



Official Statement

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Public Procurement Act: Business for a Better Tomorrow recommendations to make sustainability a key driver for public procurement in Europe

Following the publication of the European Commission's proposal for a Regulation on public contracts and concessions (Public Procurement Act), the Business for a Better Tomorrow coalition welcomes a long-awaited and necessary modernization of the Union's public purchasing rules.

Accounting for 15% of the EU's GDP, public procurement is one of our continent's most powerful economic levers. In a global context marked by geopolitical instability, supply chain vulnerabilities, and climate urgency, **how public money is spent can no longer be driven by short-sighted decisions purely based on the lowest price logic but should instead be seen as a genuine driver for European competitiveness, decarbonization, industrial autonomy, and social cohesion.**

In this context, and as major global economic powers increasingly mobilize public procurement to support their own domestic industries, **we welcome the European Commission's ambition with the Public Procurement Act as a turning point to align public purchasing with the strategic priorities of the EU.** We strongly support this necessary shift away from blind market neutrality toward a proactive use of European public demand. We consider it high time for the Single Market to leverage its purchasing power to support its own industry, workforce, and green transition, provided these political ambitions are backed by enforceable operational rules.

While the direction set by the Commission is the right one, the proposed mechanisms require further legal precision to maximize their real-world impact. To provide European businesses with the necessary predictability and ensure public spending effectively supports EU priorities, we encourage co-legislators to reinforce four key areas during upcoming negotiations:

1. Making the Best Price-Quality Ratio (BPQR) the true baseline by mandating social and environmental quality criteria

Shifting to BPQR as the default award method (with mandatory minimum quality weightings of 30% for standard contracts and 50% for labor-intensive ones) echoes proposals long championed by our coalition to move away from the lowest-price paradigm and support EU businesses committed to the environmental and social transition. **It is crucial that co-legislators preserve this default mechanism at a minimum during the up-coming negotiations.**

However, the current broad definition of 'quality' sets no minimum threshold for environmental and social criteria, risking that these dimensions get sidelined. To guarantee real-world impact, **we call on co-legislators to mandate an absolute minimum weighting specifically dedicated to social and environmental criteria** (which could be set at 15%), while actively encouraging contracting authorities to go further.

Finally, we will be particularly vigilant regarding any derogations, notably the provision allowing buyers to revert to price-only evaluation whenever quality is claimed to be "guaranteed by

specifications”. Where public buyers seek to resort to this exception, they should be required to provide a robust, formal justification.

2. Strengthening European preference to protect critical infrastructure and support territorial value creation

Against rising geopolitical tensions, we welcome the Commission’s push to align public purchasing with Europe’s strategic autonomy. The new proposed mechanisms finally gives public buyers long-awaited legal certainty to favor "Made in Europe", reject high non-EU content, or apply evaluation bonuses without fear of litigation. Similarly, allowing the exclusion of relevant third countries suppliers in vital sectors like energy, health, and digital is a major step for European sovereignty. However, to prevent simple pass-through trade, we will be particularly vigilant in ensuring that co-legislators strictly frame the definition of origin: genuine "Made in Europe" must be backed by real local-content and value-creation requirements that support the businesses employing and operating within the Single Market.

3. Turning optional environmental and social criteria into concrete market demand

The proposal significantly broadens the toolkit available to public buyers to evaluate the environmental and social performance of tenders. Specifically, buyers could integrate circular economy criteria into technical specifications, such as waste prevention, reuse and refill solutions, reusable packaging systems, durability and recycled content requirements, enforce mandatory accessibility and fair working conditions, and deploy Life-Cycle Costing methodologies to account for carbon footprint and end-of-life costs. We welcome this extension of evaluation tools, as it establishes a modernized, harmonized European framework giving public buyers new tools to better reward companies investing in sustainable and social business models.

However, we identify three critical limitations that risk undermining the real-world impact of these provisions:

- **First, the need for standardized and shared EU methodologies:** To prevent Single Market fragmentation, avoid administrative burden, and ensure effective implementation, it is essential that these new criteria are built upon shared, harmonized EU methodologies.
- **Second, the risk of purely optional mechanisms:** Because these tools remain strictly discretionary, they risk having very little impact on the ground. We therefore call on co-legislators to introduce strong incentives for public buyers, make these criteria mandatory in relevant strategic markets, and set binding national targets for circular and social economy procurement. Specifically, a “comply or explain” clause could be added to Article 51, requiring buyers to formally justify and document any decision not to apply circular criteria.
- **Finally, the persistence of the rigid "link to the subject-matter" principle:** The proposal maintains a narrow product-focused approach by requiring award criteria to be strictly tied to the specific contract. In practice, this largely prevents public buyers from rewarding a company’s overall structural impact if its commitments are not directly embedded in the specific goods or services being purchased. To address this last limitation, we propose allowing contracting authorities to evaluate the overall contributive nature of the economic operator, where based on objective characteristics relating to its governance, business model, or broader overall performance insofar as they are relevant to the objectives pursued by the contracting authority.

4. Simplifying access and securing market opportunities for SMEs

Administrative complexity remains one of the primary obstacles preventing micro, small, and medium-sized enterprises (SMEs), as well as impact businesses, from bidding on public contracts. We strongly support the Commission's proposal to establish a unified digital company wallet based on the "Once-Only Principle". This long-awaited simplification will reduce repetitive paperwork and provide much-needed administrative relief. To make this tool truly effective for sustainable bidders, official environmental and social labels, as well as corporate commitment statuses could be integrated directly into the wallet in order to allow verified impact enterprises and green businesses to prove their compliance automatically, removing burdensome qualification hurdles for every tender.

Regarding market access, we welcome the prohibition of unjustified restrictions on joint bidding consortia and the obligation for buyers to justify non-lotting. However, to truly protect local economic ecosystems and avoid contract concentration among large corporations, co-legislators should go a step further by making lotting mandatory above specific thresholds whenever a contract is technically and economically separable.

Finally, to build a genuinely inclusive public procurement framework, we call on co-legislators to incorporate key missing levers: expanding reserved contracts for social economy enterprises, mandating the early publication of buyers' forecast purchasing plans to give SMEs the visibility required to adapt their offerings, enforcing shorter payments terms to protect their financial viability and liquidity, and deploying dedicated training and technical support tools to help smaller structures navigate complex tender procedures, notably through an EU-funded capacity-building package providing targeted training, considering the creation of an EU-wide GPP cost-benefit calculator, and encouraging Member States to set up dedicated fast-track dispute-resolution routes.

The Public Procurement Act represents a decisive opportunity to turn public spending into a catalyst for Europe's industrial resilience and sustainable prosperity. Throughout upcoming legislative negotiations, Business for a Better Tomorrow will act as a constructive yet demanding partner alongside co-legislators to safeguard the high ambition of this pivotal regulation and ensure public demand directly supports the European businesses driving the Union's strategic and environmental goals.

About Business for a Better Tomorrow

Business for a Better Tomorrow is the coalition of 19 EU and national-based business networks committed to the ecological and social transition. More information: <https://www.businessforabettertomorrow.eu/fr>

Contact:

mbourel@impactfrance.eco - +33632294674