



Sustainable Public Procurement in Poland



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"We do not inherit the Earth
from our Ancestors we borrow
it from our Children"

ancient proverb

Public Procurement Law

Current legal provisions: The PPL of 2019 entered into force on January 1., 2021

- ❖ it entails various possibilities of inclusion of environmental and social aspects in procurement procedure
- ❖ it duplicates in general the possibilities of inclusion of green and social aspects in the procurement procedure introduced to the PPL of 2004 (as amended) with only some modifications.



Public Procurement Law

Analysis of needs of the contracting authority

NEW

Description of the subject-matter of contract

Reserved contracts

Qualitative selection criteria / Exclusion grounds

Qualitative selection criteria / Technical or professional ability

Contract award criteria

Contract performance requirements





Public Procurement Law

Analysis of needs of the contracting authority

NEW

- ❖ applies to classical procurement of a value equal to or above the EU thresholds
- ❖ carried out before the commencement of a procurement procedure
- ❖ includes in particular:
 - ❖ examination of possibilities of meeting identified needs with the use of own resources;
 - ❖ market intelligence in terms of alternative means of meeting identified needs;
 - ❖ possibility of considering environmental, social or innovative aspects of procurement





Public Procurement Law

- ❖ Use of environmental aspects is **voluntary**
- ❖ Use of social aspects is **mostly voluntary** (2 obligations):

Description of the subject-matter of contract

Contract performance requirements





Public Procurement Law

Description of the subject-matter of contract

OBLIGATORY SOCIAL ASPECT

- ❖ in case of procurement intended for use by natural persons, including staff of the CA,
- ❖ **accessibility requirements for persons with disabilities and design for all users** shall be taken into account (unless this is not justified by the nature of the subject-matter of the contract)





Public Procurement Law

Contract performance requirements

OBLIGATORY SOCIAL ASPECT

- ❖ contract performance requirements related to employment by the economic operator or subcontractor **under an employment contract** of persons performing activities within the contract performance if the performance of these activities involves the performance of the work in a manner specified under the Act - Labour Code
- ❖ to be specified in the contract notice or procurement documents
- ❖ apply to contracts for works or services
- ❖ additional obligations on the part of CA





Public Procurement Law

Contract performance requirements

- ❖ CA shall specify in the procurement documents in particular:
- ❖ the **type of activities** for the performance of a contract which are subject to employment requirements on the basis of the employment contract;
- ❖ the **verification method** of the employment of those persons;
- ❖ the **powers to control** the fulfillment by the economic operator of the employment requirements of those persons and to **impose penalties** for non-compliance with those requirements.





Public Procurement Law

Contract performance requirements

- ❖ For the purpose of verification of the **employment under an employment contract**, the contract shall provide for the possibility for the CA to require in particular:
- ❖ a statement of the employee employed,
- ❖ a statement of the economic operator or subcontractor on the employment of an employee under an employment contract,
- ❖ a certified true copy of the employment contract of the employed employee,
- ❖ other documents
- ❖ — containing information, including personal data, necessary for the verification of employment under an employment contract, in particular the **name and surname of the employee** employed, **the date of conclusion of the employment contract**, the **type of employment contract** and the **scope of the employee's duties**.





SPP Statistics

GREEN AND INNOVATIVE

- ❖ In 2020, **1,544** awarded contracts included environmental and innovative aspects
- ❖ Their value amounted to app. **12.3 billion PLN** (without VAT)
- ❖ Share of GPP or innovative public procurement in the total number of awarded public contracts – **1%**
- ❖ Share of GPP or innovative public procurement in the total value of awarded public contracts – **7%**

SOCIAL

- ❖ In 2020, **28,283** awarded contracts included social aspects
- ❖ Their value amounted to app. **72.3 billion PLN** (without VAT)
- ❖ Share of SRPP in the total number of awarded public contracts – **21%**
- ❖ Share of SRPP in the total value of awarded public contracts – **40%**



SPP Monitoring

- ❖ is carried out by the Public Procurement Office by means of **annual reports on awarded contracts**
- ❖ each contracting authority & contracting entity is obliged to submit a report to the PPO by March 1., of each year
- ❖ report contains the information for the previous calendar year
- ❖ Tables No. VIII and IX of the annual report standard form contain information on the SRPP and on the GPP and innovative procurement respectively





SPP Monitoring

Table No. VIII-
SOCIAL

- reserved contracts
- references to accessibility or design-for-all users
- application of social labels
- references to employment of workers under an employment contract
- references to social aspects related to contract performance, which may refer to employment of persons from disadvantaged groups
- social aspects in the contract award criteria

Table No. IX-
GREEN AND INNOVATIVE

- reference to environmental management systems and measures within qualitative selection criteria
- references to environmental aspects in the contract performance requirements,
- application of ecolabels
- environmental aspects in the contract award criteria
- application of the cost criterion (LCC methodology)

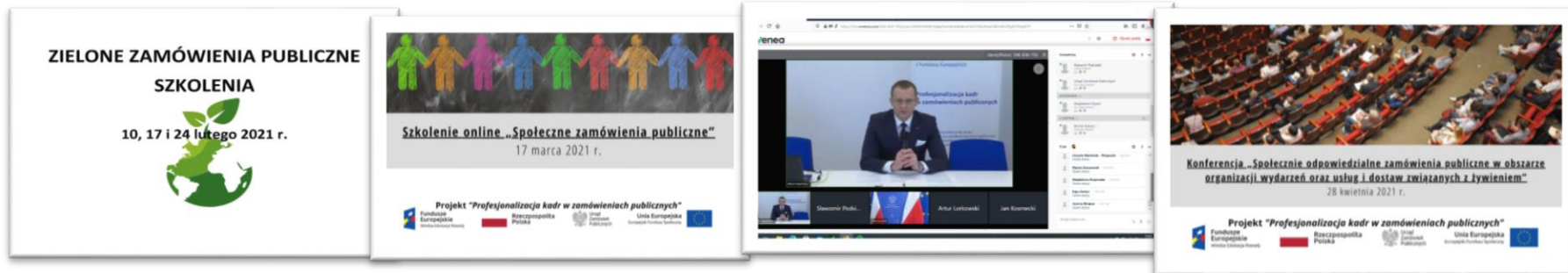
Role of the Public Procurement Office

- ❖ The main body that popularizes among the participants of the public procurement market the information on legal possibilities of considering environmental and social aspects in procurement procedures
- ❖ promotes GPP as of 2007
- ❖ promotes SRPP as of 2010
- ❖ has developed 4 **National Action Plans** (GPP NAP 2007-2010, SPP NAP 2010-2012, SPP NAP 2013-2016, SPP NAP 2017-2020) – no obligation, general recommendations,
- ❖ has drafted **Recommendations on the inclusion of social aspects in public procurement by the government administration units** adopted by the Council of Ministers in March 2017 – obligation on the government administration units



Activities of the PPO

❖ Training events and conferences



❖ Publications and information materials



❖ GPP and SRPP subpages at the PPO website



More recent deliverables

EVENTS

- ❖ 29,30.IX.2021 – SRPP training events

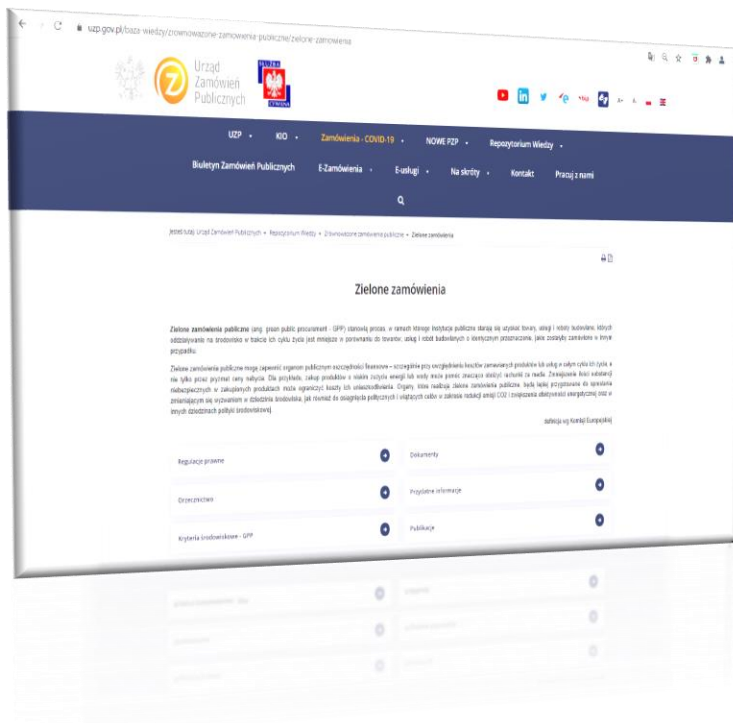
DEVELOPMENTS

- ❖ A Guide on the GPP-related provisions (2021)
- ❖ Guidebook on the use of environmental solutions for individual components of a building in public procurement for works (2021)
- ❖ Analysis of a construction investment in terms of the possibility of reducing the negative impact on the environment (2020)
- ❖ Organization of an educational event accessible for people with disabilities – exemplary provisions of the procurement documentation (2020)
- ❖ Accessible public transport - guidelines
- ❖ PL version of the EU LCC tools



Activities of the PPO

GPP subpage at the PPO website



Legal
provisions

Documents

Case law

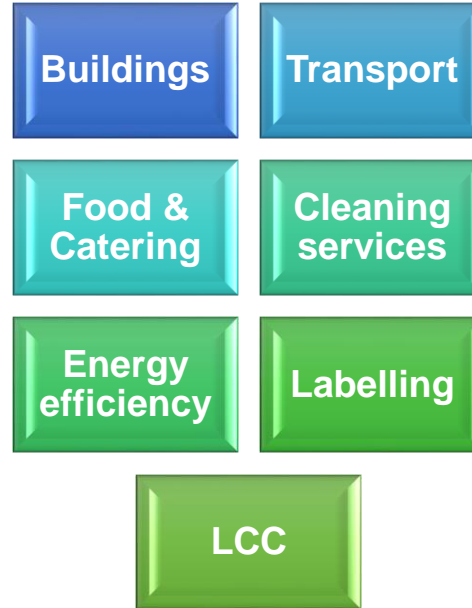
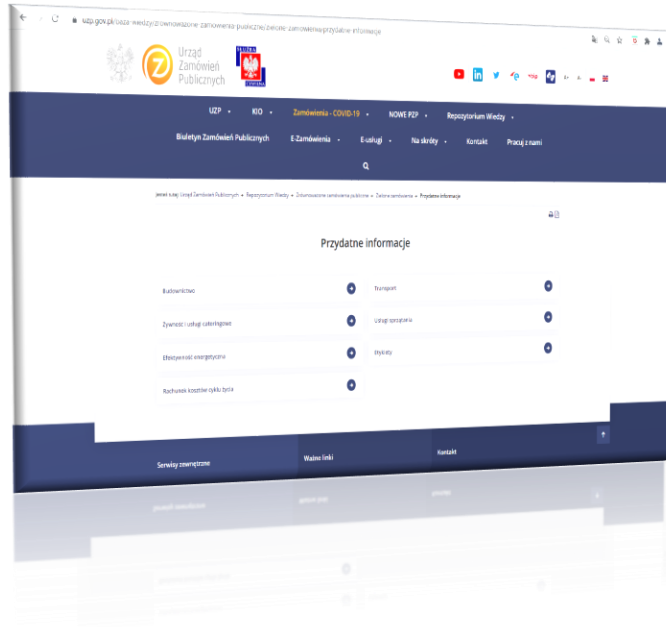
Useful
information

EU GPP
criteria

Publications

Activities of the PPO

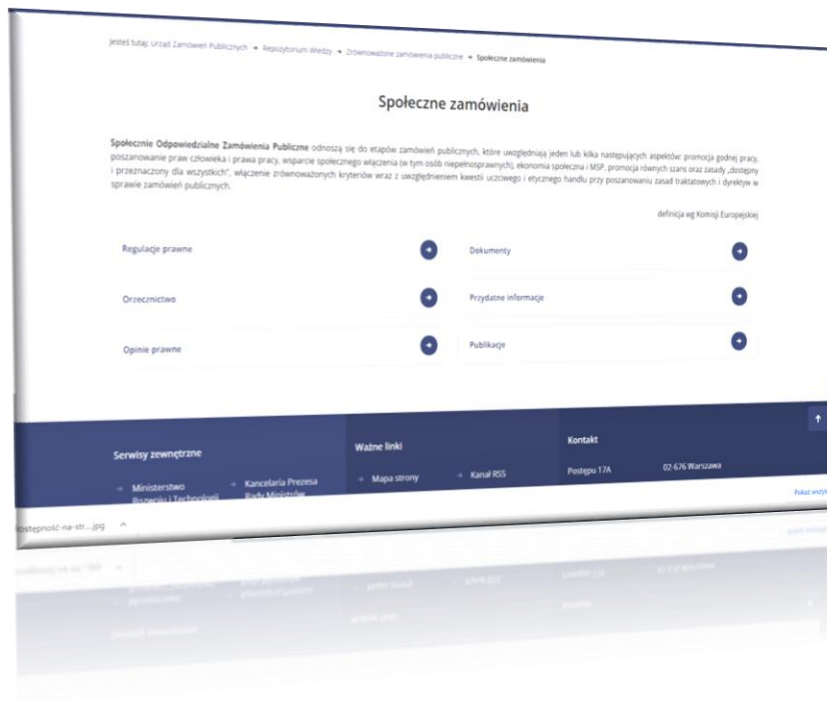
GPP subpage at the PPO website





Activities of the PPO

SRPP subpage at the PPO website



Legal
provisions

Documents

Case law

Useful
information

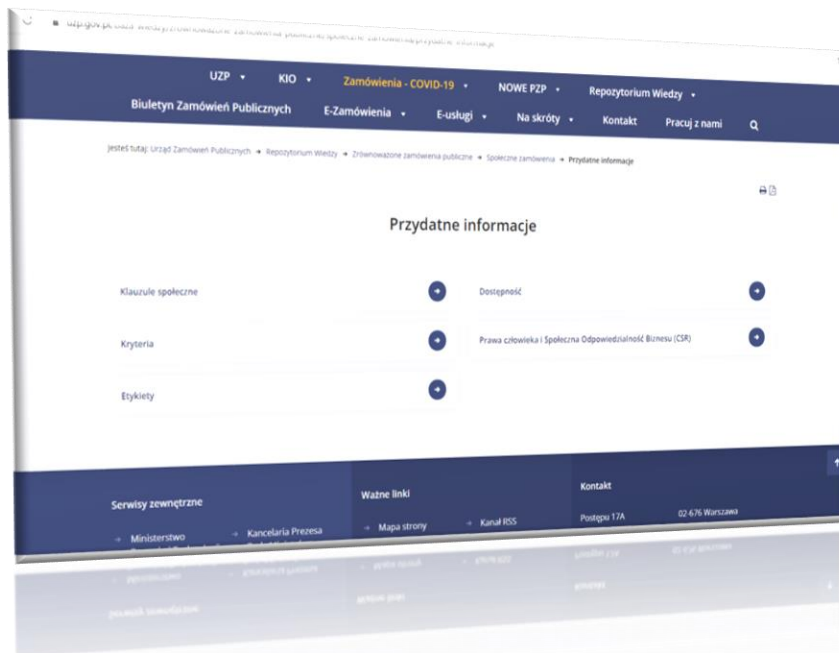
Legal
opinions

Publications



Activities of the PPO

SRPP subpage at the PPO website



Social clauses

Criteria

Labelling

Accessibility

Human rights
and CSR





State Purchasing Policy

- ❖ PPO has decided **not to proceed** with the SPP NAP
- ❖ New PPL introduced provisions on the **State Purchasing Policy**
- ❖ it shall define priority actions of the Republic of Poland in the field of public procurement, as well as the desired direction of activities for CA
- ❖ to be addressed to government administration units
- ❖ it shall cover GPP and SRPP
- ❖ shall be elaborated for the first time by the **31. Dec. 2021** (under the Art. 106 - Act of September 11, 2019 - Regulations introducing the Act - Public Procurement Law)
- ❖ currently **under development** by the **Ministry of Development and Technology**
- ❖ is to be developed once every 4 years and adopted by the Council of Ministers, by means of a resolution



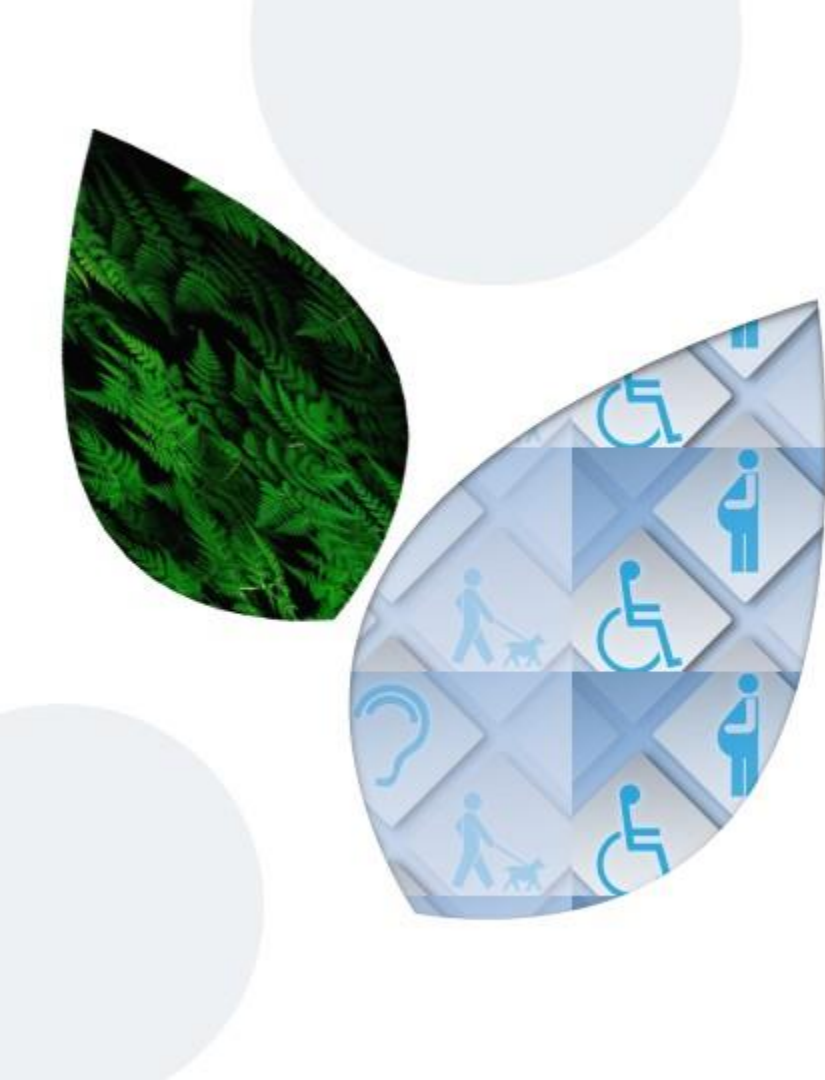
NEW



State Purchasing Policy

- ❖ **Central government administration units** shall draw up a **management strategy** for a particular purchasing category, compatible with the State Purchasing Policy.
- ❖ Contracts of a key nature for the implementation of the State Purchasing Policy shall be defined in the strategy





Thank You for Your attention