

CEMR Contribution to the call for evidence

Revision of EU rules on public procurement

The [Council of European Municipalities and Regions](#) (CEMR) is the broadest association of Local and Regional Governments (LRGs), representing over 110,000 governments across all tiers of governance. **LRGs play a significant role in public procurement as they are the largest investors and contracting authorities in the EU**, both in terms of numbers of contracts and contract volume.

CEMR welcomes the opportunity to contribute to the revision of the EU public procurement framework. **Public procurement is an essential tool for delivering quality public services, supporting local development and ensuring fair competition.** Moreover, as the level of government closest to citizens and directly influencing their everyday life, **LRGs are also best placed to determine what procurement approaches work in their specific contexts**, in line with the **subsidiarity principle**. The revised framework must continue in this direction by being practical, proportionate, and implementable at local level.

However, the specific objectives pursued by the Commission, particularly strengthening economic security and sovereignty and aligning public procurement policy with EU strategic policies, should not be followed at all costs or without **taking into consideration the role of public procurement and the situation of LRGs** of all sizes.

Indeed, the primary function of public procurement is the **efficient and responsible use of public funds**, not to strengthen economic security and support strategic policies. Furthermore, **it remains to LRGs to decide**, according to the subsidiarity and local self-government principles, the strategic goals they would like to achieve through public procurement.

In addition, LRGs all across Europe are facing growing financial pressures, limited administrative and technical capacity, and the structural reality that most municipalities are small entities with very constrained resources. **They urgently need simplification and a reduction of administrative burdens**, rather than new layers of mandatory obligations, with the rules remaining procedural.

While simplification is also a priority of the European Commission, **certain measures, particularly legislative and mandatory ones**, aimed at achieving the specific objectives in public procurement **may prove contradictory and counterproductive for both contracting authorities and SMEs**. Indeed, these measures would make public procurement processes **more complex, costly, burdensome, time consuming, and prone to increased complaints** and litigation. We see this in EU and EEA States where such mandatory measures have been recently introduced in national legislation, for example in Norway where there has been an increase in complaints¹ following a new mandatory requirement under Section 7-9 of the Norwegian Procurement Regulations, effective from January 1st 2024, that mandates that public contracting authorities must include climate and environmental considerations as a primary criterion in public procurement.

¹ Statistics from the [Norwegian Public Procurement Complaint Board](#) (KOFA)

For the revision to efficiently improve the public procurement framework through simplification and flexibility, CEMR suggest several solutions on different topics.

1. Public procurement as a simple legislative framework

CEMR calls for a procurement framework centred on **simplicity, proportionality, and practical feasibility** for LRGs of all sizes. EU public procurement rules must retain a clear focus on **how to buy**, with flexibility remaining at the heart of the EU framework. Contracting authorities must retain discretion to determine which criteria are appropriate, proportionate and aligned with local needs, capacities and market realities. This must be done with respect to subsidiarity and the principle of local self-government. Importantly, the EU should recognise LRGs' capacity to take informed decisions based on their knowledge of local markets, service demands and budgetary constraints.

It is essential for the European Commission to justly value and recognise that contracting authorities apply environmental, social and innovation considerations **in the technical specifications, minimum requirements or contract performance conditions**, not only in award criteria. The revision should better acknowledge and support this practice, rather than focusing narrowly on award scoring systems.

In addition, CEMR strongly supports the need to streamline and consolidate public procurement provisions currently scattered across more than 60 EU sectoral legislative acts. A **review** should be started to eliminate inconsistencies, redundancies and conflicting obligations that are unmanageable for contracting authorities.

More precisely, to reach these objectives, CEMR suggests the following:

- EU-level clauses concerning environmental, social, resilience or innovation considerations should remain **voluntary**
- Develop a review, through an **omnibus**, of all public procurement obligations across all EU sectoral legislative acts to streamline the public procurement legislative framework
- Introduce an **explicit exemption for regional and local public services**, such as child and youth care, elderly care, food services, sport facilities, housing for homeless people and refugees, as they are provided where the **regional and local context is of greater importance**. This exemption would allow the **fair and just distribution of primary social goods** in liberal democracies
- To not add rules for contracts below the threshold values, as there is no cross-border interest. This is confirmed by the European Commission's evaluation of the directives on public procurement, which shows that, the level of direct cross-border procurement is at around 2% of the total number of awards. Another concrete example could be the German county of Karlsruhe, where not a single cross-border bid was received over the past ten years.
- Develop a **light regime or other concrete measures with partially reduced requirements** for municipalities and regions of the **NUTS 2 level and below**, building on existing differentiated regimes such as those applicable to concessions and utilities (cf. Directives 2014/23/EU and 2014/25/EU). This would be consistent with the EU's commitments under the WTO Government Procurement Agreement

- Simplify digital procurement tools (e-forms, ESPD, tender notices, data reporting), used by contracting authorities and bidders for procurement processes, to reduce administrative complexity and avoid duplication
- Allow the use of long-term framework agreements where continuity, investment, and security of supply are essential. This can reduce the frequency of procurement procedures and lower transaction costs for authorities and suppliers
- Reject any change to the existing EU requirements for lot-based procurement, including the call by the European Parliament in its own-initiative report 2024/2103(INI) for the European Commission to examine a requirement for lot division. The requirements of the current EU procurement directives are entirely sufficient. The decision on when contracts can be divided into smaller lots in accordance with the legal framework should continue to be determined by national law and by contracting authorities, with respect to the subsidiarity and local self-governance principles.

2. Enhancing flexibility through a revised Article 72: concrete proposals

Article 72 of the current Directive should be revised to provide contracting authorities and economic operators with greater flexibility to manage procedures and concluded contracts without triggering a full re-tender, for example to clarify ambiguities and adapt procedural conditions when justified. This can be linked to a better framework for making changes to a concluded contract or framework agreement

To this end, CEMR calls for **greater flexibility in modifying and submitting missing procurement documents during procedures** in order to increase competition. Moreover, contracting authorities should be able to use all existing procedures requiring a public notice without having to justify why.

More particularly, CEMR suggests the Commission to consider the following:

- Greater flexibility for contract amendments after conclusion of the contract in Article 72 of Directive 2014/24/EU: General admissibility of amendments and contract extensions without a new procurement procedure; restriction to cases of abuse, in particular in the case of deliberately postponed amendments or in the case of significant, technically and functionally separable extensions with an independent subject matter.
- An increase of the de minimis thresholds in Art. 72(2) of Directive 2014/24/EU and the possibility of multiple application of the de minimis thresholds in the case of repeated supplements.
- Extension of Article 32 or Article 72(1)(d) of Directive 2014/24/EU: In the event of contract termination due to disrupted contract performance during an ongoing measure, replacement procurement by means of a negotiated procedure without competitive tendering must be permissible without separate justification. The same must apply if it subsequently transpires that the contractor is unable to perform the service.

3. The “Made-in-Europe” approach

CEMR understands the political objective of strengthening European competitiveness, resilience, and strategic autonomy, goals that are equally important to local and regional governments. Many LRGs depend on resilient supply chains for critical sectors such as health, IT, water management, digital infrastructure and security services. However, **a Made in Europe approach would significantly increase costs** for contracting authorities and, ultimately, **citizens**. This approach **requires careful design**, with the Commission being **clear about which strategic objectives and sectors it intends to prioritise** and for what purposes.

First, CEMR stresses that any **European preference should not be mandatory** and must be applicable to specific strategic sectors, only where markets can realistically provide EU-produced goods or services. Local authorities should not be penalised when EU supply is unavailable or when essential products must be sourced globally. EU action must therefore avoid creating de facto procurement barriers that limit service continuity or reduce value for money. In addition, the Commission should be responsible for activating provisions related to security and trade policy interests to not put this responsibility on LRGs.

Second, **contracting authorities must not be responsible for verifying origin documentation or complex multi-tier supply chain information**. Such verification obligations would impose disproportionate administrative burdens on local authorities and contradict the objective of simplification. The responsibility must lie with economic operators, supported by EU-level certification or standardised declarations.

CEMR considers that Made in Europe preferences should provide contracting authorities with the **possibility and the appropriate instruments to limit participation of non-EU operators** while remaining compliant with procurement principles. This could be **useful in certain strategic sectors**, such as cybersecurity, IT infrastructure, public security equipment, digital surveillance systems, and other sectors where dependence on non-EU providers creates vulnerabilities. However, we stress that the **decision whether to apply such preferences must be left to contracting authorities**, based on market scarcity, availability, quality and proportionality assessments.

Additional CEMR suggestions:

- Incorporate the criteria for Made in Europe products, services, or work in the **technical specifications or award criterion**
- The Commission should **establish and deliver EU-wide certification** demonstrating the **European status of bidders**, preventing additional administrative burden on contracting authorities and avoiding legal uncertainty
- Incorporate the possibility of the selection of EU bidders in the exclusion grounds
- The EU should **provide standard clauses** that can be included in contracts, as it is done for the EU model contractual clauses for AI
- Align preference mechanisms and **avoid inconsistencies** between different regulations

4. Raising the thresholds

CEMR strongly calls for a **substantial increase in EU procurement thresholds**. The thresholds have not been updated in over a decade despite significant inflation, rising construction and labour costs, and growth in service prices. As a result, a growing number of routine purchases that were historically below EU thresholds are now unintentionally captured by the full procurement regime. This has led to unnecessary administrative burden for LRGs without any demonstrable added value. Higher thresholds would align with the principles of proportionality and subsidiarity by ensuring that EU rules apply only where there is a genuine cross-border interest.

Additional CEMR suggestions:

- Increase thresholds at least **in line with cumulative inflation** since 2014
- Introduce an **automatic indexation mechanism** to prevent the thresholds from falling out of sync with economic realities. This should be carried out at regular intervals and communicated clearly to contracting authorities to ensure predictability.
- EU advocacy for **raising thresholds under the WTO Government Procurement Agreement**, ensuring global coherence and avoiding distortions.
- Call for a more concrete description and reliable interpretation of the terms used in the **CPV nomenclature**, particularly for social and other specific services, in order to be able to make use of existing scope for manoeuvre.

5. Clarifying misunderstandings on the lowest price and improving the use of the MEAT

There is frequent misunderstanding regarding the use of **lowest price** that must be clarified as part of the revision. It is too often incorrectly presented as awarding on the lowest price involves excluding other considerations, such as social, environmental, and quality. In reality, such considerations are typically embedded in the **technical specifications, qualification criteria, or minimum requirements**, ensuring that only compliant and responsible operators can submit valid offers. Once these criteria are met, lowest price remains a legitimate, sometimes optimal, award method, particularly for highly standardised goods or routine services.

In this context, the Most Economically Advantageous Tender concept creates confusion, as MEAT *includes* the lowest price option. For fully standardised or clearly defined services, price competition can be the most transparent, objective and proportionate metric. Requiring MEAT for such contracts imposes unnecessary administrative burdens on contracting authorities

To promote consistency and transparency, the new procurement rules should allow contracting authorities to apply lowest price or lowest cost, among all other available criteria, while also recognising that early-stage integration of quality, social and green requirements may render award criteria less decisive. Importantly, LRGs consider that quality is primarily secured through well-designed technical specifications, rather than through the evaluation and scoring of bids at the award stage.

Additional CEMR proposals:

- **Clarify Article 67** on the MEAT and separate it from the concept of the Best Price-Quality Ratio, accompanied by the **explicit possibility to use lowest price** where appropriate.
- Insert a recital recognising that **technical and minimum requirements** are legitimate tools to pursue social and environmental objectives.
- Encourage the **integration of MEAT into e-procurement** to reduce administrative work.

6. Enhancing and protecting public-public cooperation and in-house procurement

Public-public cooperation and in-house procurement are **essential mechanisms enabling LRGs to ensure high-quality, cost-efficient and resilient public services**. However, Article 12 of the current directive is too restrictive and ambiguous, creating uncertainty for many forms of legitimate cooperation, especially when private market response is insufficient or when flexibility is needed for complex services.

Public-public cooperation should be better defined, provided that the cooperation serves the public interest and is not used to circumvent competition. This definition should encompass **both formal legal structures and flexible inter-communal arrangements**, reflecting the realities of municipal cooperation across Europe. Asymmetric cooperation, where one authority provides technical execution while others jointly govern, should also be expressly permitted.

Contracting authorities must retain democratic discretion to choose public cooperation models, including in-house, based on efficiency, service quality and local priorities. Cooperation often improves service resilience, reduces administrative duplication, and enables resource pooling in rural or low-capacity areas.

Additional CEMR proposals:

- **Review Article 12** of the current Directive to clearly define public-public cooperation in the revision as *any contracts or agreements concluded between two or more contracting authorities*
- **Protect in-house procurement from a market-oriented approach** to the execution of government tasks, disregarding the effectiveness of LRGs to address societal problems

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About CEMR:

The Council of European Municipalities and Regions (CEMR) is Europe's first and broadest association of local and regional governments. We are the only organisation that brings together 60 national associations of local and regional governments from 41 countries.

We empower cities, towns, and regions to build peaceful, inclusive, just, and resilient communities by amplifying their voices at European and international levels. Our aim is to ensure that local leaders are fully equipped to drive the sustainable transition of their territories to effectively respond to global challenges.

CEMR also serves as the European section of the global organisation United Cities and Local Governments (UCLG).

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Foundation
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 60
national associations
of local and regional
governments

 41
countries

 110.000
local and regional
governments

 1.000.000
locally elected
representatives