Integrating Responsible Business Conduct in Public Procurement
Public Procurement & Responsible Business Conduct

Society has become increasingly aware of environmental and human rights-related risks in global supply chains. Both governments and business are under pressure to take greater responsibility to prevent and address these risks. The purchasing power of governments is an important lever to promote transparency and sustainability in supply chains. This includes strengthening risk management systems in public procurement to cover global value chains comprehensively, and integrating Responsible Business Conduct (RBC) objectives and risk-based supply chain due diligence in public procurement.

Accounting for an average of 12% of gross domestic product (GDP) in OECD countries, the impact of public procurement is vast. However, if public procurement is not managed properly, it may have negative impacts on the environment and society. Increasingly, governments view public procurement as a strategic policy tool to promote sustainability, inclusiveness, and resilience.

The COVID-19 pandemic illustrates the relevance of this agenda as disruptions in global supply chains revealed gaps in risk awareness. Many public buyers were unaware of the provenance of their supplies and the associated risks, including possible over dependence on a few suppliers. Implementing OECD risk-based supply chain due diligence in public procurement processes can strengthen supply chain resilience and help public buyers make well-informed business decisions to prevent and address risks in global supply chains.

Figure 1. OECD risk-based due diligence process and supporting measures

Societies and economies worldwide are responding to mounting challenges, to events like the COVID-19 pandemic and ongoing mega trends like climate change. Nonetheless, these challenges also provide an opportunity. Governments are in a unique position to recognise their responsibility to avoid and address harmful impacts. While building back better, governments can implement efficient and effective measures to ensure responsible conduct in all areas of government action, including in public procurement. The OECD’s evidence-based analysis continues to support these efforts.
Integrating RBC in Public Procurement

This report highlights how OECD members and adherents to OECD instruments (the OECD Recommendation on Public Procurement and the OECD Guidelines for Multinational Enterprises) incorporate RBC objectives and risk-based due diligence into their public procurement systems. The analysis in the report considers three aspects of RBC: coverage of RBC objectives; their integration throughout the procurement cycle; and their application along global supply chains. The analysis shows that the uptake of RBC objectives in public procurement is incomplete and uneven and that limited systematic risk-based supply chain due diligence is incorporated in the frameworks and practices of central purchasing bodies (CPBs).

Challenges also remain on the implementation of a number of RBC objectives. Follow-up to monitor the uptake of RBC objectives is generally weak. For the purposes of this report, RBC objectives include considerations related to the environment, human rights, labour rights, minorities, people with disabilities, the long-term unemployed, gender, and integrity.

Figure 2. Objectives of Responsible Business Conduct

WHAT IS RESPONSIBLE BUSINESS CONDUCT?

Responsible Business Conduct (RBC) sets out an expectation that all businesses – regardless of their legal status, size, ownership or sector – avoid and address negative impacts of their operations, while contributing to sustainable development in the countries where they operate. For the purposes of this report, RBC objectives include considerations related to the environment, human rights, labour rights, minorities, people with disabilities, the long-term unemployed, gender, and integrity.

WHAT IS PUBLIC PROCUREMENT?

Public Procurement is the purchase by governments and state-owned enterprises of goods, services and works. It refers to the process of identifying what is needed, determining who the best person or organisation is to supply this need, and ensuring what is needed is delivered to the right place, at the right time, for the best price and that all this is done in a fair and open manner.
RBC objectives in Public Procurement

DEFINITIONS USED THROUGHOUT THE REPORT

Environment refers to any activity to maintain or restore the quality of the environment through preventing the emission of pollutants or reducing the presence of polluting substances in the environment. Within public procurement, environmental considerations can relate to pollution, carbon footprint, water footprint or use, biodiversity, micro-plastics, climate change, deforestation, chemicals, waste reduction (water, packaging), fossil fuels, land use or tenure, energy and renewable energy, circular economy.

Human rights as expressed in the International Bill of Human Rights, consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as the other core international human rights treaties, and to the principles concerning fundamental rights set out in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

Labour rights which include the fundamental principles and rights at work as recognised in the ILO 1998 Declaration on Fundamental Principles and Rights at Work as well as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration). The 1998 Declaration includes the freedom of association and the right to collective bargaining, the effective abolition of child labour, the elimination of all forms of forced or compulsory labour, and non-discrimination in employment and occupation.

Minority considerations refer to certain categories of the society that need to be integrated in the economy through specific policies.

People with disabilities refer to those who have a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

Long-term unemployed people refer to people who have been unemployed for 12 months or more.

Gender considerations refer to incorporating gender elements in the public procurement policymaking cycle and in the procurement processes.

Integrity refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector. Integrity breaches include corruption, fraud, bribery and tax evasion.
Key findings

A majority of countries covered by the survey promote some RBC objectives through public procurement, but only a few have frameworks addressing all RBC objectives throughout the entire supply chain. For example, all countries have a strategy or framework to support environmental objectives in public procurement, but few have frameworks linked to other RBC objectives. Central Purchasing Bodies (CPBs) have their own policies and strategies for certain RBC objectives linked to the environment, human rights, and integrity, for example. At best, 20-25% of these institution-level policies and strategies apply to the entire supply chain.

Figure 3. Share of countries that have any type of framework to support RBC objectives

![Graph showing the share of countries with frameworks for various RBC objectives.]

Note: Based on data from 27 countries; either regulatory or strategic framework

Figure 4. Countries where regulatory or strategic frameworks apply to the supply chain

![Graph showing the application of frameworks to the supply chain.]

Note: Based on data from 27 countries; either regulatory or strategic framework
Key findings

The most important reasons for governments to integrate RBC objectives into the public procurement framework are to achieve policy coherence and to align with international expectations on RBC. When developing regulatory and policy frameworks, stakeholder feedback from business and civil society should be sought more consistently.

Different RBC objectives do not feature equally in the various phases of the public procurement cycle. When planning purchases, CPBs frequently consult with businesses regarding environmental considerations (53%), but rarely on other RBC objectives. The lack of market engagement is an important challenge for companies responding to RBC objectives set by contracting authorities. Over two-thirds of CPBs verify whether the main contractor complies with environmental, labour rights and integrity-related requirements set in a contract, but do not verify compliance at the sub-contractor level to the same extent.

Figure 5. Extent to which CPBs verify the fulfillment of contractual RBC obligations in the supply chain

Across all RBC objectives, the top challenge for policy makers is a lack of understanding of how to achieve them through public procurement. Implementation of these objectives appears particularly difficult for requirements related to minority concerns and human rights (flagged by around 40-50% of countries, respectively).

Monitoring and follow-up of RBC objectives is weak. More than 80% of countries monitor the uptake of environmental considerations at least partially. Fifty percent of country frameworks provide for actions against suppliers infringing RBC standards in their supply chains. Around 30% of countries require that suppliers change their supplier in case of violations.

In practice, public procurement processes rarely include a consistent due diligence approach. Four out of five CPBs use risk management frameworks considering at least some RBC objectives, and more than 80% CPBs have identified high-risk purchasing categories. More than half of CPBs require suppliers to certify that they know their supply chain, but only a limited number of CPBs require suppliers to actually conduct supply chain due diligence along the supply chain.
Key recommendations

The findings highlight several avenues to integrate RBC objectives in public procurement. Governments are encouraged to create comprehensive and consistent frameworks to strengthen RBC in public procurement, notably by implementing risk-based supply chain due diligence.

Governments should also support capacity building for public procurement practitioners to operationalise due diligence in public procurement. In implementing these recommendations, governments should take into consideration the experiences and perspectives of relevant stakeholder groups.

PRIORITY MEASURES TO PROMOTE RBC THROUGH PUBLIC PROCUREMENT

- Adopting a comprehensive approach to considering RBC objectives in public procurement systems, covering aspects of RBC objectives throughout the entire supply chain. To do so, governments could align frameworks on RBC in public procurement with international standards such as the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct and the OECD Recommendation on Public Procurement.

- Integrating stakeholder perspectives, including from business, civil society, unions and other stakeholders, when developing and implementing RBC frameworks in public procurement.

- Integrating RBC objectives comprehensively throughout all phases of the public procurement cycle. This should include market engagement through to contract management, and give special attention to contractual obligations.

- Improving practitioners’ knowledge, capacity and ability to implement RBC objectives in public procurement, drawing on existing tools, strategies and practices for supply chain mapping, risk management in public procurement and due diligence.

- Monitoring the implementation of RBC objectives in public procurement, especially through strengthened contract management strategies, and collecting and publishing data resulting from these activities.

- Facilitating the closer collaboration of policy makers and practitioners through existing public procurement and RBC-related networks, such as the National Contact Points for RBC (NCPs) or public procurement networks.
OECD members have long recognised the potential benefits of more sustainable and responsible purchasing practices. To advance this agenda, in 2019 the OECD launched a programme to further integrate RBC considerations and risk-based supply chain due diligence into public procurement policies and processes.

This report contributes to the research and analysis component of this programme. In addition to analysis and research, this multi-phased programme provides a platform for policy makers and practitioners to share lessons learned and agree on ways to integrate RBC objectives into public procurement.

The programme is jointly managed by the OECD Working Party of Leading Practitioners on Public Procurement and the OECD Working Party on Responsible Business Conduct. The report was developed in close collaboration with OECD members and countries adhering to OECD instruments on public procurement and RBC.

It is a joint effort by the OECD Centre for Responsible Business Conduct within the OECD Directorate for Financial and Enterprise Affairs and the Infrastructure and Public Procurement Division within the OECD Public Governance Directorate. The analysis also takes into account views from National Contact Points for RBC (NCPs), business, industry associations, civil society and trade unions.
Timeline

2019
- March: Launch of the Public Procurement and RBC Programme
- November: Survey to Adherents to the OECD Recommendation on Public Procurement and to the OECD Guidelines for Multinational Enterprises

2020
- March: Seminar with public procurement practitioners, RBC policy makers and stakeholders: Leveraging Responsible Business Conduct through public procurement
- October: (Infrastructure and Public Procurement Week): Meeting of delegates from the WPRBC and LPP
- December: Release of the report Integrating Responsible Business Conduct in Public Procurement

2021
- February: Launch of the Pilot on Due Diligence in the Public Procurement of Garment & Textiles
- Q1: Webinars on RBC and Public Procurement with a focus on specific risk topics and themes
- Q3: Publication of policy briefs on 1) Lessons for implementation: Insights for RBC in public procurement from other policy areas, 2) Economic impact of RBC in Public Procurement
- October: (Infrastructure and Public Procurement Week): Meeting of delegates from the WPRBC and LPP
Integrating Responsible Business Conduct in Public Procurement

Part I.

Section 1.
Public Procurement - Supporting Responsible Business Conduct

Section 2.
The Public Procurement Policy Environment and Responsible Business Conduct

Section 3.
Implementing RBC Objectives in Practice

Section 4.
Conclusions and Recommendations

Part II.
Country Fact Sheets

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The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities.

The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem.
This report highlights how OECD members and adherents to OECD instruments incorporate RBC objectives and risk-based due diligence into their public procurement systems.

This highlights booklet reproduces key messages and recommendations from the report.