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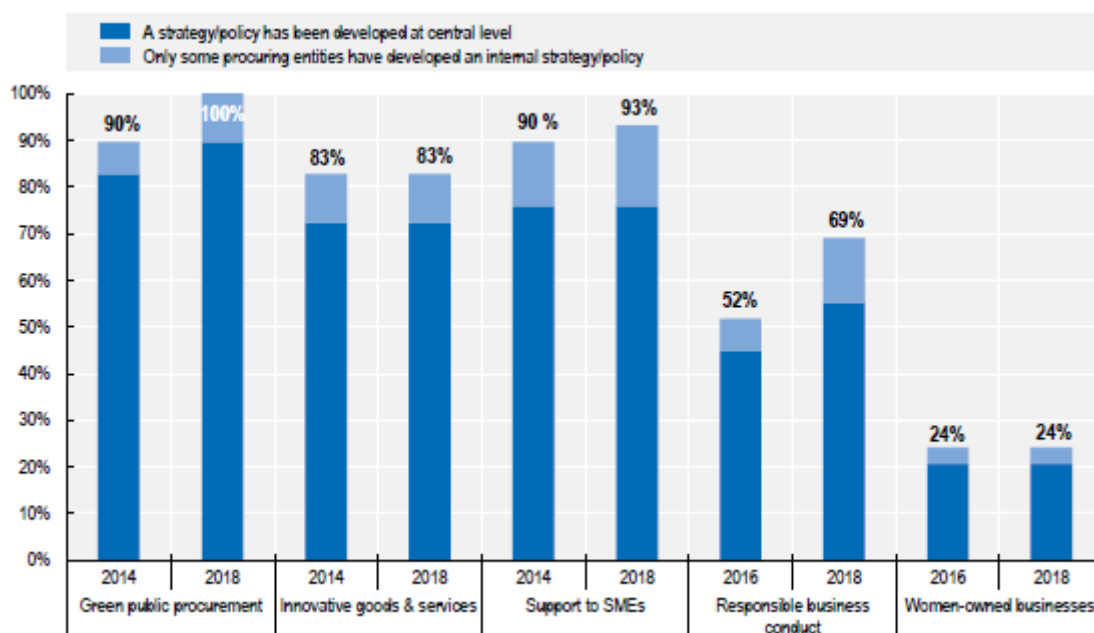
Strengthening the strategic use of public procurement

This chapter discusses the strategic use of public procurement in Malta with a focus on environmental aspects, innovation and small and medium size enterprises (SMEs) development. On green public procurement, this chapter analyses four key enablers: institutional framework, regulatory frameworks and strategies, supporting tools, and monitoring system. Given the low uptake of innovative procurement, this chapter assesses the need for a leading entity on public procurement for innovation, the development of a dedicated strategy, and capability building. Furthermore, this chapter highlights the benefits of supporting SMEs to promote green public procurement and innovation. The chapter also emphasises the relevance of promoting the use of Best Price-Quality Ratio (BPQR) criteria and market analysis as a driver to support the implementation of strategic procurement.

As mentioned, public procurement by the central government in Malta accounted for approximately 6% of GDP in 2019 (Government of Malta, 2021^[1]). Until recently, in most OECD countries, the economic and fiscal arguments have been at the forefront of government considerations and policy design, given constant budget pressures and citizens' demands for accountability vis-à-vis public spending. Increasingly over in the past decade, however, recognising the role public procurement can play in achieving broader outcomes, the concept of value in public spending has been evolving to encompass a wider range of considerations known as “complementary policy objectives” (OECD, 2022^[2]). These objectives include supporting a more resource-efficient economy, stimulating innovation, supporting small and medium-sized enterprises (SMEs) and promoting social values. (OECD, 2021^[3]) The strategic use of public procurement has been long highlighted by the OECD, namely through the 2015 “OECD Recommendation of the Council on Public Procurement” (hereinafter referred to as the “OECD Recommendation”) that calls upon countries to use public procurement to pursue complementary policy objectives while balancing them against the primary objectives. This could be done by i) evaluating the use of public procurement as one method of pursuing complementary policy objectives in accordance with clear national priorities (ii) developing an appropriate strategy for integrating these policy objectives in public procurement systems, and (iii) employing appropriate impact assessment methodology to measure the effectiveness of public procurement in achieving these objectives. (OECD, 2015^[4])

In fact, countries are progressively using public procurement as a strategic lever to enhance the uptake of different policy objectives. For instance, Figure 4.1. shows that all OECD countries have developed green public procurement policies at least at some level of the public sector. The majority of the OECD countries has policies to support SMEs' access to public procurement. However, policies related to stimulating innovation, responsible business conduct and social policies are lagging behind.

Figure 4.1. Development of public procurement strategies/policies to support complementary policy objectives across OECD countries, 2016 and 2018

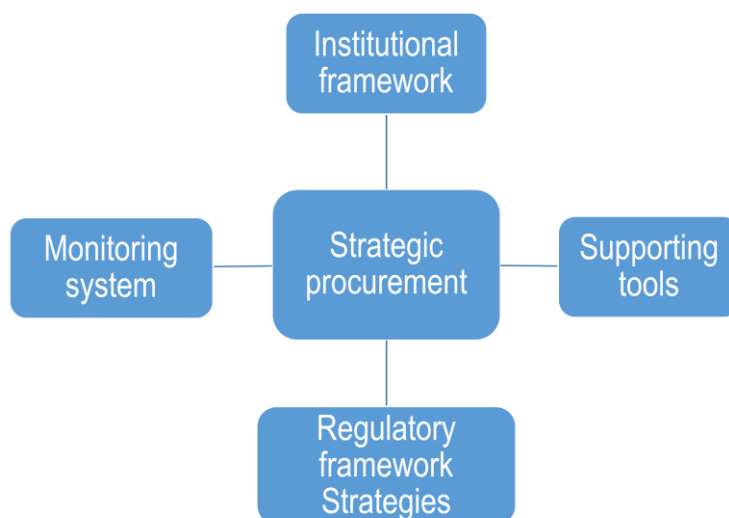


Source: (OECD, 2019^[5])

Ensuring an enabling environment is pivotal to the effective integration of complementary policy objectives through public procurement. Enabling environment consists of having appropriate regulatory and

institutional frameworks, developing policies and strategies, providing support tools, and establishing a monitoring mechanism. (See Figure 4.2.)

Figure 4.2. Enabling environment for the effective implementation of strategic procurement



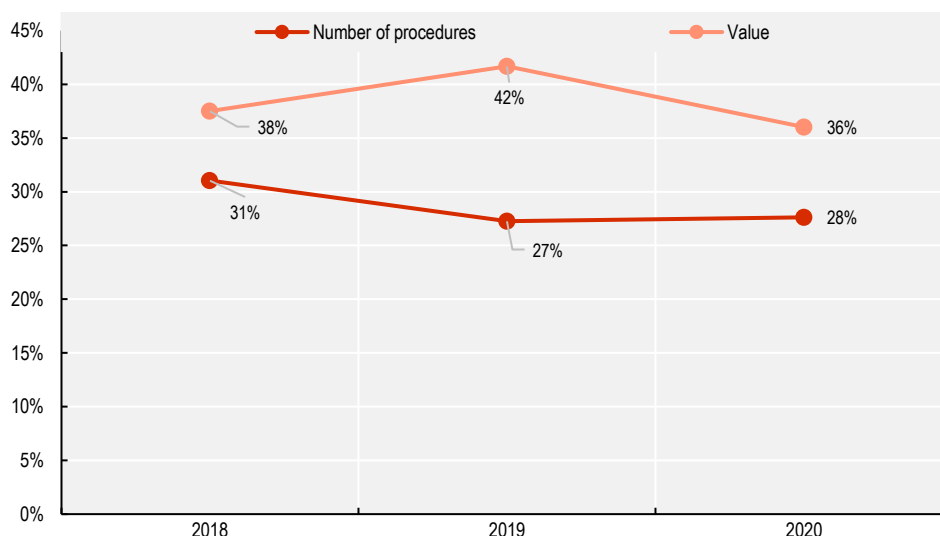
In line with the European directives and policies, Malta is committed to advancing the strategic use of public procurement. This chapter will focus on the strategic use of public procurement to advance the environmental agenda, to spur innovation and to enhance SMEs development. It aims at assessing the current state of play and elements related to the enabling environment and providing the country with concrete recommendations to support the implementation of this agenda.

4.1. Further strengthening the implementation of green public procurement in Malta

Green Public Procurement (GPP) is an important tool to achieve environmental and sustainable policy goals relating to climate change, resource use and sustainable consumption and production. GPP refers to “purchasing of products and services which are less environmentally damaging when taking into account their whole life cycle” (OECD, 2015^[6]). GPP is aligned with achieving international initiatives such as a European Green Deal and Sustainable Development Goals (SDGs) and plays a key role in achieving these goals. In Malta, GPP is defined as “the process where public authorities attempt to solicit services, goods and works that have a diminished environmental impact throughout their life cycle, in comparison to services, goods and works that have the same primary function”. (Ministry for the Environment, Climate Change and Planning, 2021^[7]).

Malta has been taking strong initiatives to promote GPP since 2011, through implementing GPP institutional reforms and GPP National Action Plans (NAP). Indeed, the country adopted the first NAP (2012-2014) in 2011 and the second NAP (2022-2027) in 2021. Data provided by the Ministry for the Energy, Environment and Enterprise (MEEE) shows that in 2020 GPP accounted for 28% of the total number of tenders published. This corresponds to 36% of the total procurement value and 1.17% of GDP in 2020. (See Figure 4.3.) However, the share of GPP decreased in 2020 compared with 2018 and 2019 in terms of the value. According to the MEEE, this decrease can be explained by the fact that many tenders, in particular large volume procurement with GPP criteria, were issued prior to 2020.

Figure 4.3. Share of GPP in Malta, 2018-2020



Source: Data provided by the MEEE

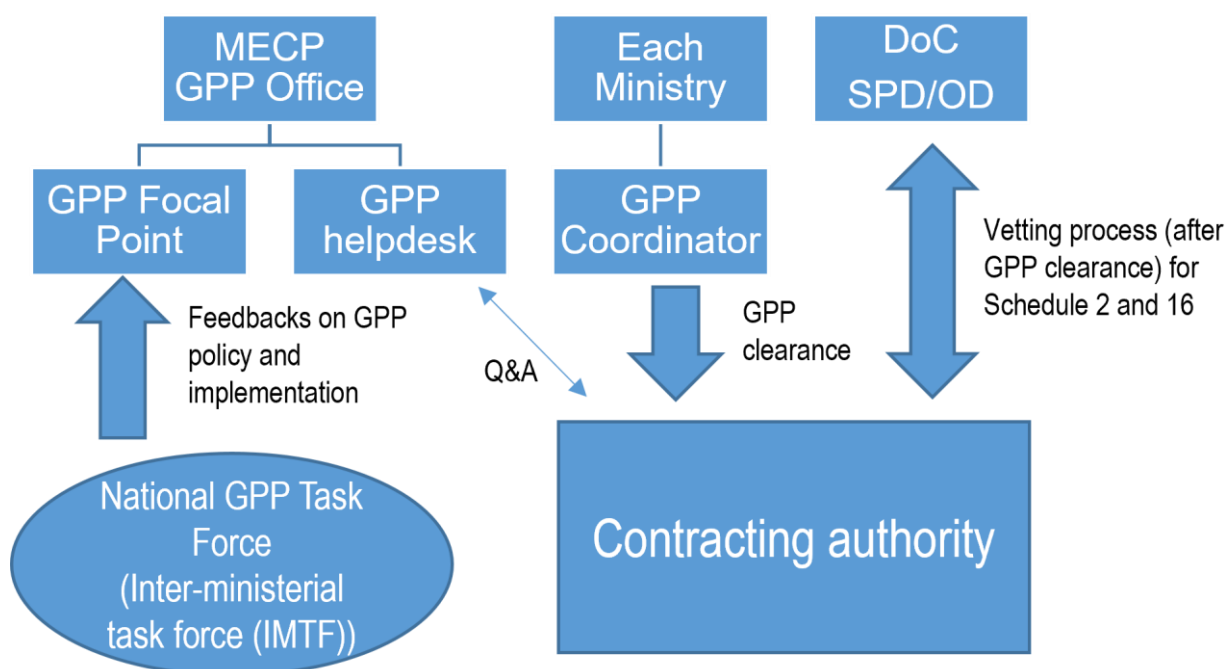
This section analyses an enabling environment of GPP in Malta.

4.1.1. Introducing clear institutional settings to advance Green Public Procurement

Having in place a clear and coherent institutional framework with regards to GPP is key to advancing its implementation, irrespective of the entity leading the GPP agenda. While in some countries the GPP agenda is led by the entity in charge of public procurement (e.g. Public procurement office, Ministry of Finance, etc), in other countries, it is the Ministry in charge of the environment policy that undertakes this role. In Malta, the GPP initiative is led by the Green Public Procurement (GPP) Office within the Directorate for the Environment and Climate Change which is located within the MEEE, in cooperation with the Department of Contracts (DoC).

The institutional settings to implement GPP were established. These include GPP Focal Point, which is the key driving force to advance GPP implementation, the National GPP task Force, a GPP Helpdesk (to be discussed in the section 4.1.3), and GPP officer function.

Figure 4.4. GPP governance framework in Malta



Source: Prepared by the author based on (Ministry for the Environment, Climate Change and Planning, 2021^[9])

GPP Focal Point has been placed within the MECP since 2011 and is responsible for the coordination of stakeholder consultations, the representation of Malta at the GPP Advisory Group Meetings of the European Union, the delivery of training and information sessions to public entities and the monitoring and contribution to reports related to GPP.

The National GPP Task Force was established in 2011 as an inter-ministerial task force (IMTF) to oversee the roll out of GPP, promote the collaboration among key stakeholders of GPP in Malta and support the development and implementation of the 1st NAP. The IMTF was chaired by the MECP, and its members consisted of governmental institutions: DoC, Ministry for Resources and Rural Affairs (MRRA), Malta Environment and Planning Authority (MEPA), Malta Council for Science and Technology (MCST), Malta Enterprise (ME), National Statistics Office (NSO), Malta Competition and Consumer Affairs Authority (MCCAA) and the Department for Local Government (DLG). This task force was re-established in 2015 and is also active currently to provide the GPP Focal Point with feedbacks on GPP policy and implementation. This IMTF contributed to setting the basis upon which the second GPP NAP 2022-2027 (to be discussed in the next section 4.1.2) was built.

Similarly to GPP Focal Point, GPP officer is placed within each Ministry. The role of the GPP officer was to carry out GPP clearance procedures until 2015. GPP clearance system was established as a quality control mechanism to ensure that GPP is used by contracting authorities in procurement procedures in line with the policies in place. Therefore, the GPP officer acted as a gatekeeper for ensuring compliance with GPP criteria, by assessing whether each tender falls within the scope of GPP and, if so, whether the correct GPP criteria were adequately included. Since 2015, the responsibility for implementing GPP clearance corresponds to the GPP Coordinator based at and employed by each Ministry.

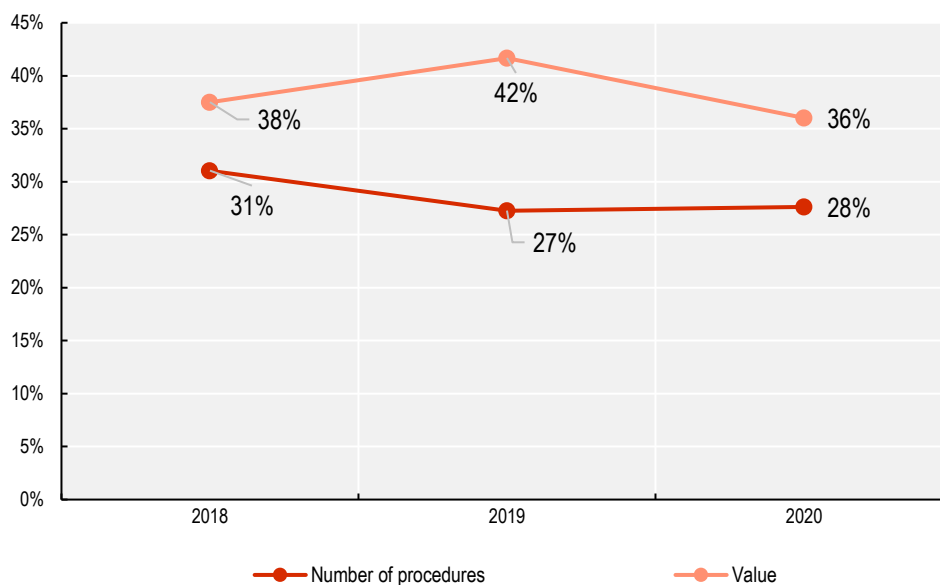
GPP clearance is required for all contracting authorities in Malta (Schedule 2, 3, and 16) before publishing procurement procedures whose estimated amount is above EUR 10 000 excluding VAT for Calls for Tenders and above EUR 5 000 excluding VAT for Calls for Quotations. (Department of Contracts, 2022^[9]) Contracting authorities shall send a GPP clearance request to a GPP coordinator. The request should be

submitted together with the procurement documents. Clarification is requested by a GPP coordinator when a non-compliance is identified. Failure to amend such requirements may lead to cancellation of the tender.

The GPP coordinator ensures GPP adherence and enhances GPP compliance. However, Figure 4.5. shows that the GPP compliance rate, which represent the procedures compliant with GPP criteria under the scope of GPP, is not close to 100%. In 2020, the GPP compliance rate was at 56% in terms of number of procedures and 45% in terms of financial value, and it has been decreasing since 2018. According to the 2020 GPP Monitoring Report, the non-compliance arises not only from mistakes but also from the intentional behaviour from contracting authorities to avoid using non- mandatory GPP criteria. Contracting authorities may opt to request for a less demanding product without GPP criteria in order to avoid the risk of low competition or receiving no bids that result in cancellation of tender.”. (Ministry for the Environment, Climate Change and Planning, 2021^[7])

Furthermore, communication and approval process related to GPP clearance were carried out via e-mail between the GPP coordinator and the person in charge of the procurement procedure at the contracting authorities. Carrying out GPP clearance procedures through ePPS could enhance the efficiency of the process. Indeed, this could provide a real-time traceability of the clearance status, security of information, and direct access to the data by the DoC during the vetting process. It will also enable both DoC and the MECP to monitor GPP implementation (See section 6.4.1). Therefore, Malta could consider assessing the possibility to use ePPS for GPP clearance.

Figure 4.5. GPP compliance, 2018-2020



Note: GPP compliance is calculated by the formula: tenders compliant with GPP divided by tenders under the scope of GPP
Source: Data provided by MECP

4.1.2. Strengthening the GPP implementation through the ambitious 2nd GPP National Action Plan

Enhancing and ensuring GPP uptake needs to be grounded in the regulatory and/or strategic public procurement frameworks. These frameworks should include several mechanisms to consider environmental criteria at different phases of the public procurement cycle. (See Figure 4.6.)

Figure 4.6. Mechanisms to embed environmental aspects in procurement activities



Source: Adapted from (OECD, 2021^[10])

During the pre-tendering phase, considering environmental aspects in market analysis can enable contracting authorities to use the appropriate mechanisms (European Commission, 2016^[11]). During the tendering phase, some concrete actions can include using selection criteria, which will allow bidders to comply with specific environmental requirements to participate in the tender process. Using award criteria encourages bidders to propose higher levels of environmental performance than the minimum requirement specified in the technical specifications. Using environmental labels allows contracting authorities to identify sustainable products or services and/or to use them as means of proof of compliance with the technical specifications. Labels can be used as criteria and technical specifications. Additionally, life cycle costing approaches (LCC) can complement this by evaluating the financial proposals while considering the total costs over the life cycle of a product, service or works including (i) purchase price and all associated costs (delivery, installation, insurance, etc.); (ii) operating costs, including energy, fuel and water use, spares, and maintenance (iii) end-of-life costs, such as decommissioning or disposal; and (iv) costs imputed to environmental externalities. Finally, contract performance clauses can also require the use of environmentally friendly materials and a monitoring system. (European Commission, 2016^[11])

In Malta, the public procurement regulatory framework provides the possibility to use all these mechanisms. For instance, the Public Procurement Regulations (PPR) foresee provisions related to the use of labels (Article 54), life-cycle costing (Article 239 & 240), and environmental management standards (Article 234). Environmental criteria can be integrated into the technical specifications (Article 2), award criteria (Article 239) or contract performance (Article 245). Article 16 requires contracting authorities to take appropriate measures to ensure that during the execution of a contract, economic operators comply with the applicable obligations in the fields of environmental law established by European Union law, national law, collective agreements or by the international environmental provisions listed in Schedule 13 (List of International Social and Environmental Conventions). Article 199 refers to blacklisting an economic operator from participating in a procurement procedure in case of the violation of the laws/provisions specified in Article 16. (Government of Malta, 2016^[12])

GPP National Action Plan (NAP) is the most relevant GPP strategic framework in Malta, providing also GPP guidelines. The 1st NAP (2012 -2014) was approved in November 2011 and came into force in

January 2012. It defines GPP targets for 18 product and service groups for which common GPP criteria have been set at the European level. It has a combination of mandatory and non-mandatory GPP criteria. Mandatory criteria were set for 5 procurement categories: i) Copying and Graphic Paper, ii) Office IT Equipment, iii) Textiles, iv) Gardening Products and Services, and v) Cleaning Products and Services.

In June 2014, a Cabinet made the decision to enshrine GPP as a cornerstone of the Government's green agenda, and set the target of 75% to progressively increase the share of GPP, as laid down in the Greening Economy Action Plan: Greening our Economy – Achieving a Sustainable Future.

In line with international good practices, the MECP carried out public consultation for the development of the 2nd NAP in 2019; all stakeholders, including contracting authorities, the private sector, civil society organisations were given the opportunity to provide their feedbacks. The 2nd NAP, launched in October 2021, is more ambitious than the 1st NAP and the Greening Economy Action Plan. It intends to cover a wider range of environmental objectives: (i) waste prevention and reduction, (ii) water availability, (iii) climate change, and (iv) energy efficiency. It sets the GPP uptake target to be met by 2027 at 90% through progressively increasing the share of GPP. It defines the target for 17 product and service groups. They included 6 new product and service groups: i) Electrical and electronic equipment used in health care, ii) Vending machines and hospitality catering, iii) Sanitary tapware, iv) Toilets and urinals, v) Road design, construction and maintenance and, vi) Office building design, construction and management. 14 of these 17 product and service groups are classified as mandatory. Only three product groups will retain their non-mandatory status: furniture, vending machines and electric & electronic equipment used in health care.

Table 4.1. Targets for the second NAP for mandatory and non-mandatory categories

Mandatory Product Groups	National Targets					
	2022	2023	2024	2025	2026	2027
Copying and graphic paper	100%	100%	100%	100%	100%	100%
Gardening products and services	100%	100%	100%	100%	100%	100%
Computers and Monitors	100%	100%	100%	100%	100%	100%
Imaging equipment	100%	100%	100%	100%	100%	100%
Textiles	100%	100%	100%	100%	100%	100%
Cleaning products and services	100%	100%	100%	100%	100%	100%
Road lighting and traffic signals	100%	100%	100%	100%	100%	100%
Transport	100%	100%	100%	100%	100%	100%
Office building design, construction and management	80%	100%	100%	100%	100%	100%
Road design, construction and maintenance	80%	100%	100%	100%	100%	100%
Paints, varnishes and road markings	80%	100%	100%	100%	100%	100%
Sanitary tapware	30%	50%	60%	80%	100%	100%
Toilets and urinals	30%	50%	60%	80%	100%	100%
Hospitality and Catering Services	30%	50%	60%	80%	100%	100%
Non-Mandatory Product Groups						
Furniture	40%	50%	60%	70%	80%	90%
Vending Machines	40%	50%	60%	70%	80%	90%
Electric & electronic equipment	30%	40%	50%	60%	70%	70%

Source: (Ministry for the Environment, Climate Change and Planning, 2021^[8])

The ambition of the 2nd NAP goes beyond simply setting higher targets for the forthcoming years and giving mandatory status to additional product and service groups as well as introducing new GPP criteria for additional sectors. The 2nd NAP defines the following objectives to be accomplished by 2027 in order to achieve the vision for GPP and enhance the uptake and inclusion of GPP criteria within tendering processes:

- To continuously engage economic operators, contracting authorities and other relevant stakeholders by providing necessary training through information sessions, workshops and established communication channels.
- To facilitate GPP implementation by managing the GPP Helpdesk Facility and an interactive National GPP web-responsive application; www.gpp.gov.mt (conveniently accessible on mobile phones) enabling users to attain further knowledge on specific queries.
- To increase awareness amongst economic operators and contracting authorities on the benefits of GPP which extend beyond the provision of services and products and instils an environmental conscience amongst the business community.

These objectives will be measured by the following key performance indicators every six-monthly basis:

- Percentage of public tenders expressed in number of tenders and values in each product/service group
- Number of training and information sessions held, number of participants attended, and a survey rating the training given
- Frequency of meetings held with CAs, stakeholders and economic operators.
- Number of requests received on the GPP generic email or through other channels and answered.

In addition to the NAP, other environmental policies aim at enhancing the uptake of GPP. For instance, the Waste Management Plan 2014-2020 had identified GPP as an instrument for creating resources from waste, a concept that is carried forward into the Long-term Waste Management Plan (2021 to 2030). (Ministry for the Environment, Climate Change and Planning, 2021^[13]) This holistic approach to waste management demonstrates the relevance of GPP as mechanism for tackling environmental challenges. This approach reinforces the policy coherence with the 2nd NAP. Construction and Demolition Waste Strategy for Malta 2021-2030: Managing Construction & Demolition Resources, published in 2021, which sets re-use & recycling targets on excavated materials and construction materials for the construction of high-density residential developments. (Environment and Resources Authority, 2021^[14]) Public service strategy, launched in November 2021, includes initiative No. 37 on Green Public Procurement Plans. It recognises that GPP plays a key role in promoting more environmentally friendly choices given the volume of public spending. (Office of the Prime Minister, 2021^[15])

As already discussed, the 2nd NAP is more ambitious than the 1st NAP in terms of targets (90% for the share of GPP). In 2016, the MECP launched a survey to contracting authorities and economic operators in order to assess the effectiveness of the 1st NAP and their view of GPP. The result shows that the majority of participants (75%) indicated no significant difficulties in their experience with respect to the conditions imposed by the established GPP criteria. However, discussions with some interviewed contracting authorities highlighted that some targets of the 2nd NAP are quite ambitious and are perceived as difficult to be achieved. For instance, the target could be easily achieved for the transport category with the procurement of electric cars. However, for some specific products under the transport category such as specialised engines, this target could be difficult to reach. In addition, some contracting authorities mentioned that the market will have difficulties in adapting to the increased GPP requirements of the 2nd NAP. However, most Maltese enterprises are not manufactures but act as wholesalers. Thus, they could easily adapt to increased requirements through international manufacturers. To ensure the feasibility of all targets of the 2nd NAP, the MEEE should monitor the implementation of the 2nd NAP to identify eventual bottlenecks and challenges related to achieving its higher goals.

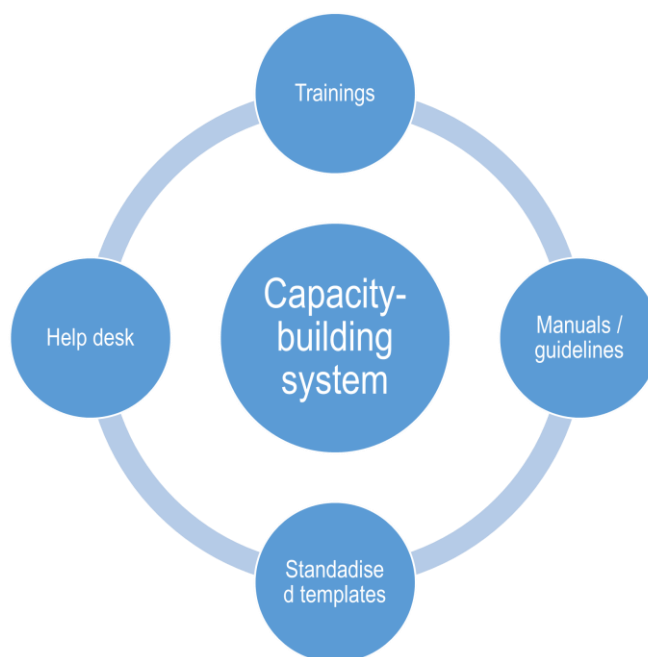
Regarding the GPP criteria, MEEE identified as challenges the fact that some EU GPP criteria are very technical and difficult to be understood by procurement officials at contracting authorities. Sometimes, the criteria can be understood only by officials with an engineering or technical backgrounds. However, in that case, the use of adequate labels could have the potential to alleviate this technical challenge. Article 54 of PPR allows contracting authorities to use eco labels for the environmental purpose. (Government of Malta,

2016^[12]) Malta could consider the possibility of promoting the use of specific eco labels, when relevant, in each GPP criteria through the capability-building activities.

4.1.3. Developing further supporting tools to enhance the GPP uptake

Different measures can reinforce the capability of procurement officials in using GPP criteria, including the provision of training, manuals and guidelines, help desks and standardised templates. (See Figure 4.7.). Standardised templates are ready-to-use forms that contracting authorities can use to facilitate their work. The help desk is a contact point centre to assist contracting authorities and/or economic operators in clarifying their inquiries related to their daily tasks of public procurement. It represents an efficient tool to provide quick and tailor-made information. Developing a methodological assistance contributes to supporting procurement officials and economic operators to undertake the processes related to public procurement effectively, and it complements what is learnt through training courses. (OECD, Fothcoming^[16])

Figure 4.7. Key components of the capacity-building system



In 2022, DoC issued the Contracts Circular No. 6 2022, Green Public Procurement: implications of the Second National Action Plan, in order to provide contracting authorities with the guidance on GPP (Department of Contracts, 2022^[9]). The 2nd NAP can be considered as a comprehensive guideline of GPP. It provides the detailed GPP criteria for each product group. The 2nd NAP also includes the standardised template for contracting authorities to request for the GPP clearance procedure. However, discussions with contracting authorities highlighted that the 2nd NAP provides only general requirements and criteria for each product category which makes it difficult to apply for specific products. Currently, the MEEE has the plan to publish more detailed guidelines in respect to GPP specifications, verification documents, sample certification and other similar supplementary documentation. (Department of Contracts, 2022^[9]) In this context, Malta could benefit from complementing the existing guidelines on GPP by adding concrete case studies and examples.

In terms of trainings, MEEE also provides a 5-hour GPP training through the IPS. This training course covers various GPP elements with practical case studies and a test:

- What is GPP evolution of GPP in Malta
- The 2nd National Action Plan
- Understanding the GPP criteria
- GPP in Practise

This GPP training was provided to 250 public procurement officials in 2021 (188 in 2018, 190 in 2019, and 60 in 2020 due to the Covid-19 pandemic). However, this GPP course is mandatory only to the GPP officers and one member of the Tender Evaluation Committee, and optional to procurement officials at contracting authorities. For reference, 61% of the ProcurComp^{EU} survey participants carried out for this project have completed this course. Malta could consider the possibility of making the GPP training mandatory, and update the course module as the guidelines and manuals are revised with concrete case studies and examples.

Recognising the need to provide timely support and advice to contracting authority and economic operators, MEEE also operates the GPP Helpdesk since 2011. The GPP Helpdesk provides support via telephone, email, and the organisation of meetings. The helpdesk is committed to respond to questions or request within a period of 48-72 hours. Malta could consider the possibility of preparing responses to the frequently asked questions to publish them online as well as to update the manuals and the training module.

According to the 2020 GPP Monitoring Report, the MECP also launched GPP Mobile Application in 2021 which consist of a one-stop-shop for all GPP-related information such as: lists of GPP certified products, GPP publications, current GPP technical specifications, or for booking GPP training sessions, etc. Users are also able to communicate directly with the GPP office through the built-in chat function found in the app. It is expected to contribute to further increasing GPP compliance.

4.1.4. Strengthening an effective monitoring system through ePPS

The OECD Recommendation calls upon adherent countries to employ appropriate impact assessment methodologies to measure its effectiveness (OECD, 2015^[4]). Malta has a solid monitoring system of GPP implementation. Indeed, the role of the MEEE shifted from a purely vetting and screening role to one that is more focused on monitoring and training (Ministry for the Environment, Climate Change and Planning, 2021^[8]). Contracting authorities were required to submit the weekly report to the GPP office through their GPP coordinator, in accordance with the template that includes the following information:

- The date of tender publication
- The details of the ministry and/or contracting authority publishing the tender
- Indication of whether the tender falls under the scope of the GPP criteria
- Indication of whether the tender is compliant or not (if all the applicable GPP criteria have been inserted the CA)
- Indication of whether the tender can be classified as variant (this would be the case if the tender contains some GPP criteria but not all the applicable ones).
- The tender or quotation title
- The estimated budget of the tender or quotation
- Indication of which GPP criteria are included in the tender

With the introduction of the GPP module on ePPS, a quarterly report is sent to the GPP office. This Office then assures the quality of the information reported in the quarterly report by verifying it with the actual call for tender actually published in the government gazette. Therefore, the GPP Office could identify tenders that were not reported in the quarterly report in a correct manner, and can request the GPP coordinator to follow up with the contracting authority. GPP coordinators at each ministry also submit a quality assurance

report to the MECP on a quarter basis. This quarterly report shall include all GPP related information and data, including but are not limited to, vetted calls for quotations and calls for tenders, GPP clearances, GPP-related clarifications and / or rectifications.

DoC developed a GPP module on ePPS in collaboration with the MEEE in order to set up a real-time, comprehensive, and digitalised monitoring system through ePPS. This module that went live when the 2nd NAP became applicable aims at facilitating the GPP data collection from all contracting authorities which are obliged to answer to a set of questions in ePPS prior to publishing a tender document. These questions include the application of the scope of the GPP, information on the GPP criteria, and justifications in case of not including GPP criteria. Failure to do so would prohibit them from publishing tender, since the correspondent fields in ePPS are set as mandatory. (See Figure 4.8)

Figure 4.8. Image of GPP module on ePPS

*Does this Call fall under the scope of GPP?: Yes No

GPP criteria My CFT role is: PO/TC

▼ CFT:Test GPP (Status: Draft) Show CFT Menu

In case of assistance please call the GPP office on +356 20953712 or [email](mailto:gpp@gov.mt) us on gpp@gov.mt. For further reference on the latest technical specifications to be used please [click here](#).

Please indicate which criteria are relevant to this Call:

Criterion: +

Please indicate which criteria have been included in this Call:

	Criterion	Included	Estimated value
-	* Copying and Graphic Paper	<input checked="" type="checkbox"/>	<input type="text" value="12000.00"/>
-	* Cleaning products and services	<input type="checkbox"/>	
-	Road design, construction and maintenance	<input type="checkbox"/>	

Cancel Save Changes

GPP justification My CFT role is: PO/TC

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* Please provide a justification for not including GPP:

1. Market research by the CA has shown that the procurement process would be severely limited upon inclusion of the GPP criteria due to specificities in the works/supplies/services to be procured.

2. Budgetary constraints limit the uptake of **some** of the relevant GPP product and service groups within the procurement process.

3. Budgetary constraints limit the uptake of **all** the relevant GPP product and service groups within the procurement process.

Cancel Save Changes

Source: (Department of Contracts, 2022^[9])

GPP module on ePPS is expected to increase the compliance of GPP criteria as well as facilitating the data collection on the implementation of GPP. Malta could benefit from communicating on the compliance of GPP criteria on a regular basis.

4.2. Using public procurement to stimulate innovation and the national economy

Public procurement can provide an enormous potential market for innovative products and services. Used strategically, public procurement can help governments boost innovation at both the national and local levels. Strategic use of public procurement for innovation (PPI) is defined as “any kind of public procurement practice (pre-commercial or commercial) that is intended to stimulate innovation through research and development and the market uptake of innovative products and services.” (OECD, 2017^[17]). In other words, it refers to any procurement that has (i) buying the process of innovation – research and development services – with (partial) outcomes, and/or (ii) buying the outcomes of innovation. It brings various benefits including (i) boosting the post COVID-19 economic recovery, the green and digital transition and improving resilience, (ii) delivering higher quality public service on an optimal budget, (iii) addressing an arising need, (iv) modernising public services, (v) helping start-ups and innovative SMEs launch and grow, and (vi) moving markets towards innovation (European Commission, 2021^[18])

In Malta, public procurement is still under-used as a strategic tool to stimulate innovation. As of the end of 2021, only two PPI procedures have been implemented by the Special Projects Unit within the Operations Directorate of the DoC on behalf of contracting authorities. (See Box 4.1)

Box 4.1. Innovation partnerships carried out in Malta

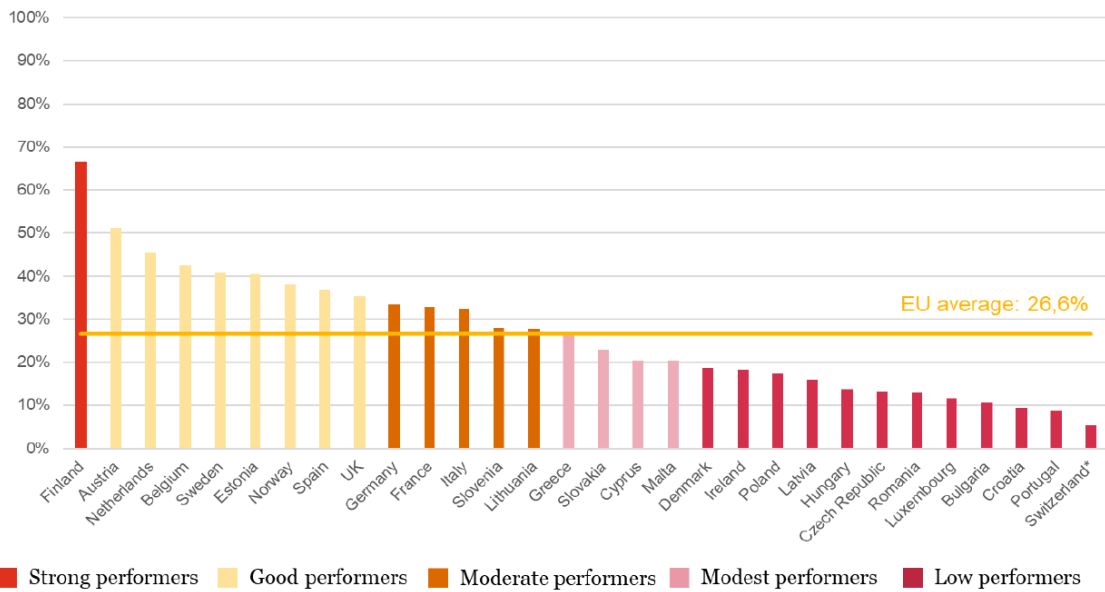
Special Projects Unit within the Operations Directorate of the DoC provides contracting authorities with advice, guidance and assistance on complex procurement procedures such as concessions, design contests, competitive dialogues and innovation partnerships. This unit carried out two innovation partnership procedures on behalf of contracting authorities:

- Innovation Partnership for the Design, Development, Testing, Commissioning, Delivery, Operation and Maintenance of a Remote Patient Monitoring Service and a Call Centre Service for Preventive Care for the Central Procurement & Supplies Unit (CPSU), Ministry for Health, (estimated value: EUR 5 million)
- Innovation Partnership for Luqa Dump landfill mining from separation treatment and preparation of C&D material for re-utilisation including ground clean-up and digging to cleaning of contaminated rock and Service provision of Packing, Transportation, Export to third countries and Final Deposit of Waste including Contaminated Waste, RDF and Hazardous Waste / Residues, (estimated value : EUR 37 million)

Source: Information provided by the Department of Contracts

PPI is under-used in Malta due to the absence of various elements that support a proper Procurement for Innovation strategy such as having a leading entity, an approved strategy, raising awareness, and the right capabilities accompanied by supporting tools. According to the EC study on the innovation procurement policy frameworks, Malta ranked 18th out of the 30 countries analysed (EU 27 Member States, UK, Norway and Switzerland) with the overall score of 20.4% in 2018, which is below the European average of 26.6%. (See Figure 4.9.) The EC study pointed out the lack of many elements such as a national competence centre, action plan, spending target, monitoring system and systematic capacity building. (European Commission, 2021^[19])

Figure 4.9. Benchmarking of national innovation procurement policy frameworks across Europe



Note: European average refer to the average of the 30 countries considered (EU 27 Members States, Norway, Switzerland and the UK)
 Note by the Republic of Türkiye

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

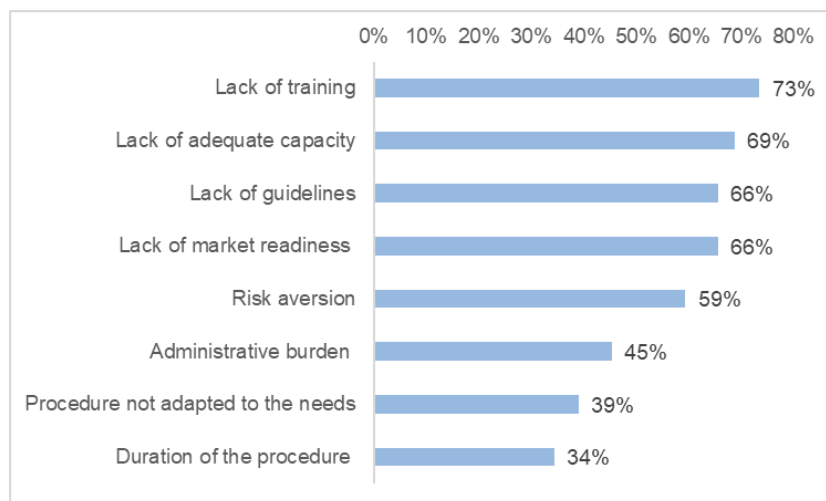
Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Source: (European Commission, 2021^[19])

Discussions with contracting authorities in Malta highlighted that they are not familiar with the concept of procurement schemes to stimulate innovation such as innovation partnerships, and even not aware of its benefits. These findings are also supported by the result of the OECD survey to contracting authorities. (Figure 4.10). This section discusses these enabling factors to promote the use of PPI in Malta.

Figure 4.10. Challenges of contracting authorities in using public procurement to stimulate innovation



Note: 8 contracting authorities provided a valid answer. Each contracting authority was requested to rate each of challenges in terms of challenges. Then, the result was summed up after the conversion in accordance with the following scoring rule: 1st challenge (greatest challenge) = 8 points, 2nd challenge = 7 points, 3rd challenge = 6 points, 4th challenge = 5 points, 5th challenge = 4 points, 6th challenge = 3 points, 7th challenge = 2 points, 8th challenge = 1 points. Finally, the weighted share (%) in the figure was calculated through dividing the total points of each challenge by the possible maximum point (in this case, 64 points: 8 points x 8 contracting authorities)

Source: Prepared in accordance with the responses to the questionnaires of the OECD survey to contracting authorities

4.2.1. The need for a leading entity on public procurement for innovation

As mentioned in section 4.1.1, in order to advance the strategic use of any policy objectives, it is key to have in place a clear and coherent institutional framework to advance its implementation, irrespective of the entity leading the agenda. In Malta, no entity is leading the public procurement for innovation agenda. The mapping of stakeholders identified several relevant entities that could work together to advance the innovation agenda: Malta Council for Science and Technology (MCST), Malta Enterprise (ME) and the DoC. MCST was established with the specific scope of advising the government on science and technology policy. MCST is responsible for promoting the Research and Innovation (R&I) aspects in the local market, and champions R&I engagement across public, academic and private sectors. In addition, it also provides researchers, technologists and stakeholders with the necessary mentoring and support measures to translate innovative ideas into tangible products and/or services. R&I Programmes Unit of MCST manages national funds for R&I through the development and operation of R&I programmes. The ME is a national economic development agency. Its mandate is to attract new foreign direct investment and facilitate the growth of existing operations. It also provides incentives to assist Industrial Research and Experimental Development activities required by the industry with the scope of acquiring knowledge and skills in relation to innovation. This will in turn lead to the development of innovative products and solutions especially in sectors such as ICT, healthcare, aviation, maritime and manufacturing. In addition, the Special Projects Unit within the DoC provides contracting authorities with technical advice, assistance and guidance related to the implementation of complex procurement schemes such as innovation partnerships.

The example of Austria provides insights on institutional framework of PPI. In 2011, the Austrian Ministry of Economy, Family and Youth (BMWFJ), currently the Ministry for Digital and Economic Affairs (BMDW), and the Ministry of Transport, Innovation and Technology (BMVIT) took the role as the leading agencies to promote PPI, and in 2011 prepared an Austrian Action Plan on Public Procurement Promoting Innovation through the engagement processes with stakeholders such as the Austrian Federal Procurement Agency (BBG) the Austrian Institute of Technology (AIT). This action plan included initiatives such as the

establishment of a competence centre in BBG as well as the implementation of pilot projects of pre-commercial procurement (PCP). The two Ministries are responsible for the political commitment, the strategic governance, and financing for the initiatives of the Action Plan. BBG serves as a competence centre and the AIT supports the other key actors providing scientific support. (The Ministry of Economy, Family and Youth (BMWFJ) and Ministry of Transport, Innovation and Technology (BMVIT), 2011^[20])

The Maltese Government should assign the leading role on Procurement of Innovation to one entity and ensure coordination mechanisms with the other stakeholders

4.2.2. Towards the development of a strategy to advance public procurement for innovation to reap the benefits of the current regulatory framework

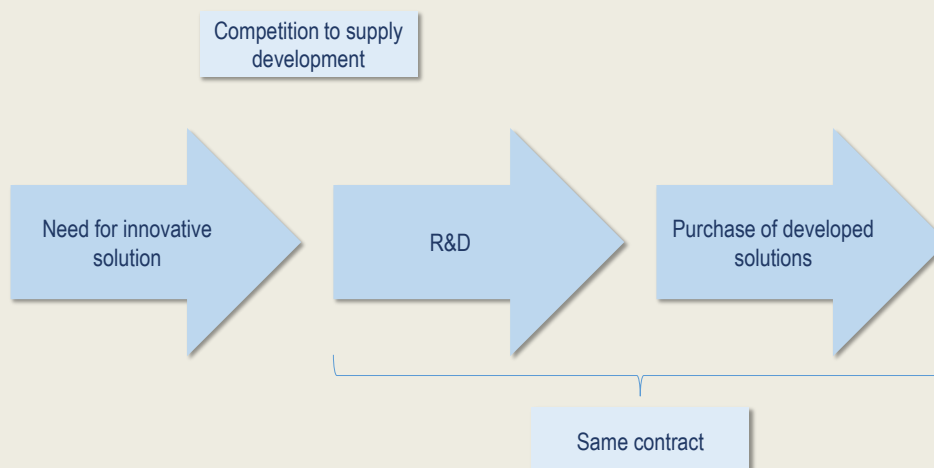
In 2018, about 70% of OECD countries had developed policies or strategies related to public procurement for innovation (OECD, 2019^[5]). In Malta, no strategy with specific roadmaps to promote the implementation of PPI has been developed regardless of the availability of the regulatory frameworks of PPI, given the absence of a leading agency of PPI. This part overviews the regulatory frameworks and the strategy related to PPI in Malta.

Malta introduced the concept of PPI by transposing the EU Public Procurement Directives (Directive 2014/24/EU) into the Public Procurement Regulations (PPR). PPR foresees the procurement mechanism that can be used to stimulate innovations such as competitive procedure with negotiation (Articles 123-127), Innovation Partnership (Articles 128-139), competitive dialogue (Articles 140-149) and design contest (Articles 157-160). (See Box 4.2) Article 245 stipulates that contracting authorities may lay down conditions relating to the contract performance such as economic, innovation-related, environmental, social or employment-related considerations. (Government of Malta, 2016^[12]) From the strategic viewpoint, PPI opens the door to higher quality and more efficient solutions that value environmental and social benefits, better cost-effectiveness; and new business opportunities for enterprises. (European Commission, 2021^[18])

Box 4.2. Mechanism of innovation partnership

Innovation partnership has been designed to drive innovation in cases where a contracting authority has a need for an innovative product, service or works that are not available on the market. Innovation partnership involves both R&D and purchase of the end-product under the same contract.

Figure 4.11. Mechanism and flow of innovation partnerships



Source: (Difi, 2017^[21])

The Innovation partnership procedure follows three main steps:

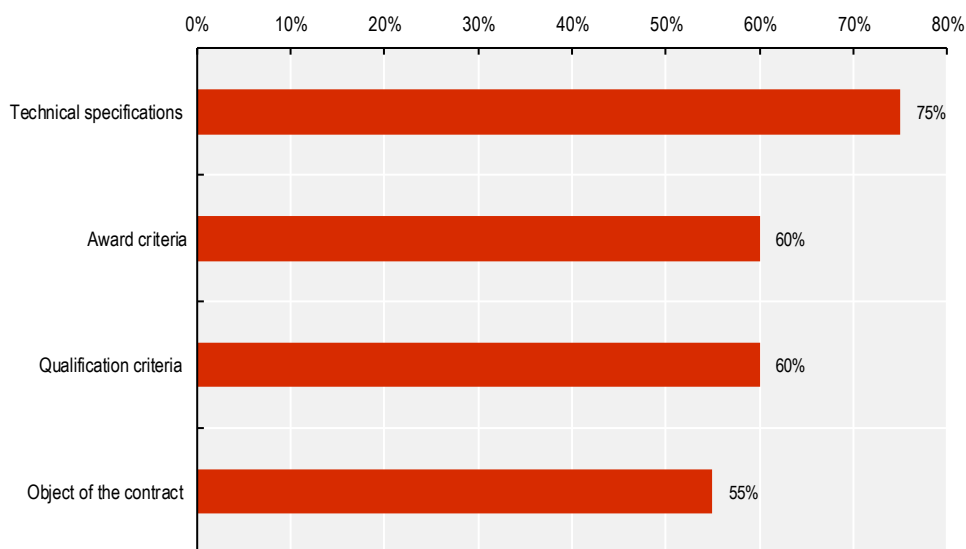
- i. Selection phase: The competitive phase takes place at the very beginning of the procedure, when the most suitable partner(s) are selected on the basis of their skills, abilities and price;
- ii. R&D phase: The partner(s) develop the new solution, as required, in collaboration with the contracting authority. This research and development phase can be divided into several stages, during which the number of partners may be gradually reduced, depending on whether they meet certain predetermined criteria;
- iii. Commercial phase: the partner will then provide the final solution

Innovation partnership is to be distinguished from pre-commercial procurement that only covers the procurement of R&D services. Economic operators are often more reluctant to participate in pre-commercial procedures as they do not guarantee, at the end of the R&D phase, of being awarded the procurement contract for the developed solution.

Source: (European Commission, 2021^[18])

From the technical viewpoint, innovative procurement schemes help contracting authorities in overcoming challenges that they face in drafting technical specifications when they intend to procure innovative goods and services. Indeed, technical specifications are identified as the most commonly used measures by contracting authorities (See Figure 4.12.). SPD also shared the same view that technical specifications are most often used by contracting authorities to procure innovative goods and services. However, the SPD considers that drafting technical specifications is the biggest weakness of contracting authorities when it comes to procuring innovative procurement.

Figure 4.12. Measures often used by contracting authorities to implement PPI



Note: 10 contracting authorities provided a valid answer. Each contracting authority was requested to rate each of measures in terms of its frequency of use. Then, the result was summed up after the conversion in accordance with the following scoring rule: Most-often used measure = 4 points, 2nd measure = 3 points, 3rd measure = 2 points, 4th measure = 1 point. Finally, the weighted share (%) in the figure was calculated through dividing the total points of each often-used measure by the possible maximum point (in this case, 40 points: 4 points x 10 contracting authorities)

Source: Prepared in accordance with the responses to the questionnaires of the OECD survey to contracting authorities

The innovative procurement schemes such as pre-commercial procurement and innovation partnerships can contribute to solving this weakness. Article 130 of PPR stipulates that the contracting authority shall identify in the procurement documents the need for an innovative product, service or works that cannot be met by purchasing products, services or works already available on the market. In other words, the innovative procurement schemes such as innovation partnerships will allow contracting authorities to start their procedures by asking for innovative solutions for the problems they identify, without preparing detailed technical specifications, allowing the market to innovate.

In addition to these regulatory frameworks, some strategies related to innovation mentions the role of public procurement in stimulating innovation. National Research and Innovation Strategy 2020, published in June 2014, included the action line *Embedding a culture for innovation, creativity, risk-taking and entrepreneurship* in order to achieve a comprehensive R&I support ecosystem. (Malta Council for Science & Technology, 2014^[22]) This action line recognised that public procurement plays a key role in generating increased demand for innovation. It also states that procurement for innovation generates considerable benefits in terms of leveraging private sector R&I and providing greener, innovative and potentially cost-effective, public services, although it is often more complex and time-consuming. Malta's Smart Specialization Strategy (RIS3) 2021-2027, published in 2020, mentions the potential of public procurement for stimulating innovation in health sector, recognising that research and innovation in the health sector had to speedily rise to new challenges, realities and opportunities presented by the COVID-19 pandemic. (Malta Council for Science & Technology, 2020^[23]) It also states that national funds can and should be tailored to provide support for public procurement of innovation. It recognises that there is very little use of PPI in practice regardless of the availability of this scheme and recommends that Malta should investigate the barriers preventing the public sector from utilising this method to incentivise innovation and promote its use, especially in the selected smart specialisation areas.

However, no more specific roadmaps are mentioned in these two strategies. For example, unlike the case of GPP specified in the 2nd NAP, no target is set on the uptake of PPI in terms of percentage of total public procurement (number of procedures and/or amounts), although ePPS provides the data on the procurement procedures related to PPI. Setting a target is a powerful way of expressing political mandate that can create strong institutional incentives for overcoming administrative inertia and risk aversion, as PPI requires a cultural shift not only among public buyers but also among the entire ecosystems such as economic operators, auditors, and academic sector (European Commission, 2021^[18]). For example, the Finnish government set a target of PPI at 10 % of total procurement in order to increase competitiveness of the country. In order to achieve this target and further promote PPI, the Ministry of Economic Affairs and Employment of Finland published in 2020 the action plan for increasing the use of innovative public procurement, through a close stakeholder engagement process. (Ministry of Economic Affairs and Employment of Finland, 2020^[24]) In Lithuania, the National Progress Plan (2021-2030), published by the Government of Lithuania in 2020, set a target of PPI at 5% by 2025 and 20% by 2030 with concrete actions such as the establishment of a national Lithuanian Innovation procurement competence centre. The Ministry of Economy and Innovation of Lithuania leads this strategic plan to promote PPI in collaboration with the Public Procurement Office. (The Government of the Republic of Lithuania, 2020^[25])

In addition, there is no initiative led by the government to incentivise the use of PPI among contracting authorities such as the financial support and pilot initiatives. This leads to fewer incentives for contracting authorities to use PPI, in addition to the lack of supporting tools to be discussed in the next section. In Finland, contracting authority can apply for innovative public procurement funding provided through Business Finland in order to develop innovative solutions to reform services and operations. This funding can be used for a wide varieties of purposes: (i) planning and preparation (market mapping, definition of the procurement), (ii) tendering (e.g. a competitive negotiated procedure, innovation partnership), and (iii) co-development and piloting to develop an innovative solution with a chosen partner. (Business Finland, n.d.^[26]) Poland has proven evidence as a catalyst and promoter of PPI through the implementation of pilot projects. National Centre for Research and Development (NCRD) of Poland, the agency in charge of ESIF R&I projects, initiated an e-Pioneer project financed under the ESIF Operational Programme "Digital Poland 2014-2020, under which the PCP scheme was used by beneficiaries to procure innovative solutions. This initiative contributed to encouraging a larger pool of interested contractors to participate in the ESIF R&I projects by using PCP. (See Box 4.3)

Malta could benefit from developing a comprehensive strategy / action plan to advance PPI such as defining the roles of key institutions and the incentive mechanisms (e.g. specific targets of the PPI uptake, financial support, and pilot initiatives).

Box 4.3. Promotion of public procurement for innovation by National Centre for Research and Development of Poland

In Poland, the new Public Procurement Law (PPL) of 11 September 2019, which entered into force on 1 January 2021, further supports public procurement of innovation (PPI) by implementing new solutions in this area. PPA directly links the procurement of innovation with a broader perspective of national policy. State Purchasing Policy of Poland (2022-2025), which came into force on 3 January 2022, advises all Polish public buyers to allocate 3% of their budget to the procurement of R&D and 20% to public procurement of innovative solutions, which are aligned with the target recommended by the Scale-up Europe Manifesto (Manifesto for Change and Empowerment in the Digital Age), in addition to the environmental (30%) and social (20%) considerations.

National Centre for Research and Development (NCRD) have experiences in using the scheme of public procurement for innovation in ESIF-funded R&I projects. NCRD is in charge of carrying out tasks in the area of the scientific, technical and innovation policy including financing innovative solutions

through R&D programmes. NCRD decided to launch pilot research programmes based on both procurement models: pre-commercial procurement (PCP) and innovation partnership, both of which are adapted to procuring innovative solutions that cannot be specified at the beginning of the procedure, i.e. those that require research and development works.

The first experience of NCRD related to pre-commercial procurement dates back to 2013. It was further developed in 2016 owing to the implementation of the e-Pioneer project, which aims to support talented programmers in solving identified social or economic problems with communication technologies (ICT). This is a joint project of NCRD and the Accelerators selected by NCRD, which uses the PCP model. PCP is not used directly by NCRD, but serves as an obligatory project implementation tool for the Accelerators selected by NCRD. The e-Pioneer project is financed under the ESIF Operational Programme "Digital Poland 2014-2020."

For example, Akcelerator Accelpoint Sp. z o. o., one of the selected accelerators in the e-Pioneer project, developed a Cleanbox to fight against Covid-19 by using the PCP model. Cleanbox is an easy-to-use, modern device with antibacterial and antifungal properties, which eliminates 99.99% of microbes and bacteria, ensuring an additional antibacterial effect for up to 30 days. With its functionalities, the project helps to prevent common infections and answers the growing need for surface disinfection, contributing to the fight against the spread of coronavirus. The MVP (a Minimum Viable Product, or, to put it simply, a demo version of the target product) was created and tests were successfully carried out using the infrastructure of the public partner (Municipal Sport and Recreation Centre in Lublin).

NCRD promoted themselves as an agency which not only finances innovation but also carries out innovative activities itself. It presented new forms of research programme implementation to the market and the potential contractors to encourage a larger pool of interested contractors to participate in the ESIF R&I projects.

With the experience gained so far and the competences built within the organisation, NCRD has been working since 2020 to launch further initiatives based on pre-commercial procurement. By doing so, NCRD aims at ensuring that this instrument is permanently included in its portfolio of support instruments.

Source: (Public Procurement Office of Poland, 2020^[27]) and (Ministry of Development and Technology of Poland, 2022^[28])

4.2.3. Developing a solid capability-building system related to PPI

Promoting the implementation of PPI shall be supported by the solid capability-building system. As already shown in Figure 4.10, both the OECD survey result to the selected contracting authorities and the perspective of the SPD identify the lack of trainings, the lack of capacity to implement this scheme, and the lack of guidelines as the three biggest barriers to the use of PPI by contracting authorities.

In Malta, several gaps have been identified in the capability-building system on this topic. First, no tailored guidelines and manuals are available for PPI. Currently, it is limited to the link of the DoC website to the Guidance on Innovation Procurement issued by the European Commission in 2018. Ideally, the guidelines and manuals could be developed by including, but are not limited to, the contents such as the regulatory framework of PPI, specific procedures, steps from the planning to the contract management, and actual case examples. For example, Malta could prepare the guidelines and manuals by adapting the manuals developed by the European Assistance For Innovation Procurement (EAFIP). (See Box 4.4) The Public Procurement Office of Poland published a manual for PPI called *Public Procurement of Innovation*. It describes the concept of public procurement for innovation, and demonstrates actual good practices from a wide range of contracting authorities in Poland including the central government administration, the local government entity, and the academic sector. (Public Procurement Office of Poland, 2020^[27])

Box 4.4. EAFIP innovation procurement toolkits

The European Assistance For Innovation Procurement (EAFIP), an initiative financed by the EC, developed innovation procurement toolkit with the following 3 modules for policy makers, public procurers and legal staff on why and how to implement PCP and PPI.

- Module 1: A strategic module addressed to policy makers, providing economic and case evidence about the impacts and benefits of PCP and PPI, together with concrete guidance on how to embed PCP and PPI into innovation strategies;
- Module 2: An operational module addressed to public procurers aimed at clarifying the pre-requisites and key steps to design and implement an innovation procurement process (PCP and PPI); and
- Module 3: A legal / operational module addressed to legal services aimed at clarifying legal issues and provide practical 'how-to' guidelines, supported by templates.

Source: (European Assistance for Innovation Procurement (eafip), n.d.^[29])

DoC offers a specific session within the specialised training programme (a Follow-Up Booster) through the Institute for Public Service (IPS), which has a duration of 4 hours and is mostly dedicated to the procurement procedures related to innovation, such as competitive dialogue and the innovation partnership. The Special Projects Unit of the DoC provides technical advice, assistance and guidance. Furthermore, the DoC can connect a contracting authority to seek guidance with another one that have already conducted similar procurement procedures.

Currently, Malta does not have a competence centre on innovation procurement, while countries like Finland and Germany have already set it up. A competence centre on innovation procurement is defined as an organisation/organisational structure that has been assigned the task by its government and has a mandate according to national law to encourage wider use of pre-commercial procurement (PCP) and public procurement of innovation (PPI) that includes among others providing practical and/or financial assistance to public procurers in the preparation and/or implementation of PCP and PPI across all sectors of public interest. (Procure2Innovate, 2020^[30]) A competence centre is expected to contribute to reinforcing the capability through a wide variety of mandates to promote PPI (See Box 4.5).

Box 4.5. Mandates of a competence centre on innovation procurement

<Core services>

- Capacity building (procurement instruments, market knowledge, legal knowledge, financial knowledge)
- Helpdesk, permanent contact
- Support for the pre-procurement phase (needs assessment, market analysis, market sounding, market engagement)
- Provide a networking and exchange space for procurers (via events or online tools)
- Showcase good practice examples

<Advanced services>

- Strategic management support (development of innovation procurement action plans, development of technical knowledge in procurement department etc.)

- Guidance documents
- Strategic support for the positioning of the procurement department in the public authority
- Consultancy and in-house training
- Support in applying for European funds
- Coordinate with regional agents (motivated multiplayers from public authorities) to act as mediators between the regions and the national competence centre

Advanced services often become core services as the competence centre operate for years.

Source: (Procure2Innovate, 2020^[30])

For example, the Finnish Competence Centre for Sustainable and Innovative Procurement (KEINO), which acts as a competence centre and professional network for sustainable and innovative procurement, offers specific capacity building measures to public procurement professionals in the area of innovative procurement, such as issuing guidelines, disseminating best practises and case studies, and providing templates and tools. (See Box 4.6)

Malta could benefit from reinforcing the capability-building system of PPI by developing a practical manual and establishing a competence centre for innovation procurement.

Box 4.6. Community of practice on sustainable and innovative procurement in Finland

The Finnish government set a target of public procurement for innovation at 10 % of total procurement, in order to increase competitiveness of the country. In March 2018, the Finnish Competence Centre for Sustainable and Innovative Procurement (KEINO) was established as a joint initiative of eight founding members from both the public and private sector, including the Central Purchasing Bodies Hansel and Kuntahankinnat. Additional members of the consortium are Motiva Ltd, the Association of Finnish Local and Regional Authorities (FLRA), VTT Technical Research Centre of Finland Ltd, the Finnish Funding Agency for Innovation Business Finland and the Finnish Environment Institute SYKE. KEINO serves as a network-based competence centre to support innovation procurement in Finland.

KEINO's three main objectives are:

- Increasing the number of innovative public procurement procedures in Finland
- Promoting public procurement as a strategic tool to reach wider societal objectives
- Fostering the dissemination of information and peer learning across contracting authorities

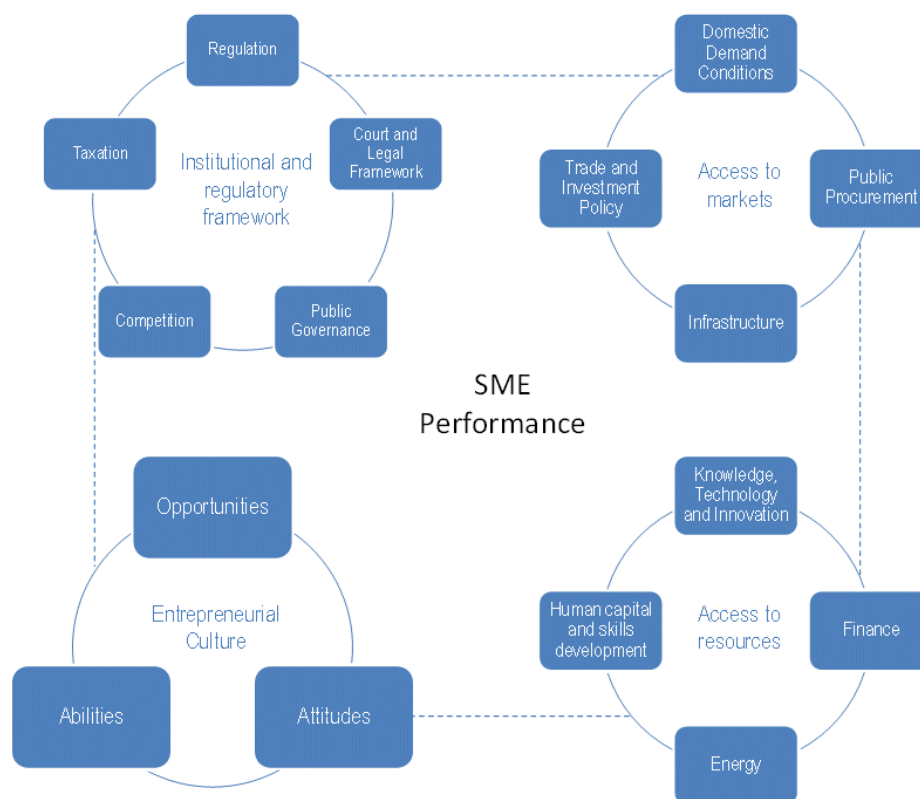
In order to reach these goals, KEINO supports the development of procurement competence in Finland through advisory services, events and networking meetings. It promotes peer learning among procurement professionals and it fosters closer collaboration and international networks on sustainable and innovative procurement topics. In addition, KEINO offers specific capacity building measures to public procurement professionals in the area of innovative procurement, such as issuing guidelines, disseminating best practises and case studies, and providing templates and tools.

Source: (European Commission, 2020^[31])

4.3. Further supporting SMEs to promote GPP and innovation procurement

Small and medium-sized enterprises (SMEs) play a vital role in the economy by representing large shares of employment and GDP. In 2021, SMEs accounted for 99.8% of the total enterprises in Malta, which is equal to the EU average (99.8%). They generated 71.9% of value added and 82.4% of employment, which exceeds the respective EU averages of 51.8% and 64.4%. (European Commission, 2022^[32]) They play a critical role in the economy, in particular, in retaining and creating jobs in the post-COVID-19 era. Public procurement is a key area for SMEs development and performance, given the volume that it represents in the overall economy. (See Figure 4.13.).

Figure 4.13. Public procurement, a key policy area for SMEs development



Source: (OECD, 2017^[33])

SMEs can be agents of innovation. (Aaron G. Grech, 2018^[34]) They, in particular start-ups, are typically involved in R&D and innovative approaches, with a view to introduce new processes and products. They are also major contributors to achieving a sustainable recovery from the Covid-19 crisis and accelerating the twin green and digital transitions, while also creating new jobs. (European Commission, 2022^[32]) Indeed, PPI can provide innovative SMEs with opportunities to meet the specific needs of the public sector to tackle these twin transitions (European Commission, 2015^[35]).

According to the European Commission's 2019 Small Business Act (SBA) fact sheet based on the data from the TED (Tenders Electronic Daily) of the EU, the majority of public procurement suppliers are SMEs. Indeed, 97.2% of the total contract value was awarded to SMEs in 2017. (European Commission, 2019^[36]) This data echoes the result of the OECD survey sent to 14 contracting authorities which shows that the majority of contracts were awarded to SMEs.

Therefore, SME's participation in public procurement is not identified as a big challenge by the government of Malta. However, promoting the strategic use of public procurement still requires the institutional framework as well as the provision of supporting tools for SMEs. This section discusses these enabling environments.

4.3.1. Strengthening the institutional and monitoring frameworks

In Malta, the Ministry for the Economy, European Funds and Lands (MEFL) is responsible for promoting the development of SMEs. The MEIB Mission Statement states that the Ministry 'is committed in its legislative, administrative and coordinating role to further and uphold a forward-looking Maltese economy that ensures stability and growth'. Since SMEs and family businesses are the backbone of the Maltese economy, MEIB encourages 'growth and opportunities, catering for businesses at every stage of their life-cycle. In addition, the DoC is the entity in charge of the public procurement system (See section 1.1).

In line with the European public procurement directives, the Maltese procurement regulatory framework includes several provisions that enhance SMEs' access to public procurement, such as the division of contracts into lots (Article 33 and 34) and subcontracting (Article 60). (Government of Malta, 2016^[12]). In addition, the DoC has taken various measures to promote the SMEs participation in public procurement throughout the past years. These measures aim at decreasing the administrative burden for SMEs and decreasing the costs of participating in public procurement opportunities (See Box 4.7). In particular, it is worth noting that the bid bond is not required anymore. On the other hand, the performance guarantee is required for contract of all the categories above EUR 10 000 which could represent an administrative and financial burden for SMEs. In the United States, for example, Part 28 of the Federal Acquisition Regulation requires the performance bond (above USD 150 000) or alternative protection mechanisms such as the certificate of deposit (above 35 000 but below 150 000) only for the contacts related to public works. Performance bonds for non-construction contracts are required, although requesting for them is not prohibited. (General Services Administration, 2022^[37]) In this context Malta could consider the possibility of assessing the impact of performance bonds on SMEs participation and, if relevant, increasing the threshold for requesting such bonds.

Box 4.7. Measures taken by DoC to facilitate SMEs participation in public procurement

- Requirement of the performance guarantee depends on the contract amount: the performance guarantee is not required in case the total contract value is less than EUR10 000 excluding VAT; 4% where it is between EUR 10 000 and EUR 500 000 excluding VAT; 10% where it is above EUR 500 000 excluding VAT; no performance guarantee is required.
- Acceptance of a single bond that covers the performance guarantees for all contracts between a Contractor and the same contracting authority
- Bid bond is no longer requested
- Self-declaration for exclusion criteria including blacklisting
- Economic & financial standing applicable only for call for tender whose estimated value equals or exceeds EUR 2 million excluding VAT.
- Experience as a selection or award criteria applicable only for call for tender whose estimated value equals or exceeds of EUR 500 000 excluding VAT.
- Selection criteria requirements (i.e. eligibility criteria, exclusion, ESPD) are rectifiable free of charge.

Source: (Department of Contracts, 2015^[38]) and Information provided by DoC

According to the SPD, the division of contracts into lots is the most common measure used by contracting authorities to enhance SME access to public procurement opportunities. In addition, SPD also pays attention to the subcontracting conditions during the vetting process.

Regardless of these measures, there are no official documents related to SMEs development such as strategies that refer to the role of public procurement in promoting SMEs development. This is attributable to the fact that promoting SMEs participation in public procurement is not given priority at the MEFL or DoC, considering that most of the contracts are awarded to SMEs. However, an SME Strategy for a sustainable and digital Europe, published by the EC in 2020, clearly mentions the role of public procurement in supporting SME development as well as the role of SMEs in bringing innovative solutions to achieve EU's twin transitions to a sustainable and digital economy. (European Commission, 2020^[39]) Therefore, Malta could benefit from an SME strategy that clearly mention not only the role of public procurement in promoting SMEs development but also the role that SMEs play in promoting innovative solutions through public procurement.

To enhance data monitoring on SMEs participation in public procurement, the DoC introduced in November 2020 an improvement in ePPS for companies to input their size. This will enable to gather comprehensive data on contracts awarded to SMEs and the participation of SMEs in public procurement opportunities which are key indicator to assess the performance of the procurement system.

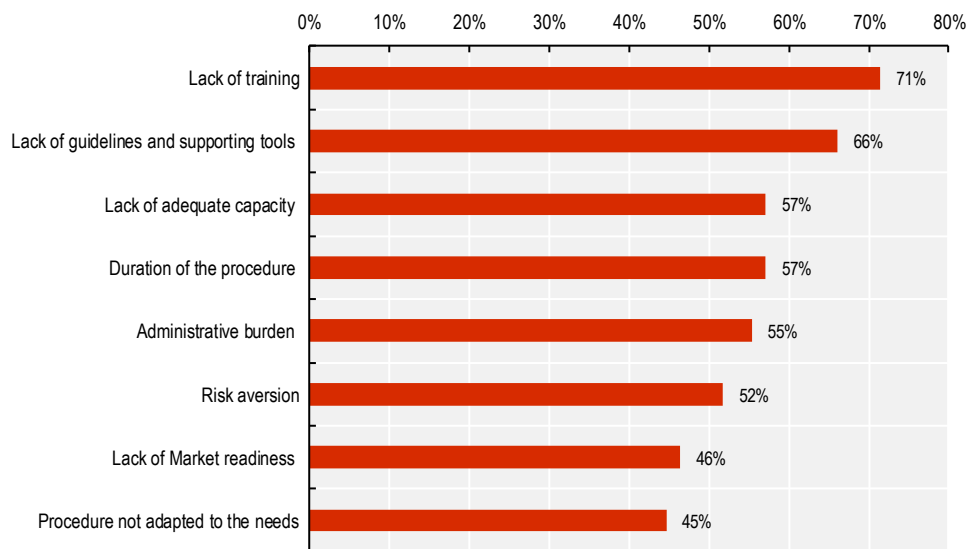
4.3.2. Developing further supporting tools to promote SMEs participation in public procurement

Useful supporting tools help SMEs to participate in public procurement opportunities. Despite the measures taken to facilitate SMEs participation in public procurement, no dedicated supporting tools have been developed on SMEs access to public procurement for both suppliers and contracting authorities.

While no specific supporting tools have been developed for SMEs, economic operators including SMEs have access to the general guidelines in the website of DoC. They are also eligible to IPS trainings provided by DoC's IT Unit, on ePPS. This training covers, among other things, the portal interface, searching for information, the use of the Tender Preparation Tool (TPT) and the uploading of the bid proposal.

From the contracting authorities' perspective, the OECD survey shows that all the top three challenges of contracting authorities in using public procurement to promote SMEs participation are related to the capability: lack of supporting tools (trainings and guidelines) and lack of adequate capacity to undertake this procedure. (See Figure 4.14) In addition, the EC will issue guidance and support to contracting authorities to enhance opportunities for SMEs, according to the SME Strategy for a sustainable and digital Europe. (European Commission, 2020^[39]) Under this context, Malta could consider the possibility of developing supporting tools to promote SMEs participation in public procurement and their role in bringing innovative solutions through public procurement.

Figure 4.14. Challenges of contracting authorities in using public procurement to promote SMEs development



Note: 7 contracting authorities provided a valid answer. Each contracting authority was requested to rate each of challenges in terms of challenges. Then, the result was summed up after the conversion in accordance with the following scoring rule: 1st challenge (greatest challenge) = 8 points, 2nd challenge = 7 points, 3rd challenge = 6 points, 4th challenge = 5 points, 5th challenge = 4 points, 6th challenge = 3 points, 7th challenge = 2 points, 8th challenge = 1 points. Finally, the weighted share (%) in the figure was calculated through dividing the total points of each challenge by the possible maximum point (in this case, 56 points: 8 points x 7 contracting authorities)

Source: Prepared in accordance with the responses to the questionnaires of the OECD survey to contracting authorities

4.4. Promoting the use of Best Price-Quality Ratio (BPQR) criteria and market analysis in strategic procurement

This section briefly discusses the use of best price-quality ratio (BPQR) criteria and market analysis, which were already discussed in the Section 1.1.1 and 2.2.3, from the viewpoint of strategic procurement.

4.4.1. Promoting the use of BPQR and LCC

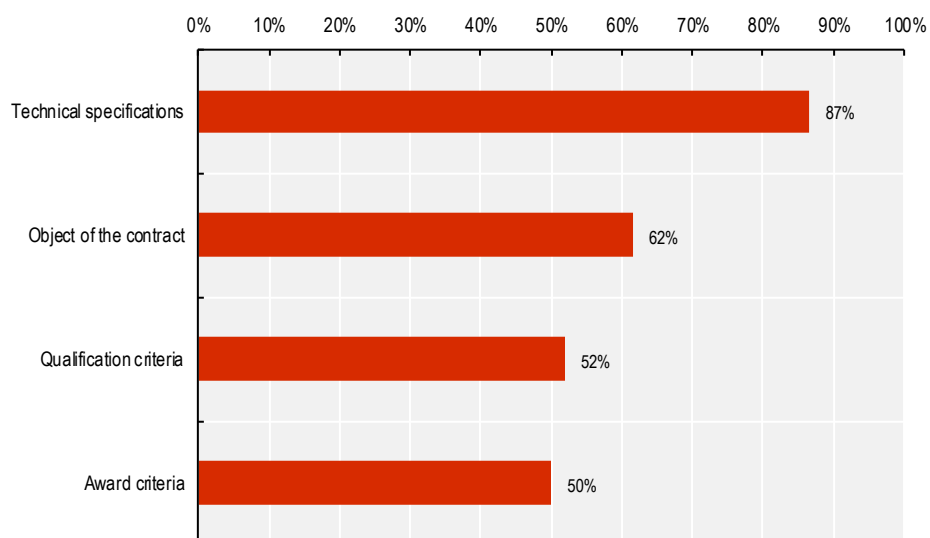
Encouraging the use of BPQR can constitute key elements to promote strategic procurement schemes including GPP and PPI. As the Section 2.2.3 discussed, only 3.2% of call for tenders (CfTs) used BPQR criteria on average in the last 3 years (2018-2020). In addition, life-cycle costing was never used in the said last 3 years, regardless of the fact that ePPS provides the functionality of using LCC as award criteria.

GPP criteria of each product group, defined in the 2nd NAP, consists of (i) subject matter (suggestion on how to draft the tender title), (ii) technical specifications, and/or (iii) award criteria (BPQR, LCC). GPP criteria of the 2nd NAP provides some examples of specific BPQR criteria for each product group. However, it is considered as optional, considering from the description “Award criteria (to be considered when BPQR is utilised,” (Ministry for the Environment, Climate Change and Planning, 2021^[8])

As Figure 4.15. demonstrates, the OECD survey shows that award criteria (BPQR / LCC) is the least used measure by contracting authorities when implementing GPP, while technical specifications are the most-often used one which might contribute to the use of the lowest-price criteria. SPD also shared the same view that contract award criteria (BPQR and LCC) are least often used by contracting authorities to implement GPP and at the same time the biggest weakness of contracting authorities. The same indicator

for PPI was 2nd in the OECD survey as shown in Figure 4.15. , but there was almost no difference among 2nd (award criteria) and 4th (object of contract) compared with 1st main measure (technical specification). This implies that promoting the use of BPQR criteria will contribute to increasing the uptake of strategic procurement such as GPP and IPP.

Figure 4.15. Measures often used by contracting authorities to implement GPP



Note: 13 contracting authorities provided a valid answer. Each contracting authority was requested to rate each measures in terms of its frequency of use. Then, the result was summed up after the conversion in accordance with the following scoring rule: Most-often used measure = 4 points, 2nd measure = 3 points, 3rd measure = 2 points, 4th measure = 1 point. Finally, the weighted share (%) in the figure was calculated through dividing the total points of each often-used measure by the possible maximum point (in this case, 52 points: 4 points x 13 contracting authorities)

Source: Prepared in accordance with the responses to the questionnaires of the OECD survey to contracting authorities

Austrian Federal Real Estate Agency demonstrates good practice in using BPQR criteria to carry out an innovation partnership to procure innovative solutions in the development of software of public building management. (See Box 4.8)

Box 4.8. Use of BPQR criteria under the Innovation Partnership by the Austrian Federal Real Estate Agency (BIG)

Austrian Federal Real Estate Agency (BIG) is a central purchasing body for the Federal Government of Austria, and owns and manages more than 2 200 properties across Austria. In 2020, BIG won the award of "Outstanding Innovation Procurement in ICT" which is supported by the EU-funded Procure2Innovate Project, due to its innovative approach of using software for sustainable real estate management.

BIG wanted to optimise the use of public buildings throughout Austria to achieve two goals. The first was to make space available for new uses. Often, buildings are only utilised for a few hours a day, especially at schools. The second was to only heat or cool rooms when they are in use. These two goals aimed at making better use of space and energy.

BIG decided to use an innovation partnership because the required solution was not available on the market. Subject matter of the contract was the formation of an innovation partnership with several

companies for development, implementation and delivery of a software and app solution for an electronic administration tool in the area of property and facility management.

The procurement was conducted using a two-stage process between May 2019 and December 2019. Stage 1 was a prequalification stage. Stage 2 was held in the form of a negotiated procedure ending with a last and final offer.

The MEAT criteria was used with the weighting of 80% quality (of which 40% was awarded for the concept, and 40% for presentation), and 20% price. Bidders were asked to share technical details of the software, as well as a full business plan. The quality evaluation was conducted by evaluating the proposed solution according to “concept” quality sub-criteria: (i) project structure; (ii) project organisation; (iii) project leader and deputy project Leader; and (iv) distribution strategy. “Presentation” sub-criteria were assessed according to the (i) conclusive and comprehensible communication of the elaboration and results of the concept; (ii) conclusive and comprehensible answers to any additional questions about the concept; and (iii) communication skills, performance / personal and social skills.

The call for tender attracted a lot of interest, with over 90 companies that downloaded the call. 11 companies from three European countries submitted applications to the prequalification stage. Out of these 11 bidders, 6 fulfilled the innovation specifications. After the review of errors in the applications, four companies were invited to stage 2. Contracts were signed with two companies in February 2020.

Both contractors reported positive benefits from participating in an innovation partnership with BIG. The developed solution makes use of IoT devices which provide real time data on public buildings and simplifies targeted communication and information provision in real time via a central platform for all users. The advantages range from news, surveys, FAQs, calendar and booking functions, damage reports to canteens’ menu plan.

Source: (ICLEI European Secretariat, 2021^[40])

4.4.2. Promoting market analysis

Carrying out market analysis prior to calls for tender contributes to enhancing the quality and reflecting the reality of the market. Almost all Maltese contracting authorities surveyed implement market analysis for every procurement procedure, while only a few do it on an occasional basis when necessary. Most of the contracting authorities associate the market analysis with its orthodox purposes such as obtaining the price quotation to estimate the value of procurement and/or drafting technical specifications which reflect what is available in the market. Only one contracting authority mentioned setting up the better price to quality ratio, and public market consultation for complex tender procedures. Market analysis will bring more added values when it is used for setting up better BPQR criteria rather than only obtaining the price quotations. Under the context of procurement procedures that seek innovative solutions, it is an essential process during the tender preparation to interact with potential economic operators in order to inform them of the needs of the public sector and hear initial feedbacks. It allows contracting authorities to find creative ideas from the market, define the conditions for solving the problem, create opportunities for market to work with the public sector, and measure its ability to take on the risk of innovation. (European Commission, 2021^[18]) Thus, it will contribute to promoting the use of strategic procurement. For example, Austria developed the digital platform to facilitate the process of the market research and consultation by building a bridge between contracting authorities and potential suppliers. (See Box 4.9)

Box 4.9. Digital innovation platform in Austria

A PPPI Service Centre (national competence centre for innovation procurement) established within the Austrian Federal Procurement Agency (BBG) launched a digital platform to build a bridge between contracting authorities and suppliers. In this platform, contracting authorities can publish their latest challenges for consulting the market on innovative solutions, and the market suppliers can submit their innovative solutions. Their solutions are evaluated by independent experts that can ask questions in the platform. Public procurers use this market place for market research purpose before starting the procurement procedure of PPI.

In 2018, more than 100 innovative solutions in various product categories such as IT, and mobility listed on the platform connected contracting authorities with the market. Since then, over a dozen contracting authorities have published the challenges they face in fields including automation, marketing & PR, sensor technology and facility management. They have received more than 230 different ideas from the market through the platform.

Source: (Federal Procurement Agency of Austria (BBG), n.d.^[41]) and (European Commission, 2021^[18])

Therefore, Malta could consider the possibility of promoting the use of BPQR criteria and market analysis in order to increase the uptake of GPP and PPI.

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