



Obtaining the right balance for businesses in North Rhine-Westphalia



Public Procurement Principle: **Balance**



Procurement Stage: **Post-award**



Audience: **Policy maker, Procuring entity**

Description

The state of North Rhine-Westphalia (Nordrhein-Westfalen, NRW) has attempted to promote the use of strategic procurement, in particular sustainability, in different areas and at different levels across the state. NRW has adopted a strategic plan to create a sustainable administration. Part of this strategic plan is dedicated to sustainable procurement. Following insights into what has worked and what has not, policy makers in NRW have adapted their approaches to sustainable public procurement. Previously, NRW followed legal provisions related to minimum wages and International Labour Organisation (ILO) labour standards in public procurement projects. Following feedback from contracting authorities, these requirements have been repealed from the legal and regulatory framework (see below). In their place, NRW has increased its emphasis on measures beyond the legal realm to increase sustainability in public procurement.

NRW initially introduced requirements in 2011 to ensure minimum wages in public contracts because there was no minimum wage legislation at the federal level. At the time, additional procurement rules in the state included rules on compliance with union-negotiated wages, sustainable and green procurement, compliance with international ILO labour standards, and the promotion of gender equality. Local authorities and state contracting authorities were also required by decree to favour suppliers that aimed to integrate staff with disabilities. Since 2011, however, two factors have encouraged the NRW government to reconsider its policies:

- Feedback from contracting authorities, especially smaller ones and those on the municipal level, revealed that the legal requirements were too complex for efficient and effective implementation in practice.
- A general minimum wage law was adopted at the federal level.

In light of these factors, NRW undertook a study to assess the success of sustainable procurement laws. Results were mixed but insightful, as they demonstrated that:

- Some companies were dissuaded from participating in public tenders, as they were concerned about delivering in light of more concrete sustainable requirements and goals.
- It is challenging to measure compliance with social goals, as not all products have meaningful seals or certificates.
- Not all core labour standards of the ILO are verifiable, meaning not all aspects of compliance can be verified.
- If certification processes are too complicated for companies, they lose an incentive to qualify to participate in public tenders.

As a consequence of this study, NRW repealed the detailed requirements in its public procurement law. Instead, public procurement in NRW now focuses on measures beyond the legal and regulatory framework, such as ad hoc support for contracting authorities in implementing strategic procurement. Finally, a sustainable procurement newsletter is used to raise awareness of strategic procurement.

Source: OECD (2019), [Public Procurement in Germany: Strategic Dimensions for Well-being and Growth](#), OECD Publishing, Paris

