

---

# Green public procurement

The government has approved the ecological criteria for direct and indirect state administration entities to follow when entering contracts.

## Portugal - Legal Update

October 27, 2023



---

### Key aspects

- > Council of Ministers Resolution 132/2023—Official Gazette of the Republic of Portugal 207/2023, Series I of October 25, 2023—establishes the ecological criteria for public tenders launched by direct and indirect state administration entities, including the state-owned enterprise sector.
- > It also establishes the general ecology-related principles for all public contracts and specifies ecological criteria for the envisaged contract categories, **many of which are mandatory**.
- > The criteria apply to public tenders launched from the first business day of the second quarter of 2024. However, they apply from January 1, 2024, to public works tenders with implementation plans contracted for after that date.



---

## Introduction

On October 25, 2023, Council of Ministers Resolution 132/2023 was published in the Official Gazette of the Republic of Portugal 207/2023, Series I of October 10, 2023 (the “Resolution”). It establishes ecological criteria for public tenders launched by direct or indirect state administration entities, including the state-owned enterprise sector.

It also establishes:

- (i) general ecology-related principles for all public contracts (including non-standard contracts); and
- (ii) specific ecological criteria for the contract categories stipulated in the schedule to the Resolution.

The Resolution comes within the context of the National Strategy for Green Public Procurement 2030–ECO360, as approved by Council of Ministers Resolution 13/2023 of February 10, which establishes that sustainable public procurement must be central to decisions concerning sustainable production and consumption. The aim is to (i) strengthen green public procurement, contributing significantly to meeting environmental policy goals; (ii) promote a sustainable economic development model that generates wealth and employment; and (iii) showcase the state administration as a sustainability role model that can influence the conduct of both companies and citizens.

The Resolution is also in line with the Public Procurement Code, as approved in the schedule to Decree-Law 18/2018 of January 29, which elevates sustainability and compliance with applicable environmental rules to specific public procurement principles, particularly as outlined in articles 1.2 and 1.3. It is also in line with Directives [2014/24/EU](#) and [2014/25/EU](#).

---

## General ecology-related principles

The Resolution establishes the following general principles regarding ecological criteria for public tenders, regardless of the contract’s purpose and including non-standard contracts:

- a) When forming public contracts, the contracting authority must consider the ecological sustainability of the services provided.



- b) When preparing tender documents, the contracting authority should adopt the multifactor type as an award criterion and, when it does, it should include the environmental sustainability of the services provided.
- c) When identifying the performance aspects of the contract and the technical specifications, the contracting authority should establish minimum environmental sustainability standards for the services provided and establish services certified by recognized and reliable systems such as the EU Ecolabel Scheme.

---

## Ecological criteria

The ecological criteria applicable to the contracts listed in the schedule and defined in the Resolution are classified into the following categories:

- a) **Mandatory:** The contracting authority is required to use the ecological criteria, unless doing so results in an appreciable restriction of competition.
- b) **Voluntary:** The contracting authority is not required to use the criteria. However, if it intends to use ecological criteria, it must use the ones established in the Resolution.
- c) **Recommended:** The contracting authority is only exempt from using the ecological criteria in specifically justified cases.
- d) **Optional:** The contracting authority is not required to use the ecological criteria.

The obligation to use ecological criteria does not affect the application of specific technical rules, and the scope of these criteria may be broadened to cover additional categories of goods and services.

---

## Specific ecological criteria

The government establishes various mandatory, voluntary, recommended, and optional criteria for the following contract categories:

- Contracts for the purchase of clothing items
- Contracts for the purchase of wood and cork and contracts for public works that include the use of wood and cork



- Contracts for the purchase of electricity, including for public charging stations for electric vehicles
- Contracts for energy certification, energy audits and planning services, and for the purchase and installation of self-consumption photovoltaic systems
- Contracts for the purchase of vehicles and vehicle operating leases
- Contracts for the purchase of paper for photocopying and printing
- Contracts for the purchase of furniture
- Contracts for hygiene and cleaning services
- Contracts for catering services
- Contracts for travel and accommodation agency services
- Contracts for heating, ventilation, and air conditioning (HVAC) maintenance services
- Contracts for elevator and escalator systems maintenance services
- Contracts for outsourced copy and print services and for the purchase of copy and print equipment
- Contracts for the purchase of food products, catering services and automatic vending services
- Contracts for the purchase or lease of IT equipment
- Contracts for public works.

---

## Effective dates

The ecological criteria for public tenders apply:

- after January 1, 2024, for tenders for public works contracts with implementation plans contracted for after that date; or
- from the first business day of the second quarter of 2024 for other public contract tenders launched from that date.



The criteria do not apply to public tenders under dynamic purchasing systems and framework agreements currently in force or whose pre-contractual procedures were started before January 1, 2024.

---

## Entry into force

The Resolution enters into force the day after it is published.

---

For additional information on the contents of this document, please contact *Cuatrecasas*.

©2023 CUATRECASAS

All rights reserved.

This document is a compilation of legal information prepared by Cuatrecasas. The information and comments included in it do not constitute legal advice.

Cuatrecasas owns the intellectual property rights over this document. Any reproduction, distribution, assignment or any other full or partial use of this legal flash is prohibited, unless with the consent of Cuatrecasas.



IS 713573