



International Working Group on Ethical Public Procurement (IWGEPP) statement on European Commission proposal for Public Procurement Act - 17 September 2026

Background

Established in 2011, the International Working Group on Ethical Public Procurement (IWGEPP) is a collaboration between representatives from over 45 organisations made up of publicly funded bodies (including procurement practitioners and sustainability experts), policy makers, scholars, NGOs, multi-stakeholder initiatives, trade unions and civil society organisations from several countries. Our mission is to integrate socially responsible public procurement into procurement processes worldwide. IWGEPP serves as a hub to share best practices, explore collaborative initiatives, direct policy and promote innovation in responsible procurement.¹

The proposed Public Procurement Act

IWGEPP welcomes the European Commission's proposal for a Public Procurement Act as it contains several promising changes which may help address [concerns previously raised by the working group in response to the call for evidence](#). In particular, IWGEPP welcomes the move away from lowest price as the predominant award criterion, the recognition that working conditions in global supply chains are relevant to public contracts, steps taken to provide more clarity on the link to the subject matter, as well as efforts to strengthen supply chain transparency and capacity of practitioners. The proposal also encourages pre-market consultations, proposes the creation of procurement competences centres in Member States, and introduces mandatory monitoring of social and environmental outcomes through National Public Procurement Data Spaces.

Despite these improvements, the proposed Act leaves important gaps that must be addressed to prevent irresponsible suppliers from winning public contracts at the expense of more responsible competitors:

1. Avoid Best-Price-Quality-Ratio option from becoming box-ticking exercise

While the move away from lowest price is much-needed and long overdue, setting the minimum weighting for quality criteria at just 30% lacks ambition. This is particularly concerning given that quality criteria can encompass a broad range of considerations beyond social and environmental performance, potentially limiting the extent to which

¹ Please note that public authorities participate in the network for knowledge-sharing purposes. Note that some of these organisations may not have participated in the preparation of this statement. The statement is therefore not supported by all of these organisations and does not necessarily reflect the views of such organisations.

procurement can drive responsible business practices. BPQR in its current form could result in a stronger preference for European suppliers while relegating, for example, fair working conditions in public supply chains to one consideration among many – or leaving them out altogether – rather than making them a mandatory condition for driving ethical purchasing decisions. A “comply or explain” approach would also allow procurers to rely on the lowest price where they consider it justified.

IWGEPP calls on EU decision-makers to give meaningful weight to social and environmental criteria, proportionate to the human rights and environmental risks associated with the goods, services or works being procured. This would ensure that BPQR rewards bidders that invest resources in HREDD and responsible production practices, rather than allowing companies with weaker human rights practices to remain competitive by meeting quality thresholds through non-social and non-environmental criteria.

2. Explicitly recommend human rights and environmental due diligence (HREDD) as an award and contract performance criterion

While the European Commission proposal explicitly mentions “sustainability due diligence” in relation to environmental contract performance conditions, it fails to introduce mandatory social conditionalities to promote fair working conditions and accountability throughout supply chains. Similarly, it stops short of explicitly recommending human rights and environmental due diligence (HREDD) as the preferred award criterion or contract performance condition, despite the fact that such requirements would help ensure that public sector suppliers identify, prevent, mitigate and remediate adverse human rights and environmental impacts across their supply chains.

To this end, the Act should recommend HREDD as an award and contract performance criterion, following the OECD’s six-step framework and risk-based approach, and in line with internationally recognised frameworks, notably the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.

3. Leverage public procurement to enable meaningful CSDDD implementation

The Act repeals Article 31 of the CSDDD (Directive (EU) 2024/1760), which confirmed that compliance with due diligence obligations could be considered an environmental or social award criterion or a contract performance condition in public procurement. However, while the Act mentions “effective human rights protection across the supply chains” as a social objective procurers may pursue, the Act does not complement this with an actual legal basis enabling public buyers to take compliance with the CSDDD into account where relevant, while also allowing risk-based due diligence requirements aligned with the UNGPs and OECD Guidelines to be applied irrespective of whether an economic operator falls within the scope of the CSDDD.

4. Clarify the subject-matter requirement

The proposal provides a clearer legal basis for procurement criteria relating not only to the characteristics of the final product or service, but also to the conditions under which it is produced and delivered. However, while it mentions that the “working conditions of workers involved in any of those stages of the life-cycle” may be taken into account, the provision still excludes an operator’s “general corporate policy” from the subject-matter test, creating legal

uncertainty around criteria that relate to an economic operator's human rights or environmental practices. This risks having a deterrent effect on contracting authorities seeking to leverage public procurement to address sustainability risks, particularly upstream human rights and environmental impacts. The Act should therefore clarify that human rights as well as environment related policies and strategies, and supplier codes of conduct or supply chain risk management strategies may be contract-specific, and thus linked to the subject matter, where it governs the performance of a particular contract.

5. Increase transparency around contractors' supply chains and sustainability performance

To ensure that transparency requirements advance responsible business conduct, contracting authorities must have risk-based and proportionate access to information on working conditions at production sites, impacts on affected communities, and suppliers' due diligence processes, including how they identify, prevent, mitigate and address human rights risks and impacts. The introduction of national and Union-level Public Procurement Data Spaces is welcomed but its function could be expanded to consistently collect, host and exchange such data.

6. Introduce guidance and model contract clauses on HREDD as key non-legislative measures

While the Commission aims to ensure that the legislation strengthens professionalisation and capacity building, achieving this effectively will require the introduction of EU-level guidance tailored to both procurers and contractors, as well as easily accessible model contractual clauses on due diligence for procurers across the EU. The experience of the Swedish Regions demonstrates the value of [applying contract clauses](#) proportionate to the risks associated with a contract and the maturity of a supplier's due diligence system. The EU should draw on this experience.