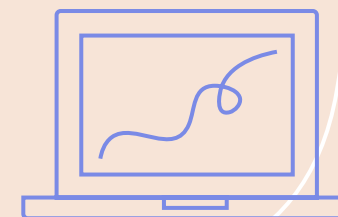


Policy brief:

Effectiveness of public procurement measures in addressing modern slavery



Annex

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Modern Slavery PEC Policy Brief 2022-2

Annex A: Table of public procurement laws, policies and practices implemented worldwide¹

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Public Procurement Laws, Policies and Regulations						
Commonwealth Procurement Rules (CPR) 2022⁵	Australia	National	Exclusion Criteria	CPR 6.5 defines ethical purchasing . Rule 6.7 Rule 6.7, that <u>requires</u> relevant entities ⁶ to “not seek to benefit from supplier practices that may be dishonest, unethical or unsafe. This includes not entering into contracts with tenderers who have had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and who have not satisfied any resulting order. Officials <u>should</u> seek declarations from all tenderers confirming that they have no such unsettled orders against them.	Goods, Services and Works	Not sector specific.

1. Elaborated by the author. This is not an exhaustive list of laws, policies and practices or of their provisions. This list is in alphabetical order according to country name.

2. Or jurisdiction.

3. In bold: modern slavery relevant provisions. Underlined: voluntary vs mandatory language.

4. In EU law, the subject matter of procurement is commonly divided into three categories: Goods (supply of products); services; and works (construction) Methven O’Brien, C., Vander Meulen, N., & Mehra, A. (2016). *Public Procurement and Human Rights: A Survey of Twenty Jurisdictions*. 1-104. This framework is used here based on evidence by [The International Learning Lab on Procurement & Human Rights](#) and the definitions from The Danish Institute for Human Rights. (2020). *Driving Change Through Public Procurement* (Issue March). *Goods* refer to: raw materials, products and equipment and objects in solid, liquid or gaseous form, and electricity, as well as services incidental to the supply of the goods if the value of those incidental services does not exceed that of the goods themselves. *Services* refers to: Work, duty or labour performed by a contractor such as security, catering, cleaning, travel management, event management, IT services, training, freight forwarding, and consulting. *Works* refers to: all activities associated with the construction, reconstruction, demolition, repair or renovation of a building, structure or activities such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, satellite photography, seismic investigations and similar services provided pursuant to the procurement contract, if the value of those services does not exceed that of the works themselves.

5. These rules do not refer explicitly to modern slavery issues, but it has been analysed in such context. See Mbah, M., Cahill, D., & Ceri, E. (2021). Tackling Human Trafficking in Governments Supply Chains: Legal Certainty & Effectiveness Issues Under the Australian Commonwealth Procurement Rules. *Federal Law Review* (In Press).

6. Officials from non-corporate Commonwealth entities and prescribed corporate Commonwealth entities listed in section 30 of the Public Governance, Performance and Accountability Rule 2014 must comply with the CPRs when performing duties related to procurement.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Modern Slavery Act 2018	Australia	National	Transparency	The Australian Government is required to prepare annual modern slavery statements. The Commonwealth is required to report on behalf of non-corporate Commonwealth entities, and the reporting requirements also apply to Commonwealth corporate entities and companies with an annual consolidated revenue of more than \$100 million.	Goods, Services and Works	Not sector specific.
Procurement Act 2020 and Procurement (Debarment of Suppliers) Regulations 2021 (in force 1 January 2022)	(Western) Australia	Subnational	Exclusion (debarment)	Debarment regime to preclude suppliers who engage in unlawful and irresponsible business practices from seeking or being awarded a public contract. The regime identifies 3 categories of debarment: Category A (5 years debarment) contravention of legislation relating to human trafficking , and others. Category B (2 years) conduct includes non-compliance with the modern slavery reporting requirements of the Modern Slavery Act 2018. Affiliates of a supplier (including overseas entities) can also be debarred if it is in the public interest. The names of debarred suppliers will be published on a public register.	Goods, Services and Works	Not sector specific.
Federal Law on public procurement (BVergG 2018)	Austria	National	Exclusion Beyond Tier 1	The contracting authority or entity has to exclude an economic operator from participation in the procurement procedure if that economic operator has been convicted by final judgement of, inter alia, slavery or, trafficking in human beings . This mandatory exclusion ground also applies to all subcontractors. In case a subcontractor has been convicted of any of the mentioned offences, the economic operator has to be excluded from participation in the procurement procedure or the respective subcontractor has to be rejected (and the economic operator has to nominate another subcontractor). ⁷	Goods, Services and Works	Not sector specific.
Public Procurement Act of 2017	Belgium	National	Exclusion and selection criteria	The Belgium Public Procurement Act of 2017 requires that suppliers and subcontractors comply with environmental, social and labour laws , and allows for failure to do so to be used as a ground for exclusion. The public buyer can require a specific label as evidence of human rights compliance for goods and services. The buyer can also introduce minimum standards as technical specifications applicable across the lifecycle of the goods and services.	Good and Services	Not sector specific.
City of Ghent procurement policy 2014	Belgium	Subnational	Selection criteria & contract performance clauses	The City of Ghent entered into a partnership with the Association of Flemish Cities and Municipalities (VVSG) to stimulate local authorities to incorporate ethical criteria in their procurement procedures . Sustainable workwear for the City of Ghent is defined by a minimal environmental impact throughout the life cycle and a maximum guarantee that both national and international working conditions and human rights are being respected throughout the entire supply chain.	Goods	Textiles, ICT and stone. ⁸

7. GRETA. (2020). COMPENDIUM of good practices in addressing trafficking in human beings for the purpose of labour exploitation. <https://rm.coe.int/mpendum-of-good-practices-in-addressing-trafficking-in-human-beings-f/16809f9bef>

8. These were identified as having a high-risk and thus were prioritised for the policy objectives relating to international labour standards and fair-trade principles. De Cokere A. (2020), [THE CITY OF GHENT: LEADING THE WAY IN SOCIALLY RESPONSIBLE PROCUREMENT OF WORKWEAR](#). International Learning Lab on Public Procurement and Human Rights Blog (January).

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Requirements for Ethical Procurement Apparel Policy Notification (PN) 132/2018	Canada	National	Selection criteria Beyond Tier 1	New contracting and certification <u>requirements</u> for the ethical procurement of apparel. Suppliers selling apparel to the government <u>must self-certify</u> that they and their first-tier subcontractors comply with local laws and international standards on labour and human rights. These rights include freedom from child labour, forced labour , discrimination and abuse, and access to fair wages and safe working conditions.	Goods	Apparel.
Directive 2014/24/EU on public procurement	EU	Supranational	Exclusion, selection, award, contract performance clauses, and termination.	Establishes that public authorities <u>may</u> consider multiple factors when awarding a contract, including sustainable development considerations. It establishes mandatory and discretionary grounds for exclusion. Mandatory social clause: Makes it possible to exclude any economic operator that has been the subject of a conviction by final judgment for child labour and other forms of trafficking in human beings (up to 5 years). Discretionary exclusion when they can demonstrate a violation to obligations in art 18 (2) on environmental, social and labour law (up to 3 years).	Goods, Services and Works	Not sector specific.
Act on Public Procurement and Concession Contracts 2016	Finland	National	Exclusion Beyond Tier 1 & termination	Section 80 Mandatory exclusion criteria: The contracting entity <u>shall</u> issue a decision excluding a candidate or tenderer from competitive tendering if the contracting entity is aware that the candidate or tenderer, has a legally final conviction for trafficking in human beings . It also allows for exclusion of subcontractors (section 78) and the contracting entity shall require the tenderer to replace a subcontractor that is subject to some mandatory exclusion criterion. In addition to the terms and conditions of the procurement agreement, a contracting entity may terminate the procurement agreement with immediate effect if the supplier was subject to a mandatory exclusion criterion prescribed in section 80.	Goods, Services and Works.	Not sector specific.
Berlin Tendering and Procurement Act (BerlAVG, 2020)	Germany	Subnational	Award criteria	§ 8: Compliance with the ILO core labour standards: When awarding works, supplies or services, efforts <u>shall</u> be made to ensure that no goods are used for the provision of services which have been obtained, manufactured or further processed in disregard of the minimum standards laid down in the ILO core labour standards .	Goods, Services and Works	Not sector specific.
Public Procurement Act 2016	Netherlands	National	Selection & Exclusion criteria	Contracting authorities <u>may</u> require bidders to submit compliance declarations with specific requirements related to environmental and labour laws . Contracting authorities <u>can</u> exclude bidders who have committed human rights infractions . ⁹	Goods, Services and Works	Not sector specific.

9. OSCE. (2020). Compendium of Relevant Reference Materials and Resources on Ethical Sourcing and Prevention of Trafficking in Human Beings for Labour Exploitation in Supply Chains.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Government Procurement Rules (2019)	New Zealand	National	Selection criteria & due diligence	Ensure that the businesses you contract with respect international standards relating to human and labour rights . Rule 19: Improving conditions for New Zealand workers explains the circumstances where agencies <u>must</u> require their suppliers to show that they comply with all relevant employment standards and health and safety requirements. To incentivise suppliers with good labour practices , agencies should ensure that all workers employed to fulfil the requirements of government contracts are treated fairly and are not exploited . In addition, agencies need to apply a greater level of due diligence in assuring that employment standards are being met for the designated contracts as these show the underlying characteristics associated with employment standards breaches and labour exploitation .	Goods, Services and Works	Cleaning, security, forestry. ¹⁰
Procurement Guidance Note PGN 03/18 – Human Rights in Public Procurement	Northern Ireland	National	Selection criteria, contract performance clauses and due diligence.	It applies to those bodies subject to the Northern Ireland Public Procurement Policy. When entering into any commercial contracts, contracting authorities <u>should</u> assess the level of risk involved in each contract and provide a procurement strategy. <u>Where appropriate to require</u> that a contractor must not use forced labour in the delivery of services. The Contracting Authority must consider the method for including specific human rights requirements into the tender process either as a condition of contract or a technical specification. The Public Sector Standard Conditions of Contract contain clauses related to the Modern Slavery Act .	Goods, Services and Works.	Not sector specific.
Public Procurement Act 2016 (in force January 2017) & The Regulation on Public Procurement No. 974 2016	Norway	National	Contract performance clauses	The Ministry may require central, county and municipal authorities and public law bodies to include clauses in service and construction contracts related to wages and working conditions . The Ministry <u>may require</u> contracting authorities to supervise compliance with the clauses and to take action against the supplier in the event of non-compliance with the clauses. It is <u>mandatory</u> to ensure short supply chains in construction and cleaning contracts.	Goods, Services and Works	Not sector specific.
Norwegian regulations on wages and working conditions in public contracts No. 112 2008	Norway	National	Contract performance clauses	Aims to ensure that salary and working conditions for workers in companies that implement public works contracts comply with national standards and tariffs. Contracting authorities <u>mandated</u> to ensure that contracts clearly stipulate that wages of suppliers employees or subcontractors and working conditions are in accordance with this regulation.	Works	Not specified.

10. Established as designated contract areas which require higher due diligence for outcome three: Employment Standards.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Oslo's City Council Regulation against Child Labour: ¹¹ The Oslo Model 2017	Norway	Subnational	Contract performance clauses & termination	It has been in use for a limited number of contracts since 1996 and was extended to all standard contracts in 2005. The policy was developed by Oslo's City Council together with the Corporate Procurement department. The City Council has since adopted new guidelines and contract clauses with regard to human rights and child labour in particular, known as the Oslo Model. Suppliers <u>have to</u> guarantee that all products supplied are manufactured in compliance with the UN Convention on the Rights of the Child and the other core ILO conventions . The social contract clauses allow to terminate a contract due to a breach of child labour or other fundamental labour and human rights laws. Max. one subcontractor in vertical line.	Goods, Services and Works	Not specified.
The Skien Model 2014 (reviewed 2019)	Norway	Subnational	Contract performance clauses, penalties, termination & suspensions.	This set of collective contractual requirements applicable to ' high-risk ' sectors is called the Skien Model. It implemented standard contract terms, <u>mandatory</u> for construction and building contracts <u>and where applicable</u> to selected goods services. The purpose of the Skien Model is to ensure that businesses bidding for public-sector contracts offer good working conditions . <u>Mandatory</u> for contracting authorities to ensure short supply chains in contracts in construction and cleaning services (no more than two tiers). In construction contracts, the contracting authority <u>may</u> levy a daily penalty (no less than NOK 1,000- approximately €100 per business day) until the situation is remedied if they or any of their subcontractors use illegal or non-compliant labour. In the event of a confirmed breach of the terms of the Model and the contractor's inability to solve it, the contracting authority <u>may</u> rescind the contract with a suspension period on future participation in procurement procedures. The bidder is responsible for providing continuous reports on the use of foreign labour at all stages of the contract chain and must self-certify compliance with ILO Convention No 94 (wages, working hours, and labour conditions) .	Good, Services and Works	High-risk Construction and cleaning. ¹²
The Public Contracts (Scotland) Regulations 2015	Scotland	National	Exclusion	Regulation 58: <u>legal obligation</u> on public bodies to exclude companies from tendering for public contracts where they have been convicted for human trafficking .	Goods, Services and Works	Not sector specific.
Reducing the risk of human trafficking and exploitation in the performance of public contracts: SPPN 3/2020	Scotland	National	Selection criteria, contract clauses	Invitations to tender <u>can</u> include provisions (e.g.as specifications) aimed at ensuring supply chains are free from human trafficking and exploitation . Specific terms and conditions of contract <u>can</u> be developed aimed at ensuring supply chain transparency and protections related to labour and human rights risks and the core ILO conventions .	Goods, Services and Works	Not sector specific.

11. See European Commission. (2021). [Buying Social - A guide to taking account of social considerations in public procurement](#) (2nd edition). European Commission Executive Agency for Small and Medium-sized Enterprises, Tepper, P., McLennan, A., Hirt, R., et al. (2020). [Making socially responsible public procurement work: 71 good practice cases](#). Publications Office.

12. Mandatory clause on shorty supply chains in construction and cleaning contracts.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
The Public Procurement Act 2016	Sweden	National	Exclusion criteria & contract performance clauses	Exclusion criteria (chapter 13): A contracting authority <u>shall</u> exclude a supplier from participation in a procurement if the authority learns that the supplier through a judgment that has entered into legal force has been found guilty of a crime including trafficking in human beings . Contract Performance Clauses : “A contracting authority <u>shall</u> , if it is necessary, require that the supplier performs the contract according to stated requirements under the core conventions of the ILO , if the performance is made under such conditions that Swedish labour law is not applicable.”	Goods, Services and Works	Not sector specific.
UK Public Contracts Regulations 2015	UK	National	Exclusion, selection criteria	<u>Require</u> potential suppliers to self-declare offences listed under Reg 57(1) which includes Modern slavery and trafficking . It also allows for mandatory exclusions including modern slavery .	Goods and Services	Not sector specific.
Procurement Policy Note – Tackling Modern Slavery in Government Supply Chains Action Note PPN 05/19	UK	National	Exclusion criteria, selection criteria, termination of contracts & due diligence	This Procurement Policy Note (PPN) and guidance which in scope organisations ¹³ <u>must</u> use, sets out how UK Government departments <u>must</u> take action to ensure modern slavery risks are identified and managed in government supply chains in both existing contracts and new procurement activity. The guidance includes that failure to publish a statement or failure to comply with the requirements of Section 54 as a discretionary exclusion ground . Includes mandatory exclusion of bidders from public procurement if they have been convicted for modern slavery. Terminating a contract for reasons linked to modern slavery should only be considered as a last resort. Modern slavery risk management requirements such as certifications or standards <u>can</u> be included as technical specifications.	Goods, Services and Works	Not sector specific.
Procurement Policy Note 06/20 – taking account of social value in the award of central government contracts (Applied from January 1st, 2021)	UK	National	Award criteria; Due diligence	This note sets out how to take account of social value in the award of central government contracts by using the Social Value Model. Central government organisations ¹⁴ <u>should</u> use this model. Social value criteria <u>must</u> receive a minimum 10% weighting. Model Award Criteria 6.3: Demonstrate action to identify and manage the risks of modern slavery in the delivery of the contract, including in the supply chain. Reporting metrics for this criteria include the percentage of the supply chain for which supply chain mapping has been completed to the appropriate tier or to source in order to reduce the risks of modern slavery .	Goods, Services, Works	Not sector specific.

13. Applies to all Central Government Departments, their Executive Agencies and Non-Departmental Public Bodies. Voluntary to other public sector contracting authorities.

14. Central Government Departments, their Executive Agencies and Non-Departmental Public Bodies.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Procurement policy note 8/16: Standard Selection Questionnaire (SQ) template (updated 2017)	UK	National	Selection & exclusion criteria	This note provides the revised standard Selection Questionnaire (SQ) template and guidance and substitutes the standard Pre-qualification Questionnaire (PQQ). Organisations in scope ¹⁵ <u>are required</u> to apply this guidance when undertaking the supplier selection process in procurements above the relevant EU thresholds. Child labour and other forms of trafficking in human beings listed as mandatory exclusion. Selection questions include compliance with the Modern Slavery Act 2015 supply chain transparency reporting (s.54).	Goods, Services, and Works.	Not sector specific.
US Federal Acquisition Regulation (FAR) 2015	U.S.	National	Exclusion (debarment), selection, termination, suspension, contract performance clauses & due diligence.	Subpart 22.17, Combating Trafficking in Persons. This subpart prescribes policy for implementing Executive Order 13627. The government <u>may terminate</u> any agreement if it finds that an entity or its subcontractors are engaged in forced labour , severe forms of human trafficking , providing substandard housing, using false promises to lure employees, charging unreasonable recruitment fees, etc. Public buyers <u>may</u> require suppliers to disclose identity, locations of subcontractors. FAR 22.1704(b) empowers Contracting Officers with a list of available remedies for human trafficking violations, including suspension and debarment after credible information about a violation. The FAR also <u>requires due diligence</u> in relation to human trafficking. Under the FAR, agencies <u>must</u> insert a clause in all solicitations and contracts that imposes obligations on suppliers to prevent human trafficking. It also imposes a compliance plan , due diligence and certification requirements for overseas contracts over \$550,000 although it does include commercially available off-the-shelf (COTS) items.	Goods and Services	Not sector specific.
Executive Order 13126 on the "Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labour," 1999	U.S.	National	Selection criteria	Aims to ensure that U.S. federal agencies do not procure goods made by forced or indentured child labour . It requires the Department of Labour to publish and maintain a list of products, by country of origin, which the three Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labour. Under the procurement regulations implementing the Executive Order, federal contractors who supply products from this list <u>must certify</u> that they have made a good faith effort to determine whether forced or indentured child labour was used to produce the items listed.	Goods	Not sector specific.

15. Applies to all contracting authorities in England and contracting authorities in Wales and Northern Ireland that exercise wholly or mainly reserved functions for procurements above the thresholds laid down in the Public Contracts Regulations 2015.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Executive Order 13627: Strengthening Protections Against Trafficking in Persons in Federal Contracts 2012	U.S.	National	Exclusion (debarment and suspension)	Prohibits human trafficking activities not just by federal prime contractors, but also by their employees, subcontractors, and subcontractor employees. Also, contracting officers <u>must</u> contact their agency official overseeing suspension and debarment when they become aware of human trafficking violations. It stipulates that the Administrator for Federal Procurement Policy will provide guidance to agencies on how to improve monitoring of and compliance with actions to prevent trafficking and will implement improved training for the federal acquisition workforce.	Goods, Services and Works	Not sector specific. ¹⁶
1936 Walsh-Healey Act	U.S.	National	Exclusion	Prohibits federal agencies from purchasing sweatshop goods in contracts of a value over \$15,000. Sweatshop labour is defined with respect to compliance in the country of production with applicable rules regarding minimum wages, maximum working hours, child labour, convict labour, and health and safety. However, imported goods are exempt.	Goods	Not specified.
Executive Order – Zero Tolerance for Human Trafficking in City Service Contracts and Purchasing and Comprehensive Anti-trafficking Strategic Plan – City of Houston 2017	U.S.	Subnational	Suspension & termination	Assure the integrity of the procurement process is not undermined by substandard labour practices or purchase of services provided or goods made under exploitative or unsustainable conditions. The City of Houston has a robust anti-trafficking program and multi-pronged strategic plan, which has been credited as the nation’s first comprehensive municipal response to human trafficking . Contractors that have been found to have engaged or promoted—directly or indirectly— human trafficking <u>may</u> be subject to suspension or termination of the relationship with the city if no remedial action is taken in an acceptable manner.	Goods and Services	Not sector specific.
‘Sweatfree’ policy of the City of Madison, Wisconsin: Uniform Management Programme Cooperative Contract 2014	U.S.	Subnational	Selection & award criteria	To eliminate unsafe and illegal working conditions in apparel factories worldwide, Madison Developed a cooperative “ piggyback ” contract and <u>required</u> all bidders to disclose information on factory location, wages, and hours, for a minimum of 60% of factories to be used in production of goods for the contract. The awarded contractor <u>was required</u> to increase this disclosure by 10% each year and provide compliance action plans from all manufacturers producing goods for the contract above a certain value threshold. The contract <u>can be</u> used by all City of Madison agencies, approximately 167 other local government counties, cities, town and other public entities and agencies in the US.	Goods	Apparel.

16. However, to prepare for its implementation, Verité, contracted by the US Government, mapped and identified sectors with significant federal procurement and risk of trafficking in human beings including agriculture, construction, electronics, forestry, healthcare, and textiles. OSCE. (2018). [Model Guidelines on government measures to prevent trafficking for labour exploitation in supply chains](#).

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Welsh Procurement Policy Note WPPN 11/21: Code of Practice - Ethical employment in supply chains for the Welsh public sector	Wales	National	Selection criteria	Contracting authorities <u>should</u> require contractors to adopt fair employment and labour practices, recruiting and retaining staff in a fair and ethical manner, and provide a safe and competent workforce employed in accordance with industry best practice. Modern slavery is included as unethical employment practices. In the Invitation to tender, contracting authorities <u>can</u> include a statement of commitment to fair employment practices.	Goods, Services and Works	Not sector specific.
Practices: Guidelines and training						
Information Sheet for Commonwealth Government procurement officers 2022	Australia	National	Awareness	To encourage Government procurement officers to reflect on whether the people involved in the production of goods or the provision of services that they procure could be victims of human trafficking and slavery .	Goods and Services and Works	Not sector specific.
Modern Slavery in Public Procurement e-learning module 2019	Australia	National	Awareness	This module has been developed to help public buyers understand what modern slavery is, and what you and your agency can do to practice ethical procurement practices, and rid slavery from global operations and supply chains.	Goods and Services and Works	Not sector specific.
Toolbox Socially Responsible Workwear: A Guide for Public Purchasers 2018	Belgium	Subnational	Contract performance clauses	Guide for a sustainable procurement policy for local authorities in Flanders that includes compliance with ILO core conventions and examples of public buyers inserting clauses for vendors to sign a commitment to respect them.	Goods	Textiles.
Buying social guide 2021	EU	Supranational	Social criteria across the procurement process	Guide for public buyers to support them in covering the social dimension of sustainable public procurement. Social objectives include ensuring compliance with social and labour rights and the fundamental ILO conventions . The purpose is to raise public buyers' awareness and explain the opportunities offered by the EU legal framework. The chapters of this guide address all aspects of the procurement process and how social considerations can be introduced.	Goods, Services and Works	Not sector specific.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Combating Trafficking in Human Beings and Labour Exploitation in Supply Chains – Guidance for OSCE Procurement	Pan-European	Supranational	Awareness and Due diligence	The guidance aims to support procurement and anti-trafficking staff in the OSCE with the background knowledge to understand the risk of trafficking and labour exploitation in OSCE supply chains and implement anti-trafficking measures in their procurement activities, alongside training workshops, procurement risk analyses and local action plans. The OSCE has trained its public procurement officers and programmatic staff.	Goods, Services and Works	Not sector specific.
Labour Exploitation and Public Procurement Guide 2021	Finland	National	Awareness and Due diligence	To offer tools for public procurement entities in Finland to address and manage risks of labour exploitation in national supply chains . The guide provides information on exploitation of migrant workers and human trafficking in Finland, and advice on how to react when cases of labour exploitation are suspected or encountered. The guide also proposes measures for the prevention of exploitation at different stages of the procurement procedure.	Goods, Services and Works	Not sector specific.
Guideline for sustainable textile procurement Leitfaden der Bundesregierung für eine nachhaltige Textilbeschaffung der Bundesverwaltung 2020	Germany	National	Selection and award criteria & contract performance clauses	The guideline describes in detail how social and environmental sustainability criteria can be incorporated into tender documents at different stages of the procurement process: the selection criteria, specification for tenders, award criteria, conditions for execution. In all three stages of the process set out in the guideline, the social sustainability criteria encompass a range of ILO conventions as well as additional propositions such as a living wage.	Goods	Textiles.
Getting started with social conditions in global supply chains 2017	Netherlands	National	Contract performance clauses, penalties & termination	Guide to integrate social conditions into public contracts. Implementation of social conditions is required in the Netherlands for European public procurement by the State. Social conditions in global supply chains include promoting international labour standards and human rights, including combating forced labour, slavery, child labour and unfair discrimination. ¹⁷ If a supplier does not comply with social conditions in the contract, fines can be imposed. If, after notice of default, the contractor still does not comply with social conditions in the contract, the agreement can be terminated .	Goods, Services, Works	Not sector specific but additional social criteria are included for textiles, flowers, coffee, tea, cocoa. ¹⁸

17. It is mandatory to implement social conditions for all central government contracts (and voluntary for all other contracting authorities) when contracts exceed or are equal to the European thresholds and which falls within the national risk categories. It is obligatory to include these social conditions in the tender documentation as special terms and conditions of performance while social conditions in selection or award criteria are voluntary. In the case of smaller contracts, a decision should be made about whether or not to include social conditions. PIANOo. (2022). [Social conditions in global supply chains](#).

18. PIANOo. (2018). [Be aware of mandatory frameworks and organisational objectives](#).

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Walk the talk: Ensuring socially responsible public procurement 2014	Norway	National	Contract performance clauses & due diligence	Guide to promote workers' and human rights protection in the manufacturing of goods for public organisations. The function of the SRPP criteria is to request and verify that suppliers to public organisations have socially responsible supply chain management systems in place. SRPP contract performance clauses include the ILO core conventions .	Goods	High-risk. ¹⁹
Worker conditions: sustainable procurement guidance 2018	Scotland	National	Contract performance clauses	Guidance for public bodies to embed contract requirements where there may be concerns about human rights, working conditions and exploitation . Its focus is on behaviour that is exploitative and concentrates on circumstances where human rights may be infringed. Concerns regarding compliance with ILO conventions including forced or child labour and human trafficking , and slavery and human trafficking statements not published by suppliers where required under section 54 of the Modern Slavery Act 2015 .	Goods, Services and Works	Not sector specific.
Procurement Reform (Scotland) Act 2014: statutory guidance 2022	Scotland	National	Selection and award criteria, exclusion	This suite of statutory guidance provides advice on what a contracting authority should do to comply with the Public Contracts (Scotland) Regulations 2015 and the Procurement Reform (Scotland) Act 2014. Chapter 5 on Fair Work describes what is required of a contracting authority to advance Fair Work through procurement where there is a risk of exploitative practices . Chapter 6 provides guidance for selection, award and exclusion criteria. Annex B lists Child labour and other forms of trafficking in human as mandatory exclusion criteria.	Goods, Services and Works	Not sector specific.
Tackling modern slavery in PPE supply chains: A practical guide for public bodies Tools and further guidance 2021	UK	National	Due diligence	To provide commercial staff in UK public bodies tailored information on the key measures that can be taken to carry out effective modern slavery due diligence in PPE supply chains.	Goods	Health (PPE).
The Ethical Procurement for Health workbook 2017	UK ²⁰	National	Due diligence, selection and award criteria, contract management	Guidelines on inclusion of labour rights protection into contracts. This workbook provides a framework for implementing ethical procurement and focuses on promoting labour standards through procurement and contract management process.	Goods, Services and Works	Health & Social care.

19. See Difi high-risk list.

20. Department of Health.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Protecting human rights in the supply chains: A guidance for public procurement practitioners 2017	UK	National	Due diligence	Guidance to encourage public procurement practitioners, decision-makers and opinion-formers to understand why promoting respect for human rights in public supply chains is important, develop a strategic approach to human rights due diligence, identify practical steps that can be taken to help mitigate the risk of human rights abuses in supply chains, work in collaboration with other organisations in order to increase knowledge and promote good practice. Developed by London Universities Purchasing Consortium, University of Greenwich, and the Chartered Institute of Procurement and Supply.	Goods, Services and Works	Not sector specific.
Guidance to tackle modern slavery in the hand car wash sector 2020	UK	National	Awareness	This guidance is intended to increase awareness of the risk of slavery in hand car washes and increasing standards within the sector, and to bring clarity to the role that councils and other organisations can play within the current regulatory framework, pending any new system of oversight being introduced. Recommends councils to tackle modern slavery in car washes by training staff, promote a code of practice, collaborate with other agencies and support victims. Developed by the Local Government Association (LGA).	Services	Hand car wash sector.
Guidance for councillors 2019	UK	National	Awareness and due diligence	A follow up guidance from the 2017 council guide. Developed by the Local Government Association (LGA). It aims to support local councillors in thinking about their role to tackle modern slavery . In particular with regard to awareness raising, scrutinising the work of the council and its partners and holding them to account.	Goods, Services and Works.	Not sector specific.
Tackling modern slavery: a council guide 2017	UK	National	Awareness and Due diligence	The Local Government Association (LGA) Published detailed guidance in 2017 to increase awareness of modern slavery and provide clarity for councils on their role in tackling it. It provides steps that councils <u>can</u> take on public procurement. The LGA has also run modern slavery workshops around the country.	Goods, Services, and Works	Not sector specific.
Code of Practice: Guide to tackling modern slavery 2022	Wales	National	Awareness and Due diligence	It is designed to help ensure workers in public sector supply chains in Wales are employed in a fair and ethical way. The code covers employment issues including Modern Slavery and human rights abuses . The 'Wales Procurement Policy Statement' (WPPS) supports this and sets out the expectations placed on every public sector organisation in Wales.	Goods, Services, and Works	Not sector specific.
Practices: Toolkits & Resources						
Addressing Modern Slavery in Government Supply Chains A toolkit of resources for Government procurement officers	Australia	National	Due diligence	This procurement toolkit is aimed at procurement officers who work in any government department, agency or body. It provides a range of resources to assist procurement officers to identify, assess and manage modern slavery risks at all stages of the procurement process. This Toolkit has been designed to be used within the existing Commonwealth procurement framework, primarily the Commonwealth Procurement Rules. Includes: tender guidance, risk assessment tool, supplier questionnaire, modern slavery model contract clauses and modern slavery training .	Goods and Services and Works	Not sector specific.

Instrument	Country ²	Level	Provision	Description of Modern Slavery Provisions/practices ³	Coverage ⁴	Sectorial Focus
Supplier Questionnaire- Identifying modern slavery risk	Australia	National	Selection	The Questionnaire <u>can</u> be integrated into the tender process itself as a criteria during the contract application process. Procurement officers <u>are encouraged</u> to ask suppliers to complete the Questionnaire when the procurement is screened as having a modern slavery risk level of 9 or more when using the Risk Screening Tool. Any Australian Government official undertaking a procurement <u>can use</u> the Questionnaire. If the supplier's answers are not fully satisfactory, this does not necessarily mean they should not be considered for the contract. Rather, agencies are encouraged to work with that supplier.	Goods and Services and Works	Not sector specific.
Modern Slavery Model Contract Clauses	Australia	National	Contract performance clauses	A suite of model modern slavery contract clauses with graduating obligations, depending on the modern slavery risk profile of the procurement. There are short, standard and long form versions of the draft modern slavery clause depending on risk level. The inclusion of Modern Slavery model clauses into contracts is <u>optional</u> but recommended.	Goods and Services and Works	Not sector specific.
Risk Screening Tool	Australia	National	Due diligence	This tool <u>is intended</u> to be used at the beginning of a new procurement, or when assessing the risk of modern slavery in existing contracts to assess the general risk classification of the procurement. It is not intended to facilitate a detailed analysis of risk with a particular supplier, but rather to provide sufficient information to differentiate between low, medium and high-risk categories of the procurement relating to modern slavery compliance.	Goods and Services and Works	Not sector specific.
Sustainability Compass 2010	Germany	National	Due diligence	It provides contracting authorities and suppliers with information on socially responsible public procurement practices, on specific labour standards risks, labelling schemes, guidelines for procurement criteria and practical examples from other local contracting authorities. It supports practitioners in implementing sustainability criteria.	Goods	Not specified.
CSR risk checker	Netherlands	National	Due diligence	Public buyers <u>are encouraged</u> to use the CSR risk checker to identify risks and obtain tangible evidence of a higher risk that certain social standards may be violated in a specific product group or geographical region. Themes in the CSR risk checker include wages and working conditions .	Good, Services and Works	Not sector specific.
Contract performance clauses for safeguarding basic human rights in the supply chain 2022	Norway	National	Contract performance clause & termination.	Model templates of contract performance clauses based on based on the ILO core conventions , the UN Convention of the Child and national legislation of the country of production. The Contract performance clauses for safeguarding basic human rights in the supply chain, holds suppliers liable for integrating human rights due diligence carrying as part of core operations. They are <u>recommended</u> to be used when procuring high risk products . Breaches include corrective action plans, suspension, change of sub-suppliers and termination of contract.	Goods	High-risk. ²¹

21. See Difi high-risk list.

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Difi High Risk List 2018	Norway	National	Due diligence	The Difi High Risk List contains information on high-risk products . It is a guidance tool, and not exhaustive. Products are defined as “high risk procurement” when there are systematic documented high risk of human rights abuse occurring in the supply chain, meaning the value chain from raw material extraction to component production until finishing assembling. The documentation is based on reports and studies by ILO and other relevant sources. To make the list relevant in the daily practice of public procurers, specific product categories from each product group have been selected based on Norwegian public procurement activities. Due to the principle of proportionality, Socially Responsible Public Procurement requirements should only be used in high-risk purchases.	Goods	Vehicles, medical supplies, furniture, textiles, food & beverage, electronics and ICT, construction and landscape materials, sport equipment, office supplies.
CDP supplier code of conduct 2021	Northern Ireland	National	Selection criteria	Members of professions engaged on government work, whether as suppliers or sub-contractors, are expected fully to comply with the Code and the standards of their professional bodies. Suppliers must support and respect the protection of internationally proclaimed human rights and ensure they are not complicit in human rights abuses including adherence to the principles concerning International Labour Standards established by the International Labour Organisation (ILO) . Suppliers must sign the code. If applicable, suppliers must also fully comply with the requirements of the Modern Slavery Act 2015 .	Goods, Services and Works	Not sector specific.
Labour Standards Assurance System (LSAS) 2012	UK	National	Due diligence	Ensure NHS Supply Chain procures from suppliers that are making improvements in labour standards management throughout their supply chains. It uses a progressive matrix approach to implementation to demonstrate progress. Risk based approach , focusing on supply chains with documented human rights abuses such as gloves, surgical instruments, and uniforms. Launched as part of both the Direct Textiles Framework Agreement as well as the Framework Agreement for Surgical Instruments. ²² The LSAS has been made a <u>contractual requirement</u> in national agreements in specific product categories including surgical instruments, textiles, surgical gloves, etc. ²³	Goods	Health, textiles.
Modern Slavery Assessment Tool (MSAT) 2017	UK	National	Due diligence	The MSAT is a modern slavery risk identification and management tool. Public buyers are <u>encouraged</u> to use the MSAT with existing suppliers. This tool has been designed to help public sector organisations work in partnership with suppliers to improve protections and reduce the risk of exploitation of workers in their supply chains. It also aims to help public sector organisations understand where there may be risks of modern slavery in the supply chains of goods and services they have procure. Suppliers can share results with multiple buyers.	Goods and Services	Not sector specific.

22. Methven O'Brien, C., Vander Meulen, N., & Mehra, A. (2016). Public Procurement and Human Rights: A Survey of Twenty Jurisdictions. 1-104.

23. British Medical Association. (2017). *Ethical Procurement for Health: Workbook*.

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Responsible Sourcing Tool 2016	U.S.	National	Due diligence.	Online platform that includes resources to help federal contractors, acquisition officers and business identify, prevent and address human trafficking risks in supply chains. The purpose of developing the RST was to ensure that the resources could benefit and inform both public and private sector procurement.	Goods and Services	11 key sectors and 43 commodities.
List of Products Produced by Forced or Indentured Child Labour 2022	U.S.	National	Selection criteria	Since 2001, ILAB maintains a list of products and their source countries which it has a reasonable basis to believe are produced by forced or indentured child labour , pursuant to Executive Order 13126. This List is intended to ensure that U.S. federal agencies do not procure goods made by forced or indentured child labour. Under procurement regulations, contractors who supply products on the List must certify that they have made a good faith effort to determine whether forced or indentured child labour was used to produce the items supplied.	Goods	Comprises 34 products from 26 countries. Including agriculture, electronics, textiles & garments.
Practices: Collaborative initiatives						
Electronics Watch	EU	Supranational	Code of conduct, contract performance clauses, and monitoring.	It is a monitoring organisation to which contracting authorities <u>can</u> become affiliates. It currently has 45 affiliates globally. The contracting authorities that affiliate with Electronics Watch gain access to country and factory specific risk assessments, a guide and toolkit to implement labour rights standards in tenders, template contracts, and information on worker-driven monitoring. Affiliates obligations include the incorporation of a model contract performance clause. ²⁴ This model allows Electronics Watch to coordinate sector engagement for all affiliates. The Crown Commercial Service has collaborated with Electronics Watch to detect and address modern slavery in supply chains of public sector customers in the hardware supply chains.	Goods	ICT.
Swedish County Councils	Sweden	National	Code of conduct and contract performance clauses.	In Sweden, 21 county councils have joined forces to make sure the products and services they procure do not involve human trafficking or violations of workers' rights. The county councils use the same code of labour standards and contract performance conditions to facilitate nationwide coordination. Sweden's County Councils are responsible for healthcare, public transportation and regional planning. The councils have also identified specific high-risk categories . By entering into contract with any of the Swedish county councils, a supplier agrees to deliver products made in compliance with international standards such as the ILO core conventions , and all work-related health and safety legislations and labour laws in the manufacturing country.	Goods and Services	Textiles, surgical instruments, rubber gloves, dressings, IT, pharmaceuticals, food.

24. Martin-Ortega, O. (2018). Public Procurement as a Tool for the Protection and Promotion of Human Rights: A Study of Collaboration, Due Diligence and Leverage in the Electronics Industry. Business and Human Rights Journal, 3(1), 75-95. <https://doi.org/10.1017/bhj.2017.35>

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SKL Kommentus Central Purchasing Body (SKI)	Sweden	National	Contract performance clauses, monitoring, penalties & termination of contracts.	Provides a service for local and regional contracting authorities to sign on to a centralised supplier monitoring system. SKL Kommentus continuously audits suppliers under their framework agreements through third party audits. It includes social and environmental criteria in its contracts and uses a code of conduct , as well as contract performance clauses . SKI monitors social criteria during the contract period by checking suppliers' processes and how they are implemented. If non-compliances are discovered, suppliers are required to take measures to comply. SKI has the right to charge a penalty fine or terminate the contract if substantial violations are found. In 2016, SKI consolidated its code of conduct and contract clauses to match those of the county councils.	Goods and services	High-risk.
The Legal, Financial and Administrative Services Agency Kammarkollegiet	Sweden	National	Due diligence.	It concludes framework agreements for all national level authorities for goods and services. The Agency conducts human rights risk assessments for all their framework agreements and include specific requirements based on these. By representing all national level authorities in Sweden, the requirements in these framework agreements create a level playing field across the supplier base. It also facilitates dialogue with suppliers because the framework agreements are continuously used.	Goods and Services	ICT, office supplies, transportation and security services. ²⁵
The London Universities Purchasing Consortium	UK	Subnational	Contract performance clauses, due diligence.	Higher education purchasing consortia which work collaboratively to tender and manage EU-compliant framework agreements for their members to use. It has established a Responsible Procurement Advisory Group and a risk assessment tool for human rights abuses in supply chains to supports its members. In 2016, it included labour rights contract clauses in its framework agreement on cleaning and security services. It has also published an MSA statement. It also published a guide for public procurement practitioners to address human rights including modern slavery .	Services	Cleaning and Security.
The Sweatfree Purchasing Consortium (SPC) 2010	US	National	Code of conduct	SPC is a membership organization of public entities and comprises 14 U.S. cities and 3 U.S. states that seek to ensure that the apparel products they buy are made without sweatshop labour . SPC members adopt sweatfree codes of conduct : the municipal governments of Los Angeles and San Francisco, for example, require their apparel suppliers to comply with laws in the country of production as well as ILO core labour standards . It provides its members with a model purchasing agreement serving as a resource centre and coordinating body.	Goods	Apparel.

25. Those procured often, to large amounts or of substantial value by public contractors.

MODERN SLAVERY & HUMAN RIGHTS

POLICY & EVIDENCE CENTRE

Led by the Bingham Centre

The Modern Slavery and Human Rights Policy and Evidence Centre was created by the investment of public funding to enhance understanding of modern slavery and transform the effectiveness of law and policies designed to overcome it. With high quality research at its heart, the Centre brings together academics, policymakers, businesses, civil society,

survivors and the public on a scale not seen before in the UK to collaborate on solving this global challenge.

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