

ICE - ADEME

**Public Procurement of
Energy Saving Technologies
in Europe
(PROST)**

**Report on the Country Study for France:
Task 2a – Current Public Sector Purchasing, Building,
and Replacement Practices
Task 4b – PICO Feasibility Study**

June 2001

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With the support of ADEME

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1 Executive Summary

This report is based on various researches (statistics, laws, specialised publications, proceedings of conferences, etc.) and various interviews carried out during fall and winter 2001/2002 with public administrations in France.¹

On the one hand, the public sector, as the wide definition intended for this study, does not exist as such in statistical data. French statistics are organised by economical sectors and hardly ever separate public from private activities. On the other hand, the results of the interviews suggest a great variety of situations. It is thus difficult to have a clear picture on how procurement activities and decision regarding investments in buildings are organised as a whole; the elements presented below should be treated with caution as they often come from personal interpretations and experiences – both from the interviewees and the author.

1.1 Energy Efficiency in Current Public Sector Purchasing, Building, and Replacement Practices

French public administrations are not formally encouraged to consider purchasing and building investments activities as an opportunity in general and regarding energy efficiency in particular. Even if the Kyoto protocol is often mentioned at the beginning of official documents, encouraging civil servants and decision makers to take action, there is no emission reduction figured target for the public administration. There are no regulations (in the sense of compulsory action to be undertaken) for the public sector to illustrate an exemplarity role regarding climate change or to implement environmental-friendly practices. New programmes are now encouraging positive behaviours but the idea that administration could or should be a trend setter is not largely used (see point 2.2.2.1/2 on the Public Administration Greening Programme and the national programme against climate change, and 2.6.1.2 for supportive programmes and initiatives).

Lack of knowledge on saving opportunities : In general, public organisations, when they are not renting offices, do not seem to know very well what their estate consists of (age of buildings, type of equipment, energy consumption per building / per use, etc.) nor do they understand that procurement activities can be viewed as opportunities regarding energy efficiency – except in the new construction sector. This lack of knowledge impedes to take action. There are of course exceptions to this general attitude and the government has begun to sensitise the State administration.

Complexity of procurement and investments tasks : Public procurement is a complex, time-consuming activity : it takes between 6 and 9 months from the decision to write a call for tender to the signature of a contract with a chosen supplier. Buyers seem to be very

¹ 28 persons were interviewed from various public institutions, representing 2 Ministries, 2 important cities, 1 big hospital, 1 buying agency for the health sector, 2 Regional Authorities (in charge of secondary schools), 1 Département Authority (in charge of middle schools), 1 university, 2 student accommodation organisations, 1 public agency and 1 public enterprise. These interviews were completed by phone interviews with energy efficiency consultants (see list at the end of the report).

professional as far as the procurement code is concerned (competition must be guaranteed and if not enough suppliers reply to the call for tender, the specifications can be criticised on the grounds that they are too restricted and thus favour one company). Therefore, all the attention is focused on the respect of the public procurement rules and, when choosing the supplier, on price and delivery delays. Anything which is not recommended is often though as forbidden or too risky. This (truly understandable) attitude does not promote innovation, such as for example, the addition of criteria concerning the energy performances of the goods and services procured. A possible support could come in the form of ready made typical call for tenders, which would include energy and environment specifications : this document which formulation would have been checked by a central administration, would reassure buyers about the conformity of their actions.

Positive regulations recently enforced : A new procurement code and a new building code are now in force, and both contain elements which should sensitise public organisations to energy efficiency and environment issues, but it is too soon to see the concrete effects of these new regulations (see 2.6.1 the new procurement code and the new building code).

Diversity of situations and practices : There is no single organisation centralising procurement activities, nor a single administrative organisation regarding procurement activities : it seems that each public entity proceeds differently, whether they be local authorities or State administrations (but here again the various Ministries are organised differently, and so can be their respective internal Departments). For the Education sector, the splitting of responsibilities between the State and local authorities make management measures extremely complex to implement (see 2.2.1 on the division of competencies, 2.3 on co-operative purchasing, 2.4 on energy management within public institutions, and 2.7 on the organisation of product purchasing and buildings investments).

Legal and financial complexity : without being a legal or a public finance specialist, it is very difficult to understand what is legally possible or forbidden for each level of administration, especially in terms of finance and the possibility to transform operating budget in investment budget or vice versa. Finding money to fund energy efficiency measures does not seem to be a problem (but may be because no one has raised the fact that energy efficient devices were available though they cost a bit more at the time of buying). It's rather the way in which the budget can be used which is a difficulty² :

- The State administration seems relatively flexible : apart from the investment budget for major works, many "units" are allowed to spend their yearly operating budget as they want : they receive an operating allocation based on the number of employees, the size of their buildings and their geographic location, but if they manage to save energy, they can keep the money saved for other activities (except personnel expenses).
- A trend is appearing in Local Authorities. Their operating budget (which finances salaries, maintenance, energy, daily supplies, etc.) generally comes from taxes and the investment budget comes from loans. As these authorities do not want to raise taxes, the idea is to transfer any expense possible towards the investment budget financed through loans : an illustration can be the wish to create a buying group which would centrally buy all the schools equipment

² At the time of the interviews, it was difficult to speak to financial responsables as it was the time of closing yearly accounts.

on an "investment line", instead of having each school buying equipment on its operating budget.

– Cities can be very flexible and efficient regarding energy management practices if there is a political will, but the rules seem to be stricter as far as budget lines are concerned.

Energy efficiency is not a priority : Many interviewees underlined that energy efficiency was not a priority – compared to security or hygiene issues, nor was it included in their mandates so that there is no reason to be active in this field, nor try to orient public procurement practices. For others, educating civil servants and trying to raise awareness seemed fine, but they consider that the situation will stop being problematic when energy efficiency is imposed by a regulation. Many local authorities would with no doubt rebel to any top down decisions from the State or from the European Commission, imposing to invest in energy efficiency without providing corresponding budgets (however, budgets are not considered to be the main barrier). (see 2.8 incentives and barriers to energy efficiency).

Individual motivation : For the time being, it seems that motivated individuals can do a lot for energy efficiency if they spend time on the issue getting the information, gathering technical competencies etc. (see 2.4 activities undertaken) and if they are supported by their hierarchy. The situation is also rather good regarding the construction of new buildings, because the persons planning for the investment seem to take more and more into account energy efficiency and other environmental criteria (see the HQE approach in 2.6.1.2). But, for average buyers, even relatively interested in energy efficiency and money savings, there is a lack of information about the products (which are the criteria to look at, what is technically possible to require in a call for tender ?) and the procedures (what is legally possible to ask for ?).

1.2 Public Internal Performance Contracting (PICO)

Performance contracts in general are not very much used in France. The difficulties stated are the absence of knowledge concerning the base line consumption and the legal matters when writing the contracts. In principle, financial authorities supervising budgets could allow to use a PICO scheme. But elaborating the rules so that it actually functions in practice seems complex. (As interviews concentrated on energy management and procurement, financial officers were not present during the interviews. The various forms of PICO were thus not discussed in details). However, provided interested institutions are found, a demonstration project could be possible to set up because this demonstration framework would allow to benefit from derogation (compared to the strict accounting rules).

Some organisations interviewed consider they already function according to a kind of PICO, even though it is not formalised: the city of Montpellier, of which the technical service implements energy efficiency measures in all buildings and manages all the various energy budget of the city; or the Tax Department within the Ministry of Economy, which implements important works of all in its decentralised "units". (see 4.1).

2 General Information on the Political, Legal, and Economic Framework for Energy-Efficient Public Purchasing

2.1 National Targets for Energy Efficiency and/or Climate Protection in the Public Sector

S1. Are there national targets for energy efficiency or CO₂ reduction in public institutions (maybe derived from other environmental targets)? Do such targets exist on other levels of government (regional, local)?

S14. Trends, expected evolution?

Even though the Kyoto protocol is often mentioned at the beginning of official documents, there is no national figured target for energy efficiency or CO₂ reduction in public institutions. Some local authorities may undertake activities aimed at CO₂ reductions, but on a voluntary basis and without having any specific figured objectives.

2.2 Policy Programmes on Energy Efficiency in Public Institutions

2.2.1 Division of competencies

Before presenting policy programmes on energy efficiency in Public Institutions, it is important to understand how competencies are divided. As diagram 1 shows, France is administratively divided, each level having a different organisation regarding procurement. Public administrations can organise their procurement activities as they want as long as they respect the public procurement code, which focuses on legal and competition matters. As a consequence energy efficiency and procurement are dealt with differently according to levels of administration and within each level.

From the budget allocation point of view³ :

The **Central administration** (The State) decides on budget distribution and manages all expenses linked to the 25 ministries and secretariats of State - each of which has its own organisation, from a rather centralised management (e.g. the Ministry of Economy which has nevertheless 5 general Departments, each functioning according to a different system) to a completely decentralised management (e.g. the Ministry of Justice, which has many offices across the country).

Almost all these ministries have local services – e.g. one Department of the Ministry of Economy has 142 “Units”, to which it provides an operating budget but for which it pays for major investments ; the central office also decide for general issues on energy (gas rather than

³ This description is simplified and concerns the main responsibilities. In practice, all these levels co-operate : the State may add money for some new constructions or in case of natural catastrophes, etc. Likewise, the regional authorities contribute to the budget of hospitals, student organisations, etc.

electricity where there is choice, specifications for maintenance, etc.). In this case, operating budgets are mainly calculated according to the office surface and number of civil servants ; one it is decided upon, each unit manages this budget as it pleases.

However, all ministries are not organised in the same way : in terms of budget management units within the Ministry of Economy are relatively independent, whereas it is less the case for the Ministry in charge of housing.

Technical management is quite complex: the Ministry of Economy has 8000 sites across the territory of which 4000 are less than 500 m² large.

In the following diagram, the administrative complexity is illustrated via the Education sector example and its specific position: all the personnel (school managers and teachers) depend on the Ministry (central) whereas the schools belong to other levels of administrations which also provide for the operating budget - but do not have any control over how it is actually spent – see below. (This situation exist for many fields of the administration).

The central administration is also present locally via the prefectures and its services (implementation of the government policy, police, etc.).

The central administration also provides, via ministries, budgets for hospitals, universities, social housing, student accommodation organisations, etc.

Regional Administration : Since 1982, France is divided into 22 Regions, which have a great many social competencies and which are in charge of the secondary schools (the interviews concentrated on this aspect). For example, in the Région Languedoc Roussillon, there are 88 public secondary schools and 50 semi-public schools for around 100 000 students.

Département Administration : France is also divided into 96 Départements, plus 4 overseas Départements and 2 overseas territories. Here again, the Département has a great many competencies and responsibility for the middle schools (the interviews concentrated on this aspect). For example, in the Hérault Département, there are 71 public middle schools and 22 semi-public ones, gathering 47 800 students (3 schools are under construction).

Local Administration : France also counts more than 36 000 cities, which makes it a bit difficult to speak of cities in general without specifying thresholds based on the number of inhabitants. The Cities are in charge of elementary schools.