A New Era for European Procurement

From Lowest Price to Strategic Value

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On 9 September 2026, the European Commission adopted its proposal for a new **Public Procurement Regulation**. The goal: To make public procurement simpler, more flexible, and more effective with a single, directly applicable Regulation. The proposal replaces the current Directive 2014/23/EU on concessions, Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors. This is not just a technical redesign. On the contrary, the European Commission uses its proposal to align public procurement more closely with the European Unions (EU)'s industrial, security and geopolitical agenda. Below we outline the key changes, and explain why this marks a new era for the industry, taking into account that the EU's public procurement market's value is around EUR 2.5 trillion annually.

One size fits all? From three Directives to one Regulation

Instead of three Directives requiring transposition into 27 different national legal systems, the proposed Regulation would apply directly across the entire European Union. The aim is to eliminate divergent national transposition choices that have contributed to legal uncertainty and fragmentation across the EU.

The proposal has received a generally positive reception in the European Parliament, particularly regarding digitalisation, sustainability and industrial competitiveness. Business organisations have welcomed simplification efforts but warned against additional administrative burdens and reduced competition, while sustainability advocates have criticised the absence of mandatory sustainability criteria. Public-sector stakeholders have also questioned whether the move to a directly applicable Regulation will achieve the promised simplification in practice.

Two Restructured Main Procedures

The proposal restructures the existing typology of procurement procedures into two new main procedures, both usable with or without selection criteria, and with or without negotiations. In the open procedure, economic operators submit tenders from the outset; the public buyer then decides, and must announce in advance, whether it will negotiate. In the dynamic procedure, economic operators first join a pool and are later on invited to tender or negotiate for individual procurement opportunities arising during the procedure's validity, and where a large number of operators express interest, the public buyer may invite only a limited number, selected through a random algorithmic process or, where selection criteria apply, other objective and non-discriminatory criteria. These two procedures are complemented by an innovation procedure to procure innovative solutions not yet available on the market.

Beyond traditional Procurement Practices – the Innovation Procedure

Under the innovation procedure, public buyers may procure a solution that does not yet exist, covering within a single procedure the research and development phase as well as all subsequent stages through to commercial deployment. In other words, where a public buyer faces a societal challenge for which no suitable solution currently exists, it may invite the market to develop one.

Elevating quality considerations: The Best Price-Quality Ratio

Contracts must as a rule be awarded based on the best price-quality ratio (BPQR), under which quality criteria linked to the subject-matter of the contract must carry a weighting of at least 30% of total award points, rising to at least 50% for labour-intensive contracts. Quality criteria can cover matters such as technical merit, accessibility, environmental and social considerations, staff quality, and after-sales service. Public buyers may derogate from the minimum weighting and the BPQR method only in defined circumstances, for example where quality can already be adequately secured through technical specifications or contract performance conditions, effectively a "comply or explain" mechanism for any price-only award. Public buyers can also fix a price and let operators compete on quality alone. Award criteria must otherwise remain non-discriminatory, proportionate, specific, objective and measurable.

Buy European: From Existing Preferences to a Dedicated Chapter

Building on Court of Justice of the EU case law confirming that EU procurement law does not automatically extend rights to third-country operators, goods, services or works, the proposal is seeks to establish clear and uniform rules on the determination of origin to ensure the effective and consistent application of international coverage and European preference provisions across all procurement procedures. It distinguishes between "covered" economic operators, goods, services and works (those originating in the EU, in a WTO Government Procurement Agreement (GPA) party, or in a country with a relevant EU trade or customs union agreement) and "non-covered" ones. Public buyers would be required to use a mandatory, free, publicly accessible Commission online tool (built on the existing Access2Markets portal) to determine coverage for each procurement. On that basis, public buyers may restrict participation to Union or covered operators, apply price reductions or extra award points for tenders with a higher proportion of Union or covered content, and reject tenders where Union or covered goods, services or works fall below 50% of the total estimated tender value. Public buyers may derogate from these preferences in defined cases, for example where no suitable Union or covered supplier exists or costs would be disproportionate. Importantly, the Commission may also adopt delegated acts (i) to exclude operators, goods, services or works from certain third countries from "covered" status where that country denies reciprocal market access or for security-of-supply reasons, and (ii) to make the application of European preference requirements mandatory for public buyers, without a further co-decision procedure. Commission Vice-President Séjourné has framed the practical effect as leaving decisions such as whether municipal bus fleets should be sourced from European manufacturers in the hands of local authorities, while the Commission's own emphasis on quality over pure price competition is expected to independently benefit European industry.

Security and Resilience: New Priorities

Reflecting growing geopolitical and economic security concerns, the proposal introduces a dedicated chapter on security and resilience in public procurement. Public buyers would be required to identify, assess and, where relevant, address risks relating to the security and public safety interests of the Union and Member States throughout the procurement lifecycle, from procurement design to contract execution. The proposal identifies a broad range of relevant risks, including the protection of critical infrastructure, cybersecurity, protection of sensitive information, harmful strategic dependencies, supply-chain resilience, undue third-country influence and security of supply. In addition, contracting authorities would be empowered to terminate contracts or exclude operators during contract performance where security or public safety risks materialise or are likely to materialise.

Digital Procurement Ecosystem

The proposal establishes a fully integrated European digital procurement ecosystem aimed at reducing administrative burdens and improving transparency across the procurement lifecycle. A central objective is to make the "once-only" principle a reality by enabling economic operators to provide eligibility information through a common electronic eligibility service, allowing public buyers to retrieve relevant information from connected databases rather than repeatedly requesting the same documentation. The proposal also requires Member States to establish National Public Procurement Data Spaces, which will feed procurement and contract lifecycle data into a Union-level Public Procurement Data Space, strengthening transparency, monitoring and oversight of public procurement markets across the EU.

More changes ...

The Public Procurement Regulation consolidates **exclusion grounds** that were previously scattered across sectoral EU legislation into a single catalogue. At the same time, it expands the catalogue of mandatory exclusion grounds and limits self-cleaning remedies to optional exclusion grounds, meaning that economic operators subject to a mandatory exclusion can no longer rely on self-cleaning measures to avoid exclusion.

The proposal also revises the rules on **contract modifications**: modifications not exceeding 15% of the original contract value are deemed non-substantial and may be made without a new procurement procedure, while modifications exceeding 50% of the original value are subject to enhanced transparency requirements, including the prior publication of a modification notice, rather than being automatically prohibited.

... to prepare for.

The proposal will now be negotiated by the European Parliament and the Council under the ordinary legislative procedure, and substantial changes remain possible as the legislative process progresses, particularly in relation to the European preference, BPQR, and security and resilience provisions, which are among the most politically sensitive elements of the reform. The Regulation will apply only two years after its entry into force, reflecting the time needed to implement the new digital procurement ecosystem and governance framework, and is subject to a first review after seven years.

In the meantime, both public buyers and economic operators should begin assessing the potential impact of the reform. Key areas of focus include: (i) supply-chain exposure to the proposed European preference framework, including the coverage of key goods, services and works under the GPA and relevant free trade agreements, as well as the status of current and prospective suppliers and subcontractors; (ii) the impact of the mandatory 30% and 50% quality weightings on evaluation methodologies; (iii) the relevance of the new security and resilience requirements, particularly for critical entities and operators subject to cybersecurity obligations; (iv) the effect of more proportionate selection criteria on bidding strategies, especially for SMEs; and (v) the final legislative outcome on exclusion grounds, self-cleaning, and contract modification rules.

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BLOMSTEIN will closely monitor further developments and keep you informed. If you have any questions on the Public Procurement Act, Dr. Katharina Weiner, Stefanie Zenzen and the entire team is ready to assist you.

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