



MATERIAL Nr: 110

TALKING TO EACH OTHER – AN INTRODUCTION TO
MARKET ENGAGEMENT FOR
SUSTAINABLE PUBLIC PROCUREMENT

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Preliminary Remarks on the English Version

This publication is an unauthorized translation of the German brochure MATERIAL Nr. 110 “Kommunikation mit dem Markt. Für eine nachhaltige öffentliche Beschaffung” of January 2022. It is provided for informational and reading purposes only.

Please note the following:

- All hyperlinks in this translation have not been updated and may not longer be accessible.
- In the publication, the German “Institute of Development and Sustainability” (IDOS) is still referred to by its former name, “German Development Institute” (GDI).
- Contents regarding the International Labour Organization’s (ILO) Fundamental Principles and Rights at Work refer to the status quo at the time of the original publication in January 2022. Thus, the principle on “Occupational Safety and Health” adopted in June 2022 as a fifth fundamental principle, is not yet mentioned here.
- This version is not professionally layouted. Therefore, the translated and reconstructed figures are only to be found in the annex. However, hyperlinks within the document allow jumping back and forth between the original position in the text and the graphic in the annex.
- Chapter 6 in this version is in the original version a specially layouted page and not a chapter. Because the layout could not be reproduced, it was made a chapter of its own.
- Persons involved in the publication may not any longer belong to the indicated institutions or may hold different positions within these institutions.

The English version at hand was translated in 2022 by Dr. John Cochran.

Our cooperation partner

This publication was produced in cooperation with the German Development Institute (GDI). Based in the UN City of Bonn, the GDI is one of the world's leading think tanks and research institutions on issues of global development and international cooperation. It is an interdisciplinary institute that combines research, consultancy and training. It forms an interface between theory and practice.

In cooperation with the Service Agency Communities in One World/Engagement Global, the GDI carried out two projects on sustainable public procurement from 2017 to 2021, both funded by Germany's Federal Ministry for Economic Cooperation and Development (BMZ). The first project was entitled 'Think Global - Act Local. Municipalities Promoting and Shaping Sustainable Value Creation', and was also known as MUPASS. This project explored pathways to successful sustainable public procurement in Germany, Europe, Africa and Latin America. It set out to identify patterns and enable mutual learning. The second project is 'Impulses for Socially Responsible Public Procurement of Municipalities in Global Value Chains'. This project focuses on specific tools for strengthening sustainability that are available to public procurement officers. In particular, it examines the potential of strategic market engagement, as well as purchasing pools and electronic procurement systems. It also explores the scope for verifying social criteria in global supply chains, and how this can be harnessed for sustainable municipal procurement. The focus was and is on the systematic processing of research findings, especially for municipal practitioners.

Tim Stoffel is a political scientist. He was a research assistant at the GDI, where he worked on sustainable public procurement. He advises practitioners and policy-makers at all levels on sustainable public procurement. His advice is based on scientific research, as well as his practical experience as an advisor to the former Competence Centre for Sustainable Procurement of the State Chancellery of North Rhine-Westphalia. Most recently, he led the project 'Impulses for Socially Responsible Public Procurement of Municipalities in Global Value Chains', and was involved in the research network 'Sustainable Global Supply Chains'.

Note on why we need this publication

The public sector is an important economic driver in Germany. According to a 2019 study on public procurement in Germany¹, it awards public contracts worth 500 billion euros annually. According to an estimate by the German Association of Towns and Municipalities, municipalities generally account for around 60 per cent of the total volume. Municipalities can use this market power of an estimated 300 billion euros to help improve working conditions and increase environmental protection along global value chains.

Fair and sustainable procurement is thus an important, effective lever for linking municipal purchasing practices with municipal strategies for development. Many municipalities have already launched corresponding change processes, implemented pilot projects and mainstreamed the topic at the local level. In practice, however, there are often major challenges to overcome. This is because there is not yet a developed market for all municipal needs that can meet the demand for certified eco-fair products. This makes it more difficult to formulate sustainability criteria and specify appropriate forms of verification. For many product groups, concerns about whether demand can be met by the market also make many procurement officers reluctant to include social responsibility criteria in tenders.

Things need not be that way. Instead, procurement can be used strategically to develop markets that can also provide a suitable supply in response to public demand. The leading municipalities here have shown that one of the crucial points for success is engagement with actors who are to produce and supply socially and environmentally sound products and services – i.e. retailers and brands, and where appropriate also their suppliers. This is uncharted territory for many municipal procurers, who have learned to communicate as little as possible with potential suppliers directly, in the interests of fair competition and to avoid excessive prices.

Our introduction to 'market engagement' was developed in cooperation with the German Development Institute as part of the project 'Impulses for Socially Responsible Public Procurement of Municipalities in Global Value Chains (ISOPP)'. It is intended to provide assistance to all those who wish to use public procurement as a tool for the environmental and social transformation of markets, and would like to know how they can reconcile their core task – meeting municipal needs – with this strategic objective. This introduction includes best practice examples from Germany (Cologne and Bremen, plus Dataport), Sweden (Region Stockholm) and Chile (ChileCompra). It uses these to show which tools for engagement can be used in which phases of procurement, and how, in order to pursue dialogue with the market so as to achieve both goals – meeting demand and transforming the market. Concise quotations from the interviews conducted, plus key points and clear graphics, help make this complex topic more manageable. Help yourself and pick out what is appropriate for your municipality.

¹ OECD (2019). Public Procurement in Germany: Strategic Dimensions for Well-being and Growth. OECD Public Governance Reviews.

1. Introduction – Engagement as a driver of sustainable public procurement

This publication on market engagement is the first to be produced together with the German Development Institute as part of the project 'Impulses for Socially Responsible Public Procurement of Municipalities in Global Value Chains'. To produce it, the author examined examples of successful engagement with the market on sustainability in public procurement. He also conducted interviews with people from all stakeholder groups involved in the procurement process. The publication identifies lessons learned and generates findings on the potential, functions and possible starting points for engagement in the procurement process. It then makes these available to practitioners, policy-makers and responsible administrators, so that they can be used in socially responsible public procurement. This is important, because there are at least **seven good reasons** not to miss the opportunity to enter into dialogue with market actors on procurement objectives and procedures.

Public institutions of various sizes are increasingly using the opportunities offered by market engagement to implement sustainable (i.e. environmentally sound and fair) public procurement. Dialogue with companies not only leads to a more effective implementation of sustainability criteria in procurement, but also has other positive effects. Communication during the various phases of the procurement process leads to learning effects among both the contracting authorities and the companies bidding for the public tenders. By aligning the often different levels of knowledge, contracting authorities gain a better overview of the market, which enables them to formulate requirements and criteria more precisely. On the supply side, companies gain a better understanding of what contracting authorities expect. Therefore, market engagement is also seen as an important part of the professionalisation and the strategic role of public procurement.²



Market engagement means establishing a dialogue between companies potentially bidding for public tenders and the contracting authorities. This often involves civil society organisations that possess expertise on sustainability issues in the respective sectors and product groups. Dialogue between public and private parties serves to develop a common understanding and to avoid misunderstandings that might lead to the failure of public procurement involving social or environmental criteria. It can also serve to improve the implementation of social criteria, and is an important driver for the further development of bidding companies and their suppliers, and thus the market, in terms of providing sustainable bids. In recent years, the importance of market engagement for the successful implementation of socially responsible public procurement has been increasingly emphasised.³ 'Successful' here means that the procurement both has a real impact on social and environmental conditions, while remaining attractive to the market so that sufficient bids are submitted.

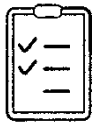
² Ibid., p. 202ff.

³ ICLEI – Local Governments for Sustainability (2021). 15 Frequently Asked Questions on Socially Responsible Public Procurement. Luxembourg. Available at: <https://ec.europa.eu/docsroom/documents/44504> (last accessed on 22/10/2021).



Especially in fair purchasing, which aims to support social responsibility along the entire supply chain of a product or in service delivery, mutual dialogue is helpful.

Socially responsible public procurement, especially the safeguarding of human and labour rights along global supply chains, can benefit from more dialogue with market actors such as retail companies, manufacturers and non-governmental or certification organisations. Particularly in the case of social criteria, there is often a major information deficit on both sides, partly because this strategic objective has received far less attention in the past than the fulfilment of environmental criteria.⁴ Here, therefore, it is partly a matter of developing the market in the first place, so that public demand is then also met by an appropriate supply.



Fair or socially responsible public procurement is usually based on the core labour standards of the International Labour Organisation (ILO). The four basic principles of freedom of association, the elimination of forced or compulsory labour, the abolition of child labour and the prohibition of discrimination are the minimum social criteria in relation to global supply chains in public procurement.⁵

In addition to these minimum standards, other requirements such as the payment of fair wages and occupational health and safety measures should also be included. Furthermore, it makes sense to apply fair trade criteria to agricultural products in particular. This guarantees farmers minimum prices for their products and enables investment in local social infrastructure such as schools.



Market engagement performs various roles that can contribute to the design and implementation of environmental and social criteria in public procurement. Where

supply and demand in public procurement do not directly match, there is a need for dialogue between potential contractors and contracting authorities, in order to identify compromises for current tenders and develop the market for future tenders through better understanding on both sides. Communication can provide greater transparency among retailers and manufacturers, raise standards for sustainable products, enable competition for more sustainable bids, highlight criteria that cannot currently be met, and point to future procurements or other public and private sector instruments. It also increases the effectiveness of sustainable procurement by avoiding failures, and identifies needed action in sustainable production.



For successful engagement that actually influences the market, the dialogue on sustainability in public procurement should be maintained throughout the entire procurement process, and also extend beyond individual tenders. Market engagement usually takes place during the phase before the actual tender.

However, the best practice examples, interviews and stakeholder discussions examined for this publication demonstrate that market engagement can play a role in the inclusion and fulfilment of sustainability criteria in all phases of the procurement process. The instruments of communication

⁴ Stoffel, T., Cravero, S., La Chimia, A. & Quinot, G. (2019). Multidimensionality of Sustainable Public Procurement (SPP)—Exploring Concepts and Effects in Sub-Saharan Africa and Europe. *Sustainability*, 11(22), 6352. Available at: <https://www.mdpi.com/2071-1050/11/22/6352> (last accessed on 22/10/2021).

⁵ International Labour Organisation (2021). ILO Core Labour Standards. Available at: <https://www.ilo.org/berlin/arbeits-und-standards/kernarbeitsnormen/lang--de/index.htm> (last accessed on 22/10/2021).

include market analysis, bidder questions, monitoring and incentivising bidding companies to develop so that social sustainability can be included in future tenders.



Worldwide, but also in Germany, there are already successful examples of market engagement for sustainable public procurement. Public purchasers in Germany can learn a lot from the leading municipalities in Europe and other regions of the world. In countries such as Sweden and the Netherlands, pilot projects on socially responsible public procurement have been ongoing for several years now, and almost always include market engagement. However, some German administrations have also gained experience with integrating social criteria into public procurement, and in using communicative procedures for socially responsible procurement, for instance when procuring IT hardware and textiles.

This first publication is based on discussions with municipal staff, company employees and non-governmental organisations that support both sides in sustainable procurement. Moreover, together with the Collaborating Centre for Sustainable Consumption and Production (CSCP) in Wuppertal, three stakeholder discussions were held with individuals from these three groups, in which participants jointly discussed market engagement in the context of socially responsible public procurement.⁶ The findings are supplemented by an extensive literature review, based in particular on reports and handouts on specific sustainable tenders that incorporated market engagement. By analysing these sources, the author obtained best practice examples, general principles and recommendations for action as well as concrete starting points for effective market engagement in the various phases of public procurement. A brief overview of these tools is provided in the following section. Section 2 presents the background, instruments and functions of market engagement for sustainable procurement. Section 3 presents German and international best practice examples of market engagement. In section 4, the various instruments for engagement are explained. Finally, section 5 contains an overview of recommendations on effective market engagement for sustainable public procurement.

2. Market engagement and sustainable public procurement

Public procurement is highly regulated, and in practice is often not really designed for market engagement. The standard in recent decades has been public procurement that is as price-sensitive and formalised as possible, with the aim of being both cost-effective and pro-competitive. The incorporation of strategic objectives such as sustainability and innovation was gradually made legally certain through reforms of public procurement law in the European Union (EU) in 2004 and 2014, and their translation into German law.⁷ With the challenges this entails in implementation, soft aspects such as communication have also been receiving increasing attention for some time. The capacities for this are increasingly being created as public procurement is further developed.

⁶ CSCP/DIE (2020). Kommunikation mit dem Markt für sozialverantwortliche nachhaltige öffentliche Beschaffung: Erkenntnisse aus drei Stakeholder-Gesprächen zu den Bereichen IT und Textilien. Available at: <https://www.scp-centre.org/publications/sustainable-public-procurement/> (last accessed on 22/10/2021).

⁷ Stoffel, T. (2020). Socially responsible public procurement (SRPP) in multi-level regulatory frameworks: assessment report on policy space for SRPP regulation and implementation in Germany and Kenya. Discussion Paper 9/2020. Bonn. Available at: <https://www.die-gdi.de/discussion-paper/article/socially-responsible-public-procurement-srpp-in-multi-level-regulatory-frameworks-assessment-report-on-policy-space-for-srpp-regulation-and-implementation-in-germany-and-kenya/> (last accessed on 22/10/2021).

Experience from procurement practice in Germany and worldwide shows that market engagement can help enable the successful incorporation of social and environmental criteria in public tenders. In cases of innovative procurement, or demanding criteria for the socially responsible manufacture of products, market engagement would even appear essential in order to achieve a common level of knowledge among contracting authorities and potential bidders. This can enable both the implementation of sustainability requirements in production, and the submission of adequate bids, thus supporting effective sustainable procurement. Engagement can thus help to develop the market for sustainable products.

2.1 The dilemma of supply and demand in sustainable public procurement

Sustainable public procurement, and in particular the purchase of products or services that take social responsibility in production into account, is a relatively new topic in German administrative practice. Although environmental criteria have been required in public tenders for some time, and although there are already a number of innovative and pilot projects for the integration of social criteria, both the public actors on the demand side and the companies on the supply side are on a journey of discovery. Within this process, public purchasers are looking for ways to achieve strategic objectives such as socially responsible purchasing without neglecting the other objectives of public procurement. Existing public sector needs must be met, and need to be so in a way that guarantees both value for money and competition. When implementing sustainability criteria and their verification options in public tenders, there is often a concern that either too few bids or none at all will be received, or that those which are received may be too expensive .

At the same time, there can be no sustainable public procurement without sustainable bids on the company side. This results in a dilemma: If there are no socially responsible products on the market that are suitable for public tenders (in terms of price, quantity and quality), then these cannot be demanded by public purchasers. This in turn means that there is no demand for the market to provide them.

However, it would be wrong to conclude from this that sustainable public procurement is at the mercy of the existing supply. In many cases, engagement with producer companies helps to develop the market towards a more sustainable supply. For this, sustainable public procurement must be seen as more of a process than a one-off purchasing decision. There are many cases where the buying power and shaping effect of the public sector is becoming visible, and a turning point is already evident in some sectors and product groups. Companies bidding for public contracts are increasingly trying to distinguish themselves from competitor companies through social or environmental aspects of production (as in the IT industry), and companies that have not previously bid for public contracts are beginning to take an interest in them (for example in the textile sector). These trends are also a result of market engagement by public purchasers. Mutual dialogue creates a better understanding of sustainability in procurement and production on both sides, which in turn leads to better tenders and bids (see Figure 1).



[Link to Figure 1: How market engagement works](#)

Market engagement can help to overcome the dilemma of supply and demand in sustainable public procurement. For this, public purchasers have a number of instruments at their disposal which they can use at the various stages of the procurement process.

2.2 Instruments for market engagement

In each phase of the procurement process and the actual award, there are tools for market engagement that can help facilitate sustainable public procurement. The procurement process goes beyond the phases of the actual tendering procedure. It begins in the pre-tender phase, and covers the tendering and award procedure itself, contract management and the period after the tender and even beyond the end of performance. Because after the tender is before the tender.

Pre-tender phase

Dialogue on social criteria for public procurement in the pre-tender phase (p.23 ff.) can help to (i) communicate sustainability criteria to companies, (ii) highlight their importance in the tendering and award process and (iii) obtain feedback from the market on feasibility and obstacles.

Pre-tender tools include ...

- ➔ interactive market analysis, and
- ➔ bidder dialogues.

Both go beyond market analysis as mere information gathering by the procuring entity. By providing the market with information on sustainability efforts and specific requirements for sustainable production, it is also possible to influence potential bidders well before actual contracts are awarded to them. This also gives companies the opportunity to adapt to the new requirements at an early stage. At the same time, the public sector gains an early impression of what the market can already offer. In this way, the specifications and ultimately also the bids can be adapted accordingly.

Tender phase

During the tender phase itself (p. 24 ff.), social criteria can also be explained and their importance conveyed. Common tools here include...

- ➔ answers to questions from bidders
- ➔ explanations of reasons for award decisions
- ➔ negotiated awards.

In case of bidders' questions and in the negotiated award procedure, the sustainability criteria for an award can be pointed out once again during an ongoing tendering procedure, and any need for clarification in this regard can be addressed. Bidding companies often underestimate the importance of sustainability criteria in public tenders, or even overlook such criteria. At the end of the award procedure, it is advisable to explain the reasons for the award decision. This can also underline the importance of social or environmental criteria. In this way, signals can be sent to the market and incentives can be set for more sustainable production.

Contract management phase

In contract management (p. 29 ff.), engagement with supplying companies can provide new insights into sustainability criteria for future tenders and improve the implementation of socially responsible and environmentally sound production. Key tools here are:

- monitoring, and
- review

During monitoring and verification of the contractual stipulations, as well as quality and terms of delivery, the implementation of and compliance with sustainability criteria at the supplier companies can also be included. There are also signs that here too, communicative procedures for implementing the required sustainability criteria, especially for social criteria along global supply chains, are more effective than limiting the process to monitoring and, where appropriate, imposing sanctions (see also the Dataport best practice example, p. 20 ff).

Post-tender phase

In the post-tender phase (p. 31 ff.), it is possible to make use of positive as well as negative lessons learned with social and environmental criteria, and with engagement, in sustainable public procurement itself. Possible tools include:

- development of supplier and bidder companies
- structural adaptation
- sector dialogues

Developing supplier companies and other potential companies bidding for public contracts is certainly also possible in public procurement. The point here is to remain in dialogue with the companies beyond the procurement process. Sector dialogues can also be used for this purpose. Here, the public sector's thinking on social and environmental criteria can be compared with developments on the market, independently of specific procurement procedures. Structural adaptation in public administration can strengthen this dialogue with the market.



[Link to Figure 2: Instruments for market engagement during the various phases of public procurement](#)

2.3 Functions of market engagement

Like any negotiation process, public procurement always involves an imbalance of information. To some extent, this is even deliberate. In traditional tenders, companies are not supposed to have any information about the maximum budget for a tender, as this can lead to distortions in pricing. However, so-called information asymmetries can stand in the way of implementing strategic goals through the procurement process. If the tendering body and the interested companies do not have sufficient information on which requirements are linked to particular sustainability criteria, and how these can be fulfilled, this can lead to a situation in which either no bids can be submitted for

a tender, or the bids that are submitted do not fulfil the required criteria. This in turn can result in the desired social sustainability not being achieved, or even in the tender failing altogether. These fears cause many contracting authorities to shy away from including social criteria in particular. This can result in insufficient demands being placed on the sustainability of the products to be procured, or none at all.

By sharing information on the instruments for engagement in public procurement, these asymmetries can be reduced, i.e. the available information on the sustainability aspects of the award can be made better known to all stakeholders. From the best practice examples compiled in section 3, and the lessons learned from interviews and stakeholder discussions, four functions of market engagement can be identified that help make public procurement more sustainable (see Figure 3).



[Link to Figure 3: Functions of market engagement for market development in sustainable public procurement](#)

Transparency function

By engaging on sustainability in public procurement, public institutions can make transparent the demands they wish to place on companies in terms of sustainability criteria. Conversely, companies can make transparent whether and how they can meet these criteria, and what scope already exists for incorporating sustainability into production. This transparency increases knowledge about social and environmental criteria, and ensures that each side has a better understanding of conditions on the other side. This makes it possible to award contracts that without communication would have failed.

Making sustainability criteria transparent, and thus creating greater publicity, means that more companies can be reached which offer products with these criteria. Companies that are particularly sustainable but do not normally bid for public tenders, such as small and medium-sized enterprises (SMEs), learn about the new criteria or are invited to bid directly by contracting authorities. In the case of the tender for organic fruit and vegetables by the City of Copenhagen, the large number of bids from SMEs was partly due to the division into individual lots, and partly due to the continuous dialogue between the municipal contracting authorities and these same local companies. Retailers thus also have the opportunity to adjust their product range. In addition to bidder dialogues (p. 26), there are other communication tools to encourage market actors to make their bids more sustainable: for example, pre-tender sector dialogues (p. 31) or post-tender supplier dialogues (p. 31).

Moreover, misunderstandings regarding the sustainability criteria can be avoided. These may lead to companies either not submitting bids even though they can meet the requirements, or submitting bids without addressing the required social or environmental criteria.

Transparency on the company side often goes hand-in-hand with improved reporting on sustainability issues. Through engagement with supplier companies and bidders, sustainability reports and the flow of information on current violations of occupational health and safety in global supply chains, as well as their remediation, have become more comprehensive and effective over time (see Dataport best practice example, p. 20 ff.). This also facilitates the comparison and monitoring of social and environmental criteria in production, and thus makes sustainable public procurement more effective.

Benchmark-raising function

The transparency created through market engagement with regard to sustainability criteria enables public purchasers to better assess the market for sustainable products. It becomes clear which criteria individual suppliers already fulfil and how they can verify this. On this basis, the sustainability requirements for the products to be procured can be adapted to the respective market situation.

Even if a large proportion of interested companies state that they are not (yet) able to meet certain criteria, market engagement often reveals that there are already companies that (can) incorporate certain sustainability criteria into the manufacture of their products. If it can be assumed that these companies can submit sufficient and adequate offers, it is possible to include the relevant criteria in the specifications or the implementing provisions of invitations to tender. This raises the standard for the entire market and creates a new benchmark. The requirements are thus continuously raised and a new competitive environment is gradually created, which tends to be oriented towards more sustainable companies. In the best practice example of the Region Stockholm (p. 16 ff.), this was the case for both supply chain disclosure and measures to prevent the use of conflict raw materials. As a result of the market engagement, the contracting authority was able to assess which criteria and verification options could already be offered by a sufficient number of companies. In this way, it was possible to raise the standard of the tender accordingly. In the long term, this means that deeper sustainability criteria and verification of the same can gradually be incorporated into invitations to tender, without running the risk of not receiving any bids. This also creates competition for more sustainable production conditions on the market (→ competitive function).

Market engagement also often raises the demands on the sustainability of products by giving the public sector fresh impetus for incorporating sustainability criteria. Bidder dialogues as part of the Make ICT Fair campaign have, for example, led to the City of Hagen including aspects of circular economy in the tender that were not originally planned. Dialogue procedures can also provide fresh impetus for including sustainability criteria in the course of monitoring after, or sector dialogues before, the actual tendering and award procedures.

Competitive function

One of the central goals of sustainable public procurement is to incentivise competition in order to generate more sustainable bids. When social and environmental criteria are incorporated into tenders, companies no longer compete just to submit the cheapest and best quality bid. They also

compete to submit the most sustainable one. Engaging with market actors often forms the basis for successfully changing competition for public tenders.

Ideally, market engagement will lead to an adaptation of the sustainability criteria to the market. In doing so, it can help tighten up the criteria (→ benchmark-raising function) if more sustainable products can already be offered. Should the dialogue show that for certain products no appropriate bids are to be expected if sustainability criteria are integrated directly into the specifications or the bid implementation provisions, competition for sustainable bids can nevertheless be generated by integrating them into the award criteria. By shifting the social and environmental criteria into the evaluation, non-sustainable or less sustainable bids can also be awarded the contract, but there is no risk of not receiving a bid. Companies are thus incentivised to develop more sustainable products, or to adjust or monitor their supply chains. They can then score points in the evaluation, which can set them apart from the competition. In this way, the market can be developed in the medium to long term with a view to generating more sustainable bids to the public sector.

To decide how high the rating of the sustainability criteria should be, and which criteria are best suited as award criteria for the respective product, contracting authorities need a good overview of the market. Communication tools help to decide whether sustainability is best placed in the award criteria, and how it can be successfully integrated there.

Referencing function

Even for tenders in which the integration of sustainability criteria is not promising because no bids are expected, market engagement nevertheless performs an important function in the medium and long term. The information elicited by communication instruments on a lack of sustainable bids or on structural problems in the fulfilment of verification requirements enables these criteria to reference future tenders or other policy instruments outside of public procurement.

Through engagement processes before, during and after tendering, compromises can be reached which, if the efforts are continued, can be used in the long term to raise the benchmark in tendering (as in the best practice examples of Dataport, p. 20 ff. and Bremen, p. 21 ff.). However, it also becomes clear what the market cannot deliver right now. This is brought to the attention of the public and political decision-makers through communication in the context of public procurement. It signals to the industry and the public that there are potential social or environmental hotspots in the supply chain that need to be addressed. This can be done, for example, through industry initiatives or through legislation (as in the Region Stockholm best practice example, p. 16).

3. Best practice examples: Successful market engagement on sustainability criteria in public tenders

To understand how market engagement works and what effects this dialogue can have, this section presents five case examples from Sweden, Germany and Chile. The examples each contain

references to the functions of market engagement (see section 2.3, p. 12 ff.) and also to which communication instruments were used (see section 4, p. 23 ff.).



3.1 Best practice example Sweden: Procurement of IT products by Region Stockholm

Region Stockholm is a Swedish county government with 23 municipalities. It is responsible for healthcare, public transport, culture and sports, amongst other things. It is part of a network of Swedish regions that have joined forces to implement sustainable and, in particular, socially responsible public procurement. In this context, Region Stockholm has taken on the task of developing criteria for fair procurement of IT hardware.

As early as 2011, Region Stockholm carried out a tender for computers, servers and printers that incorporated the ILO core labour standards. As a verification method, a questionnaire for monitoring progress was developed in cooperation with *WEED e.V.*, which was supplemented by an audit of one of the suppliers' factories. From this, an online-based tool was developed which, in addition to monitoring, also has the function of supporting contractors in understanding the required sustainability criteria.⁸

Bidder dialogue for nine IT tenders

In the course of a total of nine tenders in 2019 for various IT products, the regional administration supplemented the procedure with bidder dialogues (see Bidder dialogues, p. 26 ff.), individual discussions with interested companies before the award and a post-award workshop (see Developing suppliers and bidders, p. 31 ff.). Both brands and retailers were deliberately invited to attend. While both procurement officers and companies in Germany often express scepticism about bidder dialogues in IT hardware tenders, stating that potential bidders do not want to disclose too much information, in the case of the Region Stockholm bidder dialogues, the companies interviewed welcomed these dialogue platforms. Amongst other things, they saw this as a tool to improve sustainability criteria.

Employees of the regional administration reported that the company employees were quite reluctant to provide detailed information in the bidder dialogue. However, the blend of different engagement formats brought the desired success.

The companies and the regional administration emphasised that it was also in the individual discussions that many of the open questions which had arisen during the bidder dialogue could be clarified. Region Stockholm region thus gained an overview of what scope the various manufacturers have to implement stronger social criteria along the supply chain, or whether they are willing to implement them in the future (→ transparency function).

⁸ Evermann, A. (2016). Praxisbeispiele: Sozial verantwortliche IT-Beschaffung. Available at: <https://www.weed-online.org/themen/beschaffung/8725660.html> (last accessed on 22/10/2021), p. 21-26.

Engagement processes enable better use of criteria

In the dialogue, for example, criteria can be identified that have no concrete effect as award criteria or that preclude a successful tender as performance criteria. The bidder dialogue in Region Stockholm showed that no brand was able to guarantee completely conflict-free raw materials. This performance criterion was therefore not included in the tender. Ensuring fair working conditions and freedom from conflict in the extraction of raw materials for IT production thus did not appear to be feasible through sustainable procurement alone. This means that corporate initiatives or state regulation must first create a basis on the supply side on which sustainable award procedures can then build on the demand side (→ referencing function).

An award criterion that would have added points to the evaluation in the case of company audits of mines was also dropped. Instead, internal company measures for the best possible containment of conflict minerals were made a mandatory criterion, as some companies are already taking measures in line with the OECD's Due Diligence Guidance for Responsible Business Conduct.⁹ One criterion that some, but not all, companies can meet has been made the new standard (→ benchmark-raising function).

Overall, companies have been made aware of the conflict minerals issue and they can identify this as a potential future competitive differentiator (→ competitive function).

'It is helpful to collect different statements to see what is possible and where the market stands. If no one can meet a criterion, you may have to take it out. But if half the providers can meet a criterion, that's a good way to move the market.'

Region Stockholm employee

Region Stockholm Region continued to engage after the contract was awarded

The administration organised a post-award workshop with all bidders to gather feedback on the whole process. In the course of the contract monitoring (see section 4.3, Monitoring), the regional administration also made efforts to establish an engagement procedure. For example, retailers were interviewed about their compliance with the social criteria and additional information was requested, which was also passed on to the brand companies where necessary and then answered by them. A visit to suppliers by Electronics Watch together with the brand company was also planned, which had to be postponed due to the COVID-19 pandemic. Winners and losers of the tender were thus involved beyond the contract award (see Developing suppliers and bidders, p. 31 ff.), and the importance of the sustainability criteria for the contracting authority was underlined.

Beyond the specific dialogue project in Region Stockholm, employees of branded IT companies report an increase in engagement regarding awards involving sustainability criteria in Sweden. They welcome this, as in the past there were ambiguities and tender criteria were formulated in such a way that they could not be formally fulfilled, even though companies were in principle able to do so. It also became clear in the dialogue that the time periods in which information on the

⁹ OECD (2018). OECD Due Diligence Guidance for Responsible Business Conduct. Available at: [OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf](#) (last accessed on 22/10/2021).

supply chain and sub-suppliers had to be provided were too short for many companies. By extending the deadlines by a few weeks, companies were able to provide better information (→ transparency function).



3.2 Best practice example Germany: Procurement of safety shoes and toys by the City of Cologne

In the past, the City of Cologne has used bidder dialogues (see Bidder dialogues, p. 26 ff.) as an engagement tool for tenders that incorporate social criteria such as the ILO core labour standards. Two bidder dialogues, one on work and safety shoes in 2017¹⁰ and one on toys in 2018¹¹, had each been conducted with the support of non-governmental organisations. The successful pilot bidder dialogue on footwear inspired the city's procurement department to adopt this tool for the procurement of toys as well. The city uses engagement in procurement procedures only when the effort is justified and when both sides benefit. For example, the procurement office did not wish to pursue a dialogue on fair footballs because the criteria were clear and there was a sufficient supply.

Bidder dialogues for market analysis on sustainability

The City of Cologne organised the bidder dialogues primarily to find out to what extent sustainability criteria for the various products can be integrated into the invitation to tender, and to make companies more aware of the issue. This is particularly worthwhile where the market is not yet so well developed in terms of sustainability and where there is little or no experience of other municipalities. This applies both to safety shoes (Bremen also saw the need to conduct a sector dialogue on this) and to socially responsibly produced toys.

'It was important for us to raise awareness among the bidders, even though we had no specific expectations that they would submit particularly sustainable bids.'
Employee of the City of Cologne on the bidder dialogue on toys

While the bidder dialogue on safety footwear had been planned as a large event with a mixed group of retail companies and brands, a smaller dialogue format was chosen for the tender for toys. While the large dialogue offered plenty of time for information sharing, the smaller dialogue left more time for concrete questions from bidders. In the latter, a common understanding of sustainability criteria first had to be developed and the supply chain discussed, whereas in the footwear product group the focus was already on the many different options for implementation and verification.

¹⁰ Femnet e.V. (2017). Bieterdialog zur Ausschreibung für Arbeits- und Sicherheitsschuhe im Amt für Landschaftspflege und Grünflächen der Stadt Köln: FEMNET - Frauen in der Bekleidungsindustrie. Available at: <https://femnet.de/index.php/themen/faire-oeffentliche-beschaffung/aktuelle-berichte/792-16-05-2017-bieterdialog-zur-ausschreibung-fuer-arbeits-und-sicherheitsschuhe-im-amt-fuer-landschaftspflege-und-gruenflaechen-der-stadt-koeln> (last accessed on 22/10/2021).

¹¹ Laudwein, A., Lepke, C., Feldmann, M. & Wimberger, C. (2019). *Spielzeug sozial verantwortlich beschaffen*. Available at: <https://www.ci-romero.de/produkt/brosch-spielzeug-beschaffen-stadt-koeln/> (last accessed on 22/10/2021).

In both tenders, questionnaires were drawn up which were included as part of the criteria for award of the contract. The questionnaires were adapted on the basis of the bidder dialogue in each case in order to do justice to the possibilities of the market and to incentivise companies to set themselves apart from the competition by paying particular attention to, and monitoring, social sustainability criteria (→ competitive function).

However, the bids then also lacked questionnaire responses from companies which had given the impression during the bidder dialogue that they could meet all the criteria. This could be due to a lack of internal communication at the companies, which was suspected by various interviewees, or a lack of willingness on the part of the bidders to take the trouble to complete the questionnaires in order to obtain additional points in the evaluation. This was a risk that was deliberately taken when toys were put out to tender. The main objective was in the first instance to enter into a dialogue on this subject with potential suppliers for this product group.¹² The fact that these first steps were necessary is also shown by the fact that the companies frequently referred to data protection and company secrets when it came to transparency with regard to suppliers. This had not been a problem in the dialogue on footwear, but is very reminiscent of the challenges in the IT sector. However, bidders were willing to provide information in the tender documents if data privacy could be granted. In the future, based on this exchange, it will probably be possible to request certain information on a mandatory basis, and thus gradually increase the demand for social sustainability and proof thereof in toy purchases by the City of Cologne (→ benchmark-raising function).

Time and personnel are needed to apply communication tools

Without the additional item for sustainable procurement financed from BMZ funds through the Service Agency Communities in One World, the contracting authority in Cologne would, however, according to its own information, not have been able to conduct bidder dialogues due to the time and organisational effort involved. In both cases, support was also sought from non-governmental organisations, both in organising and conducting the bidder dialogues, and in preparing questionnaires and specifications with regard to social criteria. These NGOs have also kept up dialogue with potential bidders since the award (see also *Developing suppliers and bidders*, p. 31 ff.). Following the award for toys, for instance, *Christliche Initiative Romero e.V.* maintained contact with bidders and published a guide. After the dialogue on shoes, *Südwind e.V.* supported the companies in order to maintain the dialogue. In the future, the city will identify further products that form part of its overall requirement and for which it can require specific sustainability criteria.



3.3 Best practice example Germany: Procurement of IT products by Dataport

Dataport is a public-law institution and the central procurement agency for IT products for the federal states of Bremen, Schleswig-Holstein and Mecklenburg-Western Pomerania, amongst others. Furthermore, other public clients also make use of the framework agreements put out to tender by Dataport. The institution equips more than 100,000 workplaces with IT hardware. Since 2004, Dataport has integrated environmental and social

¹² Ibid., p. 19.

criteria into its tenders. In a 2012 tender, for the first time bidders were required to submit a plan on compliance with social criteria in the production of the IT hardware to be procured. This procedure was refined over time, and also applied to the current tender for a framework agreement to be awarded in 2022.

Communication tools have been integrated into the current call for proposals

First of all, the tender was organised as a negotiated procedure (see p. 28). Secondly, communication continued after the award (p. 31 ff.) in the form of supplier workshops. The negotiated procedure made it possible to enter into a dialogue with the bidding companies about the social criteria in relation to their supply chains. It is possible to discuss and negotiate which measures will be implemented if the contract is awarded and what effort the companies are willing to invest in this.¹³ *WEED e.V.* also emphasises in its project documentation that communication could thus also have an effect on the companies that were not awarded a contract. Based on the experience gained – pre-tender negotiations with the bidding companies and post-tender workshops with the contracted supplier– the procedure and the sustainability criteria were adjusted. After only generic sustainability reports had been submitted in 2012, a call for tenders was carried out together with *WEED e.V.* in 2014. Guiding questions were developed on which the plan had to be based, e.g. relating to disclosure of the supply chain. In doing so, Dataport and *WEED e.V.* incorporated findings from past tenders and market analyses which showed that some providers were already able to meet this requirement. In the subsequent tenders, the submitted plans became better and better.

The dialogue does not end with the award of the contract. There is a workshop with suppliers and their brand companies at least every six months on implementation of the agreed social criteria, which includes access to audit reports. The information shared there is subject to confidentiality agreements. During the workshops, the requirements and guiding questions are discussed and the companies are regularly asked how they are working towards compliance with the ILO standards required in the specifications. Supplying companies also take the opportunity to report on sustainability aspects that go beyond contractual performance, as they too have had to address the issue and examine 'what is feasible now and in the future, both in-house and for their suppliers/manufacturers'¹⁴.

Transparency will be greater after the contract has been awarded than before it was awarded

While interested companies often do not want to make binding commitments during the negotiation process, they are transparent and even proactive in the workshops when it comes to exposing and addressing social and labour grievances in production. Continuing the dialogue thus adds value in terms of social sustainability, enables the contracting authority to better understand implementation and signals to the companies that the issue is taken seriously.



3.4 Best practice example Germany: Bremen's engagement strategy

The Free Hanseatic City of Bremen has bundled a large part of its procurement. *Immobilien Bremen AöR* is responsible for central purchasing, and conducts public

¹³ Evermann, A. (2016). Praxisbeispiele: Sozial verantwortliche IT-Beschaffung. Available at: <https://www.weed-online.org/themen/beschaffung/8725660.html%20S.%2021-26> (last accessed on 22/10/2021), p. 12.

¹⁴ Ibid.

procurement procedures. The Competence Centre for Socially Responsible Public Procurement was also set up there (see also Structural adaptation, p. 32 ff.).

Towards sustainable public procurement through step-by-step dialogue

Having started with pilot tenders for high-visibility vests, it is now standard practice for Bremen to issue invitations to tender for a range of products that incorporate the ILO core labour standards and other social and environmental requirements. The municipality pursues a three-stage engagement strategy on sustainability criteria. To ensure the introduction and implementation of sustainability criteria, a sequence of bidder dialogue, user workshop and bidder workshop is applied to every new product group and every major tender. Most recently, it was applied to the procurement of toys, sports equipment and advertising materials, and is to be extended to other products and product groups. Furthermore, discussions are always held with individual interested companies in all product groups to see how sustainable these are.

Bidder dialogues and workshops enable administrators and companies to learn from each other

Efforts focus on raising entrepreneurs' awareness of social issues in the production of the tendered goods. To this end, non-governmental organisations are often invited to provide expertise on hotspots in global supply chains and on existing standards and verification procedures. The administration gains further market knowledge through the participation of companies, and the companies see where other potential bidders stand in the competition for sustainability.

'When companies learn that others are already further ahead in terms of sustainability criteria, they think they have to adapt in order to keep up.'

Administrative employee of Immobilien Bremen

In bidder workshops, the specifications and lot allocation of the specific tender are discussed with the potential bidders. Individual products that are not yet available on the market with the required sustainability criteria are outsourced in separate lots, so that different sustainability criteria or different means of verification can be requested for different products. In these lots, bidders are required to complete pre-prepared questionnaires or develop plans that are then evaluated. Products for which there is already a sustainable supply can be tendered in their lots according to sustainability criteria already offered by the market. Dividing a tender into different lots strengthens fair products where they already exist, while in the other lots an incentive is created to stand out from the competition through sustainability criteria (→ competitive function).

Positive experience despite mixed reactions on the market

Many brands have not yet stepped up their efforts to obtain further certification of the sustainability criteria of their products, but have mostly used alternative means of verification such as questionnaires. At the same time, it has been observed that retail companies are increasingly including sustainable products in their product range in order to improve their chances in tenders. In some cases, however, the public sector's price expectations for certain products are lower than what retail companies say they would have to spend on products with minimum social standards. Market engagement enables realistic assessments and feedback with the contracting authority in order to find long-term solutions. The regularly organised bidder dialogues on tenders for textiles

from the Free Hanseatic City of Bremen are in each case upstream of specific awards, but are also part of bidder development (see Developing suppliers and bidders, p. 31 ff.). The companies appreciate the opportunity to present themselves and the changes in their product ranges or production methods, and through continuity Bremen sends a lasting signal to the market.

Using communication tools to address new procurement challenges

One topic that Immobilien Bremen has been increasingly dealing with recently is circular economy. In market engagement on various product groups, this topic is often placed on the agenda. When it became clear during a bidder dialogue on gloves and single-use gloves in March 2020 that manufacturers did not yet have any experience in this regard, no such criterion was incorporated into the tender. At the industry dialogue organised together with *Südwind* in 2019, the 'Manufacturers' Congress on Footwear'¹⁵ (work and safety footwear), it became apparent that at least some manufacturers were already able to present plans for a circular economy. In future tenders, a plan should therefore be mentioned as desirable and, where appropriate, included in the award criteria.



3.5 Best practice example Chile: ChileCompra engages with the market

Public consultations prior to the tendering of framework agreements or other relevant tenders have been the norm in Chile for years. ChileCompra, the country's central procurement agency, uses these formats to advertise the tenders, and thus increase companies' access to and participation in them. The consultations elicit information on the bidders' existing terms and their assessments, also with respect to the sustainability aspects of procurement.

Public consultations for more sustainability in procurement

In 2020, ChileCompra launched a consultation process in which market actors were asked for suggestions on the development of a 'printing-as-a-service' concept, taking environmental aspects into account.¹⁶ This enables the contracting authority to ascertain the market potential for more environmentally sound printing services, and extend its knowledge on this topic.

ChileCompra also organises an annual bidders' fair¹⁷ to reach out to companies that are underrepresented in the public procurement market and to obtain feedback from the business community on public procurement (see Sector dialogues, p. 31 ff.). The aim of these engagement processes is thus not only to pursue dialogue on the criteria and processes of public tendering, but also to win over companies for public procurement that would otherwise tend to be left out. This can involve smaller companies or companies run by certain social groups, as well as companies with a firm orientation towards sustainability (see Developing suppliers and bidders, p. 31 ff.).

¹⁵ Südwind-Institut für Ökonomie und Ökumene (2019). Bericht zum Herstellerkongress Schuhe „So wird ein Schuh draus - Faire Schuhe für Kommunen“ am 19. Februar 2019 in Bremen. Available at: <https://www.suedwind-institut.de/files/Suedwind/Publikationen/2019/Bericht%20Herstellerkongress%20Sicherheitsschuhe.pdf>, (last accessed on 22/10/2021).

¹⁶ ChileCompra (2020). Participa de la consulta pública para las Bases Tipo para el servicio de arriendo de impresoras. Available at: <https://www.chilecompra.cl/2020/12/participa-de-la-consulta-publica-para-las-bases-tipo-para-el-servicio-de-arriendo-de-impresoras/>, (last accessed on 22/10/2021).

¹⁷ See *Expo Mercado Público 2021*. Available at: <http://www.expomercadopublico.cl/s/>, (last accessed on 22/10/2021).

4. How to systematically integrate market engagement into public procurement – a synthesis

One common example of engagement with market actors is bidder dialogues. Pre-tender, public purchasers organise these formal procedures to enable an exchange of information. In addition, there are other instruments in the various phases of the procurement process through which engagement with the various stakeholders in public procurement can be initiated or strengthened. In many of the best practice examples given, different instruments are combined across several phases of the procurement process, so as to enable a sustained exchange with interested companies and suppliers.

During the pre-tender phase, engagement through market analysis or a larger dialogue process involving bidder dialogues can draw the attention of potential bidders to the sustainability objectives of public procurement, and reduce information asymmetry between companies and the buyer. This can make sustainability criteria in tenders more realistic and effective.

During the tender phase itself, answering bidders' questions and justifying award decisions ensure transparency and greater awareness of the sustainability aspects of a tender. This can help companies to better understand the requirements and to better assess the importance of the (new) criteria when competing for public contracts. In the case of negotiated awards, the options can be discussed directly with the companies interested in the tender, especially in the case of products that present greater challenges regarding the implementation and verification of social or even environmental requirements during production.

During contract management, communication can also support better implementation of sustainability requirements in production. A real dialogue during contract monitoring and verification of social and environmental criteria among existing suppliers increases the importance attached to these criteria by the companies.

During the post-tender phase, the knowledge gained from the engagement with bidders and suppliers can be used to make adjustments to future engagement processes and sustainable tenders. Developing companies with a view to more sustainable bids is a continuous process. An important part of this is also sector or industry dialogues, in which obstacles and trends in more sustainable production in different product groups are discussed, and public purchasers communicate their demands. Both inviting bids with sustainability criteria and market engagement require changes in procurement practice. More transparent communication will help to achieve strategic goals such as sustainable procurement.

The graphic below (Fig. 4) provides an overview of the various communication instruments in the respective phase of the procurement process, and indicates which of the four functions of market engagement they mainly serve. The most important instruments are presented in the following section.



[Link to Figure 4: Forms of engagement in public procurement and their primary functions \(transparency, benchmark-raising, competitive and referencing function\)](#)

4.1 Engagement during the pre-tender phase

Market analysis

Market reconnaissance serves to gather information about the supply market and helps to choose the right criteria, especially with respect to more demanding products and the integration of strategic goals. Assessing what companies already offer or can potentially offer in terms of environmental and social criteria is the basis for deciding which criteria to include in the tender and how to verify them. In the case of less sustainable market offerings, it is necessary to identify more general criteria and, if necessary, innovative solutions.

Market analysis by public clients is often understood as a one-way communicative process. In many cases, information on suppliers and products is collected only passively. However, the stipulation on market research in Section 28 of the German Ordinance on the Award of Public Contracts (VgV) already makes it clear that it can also serve to inform companies about the 'procurement plans and requirements'.¹⁸

Engaging with companies pre-tender enables contracting authorities to discuss aspects that companies do not describe or communicate proactively, and in doing so to avoid misunderstandings. This applies, for example, to social requirements for the production of goods. At the same time, this sends a signal to the market at an early stage that sustainability issues will play a role in the award of contracts. Companies with a focus on sustainability thus become aware of the upcoming tenders and existing suppliers can adjust to the new requirements. Bidders often have problems collecting information on the supply chain and evidence of sustainability criteria in a short period of time, in order either to attach them to their bids, or to forward them to contracting authorities, for example after the award. Here it is helpful when designing the specifications and in the procurement process in general to give companies enough time to provide the desired information and evidence. To this end, a few weeks should certainly be added to the deadline for submitting bids.

Market analysis in the narrower and in the broader sense

While market analysis in the sense of § 28 VgV is usually linked to a specific invitation to tender, there are other options for early and permanent market engagement. These include visiting trade fairs, conducting consultation processes (as in the example of ChileCompra, p. 22 ff.) or deliberately reversing the flow of information. Contracting authorities can actively communicate their future procurement plans and the associated requirements, such as social and environmental criteria, to the market through various channels and instruments. For this purpose, they have traditional instruments at their disposal, such as notices (e.g. Prior Information Notice, PIN) and

¹⁸ § 28 Vergabeverordnung (VgV), Artikel 1 V. v. 12.04.2016 BGBl. I S. 624; last amended by Artikel 4 G. v. 12.11.2020 BGBl. I S. 2392. Available at: <https://dejure.org/gesetze/VgV/28.html> (last accessed on 22/10/2021).

the publication of forward procurement plans.¹⁹ In some cases, this is also implemented through (online) events; in the Netherlands or the Czech Republic, these are held regularly. In Germany, this practice is often applied at federal and state level, but local government entities often lack the resources to do so. For smaller contracting authorities, it may therefore be worthwhile to engage the market on sustainability criteria in the course of joint procurement processes or even simply through a joint declaration of intent.

The Joint Statement of Demand for Circular, Fair Smartphones issued by the cities of Malmö, Oslo, Helsinki and Copenhagen is a current example of an announcement of future procurement with a clear focus on socially sound production conditions.²⁰ Here, the cities are signalling to the market that from 2025 they will only procure smartphones that meet high human and labour rights standards in manufacturing and raw material extraction, and take into account circularity. The aim is to obtain value-for-money bids for a total of more than 25,000 smartphones per year by demanding jointly developed social criteria, even if no joint award is planned.



Advantages of market analysis

...for contracting authorities:

- Requirements and their probable environmental and social impacts are planned at an early stage.
- The various stakeholders within the public authority can then share information.

...for interested companies:

- Purchasing or production can be aligned with the sustainability criteria of public tenders.
- There is sufficient time to gather information and evidence along global supply chains.

Bidder dialogues

Bidder dialogues are formal meetings between the various stakeholders in public procurement during the pre-tender phase. They give the procurer an opportunity to communicate to the market its expectations regarding price, quality and product features, as well as sustainability issues for the award. Procurers can also obtain information on the status quo of the market for a specific product or product group, and identify possible obstacles. In such dialogues, joint solutions for integrating sustainability criteria can be developed that take into account the expectations of contracting authorities and the capacities of interested companies. Bidder dialogues are often organised in the context of complex tenders, such as the procurement of innovative solutions or procurements that incorporate social and environmental criteria. In German pilot tenders for the socially responsible procurement of textiles and IT hardware, bidder dialogues have been

¹⁹ Watt, J. (2018). Market Engagement: Best Practice Report. Available online at: https://spregions.eu/fileadmin/user_upload/Resources/Market_Engagement_Best_Practice_Report.pdf (accessed on 22/10/2021), p. 7.

²⁰ Procura+ (2021). Joint Statements: Circular, fair smartphones - joint statement of demand. Available at: <https://procuraplus.org/jointstatements/> (last accessed on 22/10/2021).

organised in many cases. As well as interested companies, civil society or certification organisations are often brought in to provide information on social and environmental hotspots in supply chains, and ways to address them. The objective is usually to raise stakeholder awareness of the sustainability aspects of the tender. As a separate part of the market analysis, bidder dialogues also enable interested companies to prepare for fulfilment of sustainability criteria at an early stage.²¹

Bidder dialogues affect all functions of market engagement

By discussing envisaged social and environmental requirements along global supply chains, and requirements that have already been implemented, contracting authorities can gain a picture of the status quo. At the same time, potential bidders can gain a better understanding of the procurer's requirements (→ transparency function). Translating this information into the tender often leads to an adjustment of the specifications and the criteria for awarding the contract. For example, it becomes clear which criteria can already be met by a sufficient number of potential bidders. These can be integrated into the performance specification as a new standard (→ benchmark-raising function). Incentives can be set for the market by including criteria that have not yet been (sufficiently) offered and verified, without running the risk of receiving insufficient bids, or none at all. If it becomes clear in the dialogue that the market cannot yet satisfactorily fulfil certain criteria, including these criteria in the evaluation scheme signals to the market that bidders can use them to set themselves apart from competitors (→ competitive function). However, bidder dialogues also reveal the limits of the market. If certain requirements for sustainability criteria cannot be met by the market, leaving them out helps make tenders more successful. The relevant social or even environmental challenges must then be addressed in the future, or through other political instruments that go beyond the scope of public procurement (→ referencing function).

Since bidder dialogues often entail a certain amount of effort for all parties involved, they are more worthwhile for larger tenders. It can also be helpful to supplement bidder dialogues with one-on-one talks, as in the case of the individual tenders of Region Stockholm (see best practice example Stockholm, p. 16 ff.), or to go straight for a negotiated award, as in the best practice example of Dataport (p. 20 ff.).

An open dialogue on sensitive details of the supply chain cannot be expected in all sectors, but an understanding can be reached on what exactly is meant by social criteria when included in tenders, and how these can be successfully implemented and verified. In this way, solutions can be found that are feasible for as many bidding companies as possible, and at the same time meet the requirements and capabilities of the contracting authorities.

Allowing and especially inviting questions from bidders by surface mail, email, online or in person in the pre-tender phase – i.e. after announcement of the tender but before the call for tenders – can in certain cases replace the somewhat more elaborate bidder dialogues. Step-by-step

²¹ Holdik, M. (2018). Öffentliche Beschaffung von IT-Hardware in Baden-Württemberg: Stand und Potenziale für die Berücksichtigung sozialer Kriterien. Heidelberg. Available online at: <https://www.woek.de/publikationen/detail/studie-oeffentliche-beschaffung-von-it-hardware-in-baden-wuerttemberg/> (last accessed on 22/10/2021), p. 22.

instructions on planning and conducting bidder dialogues can also be found in the English-language guide of the Make-ICT-Fair campaign.²²



Advantages of bidder dialogues

...for contracting authorities:

- dialogue shows which demands regarding sustainability criteria can actually be met by the market

...for interested companies:

- allows companies to prepare for the fulfilment of sustainability criteria at an early stage
- enables the formulation of more precise bids

4.2 Engagement during the tender phase

Bidders' questions

In ongoing tendering procedures, bidding companies have an opportunity to ask questions. In most cases, the answers to these questions need to be made public so that all parties have access to the same information. This can also be used to communicate sustainability criteria (once again) to all interested companies. This makes it clear how important social and environmental criteria are in the respective award. It also brings to light what uncertainties and problems exist among potential bidders. In contrast to bidder dialogues, the invitation to tender cannot be changed as a result. In this often highly formalised communication process, however, appropriate responses can help bidding companies to prepare a bid that takes account of the required sustainability criteria.

Contracting authorities do not have to wait for incoming questions, but can also proactively take the opportunity to explain and highlight specific aspects of the tender. For its tender for organic food, the City of Copenhagen organised an information day for the potential supplying companies ten days after publication of the tender. The aim was to illustrate the tender criteria. Officials believe that this motivated many smaller companies to bid and contributed to an overall increase in the number of bids.²³

Explaining the award decision

Even after the end of the tendering procedure, the importance of sustainability criteria for the award of the contract can be emphasised once again by explaining the reasons for the award decision. This gives unsuccessful bidders the opportunity to learn from the procedure and to better understand the importance of sustainability in the specifications or in the evaluation of bids. Contracting authorities are often reluctant to explain the award decision for fear of leaving

²² ICLEI (2021). How to engage the market – a step by step guide for dialogue events. Available at: https://procuraplus.org/fileadmin/user_upload/Interest_Group/Make-ICT-Fair-step-by-step-guide-events-PAGES.pdf (last accessed on 22/10/2021).

²³ Procura + (2017). Supplying seasonal and diverse organic fruit and vegetables: Procura+ award winning tender. Available at: <https://sustainable-procurement.org/resource-centre/?c=search&uid=66acc0c4> (last accessed on 22/10/2021).

themselves vulnerable. However, underlining the importance of social and environmental criteria for a successful bid can be a strong signal to the market.

Bidding companies in the tenders mentioned in the Region Stockholm example were grateful for the follow-up workshop held on the total of nine IT awards in 2019. They were grateful because this gave them an opportunity to provide feedback and thus continue communication beyond the procurement process. Region Stockholm used the workshop to once again inform all stakeholders about the importance of sustainability standards for the award decision, and to gather ideas for future tenders.

Negotiated procedures

Negotiated procedures are possible both the below and above the thresholds. A distinction is drawn between negotiated procedures without competitive bidding, and negotiated procedures with it. In both cases, the possibility of communication with potential bidders is an integral part of the tendering procedure. Here, the focus is entirely on communication between contracting authorities and the respective bidding company. Negotiations, often primarily on technical specifications and price, can be extended to include sustainability criteria. In this way, tailor-made solutions can also be developed that meet both the interests of the procuring entity and the capacities of the interested companies, as in the case of Dataport (see the best practice example of Dataport, p. 20 ff.).



Advantages of engagement during the tendering process

...for contracting authorities:

- Proactive questions from bidders help shed light on the bidding criteria and potentially expand the pool of bidding firms.
- Bidders' questions and explanation of the award decision send a strong signal to the market about the importance of sustainability criteria.
- A negotiated procedure allows closer dialogue with bidding companies, also with regard to sustainability criteria.

...for interested companies:

- Questions from bidders can help companies to integrate sustainability criteria in line with the tender when preparing their bids.
- Explaining the award decision allows companies to learn from the process and gain a better understanding of sustainability criteria.

4.3 Engagement during contract management – monitoring and verification

Engagement can also be helpful or even necessary for the implementation and verification of award criteria during contract management. At this stage it can also facilitate the implementation of sustainability requirements. Monitoring and verification of contract performance should be an integral part of public procurement. However, criteria that are not directly reflected in the quality of the product, such as human and labour rights requirements in production, may require dialogue between contracting authorities and supplier companies after the contract has been awarded.

Even the unilateral demand for, and verification of, certificates or other proof of compliance with agreed criteria, helps to convey the importance of these criteria to supplier companies and to ensure that they are ultimately complied with. However, experience from various tenders in which particular emphasis was placed on communication between contractors and contracting authorities demonstrates further advantages. Especially when evidence is required that goes beyond existing quality labels, and in targeted measures, a communicative process for monitoring implementation is almost essential.

In the public procurement of IT hardware, procuring entities in Europe (including Germany) occasionally initiate dialogue on sustainability criteria as part of the monitoring process. The focus here is primarily on working conditions along global supply chains. This is a new development in public procurement, and is welcomed by employees of major IT brands. The lessons learned in the case example of Dataport show that engaging with the contracted retailers and their suppliers improves their understanding and implementation of sustainability criteria. In the course of this dialogue, which took place within the contractual period and across different contracts, the contracting entities were able to observe how sustainability reports were improved, and how supplier companies communicated openly and proactively about problems in complying with ILO core labour standards in production facilities. Dataport therefore agreed regular workshops on the implementation of social criteria and the inspection of audit reports, which are then discussed with the contractors.

A similar approach is taken by Electronics Watch, an independent monitoring organisation that works with manufacturers to help contracting authorities monitor global supply chains. The discussions on technical details of implementation that also take place in conventional tenders are supplemented by exchanges on sustainability. In this context, the direct dialogue also makes it possible to experience the positive effects of requiring sustainability criteria. For example, following an exchange with suppliers, Electronics Watch succeeded in ensuring that hiring fees unlawfully charged to employees were paid back by contractors.²⁴

In the case of larger tenders over a longer contractual period, for example in the case of framework agreements, the purchasing power and the long-term contractual relationship of the public sector can also be used to leverage more sustainable production by communicating expectations to retail and brand companies. Here it is easier than with one-off purchasing to use the special relationship with the contractor to talk specifically about implementing sustainability standards.

All these examples also clearly show once again that the main benefit of monitoring and verification is not to hold bidding companies accountable for violations and to impose contractual penalties or even bar them from further public tenders (which would be entirely possible). Instead, the focus is on engagement with the bidding company. Monitoring by Dataport or Electronics Watch aims to uncover grievances and to persuade the supplier companies to rectify them. Furthermore, mutual dialogue during contract management provides an opportunity to learn

²⁴ Electronics Watch (2020). Cal-Comp: A Lesson in the Importance of Worker-Driven Monitoring to End Forced Labour in Global Supply Chains. Available at: https://electronicswatch.org/en/monitoring-reports_2542963 (last accessed on 22/10/2021).

lessons on what works, and where there are problems in the implementation of sustainability requirements. This in turn can benefit future tenders and contractual relationships.



Advantages of monitoring and verification

...for contracting authorities:

- Engaging with suppliers improves their understanding and implementation of sustainability criteria.
- Mutual dialogue during contract management shows what works and where there are problems in the implementation of sustainability requirements.

...for interested companies:

- improves the implementation of sustainability criteria, which in turn delivers benefits for future public tenders with social or environmental specifications.

4.4 Engagement during the post-tender phase

Developing suppliers and bidders

Developing companies that bid for public contracts means using the lessons learned after a procurement process to enable interested companies to participate successfully in future tenders. In public procurement, there is often no time to develop companies. Furthermore, many contracting authorities shy away from the topic, fearing that it could undermine neutrality in future tenders. However, as long as all interested companies are given the same opportunities and have access to the same information, this recognised practice is possible in the public sector. The experiences and discussions with companies described in this introductory publication suggest that existing supplier companies and interested companies need and welcome support and dialogue, in order to meet the requirements of contracting authorities for social and environmental sustainability in their supply chains.

The Region Stockholm workshops mentioned in the best practice example (p. 16 ff.) are also an example of the development of bidding companies. In its ongoing tenders for organic food, the City of Copenhagen has also placed a strong emphasis on communicating the tender and the criteria to as broad a range of companies as possible, including new groups of companies such as smaller organic food producers in and around Copenhagen.²⁵

By continuously providing information on previous and planned procurement procedures, smaller municipalities can also increase the willingness and capacity of companies to participate in public tenders that include demanding social and environmental criteria. Targeting small and medium-sized enterprises (SMEs) from their own region that have not yet explicitly focused on sustainable

²⁵ Procura + (2017). Supplying seasonal and diverse organic fruit and vegetables: Procura+ award winning tender. Available at: <https://sustainable-procurement.org/resource-centre/?c=search&uid=66acc0c4> (last accessed on 22/10/2021).

production or participated in public tenders, thus combines the sustainable procurement strategy with the promotion of SMEs and the participation of local companies in public tenders.

Sector dialogues

Unlike bidder dialogues, sector dialogues, often also referred to as industry dialogues, do not relate to specific procurement procedures. Instead, they offer an opportunity for dialogue between the public procurement stakeholder groups on specific products or entire product groups, independently of any specific requirement. The need for this often arises from lessons learned with tenders in which sustainability criteria could not be met to the satisfaction of the contracting authorities. One such case was the sector dialogue on safety shoes organised by the Free Hanseatic City of Bremen (see the best practice example of Bremen, p. 21 ff.). Berlin organised a sector dialogue on socially responsibly produced footballs.²⁶ Through such dialogue platforms, contracting authorities can communicate the importance of sustainability to the market. At the same time, current trends at retail and brand companies, and their capacities, can be taken into account as sustainability criteria are incorporated into future tenders. Such platforms were also praised by employees of larger brand manufacturers of IT hardware, as they offer an opportunity for both sides to share information on what they want, what is feasible, and new trends

Similar to bidder dialogues, such events are often organised by contracting authorities as half-day or full-day meetings. In Germany, however, there are also a number of sector dialogues hosted by non-governmental organisations, such as the Specialist Conference on Socially Responsible IT Procurement organised by the Schleswig-Holstein One World Alliance. Trade fairs can also fall under this category. In Chile, such fairs are even organised by the state (see the best practice example of Chile, p. 22 ff.).

Municipal employees emphasise that sector dialogues also provide a platform for communication between contracting authorities. Participants communicate and discuss best practice examples for sustainable procurement. This enables procurers that are not yet well acquainted with the market to benefit from the experiences and engagement processes of other institutions.

²⁶ Jansen, H. (2018). Minutes of the *Bieterdialog zur sozial-verantwortlichen Beschaffung von Fußballen* [Bidder dialogue on socially responsibly produced footballs – German only] on 18/09/2018 at the Town Hall in the Berlin district of Neukölln. Available at: <https://sporthandeltfair.com/wp-content/uploads/2020/04/sozial-verantwortliche-beschaffung-fussbaelle.pdf> (last accessed on 22/10/2021).

Box: Market engagement at a glance

With the expansion of technical possibilities and the increasing acceptance of online event platforms and communication options, instruments that were previously based primarily on physical meetings can also be modified. The use of videoconferencing and other specialised online tools, some of which are also integrated into electronic procurement systems, often makes it easier to achieve dialogue between procurers, contractors and other stakeholders than do face-to-face meetings. Market analysis, full bidder dialogues, bidders' questions, explanations of award decisions, and monitoring and development of bidder companies can be organised online, and enable transparency without entailing additional reporting or publication work.

For example, online procedures for collecting information and enquiries from companies, or digital bidder dialogues before the specifications are drawn up, provide an opportunity for purely digital exchange. On the other hand, in the opinion of many local authority and company employees, it is easier to talk about sustainability criteria on an equal footing, and to build trust, at face-to-face events. Online exchanges held on a regular basis can, however, compensate for the advantages of in-person events – such as communication on an equal footing and mutual trust-building. However, dispensing entirely with face-to-face events is more suitable for product groups for which many questions on both sides regarding sustainability criteria in tendering and production have already been clarified, and the parties involved have gained some experience with each other.

Structural adaptation

Engagement processes are time- and resource-intensive. Strengthening procurement processes through market engagement often means first of all creating the necessary resources and processes within public administrations. In the stakeholder discussions for this introductory publication, low resource levels and decentralised structures were identified as barriers to successful engagement.²⁷

*'Building knowledge and expertise is worthwhile in order to achieve concrete results and create verifiable criteria. Furthermore, in the long term this also prevents dependency on support for the process provided by civil society organisations or external consultants.'*²⁸

Leading municipalities in sustainable public procurement, such as Stockholm, Malmö or the Free Hanseatic City of Bremen, have in the past established offices for the implementation of socially responsible public procurement. An important part of their task is to engage with the market, in order to successfully carry out demanding procurement processes and further develop the social criteria included in them. Region Stockholm and other contracting authorities in Sweden have in

²⁷ Brauer et. al. (2020). Kommunikation mit dem Markt für sozialverantwortliche nachhaltige öffentliche Beschaffung. Deutsches Institut für Entwicklungspolitik (DIE), Collaborating Centre on Sustainable Consumption and Production (CCSC) (eds.). Available at: https://www.scp-centre.org/wp-content/uploads/2021/03/Sustainable_Public_Procurement-2.pdf (last accessed on 22/10/2021), p. 8.

²⁸ Ibid., p. 5.

recent years set themselves the goal of strengthening social criteria in global supply chains. To this end they have intensified dialogue with potential bidders. The tenders for IT hardware described in the best practice example (p. 16) are also the result of structural adaptation. In the Swedish Association of Local Authorities and Regions, individual members were selected to adopt specific aspects of more sustainable procurement. Region Stockholm, which is working on socially responsible IT procurement, invested the necessary human and financial resources in pilot projects such as the nine tenders described in 2019. The prerequisite for the multi-stage procedure in Bremen (see best practice example, p. 21 ff.) is the established offices for the implementation of sustainable procurement plus a longer lead time for the tender of approximately eighteen months.

Efforts to professionalise procurement and move from purchasing to strategic procurement are an important building block for more sustainable public procurement.²⁹ Taking public procurement beyond purchasing management means recognising that it can contribute to achieving strategic goals, that it needs to be properly resourced, and that staff need to have appropriate expertise and training. While the professionalisation of procurement is conceivable without the inclusion of social and environmental criteria, often things are the other way round (i.e. the professionalisation of procurement leverages and enables implementation of the criteria in the first place).

As well as providing procuring entities with human and financial resources, there are other ways in which public procurement can be structurally adapted for implementing sustainable procurement and engaging with the market:

- Change the way procurement processes are planned. Early planning and announcement enables contracting authorities to conduct comprehensive market analysis (see p. 24), and companies to prepare for sustainable tenders.
- Improve internal communication. Practical experience shows that despite successful dialogue before and during the tendering procedure, invitations to tender and bids do not take sufficient account of the sustainability criteria discussed. According to participants in the stakeholder discussions, this is partly due to inadequate internal communication within local authorities and bidding companies.³⁰
- Establish working groups on implementing sustainable procurement within the administration that bring together the consumers and the purchasers. This is the first step in enabling targeted market engagement.
- Harmonise sustainability criteria of different contracting authorities. Communication between different contracting authorities, also across national borders, not only helps administrations to learn from the experience of others, but also helps companies. Similar specifications in different tenders make it easier to meet sustainability criteria, especially in markets with few large manufacturers. The need for communication processes can thus even be reduced overall. One interesting current example is the joint statement of demand

²⁹ Beck, S., & Schuster, F. (2013). Kommunale Beschaffung im Umbruch: Große deutsche Kommunen auf dem Weg zu einem nachhaltigen Einkauf? Available at: https://publicgovernance.de/media/Studie_Kommunale_Beschaffung_im_Umbruch.pdf (last accessed on 22/10/2021).

³⁰ Brauer et. al. (2020). Kommunikation mit dem Markt für sozialverantwortliche nachhaltige öffentliche Beschaffung. DIE/CSCP (eds.). Available at: https://www.scp-centre.org/wp-content/uploads/2021/03/Sustainable_Public_Procurement-2.pdf (last accessed on 22/10/2021), p. 8.

for socially responsibly manufactured smartphones, issued by Nordic municipalities as part of the Make ICT Fair Campaign.³¹



Advantages of structural adaptation for more engagement

...for contracting authorities:

- Bidder development is based on lessons learned in the procurement of specific products, which enable potential bidders to participate successfully in future tenders.
- Dialogue between stakeholder groups in sector dialogues, independently of any specific requirement, facilitates communication and helps to better assess the market in terms of sustainability criteria. It also conveys the importance of these criteria for public purchasers.

...for interested companies:

- The continuous supply of information on previous and planned procurement procedures makes it easier for local companies to participate in public tenders that include demanding social and environmental criteria.
- Current trends at retail and brand companies, and the capacities of those companies, can be taken into account as sustainability criteria are incorporated into future tenders.

5. Practical insights and tips for market engagement



What can you achieve by engaging with the market?

- It enables you to find a common language.
 - In many cases, only a problem of understanding stands in the way of the successful implementation of sustainability criteria in public procurement, which companies are in principle able to fulfil.
- It creates opportunities for adapting and improving sustainability criteria.
 - This is the case, for example, when sustainability criteria are moved from the specifications to the award criteria, or when alternative means of verification are developed together with the market.
- By discussing, announcing and mainstreaming sustainability criteria, you send clear signals to the market about the current or future importance of social or environmental criteria.
 - This can be achieved e.g. through sector dialogues.
 - Bidder dialogues also have a signalling effect, and possibly perform a role model function beyond specific invitations to tender.
- Engagement can help bring about convergence with sustainability criteria.
 - Resistance from companies, or the de facto unattainability of social or environmental criteria that are worded in absolute and often abstract terms, often make sustainable

³¹ Procura+ (2021). Joint Statements: Circular, fair smartphones – joint statement of demand. Available at: <https://procuraplus.org/jointstatements/>. (last accessed on 22/10/2021).

public procurement seem impossible. Through engagement processes before, during and after tendering, compromises can be reached which, if the efforts are continued, can be used in the long term to raise the benchmark in tendering. This is reflected in almost all the best practice examples.

- No matter how much the criteria are adapted as a result of engagement – ultimately, it is the public purchasers who determine which criteria are required and how these are to be demonstrated and verified. However, if both sides communicate honestly with each other, the process can be simplified so that successful tenders can be carried out. This will gradually influence the market such that it raises its standards, and implements these more consistently.



What to remember when engaging with the market:

- Engagement is not the end of the story – it needs to be combined with other measures.
 - Insights from the dialogue must also be reflected in public tenders. Feasible sustainability criteria must actually be required and be significantly reflected in the evaluation, in order to reward committed bidders and thus actually incentivise the market.
- Market engagement need not be organised and implemented individually by each procuring entity.
 - Region Stockholm shares with other regions the tasks of advancing certain topics in sustainable procurement (see best practice example of Stockholm, p. 16 ff.).
 - It may even be advantageous to adopt criteria and verification procedures or even entire procurement procedures from other procuring entities. First of all, this saves time and effort. Secondly, it is often a challenge for companies if different (sustainability) requirements apply to the same product in different tenders and procurement markets. For example, representatives of IT brands complained that social requirements are defined and demanded in different ways by different contracting authorities, such as the City of London, the Catalonia region or Region Stockholm.
- If sustainable public procurement and market engagement are to succeed, the appropriate structures must also be created.
 - By optimising and digitising its engagement processes for procurement, the contracting authority can speed up the tendering process and facilitate verification once the contract has been awarded. Consequently, this too benefits sustainable public procurement.
 - Many best practice examples of sustainable public procurement have created internal capacities to meet the specific requirements of sustainable procurement and market engagement.
 - For many contracting authorities that have used more elaborate communication tools, such as bidder and sector dialogues, external support from government advisory bodies and non-governmental organisations has been essential. These also provide information and training on processes and criteria for sustainable public procurement. In Germany, public procurers can work together with non-governmental organisations in a cost-neutral way through government-funded projects. One of the contact points for this is Engagement Global with its Service Agency Communities in One World.

These support administrations in developing criteria and engaging with the market on sustainable procurement.

- Ideally, engagement does not come to an end once the contract has been awarded.
 - It is helpful for companies to know what happens to their comments and inputs. Transparency, and a continuation of the dialogue beyond one-off events such as bidder dialogues, makes it seem more worthwhile for company employees to participate in such platforms.
- Engagement should be a continuous process.
 - Successful market engagement that helps bring about long-term change should go beyond one-off exchanges. Bidder dialogues are often the first point of contact. Even more important than such processes, which are often one-off, is the ongoing willingness to communicate with market players throughout the entire procurement process, and between individual tenders.
- Engagement takes time.
 - Both developing and fulfilling social criteria in public procurement, as well as the needed or helpful additional communication in this regard, require more time. Contracting authorities and contractors alike should take this into account during planning and implementation (see Market analysis, p. 24, ff.).
- Engagement on sustainability criteria concerns all stakeholders.
 - The dialogue should go beyond contracting authorities and sales staff. Consumers within the administration and supply chain managers in companies should be included in the exchange. Bidding companies should move away from a 'purely "sales first" perspective'³².
 - Consumers and staff can be involved by raising their awareness of sustainability criteria, thus strengthening sustainable purchasing and production.
- Electronic procurement systems can also contribute to and to some extent leverage market engagement.
 - Established systems from countries that have been practising e-procurement for a long time (such as in Latin America) often include communication channels such as standardised forms for requesting information from companies, or even more elaborate tools that enable companies and citizens to participate. Furthermore, open data approaches to e-procurement can make public procurement more transparent and effective, possibly also with respect to sustainability.
- Purchasing pools and joint invitations to tender also make market engagement more effective.
 - Since joint invitations to tender often generate larger contracts and may involve a few large communication processes rather than many small ones, they have major potential to strengthen sustainable public procurement. One way they achieve this is by harmonising sustainability criteria, for instance. This is also possible without joint purchasing, as shown by the joint statement of demand by Nordic municipalities for socially responsibly produced smartphones as part of the Make ICT Fair Campaign³³.

³² Brauer et. al. (2020). Kommunikation mit dem Markt für sozialverantwortliche nachhaltige öffentliche Beschaffung. DIE/CSCP (eds.). Available at: https://www.scp-centre.org/wp-content/uploads/2021/03/Sustainable_Public_Procurement-2.pdf (last accessed on 22/10/2021), p. 10.

³³ Procura +. (2021). Joint Statements: Circular, fair smartphones - joint statement of demand. Available at: <https://procuraplus.org/jointstatements/> (last accessed on 22/10/2021).

- The networking of municipalities can also lead to savings in resources and the acquisition of information through the pooling of experience.³⁴

³⁴ Brauer et. al. (2020). Kommunikation mit dem Markt für sozialverantwortliche nachhaltige öffentliche Beschaffung. DIE/CSCP (eds.). Available at: https://www.scp-centre.org/wp-content/uploads/2021/03/Sustainable_Public_Procurement-2.pdf (last accessed on 22/10/2021), p. 5.

6. Key points for market engagement on sustainability

I. **Engaging with the market can help to develop the market.**

In public procurement, market engagement can play a role in shifting the market towards more sustainable production. It can provide greater transparency for retailing and manufacturing companies. It can also help public purchasers decide which social and environmental criteria they can demand as a new standard, and which they would have to set as new incentives in the competition for more sustainability. Mutual dialogue also brings to light those cases where certain criteria cannot be met by the market. This increases the effectiveness of sustainable procurement by avoiding failures, and identifies needed action in sustainable production.

II. **Market engagement can be achieved using many instruments, and performs various functions.**

Mutual dialogue between public purchasers and potential bidders ensures greater transparency, both in terms of the criteria required and in terms of what the market is able to offer. As these information asymmetries are reduced, new requirements for the sustainability of products and services can be established on the market, thus boosting competition for more sustainable production conditions. In the process, it also becomes clear which social or environmental aspects need to be addressed in future tenders, or through other policy or private sector instruments.

III. **Market engagement must be worthwhile for both public purchasers and companies.**

More complex instruments for communicating sustainability issues and other topics in public tenders, such as bidder dialogues, are often more worthwhile for larger tenders and can be better managed by large administrations. The communicative effort must also be worthwhile for the companies involved. It is important to assess the market correctly in order to select the appropriate tools for engagement.

IV. **Market engagement is closely linked to the product or product group.**

The less established that compliance with social criteria, and verification thereof, is for certain products, the more helpful it is for contractors and contracting authorities to engage in dialogue on these issues. Furthermore, different markets require different forms and intensities of communication. Small and local companies benefit from many smaller communication processes involving several contracting authorities. For a limited number of large companies, more intensive engagement by a few larger contracting authorities is the better path.

V. **Lessons learned and knowledge gained from market engagement can also be adopted by others.**

Although market engagement is in most cases a great learning experience for contracting authorities, they need not learn all lessons from their own experiences. They can also use lessons learned from other purchasers' sector and bidder dialogues to adapt their own procurement criteria and procedures. It is therefore particularly worthwhile for larger public bodies to organise sector or bidder dialogues whose results can also benefit smaller entities.

VI. **As well as market engagement, internal communication within public administrations as well as in companies bidding for public tenders also plays a crucial role.**

Practical experience shows that despite successful dialogue before and during the tendering procedure, invitations to tender and bids do not take sufficient account of the sustainability criteria discussed. This is partly due to inadequate internal communication within administrations and bidding companies.

7. Annex

7.1 Publications in cooperation with the German Development Institute (GDI)

Müngersdorff, Maximilian / Stoffel, Tim (2020) Pathways for integrating socially responsible public procurement in municipalities, GDI Briefing Paper 13/2020, Bonn: Deutsches Institut für Entwicklungspolitik (DIE).

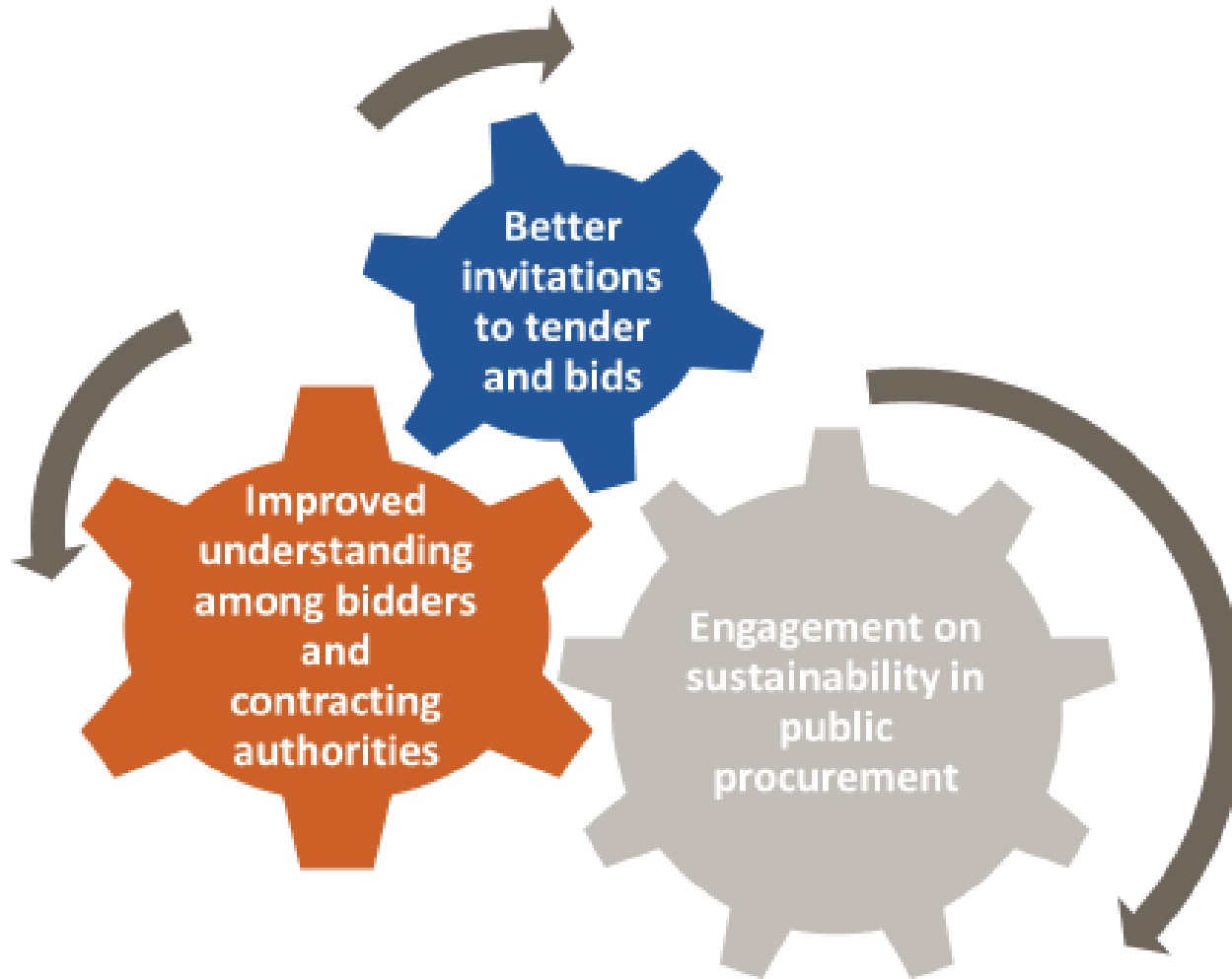
Müngersdorff, Maximilian / Stoffel, Tim (2020) Wege zur erfolgreichen Integration sozialverantwortlicher öffentlicher Beschaffung in Kommunen, DIE Analysen und Stellungnahmen 9/2020, Bonn: Deutsches Institut für Entwicklungspolitik (DIE).

Stoffel, Tim (2020) Socially responsible public procurement (SRPP) in multi-level regulatory frameworks: assessment report on policy space for SRPP regulation and implementation in Germany and Kenya, GDI Discussion Paper 9/2020, Bonn: Deutsches Institut für Entwicklungspolitik (DIE).

Müngersdorff, Maximilian / Stoffel, Tim (2020) Strategies to strengthen socially responsible public procurement practices in German Municipalities: a mapping exercise, GDI Discussion Paper 8/2020, Bonn: Deutsches Institut für Entwicklungspolitik (DIE).

Stoffel, Tim / Carol Cravero / Annamaria La Chimia / Geo Quinot (2019) Multidimensionality of Sustainable Public Procurement (SPP): Exploring concepts and effects in sub-Saharan Africa and Europe, in: Sustainability 11 (22).

Figure 1: How market engagement works



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Figure 2: Instruments for market engagement during the various phases of public procurement

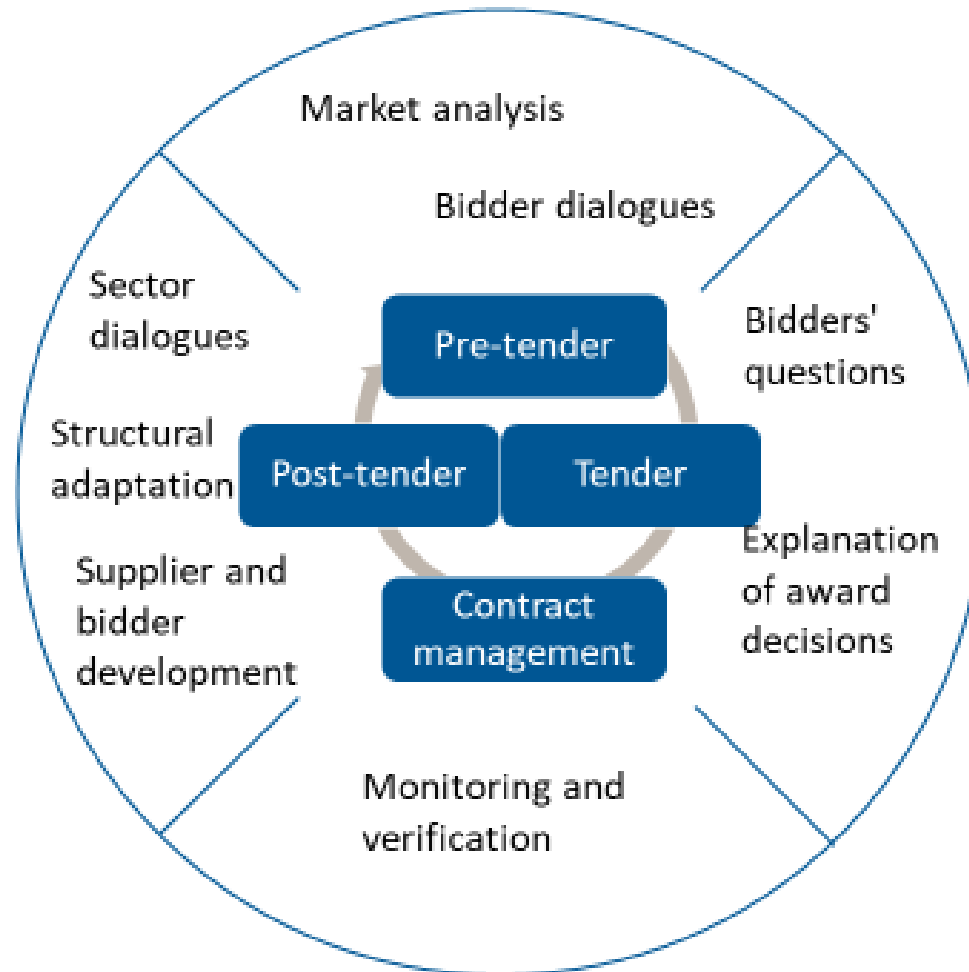


Figure 3: Functions of market engagement for market development in sustainable public procurement

Transparency function

- Transparency of expectations and scope for fulfilling sustainability criteria

Benchmark-raising function

- Raising expectations of sustainability, depending on the market situation

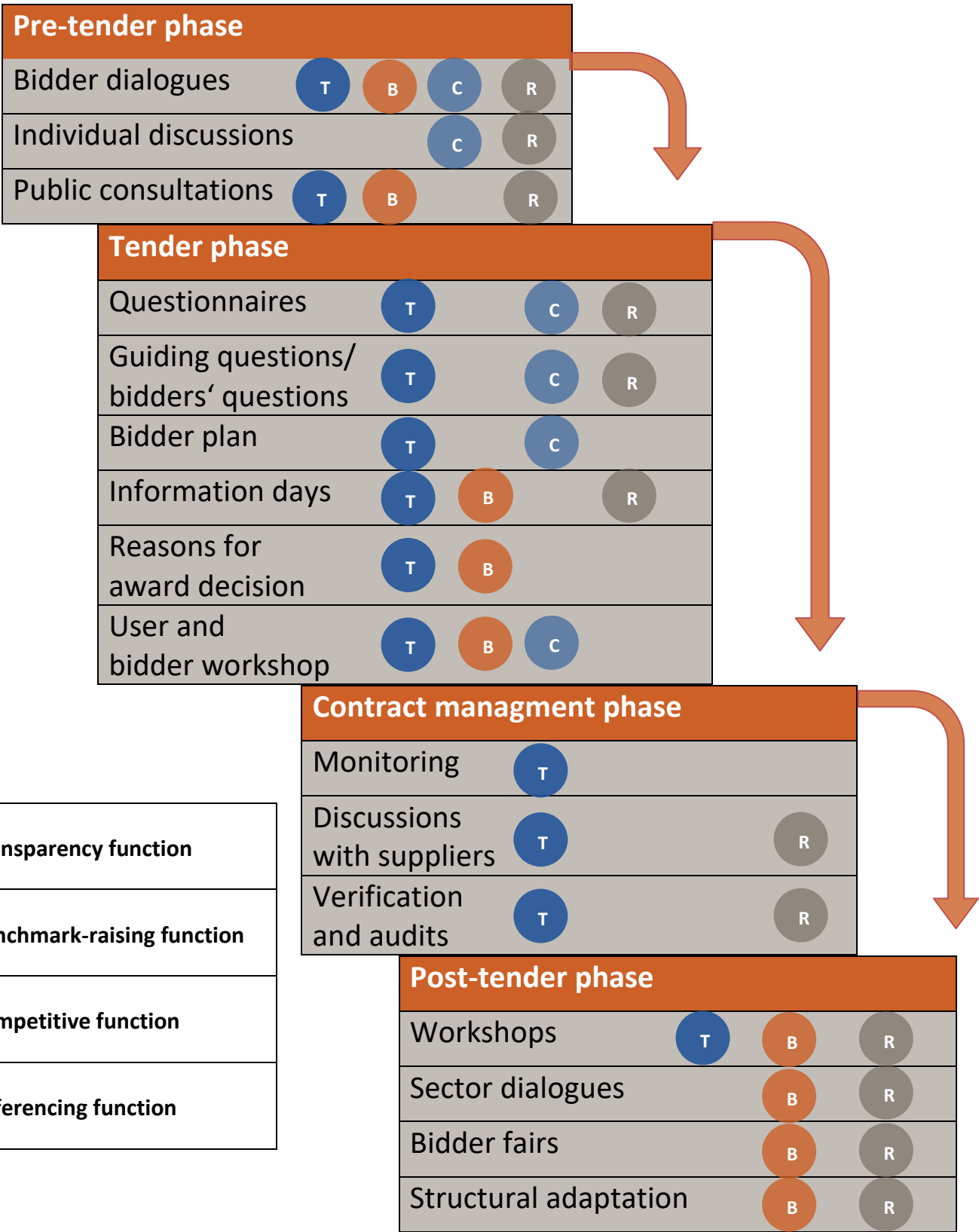
Competitive function

- Initiation of competition for greater sustainability

Referencing function

- Reference to future tenders
- Reference to other instruments beyond procurement

Figure 4: Forms of engagement in public procurement and their primary functions (transparency, benchmark-raising, competitive and referencing function).



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Source: author's own graphic.