

Position paper – Revision of the EU public procurement rules, response to the Call for Evidence 26 January 2026

The Swedish Association of Local Authorities and Regions (SALAR) welcomes the opportunity to contribute to the revision of the EU public procurement framework.

SALAR is an employers' organisation and an organisation that represents and advocates local government in Sweden. All of Sweden's municipalities and regions are members of SALAR. In 2023, the local government sector, i.e. municipalities, regions and their companies, accounted for 82 per cent of the announced procurements in Sweden. 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, Local and Regional Government's (LRGs) are also best placed to determine what procurement approach 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. In addition it is thus important that the rules continue to regulate how purchases are made and not what is to be purchased.

Overall objectives – improving efficiency and transparency

The public procurement framework should be based on simplicity, proportionality and practical feasibility for LRGs of all sizes. As mentioned is public procurement about fulfilling the needs that LRGs, and by extension the citizens, have of goods and services. Contracting authorities must have the discretion to determine which criteria are appropriate and aligned with local needs, capacities and market realities. The starting point is the principle of subsidiarity and the respect for it.

The current three procurement directives (2014/23, 2014/24 och 2014/25) should merge into one and the flexible and less detailed Concessions Directive (2014/23) should be the basis. This would promote both efficiency and simplicity. It would also enhance technological advancements and transparency. The large amount of sectorial legislation has to be reviewed to eliminate inconsistencies, redundancies and conflicting obligations that are not manageable for contracting authorities. Mandatory rules that may prove contradictory and counterproductive for both contracting authorities and small and medium sized enterprises (SMEs) are not in line with this as it leads to more complexity, administration and an increasing amount of complaints.

A simple and effective legislative framework

Proposals from SALAR:

- Raise the thresholds. They have not been updated since the last revision and they are not in sync with economic realities.
- Base the new rules on the Concessions Directive (2014/23). This will allow framework agreements to be used more flexible, better align with continuity, investment and security of supply. There is no need for procedures that are regulated in detail as this hinders technological development with focus on the procedure and not on the affair.
- The light regime of social and other specific services must remain as such services are in general not of cross-border interest.
- The restrictive rules on modifying and complete tenders has to be adjusted. It must be allowed to make corrections and prevent the exclusion of competitive bids due to administrative errors.

- Allow contract amendments after conclusion of the contract. Article 72 of 2024/24 is limiting necessary changes in ongoing contracts. This is particularly important when it comes to certain markets that are affected by the security situation or long period contracts for example.
- A special exemption is needed for supply security beyond defense and security sectors to safeguard critical infrastructure and the continuity of public services in times of special security situations and in war time.
- The possibility to diverse contracts into lots has to remain voluntary. In Sweden, SMEs together accounted for 74 percent of all contracted tenders (2022).¹ The Commissions evaluation shows that SMEs share of contract has increased in other member states as well. Making such rules mandatory will only lead to increased administration as exceptions will be needed. It is up to the authorities to determine when it is appropriate to diverse contracts in to lots.

Price-only versus Best Price-Quality Ratio (BPQR) is built on a misunderstanding

As far as SALAR and its members are concerned the focus on taking quality into account focuses too much on the award phase. 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 and not only in award criteria. The revision should better acknowledge and support this practice, rather than focusing narrowly on award scoring systems as such are easy to exploit and can be more subjective. It is also difficult for a contracting authority to know in advance what quality the bidder wishes to offer. It should be up to the contracting authority to decide which award model and criteria is best in the individual case.

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 BPQR 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.

SALAR opposes provisions regarding BPQR that make such award models mandatory.

Collective agreements

There are already possibilities to consider terms and condition in collective agreements and it is done on a big scale. It is important that the member states' national market models and differences is respected in this regard. Flexibility and room should be left to the contracting authority to choose and decide. EU could support with guidance and sharing of best practices – but there is no need for legal clarifications. It is the principle of subsidiarity that should govern.

¹ <https://www.upphandlingsmyndigheten.se/statistik/upphandlingsstatistik/statistik-om-annonserade-upphandlingar-i-sverige-2022/fyra-av-tio-anbud-leder-till-avtal-2022/>.

Digitalisation and transparency

The administrative burden for LRAs must be considered. Simplify digital procurement tools (E-form, ESPD, tender notices, data reporting, for procurement processes to reduce administration complexity and avoid duplication. For example, it is very important that the focus of procurement notices remains on attracting bidders and not on data collection for EU macroeconomic analyses. It is the contracting authorities that need to conduct analyses of their purchase. The benefit for LRAs, especially small ones, and SMEs should be in focus when it comes to digitalisation.

The suggested creation of a digital public procurement marketplace with a single-entry point for economic operators to access public procurement procedures would provide a “one-size-fits-all” approach that does not reflect reality. The current eProcurement services environment is largely appropriate, and replacing all existing Member States’ services with a central one risks creating more complexity, disrupting current well-functioning workflows and increasing the risk of technical failures or inconsistent data. It also raises concerns regarding cybersecurity issues and the high costs associated with its set-up, especially considering that several, but not all, Member States have already invested significantly in creating their own systems.

Buy European

SALAR does understand the importance of strengthening European competitiveness, resilience, and strategic autonomy. These are goals that are equally important to local and regional governments. Many LRAs 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 may increase costs for contracting authorities and, ultimately, citizens. This approach requires careful design.

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.

Addressing unsound business practices and criminality

As SALAR has previously pointed out (see the answers on the open consultation from February 2025) it is important to address criminality and unsound business practices. The voluntary exclusion grounds should therefore be expanded. Beneficial owners and company representatives involved in fraudulent activities should be included. Member states should have the opportunity to define exclusion criteria that better suit the prevention of crimes against the public sector. The self-declaration system has not led to simplification but has been abused by unscrupulous actors who promise to meet requirements but don’t do that in reality. This leads to distortion of competition and to elimination of good suppliers. This also leads to the contracting authorities not receiving agreed deliveries.

SALAR propose that it should be possible to have qualification systems in all types of procurement, not only in the utility sectors (article 77 in directive 2014/25). This could be helpful to exclude rogue actors from obtaining contracts with authorities.

Additional: more detail proposals

The exemptions for In-house procurement (article 12 p. 1 – 3 in the 2024/24 directive) should include purchases regardless of direction. The exemption that allows owners of a jointly owned organization to make procurements from it but not in the opposite direction is difficult to justify. The current exemption for internal procurement, which limits certain procurements but allows others, is a restriction on how public entities are allowed to organize their operations. A proposal is attached to this position paper.

The “activity criterion” should be removed as a requisite for the Public-Public cooperation exemption (article 12 p 4 in the 2024/24 directive)Hamburg). The design of the criterion is reminiscent of that of the In house exemption (Teckal). However, the criterion is not found in the case law of the EU Court of Justice and in practice there are many questions regarding how this should be interpreted. To achieve the purposes of the criterion, it should be sufficient to rely on the “public interest criterion”. A proposal is attached to this position paper.

The current ten-day deadline for submitting bids under a Dynamic Purchasing system (DPS) should be removed, or reduced, in order to facilitate faster and more efficient procurement of goods and services requiring immediate action (article 34 p. 2 b)).