTrade Latin America). There are currently more than 150 organisations registered with the WFTO.

The World Fair Trade Organisation label identifies WFTO-registered organisations that market products fairly around the world, and guarantees that certain standards are being applied with respect to working conditions, wages, child labour and the environment. These standards are verified by self-assessments, mutual reviews and external audits. The WFTO label is available for all members of the World FairTrade Organisation who adhere to its principles and to the monitoring scheme.

To be certified by the World FairTrade Organisation, organisations engaged in fair trade must adhere to the following ten principles:

1. Create opportunities for disadvantaged producers
2. Transparency and accountability
3. Fair trade practices
4. Fair payment
5. No child labour and no forced labour
6. No discrimination, gender equity and freedom of association
7. Good working conditions

8. Capacity building
9. Promote fair trade
10. Respect for the environment

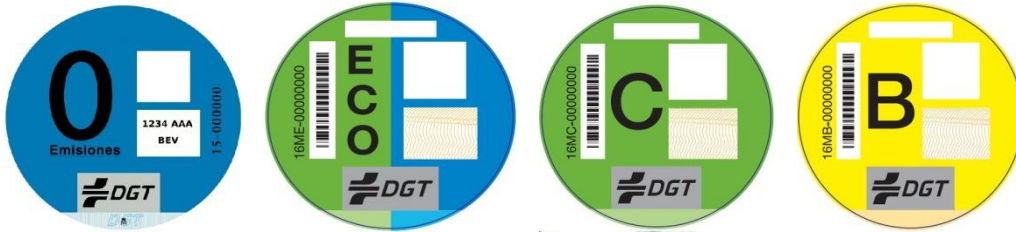
1.15. The International Fairtrade Certification Mark



The International Fairtrade Certification Mark was created by the Fairtrade Labelling Organizations International (FLO) in 2002. This label functions as a badge that guarantees the consumer that the product meets ethical standards. Products certified by the International Fairtrade Mark have been produced under humane working conditions and purchased at a fair price, which contributes to the sustainable development of the manufacturing organisation. For example, in the workplace, the Fairtrade Mark requires the producer to comply with the following fundamental conventions of the International Labour Organisation, whether or not these conventions have been ratified in their country of origin: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Forced Labour Convention, 1930 (No. 29), Abolition of Forced Labour Convention, 1957 (No. 105), Minimum Age Convention, 1973 (No. 138), Worst Forms of Child Labour Convention, 1999 (No. 182), Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

If producers want to offer their products to the final consumer with the International Fairtrade Mark, in addition to using their own trademark, they must: register with FLOCERT, undergo regular independent audits, declare purchases and sales of products certified with the International Fairtrade Mark, and acquire their raw materials under fair trade conditions.

1.16. The Directorate-General for Traffic's environmental badges



The Directorate-General for Traffic, an autonomous body under the Ministry of the Interior in Spain, has created four labels—environmental badges—that classify the environmental impact of motor vehicles. Their regulation can be found in the Resolution of 13 April 2016, of the Directorate-General for Traffic, *modifying the first point section C.1 and Annexes I, II and VIII of the Resolution of 8 January 2016, which lays down special traffic regulation measures for 2016*. The four environmental badges are listed below, in order from the least to the most contaminating:

- a) **Zero emissions:** L, M1, N1, M2, M3, N2 and N3 vehicles that are classified in the Vehicle Registry as battery electric vehicles (BEV), range-extended electric vehicles (REEV), plug-in hybrid electric vehicles (PHEV) with a minimum range of 40 kilometres, and fuel cell vehicles.

- b) **ECO:**
 - M1 and N1 vehicles classified in the Vehicle Registry as plug-in hybrid vehicles with a range of less than 40 kilometres, no-plug hybrid vehicles (HEV), natural gas vehicles (NGV), compressed natural gas vehicles (CNG), and liquefied petroleum gas vehicles (LPG). In all cases, they must comply with the C label criteria.
 - M2, M3, N2 and N3 vehicles classified in the Vehicle Registry as plug-in hybrids with range of less than 40 kilometres, no-plug hybrids (HEV), compressed natural gas vehicles (CNG), liquefied natural gas vehicles (LNG), and liquefied petroleum gas vehicles (LPG). In all cases, they must comply with the C label criteria.

- c) **C:**
 - M1 and N1 vehicles classified in the Vehicle Registry as EURO 4, 5 or 6 petrol, or EURO 6 diesel.
 - M2, M3, N2 and N3 vehicles classified in the Vehicle Registry as Euro 6 petrol, or Euro 6 diesel.

- d) **B:**
 - M1 and N1 vehicles classified in the Vehicle Registry as EURO 3

petrol, or EURO 4 or 5 diesel.

- M2, M3, N2 and N3 vehicles classified in the Vehicle Registry as Euro 4 or 5 petrol, or Euro 4 or 5 diesel.

2. Good practices in green public procurement: A selection of case studies

In this section, a number of real examples of green public procurement have been selected that can serve as a guide and inspiration for decision-makers in contracting authorities. They were selected based on their innovative nature, their impact on the environment, and their diversity of industries, contractual typologies and stages of the procurement process. These cases, therefore, form a representative sample of the practical possibilities for environmentally sustainable public procurement.

2.1. The Regional Government of Andalusia's Framework Agreement to Standardise the Supply of Vehicles with Low Environmental Impact (2018)

- **Type of contract:** supply
- **Industry:** automotive (conventional, hybrid and electric vehicles)
- **Stage:** design of the contract's subject matter and selection of contractors
- **Contracting authority:** Ministry of Finance and Public Administration, Regional Government of Andalusia
- **Source:** Contractor profile for the Regional Government of Andalusia (<https://www.juntadeandalucia.es/temas/contratacion-publica/perfiles-licitaciones/detalle/000000072013.html>).

The Ministry of Finance and Public Administration is in the bidding stage of the Framework Agreement to Standardise the Supply of Vehicles with Low Environmental Impact, the purpose of which is to select goods that have been declared as needing uniform characteristics under the Resolution of the Directorate-General for Cultural Heritage of 6 March 2018, *the declaration of uniform requirements for vehicles*. The purpose of the Framework Agreement is to streamline the procurement of motor vehicles by defining their characteristics, their unit prices and the successful bidders for each of the 31 established sets

and/or subsets, in addition to the basic agreements to which subsequent contracts based on this Framework Agreement must adhere. This contract is valid for two years and may be extended annually (up to a maximum of two years) by mutual agreement between the contracting authority and the contractor.

The vehicles included in this Framework Agreement—the estimated value of which is €17,711,880—are categorised as follows:

- Pick-up trucks
- Vehicles with four-wheel-drive (4x4)
- Motor vehicles used for transporting goods
- Motor vehicles used for transporting less than 10 people
- Passenger cars
- All-terrain vehicles (ATVs)

The following categories include vehicles with conventional propulsion systems (diesel and petrol), hybrids and electric vehicles. The award criteria include various environmental standards related to the low environmental impact of the vehicles being supplied:

- ✓ Level of CO₂emissions
- ✓ Exhaust emission standards [mass of carbon monoxide (CO), total mass of hydrocarbons (HCT), mass of non-methane hydrocarbons (NMHC), mass of nitrogen oxides (NO_x), total combined mass of hydrocarbons and total nitrogen oxides (HCT+NO_x) and mass of particulate matter (PM)]
- ✓ Energy efficiency (according to classifications of IDAE: The Institute for Energy Diversification and Saving)
- ✓ Mixed consumption (in L/100 km)
- ✓ Urban consumption (in L/100 km)
- ✓ Motorway consumption (in L/100 km)
- ✓ Catalytic converter (relevant information/instructions)
- ✓ Speedometer

- ✓ Tyre pressure monitoring system
- ✓ Fuel consumption display
- ✓ Start-stop system

The maximum score assigned to environmental criteria is 31 points, whereas the maximum score assigned to vehicle prices, for example, is 35/50 points. The environmental criteria, therefore, are extremely important when choosing the contractor, as they represent almost a third of the overall score established for the tender selection criteria (100 points).

2.2. Supply contract for electric vehicles and charging stations for the City Council of Calpe (2017)

- **Type of contract:** supply (finance lease)
- **Industry:** automotive (electric vehicles)
- **Stage:** design of the contract's subject matter (contract preparation)
- **Contracting authority:** City Council of Calpe (Alicante, Valencia)
- **Source:** Contractor profile for the City Council of Calpe (technical specification sheet for the supply of 5 electric vehicles and 4 charging stations, File no. SUM 05/2017), published on the website of the City Council of Calpe on 3 April 2017: <http://calp.es/es/content/suministro-mediante-renting-de-5-veh%C3%ADculos-el%C3%A9ctricos-y-4-puntos-de-recarga-procedimiento-de>).

In April 2017, the City Council of Calpe (Alicante) started a tendering procedure for the purchase, under a finance lease, of 5 electric vehicles and 4 charging stations for a period of forty-eight months (the duration of the contract). The contract is part of the *Sustainable Energy Action Plan* approved by the City Council of Calpe in 2012, the objectives of which include the reduction of 16,026.05 tonnes of CO₂ by 2020. As pointed out in the technical specification sheet, private traffic (which includes privately managed public transport) accounts for 99.39% of all the CO₂ emitted into the atmosphere in this municipality.

The 5 electric vehicles to be supplied by the bidders must comply with the following technical specifications (improvements are permitted provided that they do not lead to an increase in the service cost):

- **Vehicle type:** utilitarian
- **Colour:** indifferent

- **Motor**
 - **Propulsion:** 100% electric
 - **Minimum power:** equal to or greater than 80 hp
- **Boot capacity:** equal to or greater than 250 litres
- **Number of seats:** 4 min.
- **Number of doors:** 4 min.
- **Battery**
 - **Capacity:** equal to or greater than 20 kWh
 - **Battery life:** more than 100 km
- **Other requirements:** airbag, air-conditioning, radio/CD player and Bluetooth
- **Vehicle warranty:** 2 years (unlimited mileage)
- **Battery warranty:** 4 years (unlimited mileage)
- **Charging station warranty:** 2 years

With regard to the charging stations, three external stations are required (two slow-charging stations located on two main streets in the municipality and a fast-charging station at the entrance of the City Hall) and one internal station, which will be a slow-charging station located in the municipal garage or municipal office to be determined. The supply contract includes the cost of supplying the charging stations, although the cost of the civil works required for their installation will be covered by the contracting authority.

Location of the charging stations:



The company awarded the contract is under the obligation to supply spare parts for the electric vehicles within a maximum period of 48 hours. It is also required to repair any part of the system involving the vehicles and charging stations within a maximum period of 48 hours. The company awarded the contract must also provide a training programme for the City Council staff on the management system for the charging stations (without stating in the contractual specifications how long said programme will last or the number of participants).

The contract was awarded to *Movilidad Urbana Sostenible S.L.*, whose offer complied with all the technical requirements specified in the call for tenders. The bid amounted to €120,000 (excluding VAT), which was €12,000 below the amount estimated in the contractual specifications. (Publication of the formalisation of the award: Official Gazette of the Province, No. 198, 17 October 2017).

2.3. Supply contract for clean energy in buildings and other equipment in the City Council of Zaragoza (2016)

- **Type of contract:** supply
- **Industry:** energy (electricity and natural gas, involving only the former)
- **Stage:** design of the contract's subject matter (contract preparation)
- **Contracting authority:** the local government (City Council of Zaragoza)
- **Source:** Contractor profile for the City Council of Zaragoza (File no. 1414504/15): Specific administrative clauses to procure the supply of low voltage electricity, high voltage electricity and natural gas to buildings and other equipment in the City Council of Zaragoza through an open procedure, including contract award resolution. <https://www.zaragoza.es/aytocasa/descargarFichero.jsp?id=24459>.

The City Council of Zaragoza (Aragon) is tendering a contract for the supply of electricity (high and low voltage) and natural gas for several municipal buildings and facilities. Its subject matter is divided into sets according to the type of energy supplied and into subsets according to quantitative criteria. The contract has a two-year term of execution (extendable to four years) and it requires that all supplied electricity comes from renewable energy sources, in accordance with the provisions of the plenary agreement of the City Council of Zaragoza of 5 December 2015. The requirements contained in the specific administrative clauses must be adhered to at all times, without providing for any extraordinary circumstances that would enable the energy supplier to temporarily resort to other conventional energy sources. The obligations of the successful bidder will include: ongoing accreditation that the supply of electrical energy comes from clean sources and, in particular, the presentation of a certificate—at the request of the City Council of Zaragoza's architectural service—issued by the National Markets and Competition Commission (CNMC) that previously accredits that the energy will come entirely from renewable sources. The contract was awarded to *Gas Natural Comercializadora* (which had already been providing this service at the time of the awarding) for an amount of EUR 44.8 million and an estimated savings of EUR 5 million, as well as a 20% reduction in greenhouse gases.

2.4. Greening of the specifications for supplying office material to the Provincial Council of Guipuzcoa (2009)

- **Type of contract:** supply
- **Industry:** office supplies
- **Stage:** selection of tenders (award criteria)
- **Contracting authority:** the local government (Provincial Government of Gipuzcoa)
- **Source:** The inventory of good practices at IHOBE (a public corporation that supports the Department for the Environment, Territorial Planning and Housing of the Basque Government: <http://www.ihobe.eus/buenas-practicas/ambientalizacion-pliego-para-suministro-material-oficina-diputacion-foral-gipuzkoa>).

The Provincial Council of Gipuzcoa (Basque Country) included a series of environmental criteria in the contract specifications for the supply of office material, all related to the following goods (separated into sets): writing materials, other supplies, folders, stationery and desk materials, and accessories. When selecting the tenders, together with factors like the price or quality of the supplied goods, environmental criteria have been added. These new standards give a positive rating to goods that incorporate a range of environmentally respectful materials and design options. In particular, goods containing the following characteristics received a higher score:

- a) **Pens, highlighters and felt-tip pens** with plastic parts made of polypropylene, polyethylene or cellulose acetate.
- b) **Pencils** made of wood, without lacquer.
- c) **Glues and adhesives** with plastic parts made of polypropylene, polyethylene or cellulose acetate. Liquid products with water-based solvents.
- d) **Accessories (scissors, staplers, pencil sharpeners, lecterns)** that are single-material items to facilitate recycling.
- e) **File folders, covers, dossiers, dividers, folders, notebooks and paper or cardboard supplies** that:
 - contain plastic parts that are made of polypropylene, polyethylene or cellulose acetate;
 - are single-material items that enable recycling;
 - use 100% chlorine-free paper or cardboard products (certified by the TCF label: Totally Chlorine Free);
 - and are paper or cardboard products that meet the criteria for an eco-label (e.g. Blue Angel, DGQA, Nordic Swan, FSC or the like).

The three companies participating in the bidding procedure submitted tenders that partially included the above characteristics, which varied depending on the item. In particular, the environmental criteria assessed by the contract specifications were more present in the sets pertaining to other supplies, writing materials and stationery. Furthermore, the tender that was ultimately selected was the best or second best in terms of meeting the environmental criteria for these sets.

2.5. Model contract clauses for energy supply and energy management contracts for public buildings, drawn up by the Institute for Energy Diversification and Saving (IDAE, 2009)

- **Type of contract:** energy performance (a mixed contract that includes services related to: the supply of electricity, maintenance of the facilities, and construction work involving improvements and renovation of the facilities)
- **Industry:** energy

- **Stage:** design of the contract's subject matter (contract preparation), selection of tenders (award criteria) and contract execution (special execution conditions)
- **Contracting authority:** to be determined
- **Source:** “*Proposed model of a contract for energy services and maintenance in public administration buildings*” (working document, IDAE, 2007) and specific administrative clauses of the “*Contract for energy supply and energy management in public buildings with full warranty of thermal and interior lighting installations [of] public administration buildings*” (IDAE, 2009).
http://www.idae.es/uploads/documentos/documentos_10704_Propuesta_modelo_contrato_serv_energ_07_59056bbe.pdf;
http://www.idae.es/uploads/documentos/documentos_Pliego_Clausulas_Administrativas_contrato_servicios_energeticos_77372a66.pdf.

The Institute for Energy Diversification and Saving (IDAE), a public business entity affiliated with the Ministry of Industry, Energy and Tourism of the Government of Spain through the Secretary of State for Energy, published a model of specific administrative clauses related to *energy performance contracts*. This atypical contract consists of having the contractor finance a series of actions that improve the energy performance of the buildings and facilities belonging to the contracting authority, actions that will then generate savings in their energy consumption (both electricity and other energy sources, mainly heating fuels). These savings benefit both parties to the contract: the contracting authority, by lowering its energy bill without having to invest in its assets; and the contractor, who (with part of the generated savings) can finance the investments that were made to improve the energy efficiency of the public buildings and facilities, as well as earn a profit for the work carried out.

At European level, this type of contract is expressly provided for in Directive 2006/32/EC of 5 April 2006 *on energy end-use efficiency and energy services* (currently repealed), and Directive 2012/27/EU of 25 October 2012 *on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU, and repealing Directives 2004/8/EC and 2006/32/EC*. As previously mentioned, this type of public contract is not expressly regulated in the Spanish legal system, and its legal structure will therefore be formed by the different services it contains, although in order to establish the rules that must be observed when awarding it, consideration must be given to the most economically relevant service (generally energy supply), in accordance with the provisions in Article 18 of Law 9/2017 of 8 November on public sector contracts.

With regard to the duration of the contract, the Institute for Energy Diversification and Saving has advised that the contract must respect a balance that, on the one hand, allows the concurrence of companies in order to enable market competition (given that an extended duration will result in the market closing off to potential competitors) and, on the other hand, ensures a return on the contractor's investments. For this reason, the Institute for Energy Diversification and Saving

believes that these contracts must have longer terms than usual as they involve investments that must be recovered before their completion. The proposed model sets ten years as the reasonable and sufficient period to achieve these objectives, although this period may be modified if the circumstances of the specific project warrant doing so (for example, the City Council of Zaragoza signed this type of contract with an execution period of only two years): Contractor profile for the City Council of Zaragoza, File no. 1286650/15, *Comprehensive maintenance and energy efficiency service for City Council buildings and facilities in Zaragoza*, call for tenders published in the Official Gazette of Aragon no. 66, of 7 April 2016).

The model proposed by the Institute for Energy Diversification and Saving proposes a contract with the following services:

- I. **Energy management:** This includes supplying electricity and fuels for all public buildings, as well as controlling their quality, quantity and use, and providing a *guaranteed supply*.
- II. **Maintenance:** This is preventive and systematic in nature to ensure that the facilities function perfectly and are cleaned, along with all their components. The ultimate goal is to have the facilities and all their components perform *at their original capacity* in the long term.
- III. **Full warranty:** Repair and replacement of all deteriorated elements in the facilities (with coverage established in the contractual specifications), both in the event of normal and accidental wear and tear, and regardless of the reason.
- IV. **Improvements and renovation work on energy consuming facilities:** This includes both carrying out and financing all improvements and renovation work on the facilities included in the contractual specifications (the technical specification sheets). The greatest energy inefficiencies are generally located in a building's thermal envelope and installations, as well as, to a lesser degree, in its lighting. Therefore, these improvements play a very important role in optimising the energy efficiency of public buildings and installations.
- V. **Energy saving and renewable energy investments:** This relates to incorporating equipment and installations that promote energy saving, energy efficiency and the use of renewable and residual energies (e.g. biomass, solar thermal, photovoltaic, cogeneration, etc.).

The main benefit of this type of contract is that it does not imply an increase in public spending, as it is up to the private company to make the necessary investments to generate the promised energy savings. The private company's profit is derived from these generated savings. In this way, the government achieves a two-fold objective: to save on energy supply expenditures, while

improving the energy efficiency of its buildings and facilities at the expense of the contracting company.

2.6. Contract to clean the facilities at the Ministry of Public Works and Transport (2013)

- **Type of contract:** services
- **Industry:** cleaning
- **Stage:** selection of tenders (award criteria) and contract execution (special execution conditions)
- **Contracting authority:** Ministry of Development (Government of Spain)
- **Source:** Contractor profile for the Government of Spain, Specific administrative clauses for cleaning services at the Ministry of Development: Public Works Council and Civil Aviation Accident and Incident Investigation Commission, located at Calle Fruela nº 6-3, Madrid. https://www.fomento.gob.es/recursos_mfom/pca_2.pdf.

The Ministry of Development in the Spanish Government is tendering a contract for cleaning services in several public buildings through an open procedure, with a total budget (including VAT) of €102,803 and an initial duration of 12 months (non-extendable). The contractual document includes a set of environmental award criteria called “environmental quality”, which can be assessed with a maximum of six points (out of the 30 total points that are possible, so its accounts for 20% of the contract’s award criteria). Among these criteria, which are not evaluated with mathematical formulas but rather by subjective means, two qualitative aspects can be evaluated:

- a) Following a waste management procedure at the work centre where the cleaning services are carried out, which consists of **sorting the waste** from any of the areas included in the scope of this contract (up to 3 points).
- b) Taking the toner from photocopiers and/or printers in the facilities to a **recycling centre** (up to 3 points).

Special conditions to carry out the environmental contract are also included, which are extended to possible subcontractors:

- a) Compliance with the measures contained in Order PRE/116/2008, of 21 January 2008 *publishing the Agreement of the Council of Ministers approving the Green Public Procurement Scheme of the Central Government and its public bodies, and the governing agencies of the social security system.*

- b) Use of cleaning products that comply with the following environmental requirements:
- Biodegradable
 - Non-toxic, non-carcinogenic and non-mutagenic
 - Do not damage the ozone layer
 - Packaged in containers made of recyclable materials
 - Have environmental quality labels (without specifying any particular ecolabel or the criteria for obtaining it)
- c) Justification that the machinery used meets the requirements for reduced noise, and water and energy consumption (without specifying which standards it refers to).
- d) Adoption of environmental management systems that are applicable to the contracted service and that reduce the environmental impacts generated by it.

The penalties established in the contractual specifications for non-compliance with the special execution conditions shall, as a general rule, amount to 1% of the contract budget. However, if the contracting authority believes that the non-compliance is serious or very serious, the penalty may rise to 5%, or up to the legal maximum of 10%, respectively. Repeated non-compliance may be taken into account to assess the degree of severity. In any event, the awardee's compliance of the special execution conditions may be verified by the contracting authority at any time while they are being carried out.