Portugal*

Strategic framework, action plan and scope for procurement for innovation policy

Portugal does not have a specific strategic framework for procurement for innovation or a stand-alone procurement for innovation action plan. Nevertheless, the general legal system in Portugal supports procurement for innovation. The most important regulation in Portugal’s legal framework related to procurement is the Public Contracts Code (2008). The legal framework specifies the scope for procurement for innovation policy. This code makes e-procurement mandatory and is in this regard a motor of innovation. As a result of implementing e-procurement, SMEs (either alone or as part of an association) have better access to public markets because tender submission is easier. The code also sets the “most economically advantageous tender (MEAT)” criterion, which enables the contracting authority to consider criteria that reflect technical, innovative and sustainable aspects in addition to price. To facilitate access by SMEs, the code provides for measures like division into lots, adoption of regional criteria, and multi-access criteria.

Moreover, the Framework of ENEI (National Smart Specialization Strategy) gives particular relevance to public procurement as a demand-side instrument to drive and support innovation. Innovations related to environmental sustainability and the efficient use of resources are also targeted by the National Reform Programme (NRP) Green Tax Reform and the Green Growth Commitment (GGC), which was signed in 2015 by the Portuguese government and 82 institutions from the public sector, academic business and financial sector and from citizenship. The elements of the GGC are enabled by a set of catalysts, one being public procurement. The GGC mandates the establishment of a green public procurement programme; it also requires ensuring that sustainability criteria are included in all public procurement contracts.

Aside from general policy frameworks, innovation-related aspects also feature within the framework for public procurement. The Portuguese Public Procurement System (PPPS), managed by eSPap, IP, includes mandatory e-procurement for every procedure under eSPap’s framework agreements (FA) (thus the dematerialisation of the tendering process), green criteria in the FA and, as applicable, the fostering of the participation of SME in the list of qualified suppliers to be part of each FA.

Portugal currently transposes the new European directives on public procurement into national law, which will result in significant changes to the Public Contracts Code, as well the GPPP - Green Public Procurement Policy.

In addition, Portugal developed the Roadmap for Eco-Innovation, which aims at fostering green growth through innovation; this roadmap is part of wider commitments and strategies related to green growth. One aim is to promote the competitiveness and internationalisation of Portugal’s national economy.

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Implementation

Portugal carried out the following specific actions and initiatives:

- dematerialisation of procurement procedures, from e-invitation to e-awarding - mandatory for every procedure under framework agreements regardless of value
- other PPPS-related e-tools (e-catalogue, e-reporting)
- green award criteria in most framework agreements (e.g. vehicles, paper, stationery, cleaning services, hardware, etc.)
- fostering the centralisation of procedures within PPPS.

The implementation of e-platforms, most notably the platform called “BASE”, can be considered one of the most successful practices implemented to foster procurement for innovation in Portugal. The use of electronic procurement created an infrastructure that can be considered PPI friendly.

Portugal has transposed a number of EU policies to modernise public procurement.

On a project level, several European projects in the area of sustainable innovative procurement, were implemented. These projects focussed on achieving greater environmental efficiency and sustainability by using innovative procurement practices, and were sponsored by the European Union.

Portugal successfully implemented a number of innovative procurement processes. Goods and services procured range from the innovation of the electronic passport and automated passport screening, green innovations such as the reduction of paper records in hospitals or improved cleaning.

Most of Portugal’s most successful practices are reflect in its procurement system (PPPS). The PPPS features the following core elements:

- e-procurement mandatory for every procedure
- green criteria
- fostering SME participation
- fostering aggregated procedures
- dematerialisation of procedures (namely via the related e-tools provided, such as e-catalogue, e-reporting, etc.).

Other good practices that have been demonstratively promoted procurement for innovation in Portugal, essentially correspond to general good procurement practices, namely to set a correct purchasing strategy, to develop the best specifications for the purpose, and to establish appropriate award criteria.
Challenges, risks and solutions to overcome obstacles

The new system caused disruption and required major changes in habits and attitudes, as well as the adjustment to the new legal framework, to e-Procurement and its set of tools. Significant challenges are:

- Costs of innovative solutions are high when compared to main stream solutions. This is relevant in moments of financial austerity.
- A zero risk culture that prevails with involved actors.
- Organisational barriers due to business-as-usual practices.
- Build the capacity of public procurement organisations to conduct specialised procurement types.
- Create dedicated units for innovation, environment, and financial questions in the public procurement organisations.
- Systematise evidences on the profit (life cycle costs) of innovative goods, services or works versus traditional ones.
- Develop financial mechanisms, tax breaks and other incentives to promote eco-procurement for innovation in strategic areas.
- Ensure that different electronic platforms are interoperable.

A thorough and ongoing communication plan helped overcome a number of challenges. The plan involved key stakeholders ranging from contracting authorities to Ministerial Purchasing Units to economic operators to other stakeholders. The following elements were implemented:

- a roadshow across Portugal, with over 1 200 participants
- an ongoing programme of training and capacity building sessions to key users
- annual conferences on public procurement
- presence of directors and officials in events, seminars and conferences procurement-related
- bilateral exchange of experiences with other European agencies, counterparties, Portuguese contracting authorities, Ministerial Purchasing Units
- themed working/technical groups.

Key lessons learned

A main lesson learned relates to communication, which is crucial to bring users on-board. The focus of the communication must be about the advantages of the system to the users as a way of better accepting the required changes. It is also very important to allow everyone to realise how they can contribute to improve the system, taking into account the legal and technological frameworks and their constraints and the major goals of the PPPS.
**Measurement and impact assessment**

A target for procurement for innovation has not yet been quantified. The impact of procurement for innovation is measured by impact assessments, evaluations studies and studies of state of play. A system to measure the impact of actions related to procurement for innovation was targeted through the National Green Public Procurement Action Plan, 2008-10, (ENCPE; note that ENCPE 2008-10 reached the end of its term; the follow-up plan was awaiting approval at the time of the OECD Survey) at the ENCPE monitoring report (May 2011) details results of the results of ENCPE. This report found that “in 2010, over 56% of the procedures and over 60% of the total value of acquisitions of goods and services classified in priority categories […] incorporated environmental criteria or requirements.” A National Survey on e-Procurement was conducted to assess the impact of electronic public procurement after one year of mandatory use in Portugal. eSPap calculates the percentage of SMEs based on data gathered in the e-portal BASE. Every public contracting procedure must be published in this database.
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