

Including green procurement in individual orders

- I. Possibility to include in the tender conditions that the tenderer shall be excluded for breaching environmental obligations and/or request information on observing the environmental obligations in the form of a declaration of honour.
If a contractor committed such breach, he would be excluded for it. According to the current wording of the Public Procurement Act, after 31 March 2022, Section 40(8) of the Public Procurement Act includes the option to exclude a Tenderer for such breaches, it is no longer an obligation.

Section 40(8)(b)

Contracting authority and Contracting entity **may at any time during the tender exclude** a Tenderer or Candidate if:

- b) he **committed, during three years preceding** the Notice or demonstrable start of the public procurement, **a serious violation of obligations in the area of environmental protection**, social law or labour law under special regulations,⁴⁷ for which a sanction was lawfully imposed on him, **provable by the Contracting authority and Contracting entity**,

- II. Use Section 36 of the Public Procurement Act, request environmental management certificate ISO14001 or EMAS certificate

Section 36

Environmental Management System

If the Contracting authority or Contracting entity request the submission of a certificate, issued by an independent institution, proving the compliance with the norms for environmental management system by the Tenderer or Candidate, they may refer to the European Union's scheme for environmental management and audit, or other environmental management system under special regulation⁴⁹ or other environmental management system based on applicable binding laws of the European Union or international norms, which is certified by an accredited certification body. Contracting authority and Contracting entity will recognise environmental management system certificate issued by the applicable body of a member state as equal. If the Tenderer or Candidate was objectively unable to obtain the applicable certificate within the specified deadlines, the Contracting authority and Contracting entity must accept also other proofs of measures taken in the area of environmental management submitted by the Tenderer or Candidate proving that the proposed measures are equal to the measures required as part of the given environmental management system or applicable environmental management norm.

- III. In technical specifications, if possible, request:

- in orders for goods – devices containing a certain percentage of recycled materials
- information how to handle the device after the end of its useful lifetime and possibilities of recycling
- where possible, tender the costs for the entire lifecycle
- supply of goods in recyclable packaging
- in services – educational and professional qualification of employees with experience in environmental matters
- in catalogue purchases, request labelling of green products – clearly separated from other products

- IV. Subcontractors and third parties are also to be put under the obligation to meet the environmental criteria in the contract

- According to the GTC, the Customer may withdraw from the contract if the Contractor got around or failed to observe ZSD's regulations or internal rules concerning environmental protection (Clause 15.4 of GTC),
- According to the GTC, the Contractor is obliged to put the subcontractor under all the contractual obligations which the Contractor has towards the Customer and to ensure that the subcontractor respects them (Clause 5.2 of GTC); contract templates also include a provision where the Contractor is liable for the subcontractor's performance in the same scope and same manner as if the Contractor carried it out himself.
- According to the contract templates, the Contractor agrees that all declarations under the contract are valid and relevant throughout the duration of the contract (e.g. also the declaration that he is the holder of an environmental management certificate).
- The subject of the contracts is the supply of goods, provision of services or creation of a work according to the specification (i.e. also in line with environmental requirements indicated in the specification).