



# Pilot on Integrating OECD Due Diligence into Public Procurement in the Garment Sector



Please cite as:

OECD (2022), *Pilot on Integrating OECD Due Diligence into Public Procurement in the Garment Sector*, OECD Paris

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# Foreword

This report presents a summary of the discussions held and insights drawn from a dedicated group of public buyers, who, in 2021, worked with the OECD Secretariat as part of a pilot to consider the application of the OECD due diligence framework, and specifically the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, to the public procurement of uniforms and other public purchases in the garment, footwear and textile categories.

The pilot report seeks to add to the growing body of research on this nexus between public procurement and responsible business conduct in practice, and builds on the OECD report “Integrating Responsible Business Conduct in Public Procurement” (OECD, 2020<sup>[1]</sup>) by providing real world experience of the challenges of as well as the solutions to integrating RBC considerations in public procurement in practice.

The report is organised according to the key stages of the public procurement cycle: preparing for a tender, awarding a tender, and contract management. This remains faithful to the organisation of the pilot itself, which followed this cycle structure. The report reflects how the pilot explored the integration of the key steps of the OECD due diligence framework at each stage of the public procurement cycle, inter alia: embed policy and management systems; identify actual and potential harms in own operations and the global supply chain; cease, prevent and mitigate harms; track progress; communicate publicly; and, provide for or co-operate in remediation when appropriate. A key achievement of the report is that it provides a first mapping of how OECD risk-based due diligence can be integrated in public procurement operations, in this instance as applied to the public procurement of uniforms.

Further, the report includes the voices of many of the participating public buyers, providing insights and “impact stories” on the experiences of public buyers adapting guidance and tools, initially designed for the private sector to identify and address the human rights, labour, environmental and integrity risks in supply chains, to meet public buyers’ needs and unique circumstances.

# Acknowledgements

This publication is jointly produced by the OECD Centre for Responsible Business Conduct within the Directorate for Financial and Enterprise Affairs and the OECD Infrastructure and Public Procurement Division within the Public Governance Directorate within the framework of a programme on “Public Procurement and Responsible Business Conduct” which reflects policy coherence in action. The pilot process was overseen by the OECD Working Party on Responsible Business Conduct and the Working Party of the Leading Practitioners on Public Procurement.

Lena Diesing led the preparation of this report, with the joint support of Erika Bozzay, Dorothy Lovell, and Shivani Kannabhiran, and the input of participants in the OECD Pilot on Due Diligence in the Public Procurement of Garment and Textiles, under the supervision of Allan Jorgensen, Edwin Lau, and Paulo Magina.

A number of OECD colleagues supported the initiation and delivery of the pilot, including Froukje Boele, Pauline Göthberg and Gabriela Villa Aguayo. Pamela Duffin and Roxana Glavanov provided editorial and communications support.

The Laudes Foundation supported the pilot financially and with project guidance.

This pilot was made possible due to the willingness and engagement of public buyers who were willing to share good practices, respond to survey questions and candidly report on achievements and enduring challenges to making public procurement a strategic tool in promoting responsible supply chains.

All contributors are named in alphabetical order.

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# Key insights from the OECD Pilot

The **OECD Pilot on integrating risk-based due diligence into the public procurement of garment and textiles** (OECD Pilot) gathered 26 institutions from 12 OECD countries, covering all levels of government (municipal, regional and national) as well as practitioners and policy makers.

The OECD Pilot took place within the framework of the [OECD Programme on Responsible Business Conduct and Public Procurement](#). Over the course of five workshops, participants exchanged good practices on how they integrated responsible business conduct (RBC) and risk-based due diligence in the phases of the public procurement cycle. Risk-based due diligence can support public buyers in achieving policy objectives, including sustainability. Many countries have overarching policies and strategies that call for the integration of various policy objectives into public procurement, while balancing against “traditional” public procurement principles, such as value for money and maintaining access to public procurement opportunities for companies of all sizes. Adopting a risk-based approach, and in turn considering risk-based due diligence as a part of the public procurement process, can contribute to achieving an adequate balance.

Public buyers’ good practices follow overarching principles that help in operationalising elements of risk-based due diligence in their public procurement.

High-level insights from the OECD Pilot work show that:

- Public buyers successfully adopt approaches to integrate RBC in the public procurement of Garment and Textiles, integrating RBC considerations to identify, prevent and address harms to people, the planet and society.
- Pilot participants showed that many of their responsible procurement actions along the procurement cycle are aligned with elements of the OECD framework for risk-based due diligence.
- Pilot participants are increasingly aware of the importance of implementing due diligence along the entire supply chain. This means ensuring that not only the main contractor’s operations meet RBC expectations, but also the operations of the sub-contractors and upstream tiers in the supply chain. However, good practices are still rare.
- While the OECD risk-based due diligence framework can support public buyers, the framework is tailored to the private sector. To promote acceptance and uptake by public entities, a framework tailored to the needs and constraints of public buyers would be welcome.

Challenges remain to achieve a more complete integration and roll-out of risk-based due diligence in public procurement. Successful integration and implementation would entail, for example:

- clear policies referencing a due diligence approach which are communicated in tender documents;
- training and development for public buying professionals;

- comprehensive risk assessment and monitoring methodologies in line with the OECD recommendations on RBC, risk-based due diligence and public procurement; and,
- public reporting on the contracting authorities due diligence activities and outcomes, among other elements.

An enduring concern amongst public buyers is the need to balance multiple expectations associated with strategic public procurement. In particular, there is latent worry that RBC expectations may overburden the market and result in less competition or reduced numbers of suppliers being able to bid for a tender. The OECD Pilot showed that these concerns, while valid, can be managed. Integrating RBC expectations into public buying raises the bar, and government signalling these expectations can help develop a market of suppliers who meet these demands over time.

Pilot insights also demonstrate that in public procurement, due diligence action has to be considered on three levels:

1. At the level of the institution (contracting authority) and across its portfolio (i.e., as part of the organisation's management system)
2. As part of the full public procurement cycle in the individual procurement procedure
3. In the operations and supply chains of the supplier (influenced by the public buyer via tender requirements and the contract)



# 1 Introduction

From March to December 2021, a group of public buyers of garment and textiles participated in a pilot project to explore the integration of OECD risk-based due diligence into the public procurement of garment and textiles (OECD Pilot). The OECD Pilot is one of the work streams of [OECD Programme on Responsible Business Conduct and Public Procurement](#).

It builds on the Programme's earlier outputs: 1) the evidence and analysis in the OECD report on Integrating Responsible Business Conduct in Public Procurement (OECD, 2020<sup>[1]</sup>), and 2) the informal platform convening public procurement practitioners and policy makers to discuss how they can support effective implementation of responsible business conduct in public procurement.

The objectives of the OECD Pilot were to:

- Advance the integration of RBC considerations and risk management strategies, notably OECD risk-based due diligence in public procurement policies and practices through peer learning
- Collect and share experience, tools and successful approaches in implementing risk-based due diligence and RBC along the procurement cycle
- Highlight and define tangible benefits of using a risk-based approach for sustainable and strategic public procurement

## 1.1. Profile of OECD Pilot participants

The OECD Pilot included 26 institutions from 12 OECD countries from all levels of government (municipal, regional and national) including both practitioners and policy makers. Table 1 shows the list of participating institutions.

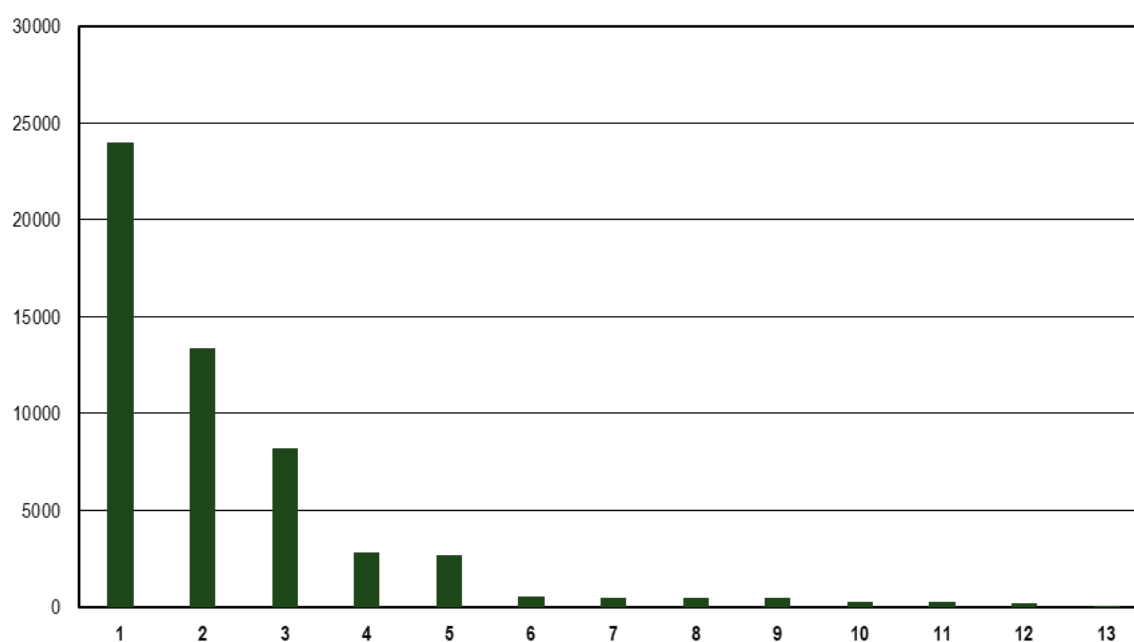
**Table 1. Participating institutions in the OECD Pilot**

Country	Organisations
Australia	Australian Capital Territory (ACT) / Australasian Procurement and Construction Council (APCC) / Department of Defence Department of Home Affairs Procurement Policy Branch, Department of Finance
Belgium	City of Ghent
Canada	Commercial and Consumer Products Directorate, Public Services and Procurement Canada
Colombia	Colombia Compra Eficiente
Denmark	Danish National Police
France	Département de la modernisation des achats, Direction des Achats de l'État, Ministère de l'Économie, des Finances et de la Relance
Germany	City of Karlsruhe GIZ – Deutsche Gesellschaft für Internationale Zusammenarbeit
Ireland	Irish Defence Force Office of Government Procurement

Country	Organisations
Norway	Ålesund Municipality City of Oslo Norwegian Agency for Public and Financial Management (DFØ) Norwegian Police Department Norwegian Sykehusinnkjøp (Hospital Procurement) Vygruppen AS
Sweden	Region of Örebro Region of Skåne Swedish Regions National Secretariat Sustainable Public Procurement Swedish Police Authority
Switzerland	Armasuisse Swiss Post
United Kingdom	Greater London Authority, including procurement for Transport for London (TfL), London Fire Commissioner, Metropolitan Police

The profile of contracting authorities that participated in the OECD Pilot was diverse, in terms of their overall public procurement budget and the amount spent on garment and textiles. While some contracting authorities purchase exclusively garment or textiles, in others, this category represents only a small fraction of overall purchases. An anonymised overview of the contracting authorities' spending is provided in the figures below.

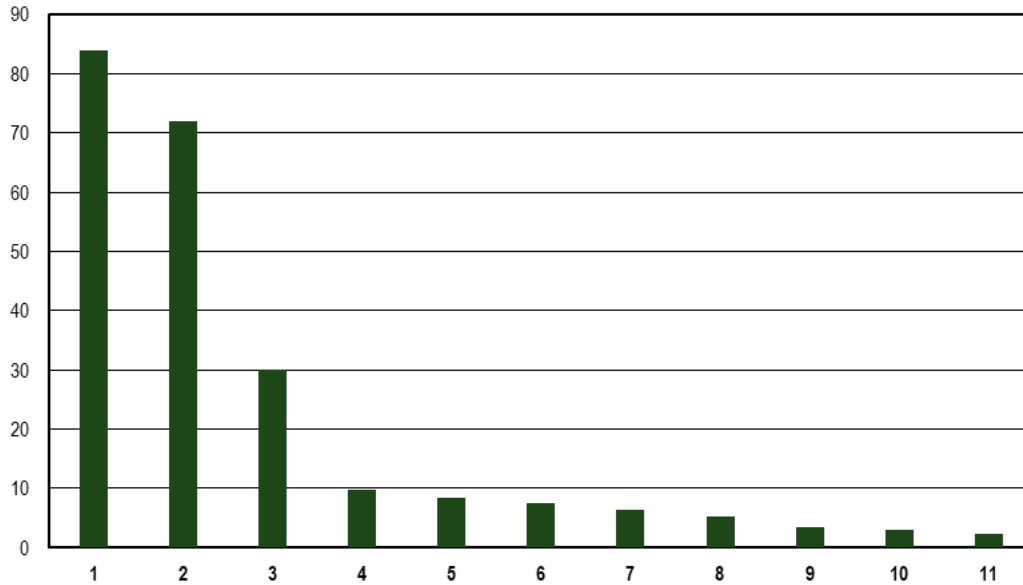
**Figure 1. Total procurement volume per participant, in millions (EUR)**



Note: Data from 2020, with some exceptions covering 2018-2019 or averages over several years.

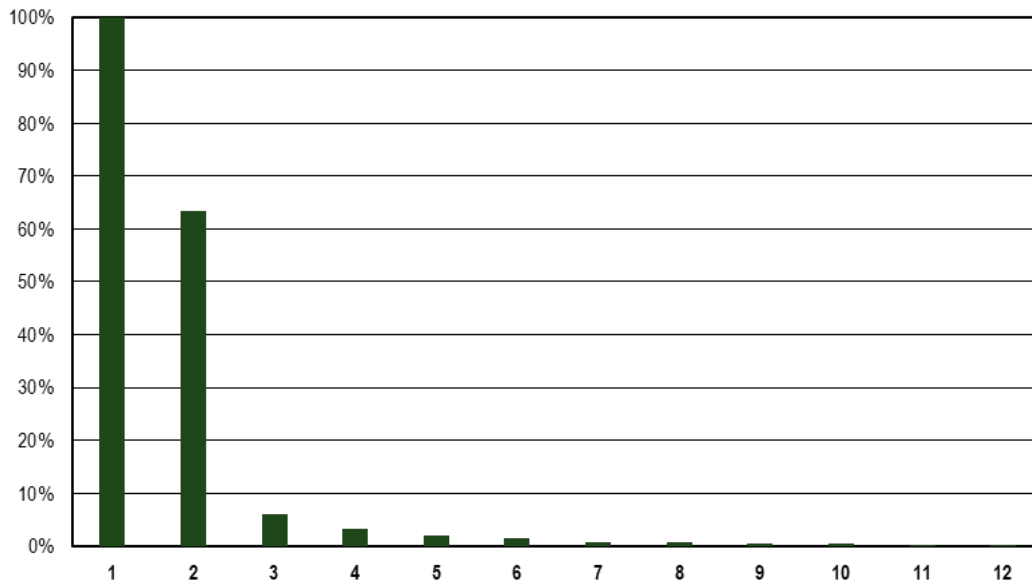
Source: Baseline survey with OECD Pilot participants, 2021 (OECD, 2021<sup>[2]</sup>).

**Figure 2. Garment and textiles procurement per participant, in millions (EUR)**



Note: Data from 2020, with some exceptions covering 2018-2019 or averages over several years.  
Source: Baseline survey with OECD Pilot participants, 2021 (OECD, 2021<sup>[2]</sup>).

**Figure 3. Share of garment and textiles procurement per participant**



Note: Data from 2020, with some exceptions covering 2018-2019 or averages over several years.  
Source: Baseline survey with OECD Pilot participants, 2021 (OECD, 2021<sup>[2]</sup>).

The OECD Pilot covered garment and textiles used in a variety of contexts, including in healthcare, police or defence or civilian contexts. In these contexts, textile categories included work wear (e.g. uniforms, protective clothing, footwear), finished textile products (e.g. sheets, equipment, disposable textiles), and interior fabrics (e.g. furniture, curtains). Workwear is the most common product purchased in the garment

The OECD Pilot is informed by OECD recommendations on RBC such as the OECD Guidelines for Multinational Enterprises (OECD, 2011<sup>[3]</sup>) as well as the OECD Recommendation of the Council on Public Procurement (OECD, 2015<sup>[4]</sup>). Aside from the practical experiences of their peers, participants were able to draw on guidance provided in the OECD Due Diligence Guidance for Responsible Business Conduct (OECD, 2018<sup>[5]</sup>) and the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (OECD, 2018<sup>[6]</sup>). These guidances target enterprises, including state-owned enterprises (SOEs), rather than public buyers. At the same time, these guidances provide a useful resource for public buyers as they lay out a structured, methodological approach to supply chain due diligence that has been tested by buyers and is government-backed by all adhering countries.

The OECD risk-based due diligence process, consists of a series steps and supporting measures (see Figure 4). These include actions (1) to embed RBC into policies and management systems, (2) to identifying actual or potential adverse impacts in operations supply chains and business relationships, (3) to cease, prevent or mitigate adverse impacts, (4) to track implementation and results of due diligence and, (5) to communicate how impacts are addressed. The sixth step (6), to provide for or cooperate in remediation when appropriate, is a separate critical process that due diligence should enable and support.

The diagram illustrates the 6 steps of the UN Guiding Principles on Business and Human Rights, arranged in a circular flow around a central core. The steps are numbered 1 through 6, each with a corresponding colored arrow indicating the sequence. The central core is a light blue circle containing the text '1 EMBED RESPONSIBLE BUSINESS CONDUCT INTO POLICIES & MANAGEMENT SYSTEMS'. The steps are: 1. EMBED RESPONSIBLE BUSINESS CONDUCT INTO POLICIES & MANAGEMENT SYSTEMS (blue circle), 2. IDENTIFY & ASSESS ADVERSE IMPACTS (orange circle), 3. CEASE, PREVENT OR MITIGATE ADVERSE IMPACTS (teal circle), 4. TRACK IMPLEMENTATION AND RESULTS (pink circle), 5. COMMUNICATE HOW IMPACTS ARE ADDRESSED (green circle), and 6. PROVIDE FOR OR COOPERATE IN REMEDIATION WHEN APPROPRIATE (purple circle). A downward arrow points from step 6 to a separate box containing the text '6 PROVIDE FOR OR COOPERATE IN REMEDIATION WHEN APPROPRIATE'.

**1 EMBED RESPONSIBLE BUSINESS CONDUCT INTO POLICIES & MANAGEMENT SYSTEMS**

**2 IDENTIFY & ASSESS ADVERSE IMPACTS**  
IN OPERATIONS, SUPPLY CHAINS & BUSINESS RELATIONSHIPS

**3 CEASE, PREVENT OR MITIGATE ADVERSE IMPACTS**

**4 TRACK IMPLEMENTATION AND RESULTS**

**5 COMMUNICATE HOW IMPACTS ARE ADDRESSED**

**6 PROVIDE FOR OR COOPERATE IN REMEDIATION WHEN APPROPRIATE**

PILOT ON INTEGRATING OECD DUE DILIGENCE INTO PUBLIC PROCUREMENT IN THE GARMENT SECTOR © OECD 2022

As highlighted by the participant from the Swiss Post, this structured, comprehensive approach has been useful for their responsible public procurement practice (see Box 1).

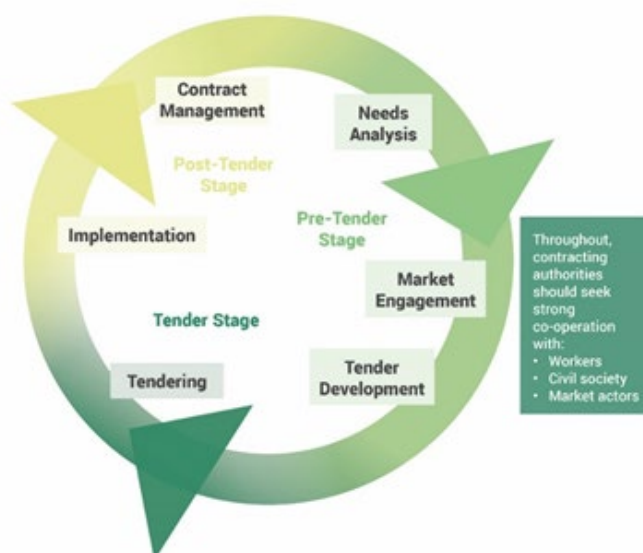
### Box 1. Impact Story: Swiss Post

“We will intensify our due diligence efforts and extend our experiences in the area of uniform procurement to other procurement units of Swiss Post. [...] traditional procurement practices (contracts, audits, questionnaires etc.) are not enough for the challenges of our time. It needs intensive dialogue with suppliers, capacity building, and complaints mechanism in the factories. Collaboration among public buyers, international organisations, civil society and multi-stake holders as well as legal regulations is essential. [...] I learnt a structured, methodical approach on how enterprises should carry out due diligence to identify, prevent, mitigate and account for how we address these actual and potential adverse impacts in our own operations, our supply chain and general in all business relations. It was very inspiring to experience that all participant public buyers have an interest in a new normal in the garment industry supporting better working conditions in a fast-changing world with increasing supply chain complexities.”

Source: Testimonials by OECD Pilot participants.

To ensure practical relevance for the participants, activities in the OECD Pilot were structured around the phases of the public procurement cycle. According to the OECD Recommendation on Public Procurement, public procurement cycle refers to a “sequence of related activities, from needs assessment through competition and award to payment and contract management, as well as any subsequent monitoring or auditing.”<sup>1</sup> Terminology to refer to the different phases differs. The OECD Pilot followed common terminology presented in the 2020 OECD report “Integrating RBC in Public Procurement” which divides the procurement cycle into three phases: 1) the pre-tender phase, 2) the tender phase, and 3) the post-tender phase (see Figure 5.)

Figure 5. The Public Procurement Cycle



Source: (OECD, 2020<sup>[1]</sup>)

<sup>1</sup> <https://www.oecd.org/gov/public-procurement/OECD-Recommendation-on-Public-Procurement.pdf>

### 1.3. Baseline survey with OECD Pilot participants

At the start of the pilot, an OECD survey identified participants' needs and knowledge of risk-based due diligence (OECD, 2021<sup>[2]</sup>).<sup>2</sup> The goals of the survey were:

1. to better understand the “procurement profile” of the participants,
2. to capture participants' initial knowledge on risk-based due diligence in the public procurement of garment and textiles when commencing the OECD Pilot (i.e., to define the baseline), and
3. to better understand the challenges and expectations of the participants with regards to the topics to be covered in the OECD Pilot.

Results of the survey show broad diversity in terms of the purchasing “habits” and the contracting authorities' purchasing profile, and also in terms of contracting authorities' experiences with risk management, OECD risk-based due diligence and responsible business conduct recommendations from the OECD.

Prior to the OECD Pilot, all participants already used a number of measures to incorporate risk management and due diligence into their public procurement processes and at least one institution has been drawing on the OECD Garment Guidance. However, no institution implemented all recommendations or steps of the OECD Due Diligence Guidance framework.

While common approaches exist, survey responses highlighted opportunities for further work, collaboration and learning. Participants looked to the pilot predominantly to solve issues related to implementation of risk-based due diligence in global supply chains, follow-up and monitoring of RBC expectations, risk assessments, as well as good practices in the planning of public procurement procedures.

Forty-three percent of respondents stated they did not use the OECD Garment Guidance when they conduct public procurement in this product category, but about a fifth (22%) referred to or implemented the recommendations of the OECD Garment Guidance.

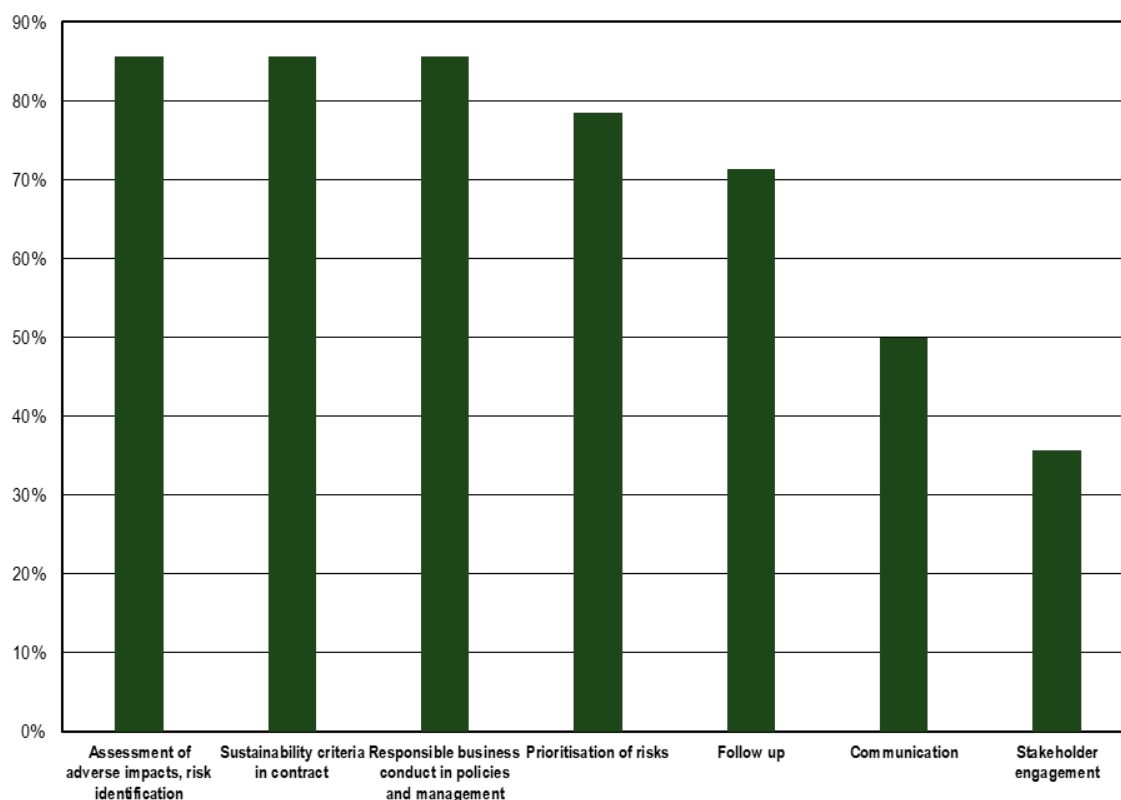
All participants have regular interactions with their tier 1 suppliers, but much less frequently with suppliers in tier 2 or further upstream in the supply chain. Three pilot participants responded affirmatively on engagement with suppliers in tier 2 and beyond.

Participants incorporated several aspects of risk-based due diligence as recommended by the OECD into the public procurement cycle, through risk assessments and sustainability criteria in contracts. Stakeholder engagement was the due diligence aspect that was least incorporated by participants (see Figure 6).

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<sup>2</sup> Fourteen institutions responded, out of 26 organisations participating in the OECD Pilot. The survey comprised 16 questions, both multiple choice questions and questions requiring open text responses. The responses were collected between throughout March 2021.

Figure 6. Actions on due diligence in public procurement



Source: Baseline survey with OECD Pilot participants, 2021 (OECD, 2021<sup>[2]</sup>).

Participants mostly exchanged with other public buyers to receive information about risks in the garment supply chain (more than 70% of participants), as well as with suppliers (66%) and their policy makers (60%). Grievance mechanisms (i.e. dispute resolution on responsible business conduct standards) are used least as source for risk information (12%).

Participants had identified a number of different risks associated with their garment and textile procurement. The most important category among these risks related to “occupational health and safety”, followed by risks related to “hazardous chemicals”, “wages” and “working time.”

## 2 Insights along the procurement cycle: learnings from the pilot workshops

The OECD Pilot workshops were organised around the different phases of the public procurement cycle and addressed the following four themes:

1. Pre-tender stage: How to prepare for more responsible procurement?
2. From procurement strategy and tender documents to evaluation and verification
3. Contract management phase
4. Integrating stakeholder perspectives into public procurement due diligence

Over the course of the four thematic workshops, exchanges between OECD Pilot participants on their good practices highlighted a number of overarching principles that have helped in operationalising elements of OECD risk-based due diligence in public procurement. These insights clarify how activities in risk-based due diligence can be integrated into public procurement operations (see Table 2 below.)

The following insights have been repeatedly mentioned during the workshops, spanning the procurement cycle and reflecting key elements of OECD recommendations on due diligence and public procurement:

- Preparation and planning of due diligence activities is key (like for any public procurement activity) and should extend beyond the individual public procurement processes to be effective
- Collaboration with international initiatives and rights holders as well as engagement with suppliers is necessary to achieve RBC objectives. Engagement with suppliers has a strong link to market maturity to deliver on RBC objectives, as it allows advancing supplier capabilities in collaboration.
- Follow-up is important to ensure RBC performance. Achieving transparency – notably from the supplier on his activities – is key challenge here. Through well-planned follow up activities, public buyers can retrieve information to verify RBC objectives and due diligence outcomes. Stakeholder engagement can contribute greatly to this task.

Public buyers have to pay particular attention to balance public procurement principles (as defined by policies and laws) with public procurement actions to support RBC:

- In undertaking risk-based due diligence and requiring RBC objectives in public tenders, public buyers have to balance competition expectations and access to procurement opportunities for potential suppliers of all sizes. Market maturity is an important factor. Any requirements set by public buyers have to be commensurate to the capabilities of the market, and at the same time challenge the market to advance towards greater uptake of RBC objectives. As such, there is a role for public entities to promote capacity building on OECD risk-based due diligence amongst suppliers to improve the ability of suppliers to meet RBC expectations and support a competitive landscape.



- Prioritisation of risk-based due diligence actions and decisions is necessary. It is embedded in the OECD framework for due diligence. Risk prioritisation (based on likelihood and severity of impacts to people, planet and society) as well as the relationship of buyers to an impact (if they are causing, contributing or are directly linked to an impact through a business relationship) should guide public buyers in their actions.
- Leverage is important to influence enterprises' actions. Public buyers might have a special place in the market – for some suppliers, public buyers might be the only client. For others, the state may be a very small source of demand. Public contracts might represent a prestigious business opportunity. Public buyers have to carefully evaluate their position and possibly collaborate to increase their leverage.

Based on existing good practices from pilot participants, approaches emerge that are in line with the OECD framework for risk-based due diligence (see Table 2.)

**Table 2. Mapping due diligence actions in public procurement operations**

Actions in public procurement operations		OECD risk-based Due Diligence
Level of the contracting authority and its portfolio	Public procurement cycle	
Create the institutional structures needed to integrate RBC and risk-based due diligence in public procurement, for example by developing a strategy or action plan, creating institutional competence (focal point, expertise) on RBC and due diligence	Based on lessons learned in the previous public procurement process for the same product category and the implementation phase of the previous contract, adjusting the internal decision making process and decision points regarding RBC	Step 1: Embed responsible business conduct into policies and management systems, especially oversight bodies to embed accountability and incorporate expectations in supplier engagements
Identify and assess adverse impacts linked to the contracting authority's public procurement portfolio (risk scoping)  Following this, create guidance in prioritisation of further risk assessments and actions to cease, prevent, mitigate	<b>Planning</b> // Decide whether a risk assessment is necessary for the specific public procurement process, based on results of overarching scoping and prioritising contracts; conduct procurement-specific due diligence accordingly; engage with non-governmental stakeholders to access information on complex global supply chains	Step 2: Identify and assess adverse impacts in operations, supply chains and business relationships, where RBC risks are most likely to be present and most significant.  Step 2 includes an assessment of risks based on geographic provenance, sector, product and business relationship. In addition the OECD framework recommends that buyers prioritise on the basis of the likelihood and severity of an impact to people, planet and society
Address any issues in standard contracting conditions, model documents, or standard routines that might lead to adverse impacts	<b>Planning / Tender</b> // Adapt tender specifications following insights from overarching risk scoping and individual tender risk assessment to cease, <b>prevent</b> or mitigate adverse impacts  <b>Contract Implementation</b> // Work with the supplier / provider in ceasing, preventing or mitigating adverse impacts during contract implementation	Step 3: Cease, prevent or mitigate adverse impacts. Depending on the relationship of the organisation to the harm (whether it is causing, contributing or directly linked through a business relationship to an adverse impact, there are recommended types of actions (cease, prevent, remedy or use leverage to affect change)

Actions in public procurement operations		OECD risk-based Due Diligence
Level of the contracting authority and its portfolio	Public procurement cycle	
Break down goals of the contracting authority's strategy into concrete indicators and monitor those.	<b>Contract management</b> / track the compliance of contractual RBC and due diligence requirements by the supplier; report on selected KPIs to the portfolio level	Step 4: Track implementation and results of the effectiveness of the due diligence activities. The findings from here should help improve processes in the future
Gather information on compliance within public procurement processes and aggregate information on RBC and due diligence in the contracting authority's portfolio		
Publish aggregate information covering the contracting authority's portfolio	<b>Along the procurement cycle</b> // Create transparency on public procurement processes / contracts	Step 5: Communicate how impacts are addressed, with a focus on relevant information on due diligence practices including the findings and outcomes of such practices
	<b>Contract management</b> // provide avenues for complaints, provide for and cooperate in remediation as appropriate	Provide for or cooperate in remediation when appropriate

Source: Authors' visualisation.

Excerpts from the impact story from Colombia Compra Eficiente illustrate these activities: Following their participation in the OECD Pilot, Colombia Compra Eficiente was able to identify additional actions on an institutional and public procurement process level to leverage risk-based due diligence for more responsible public procurement outcomes.

## Box 2. Impact Story: Colombia Compra Eficiente

"We were able to relate to the knowledge by other participants and compare them with our own procedures, to generate ideas for updating, or creating new strategies that not only improve the performance of our processes within platforms but greatly benefit the stakeholders who are also committed to the environment within their value chain. We were able to tweak the planning stage for Price Framework Agreements."

"As an Agency, we can conclude that we include criteria from OECD guidance on due diligence, including criteria that respect human and labour rights, also that respect the environment within all processes, always under the principles of transparency and anti-corruption. [...] In the same way, we were able to determine that within our work, we have processes to identify, prevent and mitigate the impact, and possible risks linked to our contracts. This is mostly thanks to the early planning that we handle through working groups with interested parties, which allows us to carry out the verification and evaluation processes before the publication of the final documents."

"In particular, we were able to identify as a useful example City of Ghent's guide on Socially Responsible Workwear. It can serve as a roadmap for the implementation of more projects on the public procurement of garment and textiles. Success stories such as the implementation of due diligence in the uniform and textile procurement of the Danish police guide and advise us on the need to carry out a risk assessment as the first step of any project in order to prevent and mitigate these risks, and to provide feedback with stakeholders."

Source: Testimonials by OECD Pilot participants

## 2.1. Pre-tender stage: How to prepare for more responsible procurement?

This first workshop session, titled “Pre-tender stage: How to prepare for more responsible procurement?”, focused on the pre-tender stage of the public procurement cycle and any other preparatory tasks in risk-based due diligence. The pre-tender stage serves to prepare the public procurement tender where the competition and bidding takes place. The pre-tender phase typically includes a needs assessment, market engagement and tender development. During this phase, contracting authorities can address step 2 of the OECD risk-based due diligence framework, “Identify and assess adverse impacts in operations, supply chains and business relationships”.

This workshop in the OECD Pilot also served to address tasks beyond the public procurement cycle, i.e. any measures on a management-, strategy- or policy level that are unrelated to a specific purchase. For example, contracting authorities might develop an RBC strategy, institutionalise a dedicated unit in charge of RBC and due diligence or conduct risk assessments at portfolio level, for the contracting authority as a whole. This perspective corresponds to step 1 in the OECD Due Diligence framework, “Embed responsible business conduct into policies and management systems”, and step 2 as indicated above.

### 2.1.1. Adopting a strategy

Key success factors for a strategy includes political support and an overarching policy framework to support due diligence actions. In addition, building partnerships with stakeholders, as well as capacity of contracting authorities and suppliers are important.

Participants agreed that individual contract clauses are a good step to integrate RBC and due diligence in public procurement, but they have a limited reach, as the range of action (and impact) is limited to the range of the individual procurement. There is growing acknowledgement that model contract clauses should allow for joint responsibility for due diligence.<sup>3</sup> There is thus the case for an overarching, strategic approach. As highlighted by the **Danish National Police**, a strategy allows identifying priority areas to act on (e.g., which purchasing categories to start with) and those supporting factors in need of strengthening (e.g. capacity or special expertise in the contracting authority). Strategies on responsible public procurement also serve to communicate goals to suppliers.

### 2.1.2. Collaboration and partnership

Partnerships have helped with both risk identification and achieving greater impact. Procurement teams identified three key types of partnerships that are important:

1. With external partners (e.g. suppliers and stakeholders, including universities, research institutions),
2. With internal partners (e.g. management, other teams in the organisation),
3. With peers (e.g. other contracting authorities).

Broad supplier or market dialogue is an important way to achieve impact. As demonstrated in the **City of Ghent** on the basis of its [Toolbox Socially Responsible Workwear](#), gathering all potential suppliers in the same room to discuss sustainability goals can have a bigger impact than separate discussions with the market players (as it can generate competition on responsible procurement commitments amongst the suppliers). This type of dialogue allows contracting authorities to gather knowledge of the possibilities and availability of sustainable goods and services in the market (the importance of “knowing your market”). This dialogue can also generate interest in the market for investing in more sustainable solutions.

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<sup>3</sup> See, for example, American Bar Association on contract clauses:  
[https://www.americanbar.org/groups/human\\_rights/business-human-rights-initiative/contractual-clauses-project/](https://www.americanbar.org/groups/human_rights/business-human-rights-initiative/contractual-clauses-project/)

Splitting responsibility between different contracting authorities to conduct risk analysis has produced good results, such as the collaboration between different **regions in Sweden**. Working together with peers – both in the own country and abroad – can be a way to increase leverage related to purchasing with suppliers (“more muscle”).

### ***2.1.3. Towards supply chain transparency – the use of scoping and prioritisation***

Both procurers and citizens often have an expectation that full supply chain transparency can be achieved. However, this is not necessarily feasible with certain types of complex products, such as a safety boot with 200+ components produced in various jurisdictions. Noting these challenges, an initial scoping can help buyers decide where to focus efforts to achieve greater traceability and transparency based on risk, allowing for better targeting of resources. Public buyers have been successful in working with suppliers (through dialogues and exchanges) to achieve greater transparency over supply chains, and implementing corrective actions where shortcomings are identified.

### ***2.1.4. Two levels for risk assessments***

Broad risk assessments (scoping) provide insights on the focus of any strategy – the most important and effective areas to start working on. In addition, public buyers can conduct specific risk assessments in the context of a specific purchase. In doing so, public buyers require expertise on risk assessments, sectors, supply chains and country context to conduct a useful risk assessment. Public buyers benefit from dedicated support (e.g., a model, a methodology, an expert) for risk assessments in the context of specific purchases.

### ***2.1.5. Prioritisation***

Public buyers organise their risk scoping and prioritisation based on the risks associated with a purchasing category and based on the strategic importance of the purchase, e.g. procurement volumes of different categories, as illustrated by the **Swedish Police**. Buyers are using context information, for example the sourcing country and its policies, to determine what additional risk assessment may be needed (sometimes referred to as “enhanced due diligence”). This is the approach used by the **Swedish Regions**, for example. Public buyers draw on a range of practices to mitigate the risks associated with countries determined to be high-risk for certain impacts. It is important to incorporate findings of risk assessments and prioritisation into the tender design. This could include a methodology for bid evaluation that rewards bidders that have to reward suppliers that have appropriate due diligence systems to address risks previously identified and prioritised.

### ***2.1.6. Trust***

Scrutiny by the public and media pressure increases for public buyers: where are publicly funded items coming from and under what conditions are they produced? Buyers face challenges to achieve transparency for the supply chain beyond tier 1 and 2 (main contractors and sub-suppliers), notably for complex products or due to sourcing from remote geographies. In this context, trust underpins progress on responsible public procurement.

The trust relationship with the supplier is particularly important, as **City of Ghent** established during the implementation of their strategy. Public buyers cannot verify all production sites in the supply chain themselves. Third party information providers, certification schemes and labels can increase assurance and transparency, but public buyers should invest in developing relationships of trust and transparency with their suppliers, to support longer term collaborative action to prevent and address supply chain risk. Examples of how this can be achieved include, setting up regular dialogue opportunities with suppliers, ensuring suppliers are incentivised rather than penalised for reporting their risk assessments and any

adverse impacts. However, participants noted that legal requirements for limited contract terms frequently presented a challenge in aiming for longer term engagement.

Public buyers need to establish an expectation that they may conduct additional checks on information contained within supplier self-declarations, cross-referenced with known risk information (for example by product category or origin,

### Box 3. OECD Alignment Assessments of Industry and Multi-Stakeholder Programmes



To support a common understanding of due diligence while also enabling cross-recognition between programmes built around due diligence expectations, in 2019, the OECD developed a tool and methodology to assess the alignment of sustainability initiatives with the OECD Garment and Footwear Guidance.

From 2019-2021 the OECD conducted pilot assessments of a number of due diligence-based initiatives in the sector.

In 2022, the OECD will extend this pilot to include a number of certification schemes.

More information can be found [here](#).

#### 2.1.7. References from the OECD Due Diligence Guidance relevant to this topic

[OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) (OECD, 2018<sup>[6]</sup>)

- Introduction, pp. 28-30; section 3.2.2, p. 75
- Communication, p. 91
- Mechanisms to assess and address risks of harm beyond tier 2, p. 60-61

[OECD Due Diligence Guidance for Responsible Business Conduct](#) (OECD, 2018<sup>[5]</sup>)

- Prioritisation, questions 3, 4, and 5

## 2.2. From procurement strategy and tender documents to evaluation and verification

The second workshop, titled “From procurement strategy and tender documents to evaluation and verification” focused on the tender stage and related tasks. The tender stage corresponds to the competition between different bidders to respond to a tender. For the purposes of the OECD Pilot, the workshop also served to discuss how to prepare the tender documents and how to evaluate bids. During this phase, contracting authorities can build on insights from actions in steps 2 and 3 of the OECD risk-based due diligence framework, “Identify and assess adverse impacts in operations, supply chains and business relationships” and “Cease, prevent or mitigate adverse impacts.”

### **2.2.1. Leverage**

The tender phase is the phase where public buyers seem to have most opportunity and leverage with potential contractors on responsible business conduct issues, as the point where there is most opportunity to guide and dialogue with companies interested in winning the contract. With every tender, public buyers are sending a signal to the market. Technical specifications, selection and award criteria set and communicate expectations to the market. Public buyers have been able to achieve good results by prioritising aspects of sustainability and responsible business conduct that they pursue in the tender phase (e.g. requirements on repair or reuse, waste, packaging, decent wage). A challenge relates to capacity (their own and suppliers' capacity), expertise (diverse products), and the speed at which the market changes.

### **2.2.2. Balancing requirements and competition**

Public buyers have different ways to attract suppliers to bid to maintain healthy competition while pursuing RBC objectives. Attracting a sufficient large number of bids (including from SMEs), i.e. maintaining a good level of competition, is an ongoing concern for public buyers, requiring careful tender design. Public buyers have grappled with the question of how to increase RBC expectations in tender criteria without reducing the number of bids, i.e. receiving less response from the market. Finding the right balance is the biggest concern for practitioners: if criteria are too weak, there is a risk of not achieving objectives related to sustainability and responsible business conduct, if the criteria are too stringent, smaller, less mature businesses might not be able to compete, and the overall pool of bidders decreases. **City of Karlsruhe** addressed this concern by creating lots, and determining criteria in careful consideration of market capabilities. Using lots, i.e. dividing contracts into smaller parts can ensure that smaller businesses can also compete for an appealing procurement opportunity, as they may not be able to deliver all aspects of a large contract.

### **2.2.3. Accommodating suppliers of all sizes**

Flexibility can be one way to accommodate small suppliers. To do that effectively, public buyers have engaged with suppliers in the pre-tender phase to determine what small suppliers can deliver on, for example as done by the **Irish Defence Forces**. Adjusting the procurement strategy helps to achieve an open tender, maintaining attractiveness for smaller bidders. Other participants, for example **Colombia's central purchasing authority Colombia Compra Eficiente**, have found the opposite effective, i.e. to be very concrete and target specific supplier types that fulfil objectives related to social responsibility (e.g. women-owned businesses, employers of minorities, etc.) Dividing procurements into different smaller parts, creating "lots", has been an effective way to accommodate for suppliers' differing business models.

### **2.2.4. Verifying supplier information**

A shared challenge for public buyers has been to determine to what extent they can trust information provided by bidders. Information is key to drawing a balance between different procurement objectives. Public buyers have applied a combination of approaches to increase their insights into supplier practices and their supply chains. Supplier information can be verified in the way most appropriate to the type of information. For example, to verify whether tax obligations have been met, public buyers might be able to draw on government data, but verifying whether third tier suppliers meet expectations on labour standards, a different approach might be necessary. Participants draw on a number of approaches to cover the breadth of required verification. Public buyers triangulate via desk research (e.g. as at **Vygruppen**) or spot-checks (e.g. through inspections like in the **Irish Defence Forces**). Some contracting authorities hire third-party verification services (auditors) to verify complex information (e.g. **Armasuisse**).

Risk assessments conducted in the planning stage should inform which information buyers need to request from suppliers, and also determine which part of the information should be verified and how. For example, in an upcoming tender, **Armasuisse** focused on a selected set of the ILO standards in a questionnaire to be submitted by suppliers as part of the bid (among them, for example, adequate wages for workers in the supply chain.) However, the required level in the tender criteria exceeded the level of stringency set by ILO for the selected areas.

### 2.2.5. Market maturity

Market maturity is a decisive factor in developing tenders. As good practice examples from the field of green public procurement show, market maturity can grow in response to requirements set by public buyers, but it is also a strong determinant for how strict requirements can be. Public buyers should be aware of their ability to influence the market and use it. Supplier dialogue is indispensable to collect information, test assumptions and supplier capacity levels, and understand market trends. Contract delivery can be an opportunity to build supplier capacity. For example, public buyers may set lower requirements in their tender documents with the intention of increasing or enhancing these requirements in future tender competitions, once it has been established what the market can deliver. This approach was implemented by the Uniform & Clothing Category team in Ireland's Office of Government Procurement.. Public buyers have developed trainings specifically for suppliers to ensure better outcomes, such as facilitated by Colombia Compra Eficiente.

### 2.2.6. References from the OECD Due Diligence Guidance relevant to this topic

[OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) (OECD, 2018<sup>[6]</sup>)

- Targeting supplier risk assessments based on risk scoping and taking action to prevent and mitigate harm, step 2, section 2.3, (step 3, section 3.2)
- Building partnerships with suppliers and developing capacity in the sector to support buyers' due diligence, section 3.2.4

## 2.3. Contract Management Phase

The third workshop, titled "Contract Management Phase", centred on the post-tender stage. This phase typically includes implementation of the public procurement and contract management. During this phase, contracting authorities can particularly address steps 3, 4 and 6 of the OECD risk-based due diligence framework, "Cease, prevent or mitigate adverse impacts", "Track implementation and results", and "Provide for or cooperate in remediation when appropriate".

### 2.3.1. Preparing for monitoring RBC expectations

Early steps create the prerequisites for efficient and effective monitoring of RBC expectations. Risk assessments provide crucial information to public buyers that can inform design of follow-up measures to track RBC expectations. Experience by the **Swedish Regions** highlights how adapting the methodology to the risk is crucial to conduct meaningful follow-up. The adaption follows three questions:

- What are the salient risks that we want to identify/address?
- What are the root causes to the risks?
- What methodology is best suited to identify and address that risk?



A number of public buyers conduct social audits of suppliers to assess the management systems and identify risks at the site level. For example, **Swiss Post** identified seven key areas as particularly important to cover in their audits:

- ILO core conventions
- Working hours
- Occupational health and safety
- Wage statements
- Employment contracts
- Respectful treatment of workers by management
- Grievance procedure

Early stages of the public procurement cycle, notably the planning stage, can determine the success of follow-up in the contract management stage. During the planning stage, public buyers determine the criteria to monitor, and establish related contract clauses. Contract clauses are important to establish that monitoring will take place, and ensure a clear understanding between parties to the contract on responsibilities and reporting expectations. Contract clauses can also determine details of monitoring efforts. Monitoring and contract management are facilitated by an allocation of sufficient resources, collaboration (within/across government units/bodies and with external partners), information sharing and market dialogue. In some cases, contract clauses may include penalties for non-conformity with due diligence expectations. In this situation, buyers should make sure to ensure such penalties are not applied for communication or risk information and findings, and that a responsible exit strategy is in place for cases of severe issues where the buyer has exhausted all efforts to address the risk and impact with their supplier.

### **2.3.2. Contract clauses to facilitate follow-up**

Incorporating due diligence expectations in contracts (i.e. contract conditions) can be a meaningful way to engage with suppliers on human rights, labour and environmental due diligence. Such an approach should support transparency and increase predictability for and from public buyers and suppliers.

Public buyers have a responsibility on contract design. Contracts should be set up so that contractors can deliver products while meeting RBC expectations. For example, public buyers can ensure that price estimates allow for the payment of living/decent wages in the country of production by conducting verification via open sources on pricing or through audits (see **Swiss Post** example). A second aspect is the verification by public buyers of the feasible production capacity of suppliers to produce the products by the delivery date within normal working hours.

Decisions by public buyers throughout the procurement cycle can have negative impacts on RBC outcomes. Pressures resulting from tender design (such as decisions on delivery schedules and prices mentioned previously) are transmitted through the supply chain and ultimately affect workers. Public buyers should be aware of this chain of impact. This insight requires a shift in perspective, considering how the public buyers' own ways of working may cause or contribute to negative impacts throughout the supply chain. Buyers can introduce control measures and red-flag systems to monitor and prevent these practices contributing to harm.

Public buyers should consider establishing permission to conduct follow-up in the contract. In the **Swedish Regions**, contracts include the following expectations:

- Which RBC expectations the supplier needs to comply with along its entire supply chain, these include expectations related to human rights and labour rights, anti-corruption and environmental objectives



- Specific guidance on how the supplier should demonstrate compliance to those RBC expectations including due diligence expectations over the duration of the contract
- Permission for the Swedish Regions to conduct follow-up in the supplier's operations and supply chain
- Penalty clauses, i.e. establishing consequences, in case the supplier does not comply with the RBC expectations (e.g., correction of the situation, fines.)

Maintaining open dialogue with suppliers, as well as setting expectations and incentives for transparency in the face of changing risk contexts can help facilitate effective and targeted risk-based monitoring. Such an approach stands in contrast to a compliance-heavy approach. In the contract, a contracting authority can establish that the supplier shall continuously conduct due diligence of the supply chains and be explicit on what data and indicators of due diligence is required.

### 2.3.3. *Prioritising and combining tools for follow up*

As in the case of **Norwegian Hospital Procurement** and the **City of Oslo**, public buyers are combining tools and methods in their follow-up, including among others, self-assessment questionnaires, desktop research and document review, on-site / factory audits, and third-party audits. Risk assessments conducted earlier help in determining which follow-up tool should be used. Participants reported common use of more resource-intensive tools (like factory audits) where there is a strong awareness and identification of risks, which could owe to greater familiarity or supply chain proximity. Wherever an on-site follow-up is conducted, contracting authorities often adapt their on-site audit methodology to the risks and likely causes to be found. Dialogue with suppliers is a crucial tool to learn about a supplier's structure and ensure influence over upstream tiers of the value chain.

*"The most important thing about an audit is what you do after the audit" (quote from participant)*

### 2.3.4. *Setting expectations and contract management*

Participants typically set a strategy for what to do in case an audit identifies harms or risk of harm in advance. This strategy usually includes a plan on how to escalate concerns and prioritise the most severe harms identified. Ending a supplier relationship is often a measure of last resort. Contracting authorities, like **Norwegian Hospital Procurement** and **City of Oslo**, use corrective action plans (CAPs) to improve the relationship with the supplier. They found it effective to work with suppliers in remediating issues, by discussing possible avenues with suppliers instead of demanding action unilaterally.

Beyond audits and addressing concrete harms, building supplier relationships is an important part of the follow-up strategy. Often, suppliers – even larger ones – lack the capacity or awareness to comply with RBC expectations. Suppliers frequently build this capacity over the course of a contract. Supplier trainings at factory level have proven useful for some public buyers in this context.

Public buyers were able to find solutions to challenges in working with suppliers when they considered their individual contract in the general business environment beyond public procurement. Often, drivers for change in an industry were linked to wider issues, such as industry-specific risks like child labour in the garment industry. In order to be impactful, public buyers should align with these wider issues and build on industry-wide momentum to tackle certain problems. Public buyers felt that in working with some suppliers and intermediaries, public procurement is a relatively small factor in overall supplier decision-making. Public buyers emphasised that audits and spot checks do not replace monitoring (i.e. on-going tracking of indicators related to specific risk areas). Both audits and monitoring require specific tools and techniques tailored to the risk context, as illustrated by the approaches used by the Swedish Regions or Swiss Post. Here, periodic audits (including of production sites) are complemented by ongoing monitoring informed by audit results, such as regular information provision by the supplier.

### 2.3.5. International initiatives and collaboration to support due diligence

Participants have used collaboration successfully to enhance their risk-based due diligence and contract management. As highlighted by several participants, collaboration can support public buyers beyond their immediate reach or capacity, for example in monitoring RBC expectations in the midstream and upstream portion of a supply chain, including manufacturing and raw material sourcing. At the same time, participants were aware that collaboration or the use of certifications can support an organisation's due diligence, through more efficient processes, preservation of resources for follow up, etc., but does not devolve the organisation's own responsibility and ownership of due diligence management processes. An example of an international initiative that can make due diligence activities more efficient are alignment assessments, see Box 3.

### 2.3.6. References from the OECD Due Diligence Guidance relevant to this topic

[OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) (OECD, 2018<sup>[6]</sup>)

- Monitoring vs. assessments, section 2.3
- Direct and indirect sourcing, section 3.2.2; Box 5 on page 77
- Verification, monitoring, validation and meaningful indicators, section 4.1
- Responding to negative findings, section 4.1
- Disengaging responsibly, section 3.2.5.
- Child labour – context in monitoring approaches, page 101
- Collaboration, pages 51, 59, 88

[OECD Due Diligence Guidance for Responsible Business Conduct](#) (OECD, 2018<sup>[5]</sup>)

- Disengagement, page 30; question 39 on page 80
- Competition and collusion, box 2; question 13

## 2.4. Integrating stakeholder perspectives into public procurement due diligence

The fourth session served to exchange good practice on an overarching topic, how to engage stakeholders – titled “Integrating stakeholder perspectives into public procurement due diligence”. Various types of stakeholders, including businesses, unions and civil society, can provide valuable input at all stages of the procurement cycle. Stakeholder engagement is featured throughout the six steps of the OECD Due Diligence Framework. Particularly relevant are steps 5 and 6, “Communicate how impacts are addressed” and “Provide for or cooperate in remediation when appropriate”.

### 2.4.1. Participants are using a number of tools in their stakeholder engagement.

**Requests for information** can solicit feedback to a wider public. It might solicit responses from those that are engaged and maybe not yet known to the public entity wishing to engage stakeholders. However, it might not mobilise a sufficient level of response.

**Surveys** (similar to requests for information) can solicit targeted feedback based on a set of specific questions.

**Supplier reporting** is a pillar of responsible public procurement: the supplier details in writing how RBC expectations are met. However, compiling these reports might be cumbersome and not contain a level of detail sufficient to verify whether RBC expectations are met. Therefore, reports should be one part of supplier engagement and accompanied by additional avenues of engagement.

**Formal, written commitments**, for example by unions, could serve to clarify RBC expectations in a public procurement.

**One-on-one meetings** can be very effective in engaging stakeholders that are known to be affected. These meetings can also serve well in working with suppliers towards RBC expectations. This form of engagement creates a safe space for conversation, room to explain context and time to share insights, as demonstrated by Public Services and Procurement Canada.

**Stakeholder meetings** can include more than one stakeholder. This can result in a more open discussion on how to improve RBC performance, beyond a concrete public procurement or product.

**Trainings** can serve to raise awareness and increase capacity with all types of stakeholders. In turn, suppliers can use trainings to upskill their own workforce on RBC issues, workers' rights, etc.

**Dispute resolution mechanisms** might work well during contract implementation. These processes offer a way to resolve conflicts between affected stakeholders or rights holders, the company and potentially the public buyers, ensuring reliable implementation.

#### ***2.4.2. Stakeholder engagement as a two-way street***

Contracting authorities have engaged a variety of stakeholders – both internally and externally to their organisation and at different levels of the supply chain. OECD guidance sees flow of information in two directions: Responsibility of the buyer to support the supplier in acting responsibly, for example to respond favourably to supplier requests to adapt criteria to meet market capabilities or by seeking supplier input on how purchasing practices potentially contribute to harm.

Public buyers have seen capacity to deliver on RBC expectations increase over the duration of a contract – both with the supplier, but also with the contract managers handling the specific procurement and the relationship with the supplier. Central units with expertise on responsible public procurement can kick-start engagement and share RBC-specific knowledge. Gradually, the autonomy and ownership of partners across the organisation increases. Eventually, contract managers on responsible public procurements can serve as resources and “responsible public procurement champions” as well, as demonstrated by **Transport for London**.

#### ***2.4.3. Supplier engagement***

As demonstrated for example in the case of **Transport for London** uniform procurement, suppliers can work towards compliance with RBC expectations over the course of a contract. Even if a supplier does not meet all expectations from the start of a contract, close exchange with the contracting authority can help in increasing the supplier's capacity. From the perspective of the supplier, increasing capacity and even exceeding expectations can represent a competitive advantage. See Transport for London's 2020/21 Modern Slavery Statement<sup>4</sup> for related information.

Similarly, a post-tender supplier debrief can be a useful and influential tool to improve unsuccessful bidders' performance against RBC requirements for future tenders, and thus for future business operations. The post-tender supplier debrief addresses those suppliers who were unsuccessful in the specific procurement process, informing them of the reasons why their proposal fell short. The debrief provides information on how bidders can improve their RBC commitments, and collects feedback on the procurement process. It can serve to encourage bidders to improve their offers in terms of RBC commitments for future procurement opportunities.

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<sup>4</sup> <https://content.tfl.gov.uk/modern-slavery-statement.pdf>

#### **2.4.4. Leverage along the procurement cycle**

From the perspective of suppliers, public buyers have particularly potent levers to facilitate responsible business conduct in several phases of the public procurement cycle. In the planning phase, advance notices can support suppliers in taking measures to comply with increased RBC expectations, without having to pass on shorter deadlines to workers. Early market engagement can specifically support both the public buyer and the suppliers to understand expectations and opportunities around RBC better. In the design and development of requirements, public buyers can pay attention to providing the level of detail needed by suppliers, and being responsive in any processes that require approval.

Contract clauses on prices and their evolution are crucial: during longer framework agreements, inflation might change the cost of inputs – this could be reflected in the contract terms. Public procurement regulatory frameworks do not allow for changes in the contracts. Even within these limitations, as well as in call-offs from framework agreements, public buyers should aim at creating stability, i.e. refraining from changes to deadlines, requirements, and order volumes.

Public buyers could aim at being more aware how their requests relate to the supplier's overall capacity: what share of the supplier's overall production is linked to the specific order or framework agreement. The higher the share, the higher the influence on the production site if changes occur, during call offs, or if deadlines are shortened. The nature of orders, including call-offs from framework agreements, will have an impact on production – and ultimately workers / affected rights holders. Any changes in deadlines or volumes trickle down to workers in order to be met, worsening their working conditions.

The entire contracting authority should speak with one voice and harmonise requirements across purchases.

#### **2.4.5. Challenges remain**

Public buyers might find it challenging to consider the impact in the supply chain – for example due to a lack of information or capacity. At times, public buyers might hesitate to expand their stakeholder engagement for fear of violating legislation on public procurement, integrity or competition and collusion. Strict rules regulate the engagement of any party. Public buyers have to balance legal requirements with the practicalities of stakeholder engagement and the need for close engagement in the context of responsible public procurement. In this context, additional work might be needed to define effective avenues for involving some stakeholder groups upstream of the value chain further, notably stakeholders and workers affected by public procurement decisions.

#### **2.4.6. References from the OECD Due Diligence Guidance relevant to this topic**

[OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) (OECD, 2018<sup>[6]</sup>)

- Meaningful stakeholder engagement, introduction, p. 27
- On-site supplier assessments, section 2.3
- Development of corrective action plans, section 3
- Verification, validation and monitoring of impacts, section 4
- Design of operational-level grievance mechanisms, section 6.1

[OECD Due Diligence Guidance for Responsible Business Conduct](#) (OECD, 2018<sup>[5]</sup>)

- Risks and limits of competition law, questions 12, 13

## 2.5. Focus: Gender

The last session of the OECD Pilot focused on gender issues as a particular risk of concern in the garment industry. Based on this example, participants were able to recap learnings systematically and link to successful approaches to emphasise gender considerations as part of their risk-based due diligence in the public procurement cycle. According to a survey after the workshops, about a third of participants has been adopting a gendered approach to due diligence since the start of the OECD Pilot (OECD, 2021<sup>[7]</sup>).

A shared challenge for public buyers relates to identifying gender-based harm in public procurement supply chains. Participants have focussed on factory trainings, bilateral conversations, such as interviews with workers: serve as verification; audit organisations usually include gender objectives in their audit methodology.

An important factor was the focus of international initiatives and collaboration. These initiatives included gender considerations; this (external) pressure allowed participants to pay closer attention to gender considerations.

Some public buyers have set goals to reduce the gender gap in public procurement processes, aiming at creating more inclusive processes. Creating tools and opportunities for women suppliers (those with more than 10% female staff, led by female CEO, etc.) receive additional points in tenders in **Colombia**, for example. **Colombia Compra Eficiente** also has a marker in their electronic procurement system to track the share of public contracts signed by women suppliers.

One of the approaches recommended in OECD Guidance is to draw on knowledge of country-based risk. If a certain country or environment is known to harbour risk of gender-related harms, such as sexual harassment, but follow up is not bringing anything to light, a closer look might be needed to explore reasons and backgrounds. (E.g., whether there is a preventive policy or structure, etc.) Depending on the outcome of these additional analyses, public buyers should assume the follow up mechanism is not alerting issues that are most likely prevalent. One option, irrespective of findings is to adopt a preventative perspective and conduct training on gender-related issues.

In 2021, the OECD published a paper on gender and public procurement, titled “Promoting gender equality through public procurement. Challenges and good practices”. While not focusing on RBC-related aspects as such, the paper highlights avenues on how public buyers can achieve more gender-balanced public procurement.<sup>5</sup> See Box 4 for additional information from OECD guidance.

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<sup>5</sup> [https://www.oecd-ilibrary.org/governance/promoting-gender-equality-through-public-procurement\\_5d8f6f76-en](https://www.oecd-ilibrary.org/governance/promoting-gender-equality-through-public-procurement_5d8f6f76-en)

#### Box 4. Gender considerations when applying due diligence

“Women account for a majority of the labour force in the garment and footwear supply chain. Risks of harm often differ for men and women. For example, women are more likely to be paid lower wages than men; women are more often linked to precarious, informal or irregular employment; and low-income women workers are particularly vulnerable to harassment in the workplace. The unique position of women within a particular context should therefore be systematically considered at all stages of due diligence. Enterprises are encouraged to:

- Consider how women may be disproportionately affected by impacts (e.g. migrant workers, minorities, young women, etc.). For example, sexual harassment and sexual and gender-based violence predominantly affect women in the sector.
- Consider whether a programme or policy could have unintended negative consequences for women.
- Include women in the design of monitoring and evaluation measures.
- Assess whether grievance mechanisms are equally accessible to all affected parties (e.g. women, men, migrant workers, etc.).
- Ensure that the individual serving as the access point for a grievance mechanism is approachable regardless of the complainant’s gender, religion, etc. Special attention should be paid to women from vulnerable groups.”

Source: See OECD Garment Guidance, (OECD, 2018<sup>[6]</sup>), Introduction, p32-33. The Garment Guidance includes additional considerations about how women may be disproportionately affected by different impacts in the risk modules, for example module 2, Sexual harassment and sexual and gender-based violence in the workplace and module 7, wages.

# 3 Conclusion: Tailoring guidance for risk-based due diligence in public procurement

## 3.1. Survey on the state of play after the OECD Pilot: challenges remain

An OECD survey at the end of the pilot captured participants' learnings from the pilot (OECD, 2021<sup>[7]</sup>).<sup>6</sup> The majority of participants "agree" or "strongly agree" that the OECD Pilot has helped them to better understand the OECD Garment Guidance and increased their awareness of RBC, OECD due diligence and related recommendations for suppliers and service providers. Just over half (55%) of the participants have used the Garment Guidance since the start of the OECD Pilot or will do so as part of upcoming procurements.

A marked increase in due diligence activities was notable for "stakeholder engagement" and "communicating information about the own organisation's due diligence and results of responsible public procurement". Participants have increased the range of sources of information they use for responsible public procurement, now relying more frequently on procurement peers (73%) and suppliers' information (64%). The OECD Pilot had wider effects beyond the public buyers involved in the OECD Pilot. Over 80% of participants shared materials or insights with colleagues in their own organisation. Almost 30% shared insights with other colleagues in the government – some sharing insights with public buyers in other countries in the region.

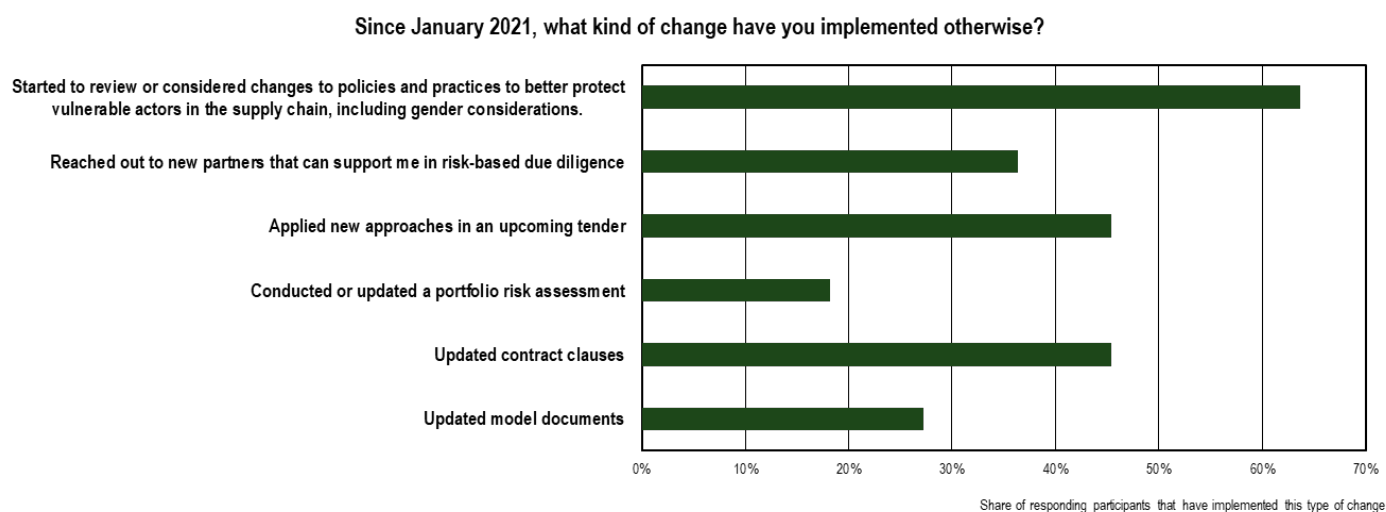
All participants reported having reviewed, improved or developed policies or processes since January 2021 – or at least having plans to do so. 36% agreed with the statement "My organisation developed new policies or processes relating to due diligence in public procurement." Since January 2021, 64% of participants have started to review or considered changes to policies and practices to protect vulnerable actors in the supply chain better, including through incorporating gender considerations. For example, 45% have now updated contract clauses (see Figure 7 below.)

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<sup>6</sup> Eleven participants responded.



**Figure 7. Change implemented since January 2021**



Source: Closing survey with OECD Pilot participants, 2021 (OECD, 2021<sup>[7]</sup>).

The changes implemented by the Norwegian Police in an upcoming tender illustrate how the OECD Pilot brought about these changes (see Box 5).

### **Box 5. Impact Story: Norwegian Police Shared Services (PFT)**

The Norwegian Police will include learnings from the pilot in a public procurement of uniform shirts. “This tender will be the first time PFT use the contractual performance clauses from ETN, which are based on the United Nations Guiding Principles on Business and Human Rights, and the OECD Guidelines for responsible Business Conduct. These frameworks both recommend due diligence as the preferred method for identifying, preventing, mitigating and accounting for how businesses address their actual and potential adverse labour and human right impacts in their own operations and in the supply chain. [...] We are planning to require the suppliers to document for traceability in their supply chain as qualification criteria. To ensure a realistic result, the products chosen in this project do not contain too many raw materials and trims. We will only ask for the supply chain of the main materials.”

Source: Testimonials by OECD Pilot participants.

Participants responded that the OECD framework for due diligence as recommended in the OECD Garment Guidance as well as the OECD Due Diligence Guidance are relevant for public buyers.

According to the responses, the recommendations contained in these OECD guidance can support public buyers in two ways: First, by establishing what suppliers have to do in terms of risk-based due diligence, and in turn, what kind of requirements public buyers can or should integrate in the tender process. Second, the guidance can inform public buyers on how to structure their risk-based due diligence structures internally. However, participants noted that gaps remained to “translate” OECD guidance on risk-based due diligence to public procurement realities and constraints. For example, public buyers have to follow a strict legal framework that many enterprises do not share to the same extent. On an operational level, participants pointed to the need for a comprehensive approach to risk, i.e. not treating environmental, human rights and corruption in separate silos. In addition, as mentioned above, many participants see a



challenge in linking the OECD risk-based due diligence framework and the legal and regulatory framework on public procurement.

Priorities for future work, according to the participants, relate to a sectoral and thematic focus on climate change and information and communication technology (ICT). The category for greatest need for future work is ICT – 6 out of 11 survey respondents see need for work here. Eight out of 11 see “identifying and mitigating climate impacts” as the most pressing challenge in responsible public procurement.

Several participants point to capacity building as an area for more work, with suggestions to provide technical knowledge on OECD due diligence, as well as more information on sectors with high risks. One proposal was to share more examples with public buyers and policy makers. Another advocated for guidance that can be tailored to a country’s circumstances. Finally (linked to capacity), participants suggested to facilitate collaboration globally, notably on exchanging findings from public procurement due diligence follow-up actions and audits. This could be an approach to help contracting authorities in the resource-intensive task of follow-up and audits.

### **3.2. Towards a “due diligence mind-set” in public procurement: recommendations**

Insights from the workshops, as well as the surveys conducted with the participants before and after the OECD Pilot confirms the demand for an OECD risk-based due diligence framework in public procurement, which meets the needs and constraints of public buyers. Several challenges have to be addressed to allow for a meaningful, comprehensive integration of risk-based due diligence in public procurement, i.e. allow a public buyer to adopt a “due diligence mind-set”, towards demonstrable results in public procurement performance, address questions on competition and build upon the principle of balance.

As a starting point, an important clarification emerging from the OECD Pilot is that in public procurement systems, the due diligence function is not linked to individual procurements only. In fact, in public procurement, due diligence actions have to be considered at three levels:

- Portfolio level (institution / contracting authority)
- As part of the individual public procurement process (along the procurement cycle)
- In the operations of the supplier (influenced by the public buyer via tender requirements and the contract)

In these three areas, OECD risk-based due diligence can support public buyers in achieving broader policy objectives, including sustainability. Many countries have overarching policies and strategies that call for the integration of additional objectives into public procurement, while balancing against “traditional” public procurement principles, such as value for money and maintaining access to public procurement opportunities for companies of all sizes. Adopting a risk-based approach, and in turn considering risk-based due diligence as a part of the public procurement process, can contribute to achieving balance.

Participants highlighted gaps in understanding how to adopt OECD risk-based due diligence from a public procurement perspective or for a public procurement portfolio. One of the aspects requiring different guidance from private enterprises are the legal and regulatory frameworks public buyers have to follow. Many of these frameworks have been developed without regard to harms linked to public procurement decisions. Indeed, participants cited a lack of legal clarity as an obstacle for greater implementation.

### Box 6. Impact Story: German Development Agency (GIZ)

“Aligning due diligence aspects into tender processes is a legal challenge for us. Knowing that other countries achieved to integrate due diligence aspects into public procurement gave us inspiration to verify all possible options in the wake of a legal analysis. Currently, this legal document is in the making and may be used as a legal reference document for procurement offices in the future.”

Source: Testimonials by OECD Pilot participants.

In responding to the needs identified during the OECD Pilot, this report recommends three areas for future work on the part of both policy makers and for the international community. These work areas can be mutually reinforcing:

1. **Create a platform at the OECD for policy makers and practitioners to exchange and share learnings on integrating RBC and OECD due diligence into public procurement and on comprehensive risk management strategies in public procurement.** Participants expressed that an important measure to support them in their efforts would be to facilitate exchange, notably on results of risk-based due diligence activities, audits and other follow up activities. For example, a regular, confidential roundtable for public buyers and policy makers could be organised to exchange information resulting from current follow-up activities, e.g. findings of harm, geographical information, complaints, etc. Such roundtables would allow public buyers and policy makers to use information from colleagues in their own due diligence actions, and plan for future collaboration in following up on similar purchases.
2. **Adapt existing OECD due diligence frameworks to meet the needs of public buyers better, including specific tools and guidance.** Additional work could expand and build on insights drawn from the OECD Pilot, the practical examples shared, as well as existing OECD guidance, to develop guidance specifically targeted at public procurement. As highlighted above, this also emerged from the impact stories, advocating for a comprehensive methodology which could help translate the state-of-the-art in risk-based due diligence to public procurement.
3. **Create policies and regulations that provide the legal and regulatory framework for public buyers to integrate OECD due diligence in public procurement.** Countries could investigate where public buyers require additional clarity in the legal and regulatory framework for the public procurement system to integrate RBC and due diligence in public procurement meaningfully. This might require legal or regulatory reforms, but could also be covered by clear guidance on how to interpret and apply existing frameworks.

# References

- OECD (2021), *Baseline Survey with Participants of the OECD Pilot on Due Diligence in the Public Procurement of Garment and Textiles*. [2]
- OECD (2021), *Closing Survey with Participants of the OECD Pilot on Due Diligence in the Public Procurement of Garment and Textiles*. [7]
- OECD (2020), *Integrating Responsible Business Conduct in Public Procurement*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/02682b01-en>. [1]
- OECD (2018), *Due Diligence Guidance for Responsible Business Conduct*, <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm> (accessed on 1 August 2021). [5]
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## Annex A. Resources for OECD Pilot workshops

The following resources supported discussions in the OECD Pilot workshops.

### Resources from participants

- Armasuisse: Question Catalogue for Sustainable Award Criteria courtesy translation, original in German
- [City of Ghent's Toolbox Socially Responsible Workwear](#)
- Danish Police: model contract annex on sustainability
- DFØ: [High Risk List](#)
- Public Services and Procurement Canada: [Request for Information - Ethical Procurement](#)
- Public Services and Procurement Canada: [Requirements for the ethical procurement of apparel](#)
- [Siegelklarheit](#) (in German)
- Swedish Regions: [Action plan for textiles](#)
- Swedish Regions: [Audit Findings](#) (in Swedish)
- Swedish Regions: [Guidelines contractual terms for sustainable supply chains](#).
- Swedish Regions: [Significant risks in the textile industry](#) (PDF in English)
- Swiss Post: [Responsible procurement](#)
- [Transport for London 2020/21 Modern Slavery Statement](#)

### OECD Resources

- [OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector](#) (focus on extractives sector, but meaningful insights)
- OECD E-learning Academy: <https://mneguidelines.oecd.org/oecd-e-learning-academy-on-responsible-business-conduct.htm>
- OECD: Information on operational level grievance mechanisms (excerpt from the [Final Report of the OECD Pilot Project on Responsible Agricultural Supply Chains in Southeast Asia](#), page 50.)
- [Promoting gender equality through public procurement](#) (OECD, 2021)
- [Overview note by the OECD on Responsible Business Conduct and Gender](#) (2020)

### Other resources

- “The Industry We Want” (includes a pillar on commercial practices): <https://www.theindustrywewant.com/>
- American Bar Association on contract clauses: [https://www.americanbar.org/groups/human\\_rights/business-human-rights-initiative/contractual-clauses-project/](https://www.americanbar.org/groups/human_rights/business-human-rights-initiative/contractual-clauses-project/)
- Better Buying [Index Report, 2020](#). Purchasing Practices Performance in Apparel, Footwear, and Household Textile Supply Chains

- [HERProject](#)
- ILO Paper: “International Framework Agreements in the food retail, garment and chemicals sectors”, presenting case studies of international framework agreements (IFA) between global union federations and multinational enterprises: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_631043.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_631043.pdf)
- ITC [Standards Map](#)
- [Open Apparel Registry](#) (example for open source production mapping)
- [SheDil](#)
- Sustainability Compass: <https://www.kompass-nachhaltigkeit.de/en/sustainability-labels>
- [Ulula | Stakeholder engagement for responsible supply chains](#)
- [UNECE and UN/CEFACT Traceability for Sustainable Value Chains – Textile and Leather Sector](#) (includes a policy recommendation with useful definitions for traceability, transparency and related terms)

## Annex B. Impact Stories

### Impact Story: Agencia Nacional de Contratación Pública – Colombia Compra Eficiente, Colombia

#### *Context*

Colombia Compra Eficiente (ANCP-CCE), Colombia's National Public Procurement Agency is the governing body of the Colombian public procurement and contracting system. CCE was created under Decree 4170 of 2011 and is in charge of managing, monitoring and evaluating the performance of the processes of the National Public Procurement. CCE seeks to generate greater efficiency, effectiveness and transparency in all procurement processes. It responds to the need for a body capable of unifying the country's public procurement matters, through a decentralized entity of the national executive branch, with legal status, with its own patrimony, and administrative and financial autonomy, attached to the National Planning Department (Decree 4170 of 2011).

In addition, CCE is in charge of generating policies, plans and programs, in coordination with other public entities, aiming to achieve dynamic supply and demand in the Colombian market, through standards, tools, framework agreements, and the simplification of public procurement and contracting processes.

Among its functions, CCE oversees the preparation of statistical studies and diagnoses based on the public procurement platforms SECOP I, SECOP II and the Virtual Store of the Colombian State (TVEC). These analyses serve to enhance public procurement capacities and offer interested users a virtual platform and simplified transactional for this type of process. In addition, CCE generates spaces to exchange good practices, and collects these in guides of good practices to be shared with other national and international organizations.

Contracting processes are conducted online and carried out through available platforms. This allows public entities, public and private sector companies to maintain purchasing processes in an open manner, promoting open and transparent communication, facilitating the hiring processes and avoiding acts of corruption. Suppliers, regardless of their size, can present bids online, promoting traceability and expanding national coverage for public tenders governed by price framework agreements (AMP). This opportunity serves to promote negotiation, and to set ceiling prices for all participating providers, so that all interested entities can find the service or product of interest at the best price.

#### *Challenge*

In recent years, CCE has implemented a series of electronic platforms, mechanisms, tools, and guidelines to monitor and manage all public procurement processes in the country, in which Colombia has been recognized for its substantial progress.

Regarding the responsible public procurement and due diligence practices, CCE has been strengthening its strategy by aggregating demand. Through these demand aggregation instruments, state contracting and public purchases promote social inclusion by hiring people in vulnerable situations, with disabilities, people without experience, hiring adults and the elderly, among others. Over the years, the generation of

policies and measures that seek economic reactivation aimed at sustainable production has intensified, creating formal jobs and the internationalization of Colombian products, services and companies.

Our participation in the pilot exposed us to examples and guidance that can be helpful in improving our own processes in our supply chain, in terms of improving the inclusion of due diligence criteria, in matters of sustainability and corporate responsibility. In addition, we found that the pilot was an opportunity to share good practices and success stories among the participants, which also allows the creation of connections between the participating countries for possible knowledge exchange opportunities in the future.

From the pilot workshops, we were able to relate and make a comparison process with the knowledge shared by other participants about our procedures, to generate ideas for updating, or creating new strategies that not only improve the performance of our processes within platforms, but greatly benefit the stakeholders who are also committed to the environment within their value chain.

## **Action**

Within CCE, the Deputy Business Office is in charge of the mechanisms that aggregate the demand of the Colombian state through framework agreements. This tool aims at increasing the coordination of the procurement offices to achieve value for money in their purchasing of goods and services.

CCE manages the primary selection process of bidders on behalf of the State Entities, including identifying needs of a particular good or service that most of the entities consume or acquire. These goods and services are included in a demand aggregation mechanism, recognized as having uniform technical characteristics to satisfy all entities and not one in particular.

Purchase orders are derived from the general contract and allow the entities to choose a supplier in a period of 15 days or less. A bilateral contract is generated between the supplier and each entity that adheres to the demand aggregation mechanism under the conditions that govern both the supplier and the buyer. This procedure avoids individual bidding processes for the acquisition of these same goods that can take up to six months if they are not done through a Framework Agreement or the TVEC.

Demand aggregation instruments can work when i) there is only one supplier that offers this good or service or, ii) when there's a single Entity with the need to acquire a certain product or service. The Framework Price Agreements (AMP) are available for all entities nationwide. AMPs have a greater number of awarded suppliers. Both mechanisms serve to identify goods or services, with specified conditions such as prices, minimum guarantees, and delivery time, among others.

We were able to identify inputs, knowledge and examples of good practices presented during the workshop session dedicated to the planning phase. Prior to the selection of suppliers, some processes are carried out to plan for the identification of needs of the entities. Based on this needs identification, the requests are generated that serve to structure the AMPs.

Once this process is finished, CCE carries out an investigation and study of the sector to identify goods and services as well as the conditions to acquire them. The study of the sector is carried out by analysing the market, if there are suppliers with a good financial and operational structure that have the capacity to supply the demand. Then, the demand is analysed taking into account the consumption trends of the entities, how these entities buy and what technical characteristics they include in their processes. Additionally, a legal analysis is made of certifications and laws that allows the aggregation of product demand, and the analysis of specifications.

One of the most relevant issues for a more responsible public procurement is due diligence, a central theme of the pilot. Part of the studies carried out by CCE in preparing an AMP is an analysis of the economic impact of these agreements related to job creation, its contribution to the trade balance and other economic issues are included, which provide benefits to the social sphere.

In accordance with the conclusions of the sector study, the preliminary studies and documents are prepared. These documents support of the public tender. They include the business model of the Price Framework Agreement and determine the general conditions of the contract, for example details of the purchase, timelines, etc. In addition to being the justification for the preparation of the AMP, the specification continues with the terms that the bidders must meet to be awarded in the AMP.

All these procedures are included in the early planning phase, called principal operation. A direct engagement is carried out through working groups with suppliers, entities, unions and representatives involved to plan the purchasing processes. Afterwards, the bidding process is carried out through SECOP II, publishing the documents made in a first determined phase as drafts in order to receive the observations from the actors involved. When they are published, direct contact with the stakeholders is avoided to prevent corruption and promote transparency. All contact is established publicly through the SECOP II platform. As a result of the observations made during the working groups, documents are adjusted and the final documents are published. These consulted documents collect all needs, opinions and suggestions of the stakeholders related to this public procurement process.

Following this process, the ANCP-CCE carries out the evaluation process, for this phase the Procurement Strategy for evaluation and verification session was helpful to corroborate that our processes were being carried out optimally, following the shared Due Diligence recommendations by the OECD in its guidelines.

During this evaluation phase, with offers published by the suppliers from the ANCP-CCE, interdisciplinary groups are created for the evaluation of the process. These groups consider the specifications detailed in the final documents of the early planning phase. This allows us to make an objective evaluation to all the suppliers to verify if they fulfilled all the conditions, which are already consigned in the documents. For the evaluation process there is a legal and a technical team who are in charge of verifying if a bidder can be awarded or not to a process.

Evaluation reports are generated indicating which bidder conformed to the specifications and which did not, along with the respective reasons. The awarded is made and AMP's contract is signed. Here, the so-called secondary operation begins. This is the creation of purchase orders by the entities. These entities also carry out a planning of their purchases, with previous studies to justify the purchase that they are going to perform. CCE verifies the fulfilment of the obligations of the suppliers regarding the AMP and, in the same way, entities verify and validate the obligations too.

In relation to the subject of the textile sector, in previous years, CCE had already assembled a Price Framework Agreement on material for quartermasters in Colombia's military forces. However, to update it, all the needs for new products were collected of quartermaster material and raw material that the Military Forces and the National Police have. During the early planning phase, working groups were held with interested actors so that they can request the inclusion of new goods in the AMP.

Regarding due diligence, in Colombia cooperation between state entities is promoted by the structuring of AMPs. In this case, an additional score was given to bidders who were related to social factor criteria by including suppliers that hire persons over 50 years old or young people hired for the first time. An additional score was awarded to qualified bidders that certify the hiring of personnel who accomplish the following conditions: i) young people between 18 and 28 years of age with a technical or technological bachelor's degree and who have not yet started productive work or, ii) who have a professional title but do not have related professional experience. An additional score was awarded to bidders who have in their personnel at least 5% of staff over 50 years of age.

The score seeks to encourage the hiring of people who match these criteria to promote employment. IN the textile sector specifically, CCE, through the AMPs and demand aggregation instruments, seeks to support persons with disabilities, people without experience and the hiring of adults through the state's contracting and public purchases.



The verification and evaluation stage of the quality of products like raw materials and finished products is transferred to the purchasing entities. They verify the conditions through internal tests. In this case, the main operation of the CCE is to verify the price, which must be quoted in the economic offer format, and fulfilling the enabling and specific conditions.

## *Impact*

There are many lessons learned from the pilot due to the variety of attendees to the sessions. Each country demonstrated through their success stories how due diligence and sustainability are the foundations of Responsible Public Procurement, demonstrating that those who do not use of these principles, in addition to generating harmful actions at a social and environmental level, are missing an opportunity to exchange knowledge, tools and guides with countries that stand out in this field.

As an Agency, we can conclude that we include criteria from the OECD's guide for responsible consumption and due diligence, including criteria that respect human and labour rights, also that respect the environment within all processes, always under the principles of transparency and anti-corruption.

In the same way, we were able to determine that within our work, we have processes to identify, prevent and mitigate the impact, and possible risks linked to our contracts. This is mostly thanks to the early planning that we handle through working groups with interested parties, which allows us to carry out the verification and evaluation processes before the publication of the final documents.

In particular, we were able to identify as a useful example City of Ghent's Guide on Socially Responsible Workwear<sup>7</sup>. It can serve as a roadmap for the implementation of more projects on the public procurement of garment and textiles.

Thus, the pilot allowed us to get a little closer to examples of success that the participants shared with us. These provided us with key strategies for our work, taking as a key factor the inclusion of the OECD Due Diligence guidelines. Success stories such as the implementation of due diligence in the uniform and textile procurement of the Danish police guide and advise us on the need to carry out a risk assessment as the first step of any project in order to prevent and mitigate these risks, and to provide feedback with stakeholders.

Finally, CCE is very grateful for the opportunity to share such an enriching and shared learning space with the other participants, and grateful to the organizers for allowing us to get a little closer despite being from different parts of the world. The knowledge acquired will not only serve us in upcoming projects and plans but also motivates us to be recognized as an outstanding example of our region in matters of responsible public procurement, given the opportunity for Colombia to share our own experience with the Framework Price Agreement for the textile sector.

It is important to highlight that for Colombia, these learning initiatives are a space for growth. The presented successful experiences and good practices from the international partners contribute, in a relevant way, to the decision-making, strategic planning and future prospects on responsible public procurement. It enable sharing a space of constant growth for the country and encouraging the socialization of good practices and success stories to other interested entities at an international level.

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<sup>7</sup> [https://stad.gent/sites/default/files/article/documents/ToolboxSocResWorkwear\\_1406.pdf](https://stad.gent/sites/default/files/article/documents/ToolboxSocResWorkwear_1406.pdf)

## Impact Story: German Development Agency (GIZ), Germany

### **Context**

GIZ's sector programme "Sustainability Standards and public-private responsibility" is advising the German Ministry of Economic Cooperation and Development inter alia on sustainable (textile) public procurement.

The German government committed to increase the sustainability of its textile procurement. The sustainability action plan of the German government, as part of Germany's sustainability strategy, lays out the goal that by 2025, 50% of public textile procurement needs to be purchased in accordance with social and environmental criteria. To work towards that goal, in January 2021 the German government published a guideline for sustainable textile procurement of the German federal administration. The GIZ's sector programme supported the elaboration of this guideline.

### **Challenge**

With the recently passed act on corporate due diligence obligations in supply chains (Lieferkettensorgfaltspflichtengesetz) awareness about integrating due diligence criteria into public procurement is of rising. Although there are still a lot of questions left on how to integrate due diligence at the practical level in procurement processes, there is an increasing demand to do so: if there is an obligation on companies, public procurement offices should not have lower standards in their tendering activities. Moreover, and as a result of these uncertainties regarding the integration of due diligence aspects on the practical level, there is a lack of good practices, which could be used as an orientation.

### **Action**

Hearing how other OECD members implemented due diligence requirements into public procurement was not only giving hope, but also very helpful at a practical level. Knowing that other procurement offices could do it, is giving inspiration to always find further ways for implementation in Germany.

### **Impact**

Aligning due diligence aspects into tender processes is a legal challenge for us. Knowing that other countries achieved integration of due diligence aspects in public procurement gave us inspiration to verify all possible options in the wake of a legal analysis. Currently, this legal document is in the making and may be used as a legal reference document for procurement offices in the future.

## Impact Story: Norwegian Police Shared Services (PFT), Norway

### Context

The organization operates at a national level and is responsible for developing, buying and supplying uniforms and footwear, as well as vehicles, weapons, ammunition, PPE and police technical equipment for the Norwegian Police, Customs and Correctional Service. We mostly operate with open tenders and framework agreements for the procurement of apparel and equipment. According to the Norwegian Act on Public Procurement and Regulations on Public Procurement we usually enter into framework agreements with a duration of maximum four years. We mainly interact with the main contractor, sometimes also with sub-contractor and production sites or mills.

Currently, our contracts are based on the ILO Core Conventions and the National legislation on labour rights in the country of production or origin. In some contracts, we have specific requirements tied to environmental issues. We have seen the need for more structured work within social responsibility, sustainability and ethics. In this conduct, the “Pilot on Due Diligence in the Public Procurement of Garment and Textiles” was spot on in our timeline.

### Challenge

We have seen that many suppliers in our category / department, Uniforms and Apparel, work with different ethical trade issues as well as with environmental issues. We are constantly striving for improvements, and are working towards a principal strategy and a stronger policy for our social and ethical responsibilities.

We have been working mostly with environmental minimum requirements in the specification of requirements, and have made demands for quality management systems and environmental management systems. During the contracts, we have closely followed up on the production, and engaged suppliers regarding their systems. When starting production in a new contract, we always try to visit the production facility. Lack of resources and knowledge have been the main reasons for not following up the due diligence work more.

During product development, we work closely with the users to ensure that all products meet their needs when it comes to functional solutions. The uniform concept is a part of a bigger equipment system where all products (uniforms, PPE, weapons, baton, etc.) should work together. With sustainability in mind, we seek better quality and to reduce consumption.

### Action

As this is a very complex field, we still need to process everything we have learned in the pilot. The information we have received in the workshops has been very useful. It has been inspiring to hear experiences from other countries, and similar organizations. We have presented some of the different issues within our organisation. However, we have used the latest months to get to know our own organisation more closely and our status on these issues.

Norwegian Police Shared Services is a member in the Ethical Trade Norway (ETN) since November 2020. We have committed to conduct due diligence to protect workers and human rights, for a more sustainable business practice. When seeking information in-house we discovered that there are several colleges that are doing activities in the "sustainable-area". However, we lacked a system, placement of responsibility and an overarching policy. Recently, a new person has been hired and will have the overall responsibility in the future.

Today, we perform local strategies for each procurement. We identify issues linked to sustainability and human rights, and decide on an "action plan". Until now, we have not yet had a suitable tool to work

systematically with these issues, and we do not have sufficient resources to follow up. With the new person on site, we have a much better opportunity to follow up.

### ***Impact***

During this year, and after participating in the pilot, we have become more aware of the issue at hand, and have raised our knowledge. Currently, PFT is working on the preparation of an upcoming procurement for uniform shirts that will be announced in January 2022.

During the preparation of this tender and the requirements specification, we have announced a Request for Information (RFI) to possible suppliers. Any input given by the suppliers will be considered as valuable information, so that the tender is best adapted to today's market. In Ethical Trade Norway's experience, the textile industry has met these kinds of demands for many years. At the time of writing, many suppliers expressed their interest and read the questionnaire.

Our goal for the RFI process is to be able to get an overview over possible solutions and marked maturity in regards to corporate social responsibility (CSR), sustainability and environmental issues. Based upon the input given from vendors, we also hope to be able to create cost estimates and provide necessary input to our planning process. Information from the RFI may be relevant for other upcoming procurement processes as well.

This tender will be the first time PFT uses the contractual performance clauses from Ethical Trade Norway, which are based on the United Nations Guiding Principles on Business and Human Rights, and the OECD Guidelines for responsible Business Conduct. These frameworks both recommend due diligence as the preferred method for identifying, preventing, mitigating and accounting for how businesses address their actual and potential adverse labour and human right impacts in their own operations and in the supply chain.

We are planning to require the suppliers to document for traceability in their supply chain as qualification criteria. To ensure a realistic result, the products chosen in this project do not contain too many raw materials and trims. We will only ask for the supply chain of the main materials.

As a result of our new approach, PFT are now committed to follow up during the contractual period.

## Impact Story: Swiss Post, Switzerland

### Context

As its owner, the Federal Council expects Swiss Post to pursue sustainable and ethical principles in its strategy and lays down requirements to this end. Social, ethical and ecological criteria play an important role in all procurement transactions. As a member of Fair Wear Foundation, we are committed to responsible procurement of the work-wear items. Since 2017, we take OECD risk-based supply chain due diligence guidance in the garment and footwear sector into account when purchasing.

Swiss Post has a strict due diligence procedure for all work-wear suppliers. All suppliers have to fill out an open price calculation sheet and disclose their wages. Swiss Post analyses regularly human rights risks with the help of FWF country studies, Amfori and UN Development Index data.

Currently, Swiss Post's work-wear items are produced by ten suppliers in 15 factories in seven countries in Europe. The following measures for the procurement of work-wear items are implemented:

1. Transparency along the supply chain up to the 3rd tier
2. Supplier audits, trainings
3. Continuous supplier improvement measures in dialogue
4. Use of innovative materials
5. Local sourcing with impact on CO2 reduction
6. Annual public reporting of procurement report and brand performance check

### Challenge

There was no specific challenge. Swiss Post implements already OECD guidelines of due diligence at garment and footwear sector. This is a dynamic and on-going process.

### Action

The OECD Pilot provided confirmation for us that the uniform procurement unit of Swiss Post is on the right track. We will intensify our due diligence efforts and extend our experiences in the area of uniform procurement to other procurement units of Swiss Post.

Because traditional procurement practices (contracts, audits, questionnaires, etc.) are not enough for the challenges of our time. It needs intensive dialogue with suppliers, capacity building, and complaints mechanisms in the factories. Collaboration among public buyers, international organizations, civil society and multi-stake holders as well as legal regulations is essential.

### Impact

I learnt a structured, methodical approach on how enterprises should carry out due diligence to identify, prevent, mitigate and account for how we address these actual and potential adverse impacts in our own operations, our supply chain and general in all business relations. It was very inspiring to experience that all participant public buyers have an interest in a new normal in the garment industry supporting better working conditions in a fast-changing world with increasing supply chain complexities.

Thanks for giving me the opportunity to participate at OECD Pilot on Due Diligence in the Public Procurement of Garment and Textiles.

## Annex C. OECD Pilot Workshops

<b><u>Session focus</u></b>	<b><u>Session date</u></b>
<b>Session 1: Pre-tender stage: How to prepare for more responsible procurement?</b>	29 April 2021
<b>Session 2: From procurement strategy and tender documents to evaluation and verification</b>	1 July 2021
<b>Session 3: Contract management phase</b>	9 September 2021
<b>Session 4: Stakeholder perspectives</b>	21 October 2021
<b>Session 5: Recap (gender) and conclusions</b>	8 December 2021



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