



AN EU FRAMEWORK FOR THE STRATEGIC USE OF PUBLIC PROCUREMENT

Recommendations for the revision of the Public Procurement Directives

January 2026

The Buy Better to Build Better Coalition brings together forward-thinking stakeholders from industry, public authorities and civil society, under a shared commitment to mainstream public procurement as a core lever in driving decarbonisation, circularity and competitiveness, starting with the construction sector.

We welcome the opportunity to provide feedback and targeted evidence on the importance of effectively revising the EU Public Procurement Directives (PPDs).

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A full list of members is available [here](#).



Executive summary

The current EU public procurement framework has not yet realised its potential to support the green and digital transition, strengthen competition or deliver best value for taxpayers' money. The low and uneven uptake of strategic public procurement across Member States fails to send a clear demand signal to the market, missing a critical opportunity to reward best performers while bridging the EU's competitiveness with sustainability goals. A targeted intervention to make procurement more efficient is therefore required.

Key recommendations

Ensure a coherent legal architecture by preserving the distinction between horizontal and sector-specific rules

The Public Procurement Directives should provide a clear horizontal framework applicable across all sectors, while EU sectoral legislation should provide the basis for developing tailored procurement provisions.

Prioritise value-based awarding over lowest-price

Innovation and competition can become the norm only if lowest-price awarding ceases to be the default practice. The Public Procurement Directives should strengthen the legal mandate to move beyond lowest price, through a "comply or explain" mechanism.

Optimise procurement by reducing administrative burden, harmonising rules and strengthening digital architecture

Targeted simplification should streamline administrative procedures, clarify definitions and eliminate any legal loophole between the sectoral rules and the Directives. Clear, harmonised and practicable criteria, supported by interoperable digital tools, would enhance transparency, accessibility and monitoring.

Focus strategic procurement efforts on sectors with the highest societal value

Existing and upcoming legislation should identify priority sectors where public procurement can pilot strategic approaches. Based on available evidence, the construction sector is particularly well placed to create lead markets for innovative and sustainable solutions.



A once in a decade opportunity for boosting strategic procurement

The Public Procurement Directives establish the core principles, procedures and governance rules applicable to contracting authorities and economic operators. Their primary objective is to remove barriers to the Single Market by providing a common framework for conducting procurement procedures across the EU. At the same time, the Directives operate within a broader ecosystem of EU and national sector-specific rules, tailored to the distinct characteristics of different sectors (e.g. construction, food, textiles).

In line with the 2024-2029 political guidelines, the upcoming revision of the Directives aims to make better use of public money, strengthen EU's economic security and better align its procurement policy with the strategic objectives. To ensure that the EU procurement framework is modernised in a well-designed manner, BBBB recommends an approach based on three pillars:

- **Targeted simplification supporting greater (cross-border) competition and the uptake of strategic procurement**, by reducing unnecessary administrative burden, harmonising rules across Member States and digitalising procedures.
- **Moving away from the lowest price as a default approach**, via a “comply or explain” mechanism.
- **Prioritising best-placed sectors** (i.e. construction) to accelerate the uptake of strategic procurement, by fast-tracking existing sectoral legislation.

1. Simplifying procurement processes through harmonisation and digitalisation

A frequently raised concern in the public debate is the perception that procurement rules have become overly complex or burdensome. The recent European Parliament's [INI report](#) and the Commission's [evaluation report](#) note that inconsistencies in national transposition and a growing number of sector-specific instruments are often cited as potential sources of difficulty for cross-border competition and for the uptake of strategic procurement.

From the perspective of the BBBB members - representing both the supply and demand chain – **simplification efforts should primarily be targeted towards improving and speeding up procedures, to ease unnecessary administrative burden**. For example, proposed measures such as clarifying the role of central purchasing bodies in the interaction between the purchasers and the economic operators, better defining responsibilities across the different phases of the procurement process, using standardised template documents and facilitating the re-use of documentation submitted by bidders where appropriate, or requiring



full proof of suitability only from the successful tenderer are welcomed¹. Greater alignment between public procurement requirements and existing EU-level sustainability frameworks, where available, could also reduce administrative burden by allowing contracting authorities to rely on standardised, verifiable information already used within supply chains.

Fragmentation caused by additional procedural obligations at national and sub-national level (“gold plating”) further complicates procedures. A concrete example can be found in Germany, where regional procurement laws (‘Landesvergabegesetze’) exist on top of the German national procurement law². Greater harmonisation deriving from EU level could reduce unnecessary procedural divergence while improving accountability and the comparability of procurement-related data.

These measures should be complemented by a **digital transformation that rethinks pre-award and post-award phases** in a simple and effective way. While the e-Forms and the recently launched Public Procurement Data Space are encouraging steps, most procedures are still based on uploading forms and notices rather than using data that is automatically recorded and shared across EU and national platforms³. A data-driven digital system from the ground up allows professionals to spend significantly less time navigating across high volumes of data by flagging irregular patterns, detecting duplication or summarising long documents.

Besides automatising tasks, it can also allow a more efficient monitoring. The current EU-level monitoring through TED is flawed by numerous input errors and lacks granularity⁴. E-forms consistently lack entries on the use of sustainable requirements, whether in technical specifications or awarding. Effectively, a great number of tenders (around 80%) escape monitoring, by falling outside of the scope of the Directives⁵. This is particularly problematic for monitoring strategic procurement and green tendering. Properly reporting and labelling contracts as per their use of green criteria can improve transparency, foster competition and ease access to market for innovative and sustainable businesses⁶.

Simplification through digitalisation could also include embedding applicable legal requirements directly into digital procurement systems, so that procurers receive clear, operational guidance while running a procedure, rather than having to interpret themselves the legal obligations every time. A dedicated digital database could provide an accessible

¹ European Commission: Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs and Caranta, R., *Coherence in the EU public procurement directives – A study into the internal coherence between the objectives, the principles and the provisions in the EU public procurement and concessions directives*, Publications Office of the European Union, 2025, <https://data.europa.eu/doi/10.2873/3304248>

² Public procurement directives - FEAD - European Waste Management Association

³ Correcting the lost decade of electronic public procurement in the EU | ERA Forum

⁴ Almost 50% of TED data has quality issues, more details can be found [here](#).

⁵ Publications Office.

⁶ Several countries (the U.S., the U.K., Mexico, India, Ukraine) have started using AI-based tools to improve procurement process (checking whether all tender documents are submitted, cross-referencing past supplier performance, flagging unusually low bids that might signal poor delivery prospects).



overview of applicable sectoral legislation for specific procurements, for example, by further developing existing EU platforms⁷.

Equally important, the simplification exercise should make procurement rules less prone to litigation. This can be done notably by providing sufficient legal clarity particularly when the Directives intersect with sector-specific requirements in other EU legislation. Gaps mentioned in the Commission's underlying studies on **internal** and **external** coherence include limited clarity on how different procurement requirements interact, conflicting definitions of exclusion grounds or uncertainty regarding the application of sectoral rules below the thresholds set by the Directives⁸.

Particular attention should be given here to the dynamic between the general rules from the Directives (how to buy) and the sectoral rules (what to buy), as they serve different purposes. While the general rules provide the horizontal framework applicable to all sectors, existing EU sectoral legislation – mostly unimplemented - provides the ground for the development of tailored procurement provisions. Procuring concrete for a bridge or medical equipment are subject to different practical and legislative mechanisms across EU and national provisions. These heavily depend on the way sector-specific provisions are set up. In the construction sector for instance, the predominant role of EU common standards established by the EU Construction Products Regulation (CPR) makes it practically impossible to separate procurement provisions from sectoral legislation. Doing so will certainly create legal uncertainty and complexity for businesses operating in the construction sector – a sector covering more than one-third of overall procurement procedures across the EU.

As a comparison, in the United States, federal procurement operates through a general, government-wide framework (the **Federal Acquisition Regulation**) that sets procedures and principles, while sector-specific requirements introduce targeted obligations for particular markets (e.g. the **Buy Clean Initiative** prioritises American-made, lower-carbon construction materials in federal procurement and federally-funded projects. This creates a layered system broadly comparable to the EU combination of horizontal procurement rules and sector-specific legislation.

⁷ At national level, the Dutch MVI is an online library that allows users to select and download criteria for use at different stages of the procurement procedure.

⁸ Prof. Willem A. Janssen notes, for example, incoherency in use of terminology (e.g. distinct definitions of "life-cycle" in Regulation 2024/1781 and Directive 2014/24/EU) and scope (e.g. public procurement requirements in Directive 2023/1791 apply also to procedures below the thresholds of the Directives), absence of appropriate cross-references to the Directives or unclear substantive overlap without legal conflict (e.g. between Article 18(2) of the Directive 2014/24/EU and Article 9 of the Minimum Wage Directive 2022/2041).

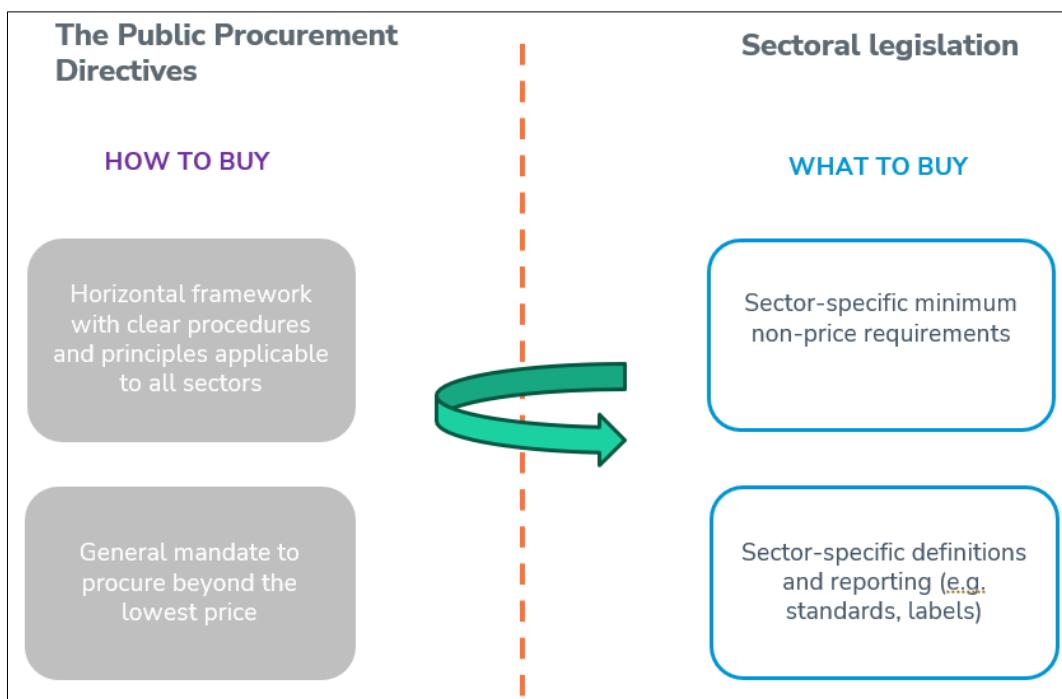


Fig 1. Suggestion on the EU public procurement architecture

Additionally, the “link to the subject matter” requirement has often been perceived as a limiting factor for strategic procurement beyond the lowest-price option. While intended to delimit the scope of legitimate requirements or preferences in public procurement procedures, overly narrow interpretations of this requirement create legal and operational risks. Procurement procedures that do not comply with the “link to the subject matter” requirement may be subject to legal challenge, leading to delays and increased costs⁹.

In this context, BBBB recommends a targeted simplification exercise, based on thorough impact assessments to ensure the procurement rules are truly streamlined. While BBBB supports the idea of reducing unnecessary administrative burden and improving coherence across EU legislation, the revision of the Procurement Directives should not become a deregulation exercise. Rather, it should focus on ensuring that the existing and forthcoming body of EU law forms a coherent, predictable and workable framework for both contracting authorities and economic operators¹⁰.

⁹ The Link to the Subject-Matter: A Glass Ceiling for Sustainable Public Contracts? by Abby Semple: SSRN

¹⁰ Prof. Roberto Caranta suggests that the pursuit of outright simplification should be avoided as it is expected to significantly increase the judicial legislation, creating uncertainty for both procurers and economic operators.

BBBB recommendations:

- **Preserve the current separation between the procedural (“how to buy”) in the Directives and the substantive criteria (“what to buy”) in the sectoral legislation¹¹.** This will provide a clear legal mandate to procurers on how to conduct their procurement (notably procuring beyond price) and will allow for sectoral legislation to deliver specific, ready-to-use non-price criteria for priority products.
- **Apply a targeted simplification of the procurement rules**, by streamlining administrative procedures, clarifying definition and removing inconsistencies between sectoral rules and the Directives (notably through clear cross-references to all procurement-related sectoral legislation).
 - Consider the **inclusion of sustainability and resilience** (e.g. in the form of a life-cycle concept¹²) as a core principle of public procurement¹³, to narrow interpretative gaps identified in case law and strengthen the legal basis for strategic purchases.
- **Strengthen the digital architecture** to allow automatic data capture, reduce manual reporting and harmonise data across member states. This should start with strengthening data interoperability and comparability, notably through better alignment between eForms, TED, and the future Public Procurement Data Space (PPDS). The Commission should also consider mandating national-level data disclosure on sustainable procurement.

2. Rewarding best performers by mandating procuring beyond the lowest price

Despite providing the enabling framework for pursuing best value for money – through the MEAT principle – the Directives did not drive its systematic application in practice. **As the Commission and the European Parliament note, procurement based solely on the lowest price limits the ability to reward early movers and ultimately undermine the**

¹¹ As indicated by the COM's evaluation report, this is not unique to the EU level: Member States have often integrated their own national requirements across sectors to respond to their domestic needs.

¹² [Sustainability_through_public_procurement_the_way_forward_Reform_Proposals.pdf](#)

¹³ Under the **C-395/18 – Tim**, the CJEU stated that the purpose of including sustainability considerations in Article 18(2) was that ‘the Union legislature sought to establish that requirement as a principle, like the other principles referred to in paragraph 1 of that article’. CJEU mentioned that sustainability under Article 18(2) is ‘a cardinal value’ and that Member States ‘must ensure compliance’ with the enumerated laws.



achievement of higher value for the taxpayers' money¹⁴. This issue stems primarily from the voluntary nature of procuring beyond price, as the Directives recommend - but do not require - contracting authorities to integrate quality, sustainability, or life-cycle considerations into award decisions.¹⁵

In practice, this has led to a patchwork of divergent national and sub-national interpretations of the rules. Some countries have implemented mandatory green public procurement requirements while others are lagging behind even in terms of national plans¹⁶. This creates investment uncertainty and fails to reward best performers in scaling-up their businesses. Furthermore, it discourages those authorities that lack experience or institutional capacity. For them, a clear mandatory framework with harmonised requirements matters: it provides a common baseline and reduces ambiguity, meaning they can confidently move beyond price-only awards without fearing litigation¹⁷. This does not imply that flexibility for more ambitious authorities should be curtailed, but excessive divergence risks undermining cross-border participation and distorting competition.

Additionally, the lack of a clear legal mandate further weakens the practical application and enforcement of sectoral rules. Progress on EU sector-specific requirements has been slowed by pending concerns regarding their alignment and interaction with the Directives. Both industry and public authorities are broadly supportive of moving beyond price, which underscores the need for a clear mandate in this direction at EU level.

We invite the Commission to phase out awarding based on price-only as a go-to measure to support the EU's strategic procurement objectives, in line with the political mandate of the Clean Industrial Deal.

¹⁴ 55% of procurement procedures use lowest price as the only award criterion for public contracts. While this indicator does not capture the non-price requirements (i.e. GPP) applied at earlier stages of the procedure (e.g. technical specifications), it illustrates the limited use of strategic procurement at the award stage – where innovation and quality-based competition can be most effectively leveraged.

¹⁵ As shown by judicial law, award criteria provide the most relevant opportunity for strategic public procurement to reward the best performers. See [Towards mandatory Green Public Procurement \(GPP\) requirements under the EU Green Deal: reconsidering the role of public procurement as an environmental policy tool | ERA Forum | Springer Nature Link](#).

¹⁶ In the construction sector, Italy applies minimum recycled content requirements for concrete and steel, the Netherlands uses a carbon scoring system which is monetised and subtracted from the bidder's offer, Ireland requires minimum of 30% clinker substitution in concrete, Sweden applies maximum GWP limits on cement and concrete for infrastructure projects. Other Member States have partially transposed the voluntary EU GPP criteria for office buildings, though often without any thresholds for embodied or whole-life-carbon emissions. A full analysis of the EU GPP landscape for construction is available [here](#).

¹⁷ **Case C-532/06, Lianakis** annulled a MEAT award because the contracting authority improperly used tenderers' experience and qualifications (selection criteria) at the award stage, in breach of transparency and equal treatment principles.



BBBB recommendations:

- **Introduce a general obligation to move beyond lowest-price awards towards value-based, cost-informed procurement.**
 - This could take the form of a “**comply or explain**” mechanism, under which contracting authorities would, by default, be required to move beyond lowest-price awards when applying the MEAT principle - through the Best Price Quality Ratio and / or Life Cycle Costing - while retaining justified flexibility where appropriate¹⁸.
 - It would also support a more balanced regulatory architecture with sectoral legislation: minimum requirements (e.g. technical specifications) would continue to be defined at sectoral level, while the Procurement Directives would provide a clear horizontal mandate for authorities to pursue more ambitious, value-based procurement strategies.

3. Streamlining strategic procurement frameworks where it produces the highest impact

The Clean Industrial Deal, building on the reports by Draghi and Letta, identifies decarbonisation and circularity as key opportunities to strengthen Europe’s competitiveness. It also underlines the importance of securing supply chains and reinforcing European industrial ecosystems, particularly in strategic sectors.

The construction sector is, based on available evidence, particularly well placed to pilot procurement measures that can create lead markets for innovative solution. It accounts for by far the highest number of procurement procedures across the EU. Moreover, approximately 45% of concrete consumption in the EU is linked to public construction projects, while around 40% of steel consumption is used in construction overall. The sector’s environmental footprint is also substantial, making it a leverage point for climate and circularity objectives.

¹⁸ Justified flexibility should be clearly delimited to avoid overly broad interpretations that would systematically lock in price-only procurement procedures. In this context, revisiting the definition and application of the MEAT principle could provide greater clarity. The [United Kingdom](#) has taken a comparable approach by explicitly emphasising broader value beyond price, including environmental and innovation considerations.

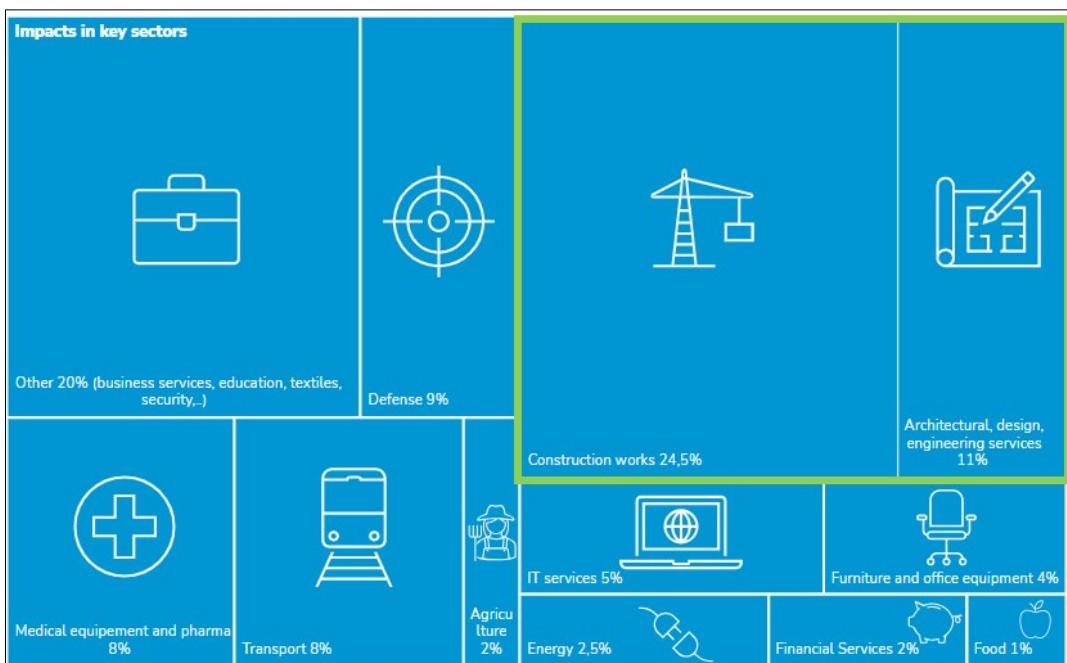


Fig 2. Public procurement impact in key sectors (per numbers of procedures)

Source: *Indicator Number of procedures*

A selective, sector-specific approach is therefore required, with construction as a priority. BBBB has provided evidence in its response to the [Industrial Accelerator Act](#) and the [Circular Economy Act](#) on the range of public procurement measures the Commission could consider including on the architecture between the Directives and sectoral rules. Regardless of the legal instrument used, such measures should be developed within sectoral legislation given the complexity of the construction sector, seeking alignment with existing regulatory and reporting frameworks (e.g. EU Taxonomy and Emission Trading Schemes, labels, harmonised standards) to avoid duplication and ensure coherent application across Member States¹⁹.

Further digitalisation of the construction sector and standardisation of lifecycle costing methodologies will be key to the improving its competitiveness²⁰. In this context, revising the horizontal public procurement framework can act as an enabler of greater transparency, improved value for money, and more data-driven decision-making across the asset lifecycle.

¹⁹ GPP or European preference measures need to operate within the wider framework that governs each sector. For example, under the Construction Products Regulation and the Ecodesign for Sustainable Products Regulation, the GPP frameworks are configured to follow a logical sequence: information-disclosure (including through classes of performance), developing of environmental performance requirements, and applying GPP by referencing the relevant environmental performance parameters.

²⁰ BIM and the Future of Public Procurement: Why a Balanced European Approach Matters | Public Buyers Community; ICLEI Europe • Publications & tools

BBBB recommendations:

- **Develop minimum EU-wide non price requirements through relevant sectoral legislation.** As the role of procurement rules is to facilitate access to public markets across the EU, harmonised procurement requirements are a precondition for cross-border participation and fair competition.
 - With the criteria taking the form of minimum common requirements, public buyers would retain the flexibility to go beyond them, adapting to their specific needs.
- **Consider the integration of mandatory strategic plans for the Member States (e.g. target setting for the greening and digitalising of public-procurement).** Countries like France, Lithuania or Portugal are examples of how national and regional strategies, matched with target setting requirements, have generated broad uptake and momentum in the more strategic and effective use of public procurement²¹.



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²¹ In France, plans for large public buyers (>50 mln procurement budget/year) have proven particularly helpful in guiding buyers towards implementing strategic procurement, including through targeted training, dedicated tools and monitoring mechanisms. In 2021, the Lithuanian government, led by the national Public Procurement Office (LPPO) and the Ministry of Environment and Innovation, set a goal to achieve 100% green procurement by 2023, backed by a mandate for green criteria for at least 50% of total procurement value across various spending areas. To support this, the LPPO established a Competence Centre providing extensive training and guidance, while a professionalisation action plan introduced mandatory certification and comprehensive GPP courses for procurement professionals. Portugal's early move towards mandatory electronic public procurement has been widely cited as improving efficiency and cost-effectiveness, positioning the country as a leader in digital public procurement and centralised procurement data publication in the EU.