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Joint statement for stronger competition in public procurement

Public procurement is a cornerstone of the European economy, particularly for small and medium-sized enterprises (SMEs). Rooted in the principles of free and fair competition, it fosters the movement of services and goods, driving the success of the single market and the objectives of the EU's industrial strategy. Transparent and competitive markets are vital to attract private sector investment and innovation.

Despite its importance, **competition for public contracts is declining**—a concern echoed by the European Court of Auditors.¹ While the European Commission's ongoing evaluation and revision of the Public Procurement Directives present an opportunity for reform, we are deeply concerned that calls to limit in-house procurement and public-public cooperation have not been adequately reflected in the evaluation and summary reports from the public consultations carried out in 2025 and 2026. Even more troubling is the European Parliament's resolution of 9 September 2025, which, despite acknowledging fair competition as a fundamental principle, advocates for exempting cooperation between public authorities from procurement rules 'without further restrictive conditions'.

We, the signatories, emphasize that preferential treatment of public entities—including state-owned enterprises—over private companies should be limited to exceptional cases. Such practices distort free market competition and discourage private investment. **In-house procurement and public-public cooperation without a competition should be the exception**, strictly limited to cases where they are necessary and justified. Yet, there is a growing trend toward in-house procurement, and public authorities resort to different

¹ <https://www.eca.europa.eu/en/publications?ref=sr-2023-28>

practices in order to circumvent the existing rules. To ensure fairness, **we propose introducing a ‘competition test’**. Under this framework:

- If private operators capable of executing a contract exist in the relevant market, contracting authorities must launch a competitive procurement procedure.
- Only if the competition test confirms the absence of capable private operators may an in-house entity be entrusted with the contract without a competitive process, or the service be provided within the framework of a public-public partnership without a tendering procedure.
- Reasons of urgency and/or emergency cannot be interpreted in a flexible and lax manner for the justification of the use of in-house entities.
- For public-public cooperation, the assessment must additionally demonstrate that the exclusive right is compatible with the Treaty on the Functioning of the European Union (TFEU), supported by evidence of market failures.
- Jointly similar control condition should require a minimum significant shareholding by each of the contracting authorities in the in-house entity.
- The proportion of activities that in-house companies and public-public partnerships are permitted to perform for third parties outside the remit of their public clients or cooperation partners on the market (20% of their turnover) should be limited as much as possible to avoid competitive advantages and distortions of competition.

By subjecting in-house procurement and public-public cooperation to competition and public procurement legislation, we can ensure that awards are made based on quality, price, and the capacity to deliver the investments needed to meet the EU’s objectives. This reform is essential to ensure **fairness, transparency, and competition in public procurement**. We urge the European Commission to act now. The future of a competitive, innovative, and sustainable European economy depends on it.

Why this matters for the signatories:

Waste management sector: The Clean Industrial Deal aims to position the EU as the global leader in the circular economy by 2030 — a goal that demands significant investments. However, this ambition is undermined by the increasing dominance of waste management markets by public entities. The absence of competitive tendering shuts out private operators, depriving them of the market visibility and stability needed to justify long-term investments. To unlock the full potential of the circular economy, procurement rules must be reformed. Waste management contracts should be awarded based on quality, efficiency, and innovation.

The European Investment Bank Group and the European Commission [estimate](#) that achieving the objectives of the Circular Economy Action Plan will require an additional €1.229 trillion in investments between 2025 and 2040. This translates to an annual investment gap of €82 billion, demanding a 68% increase over current levels. Notably, 27% of this gap is attributed to

end-of-life activities, particularly recycling, underscoring the urgent need for investments in collection, sorting, and recycling technologies. Currently, 93% of circular economy investments originate from private sources, and this trend is expected to continue.

Digital services and infrastructure sector: Europe's tech sovereignty should be built through public-private cooperations and arrangements that include private sector innovation. When public authorities default to in-house IT providers or inter-authority agreements without competitive tendering, they miss the opportunity to leverage Europe's digital SMEs who offer market-ready solutions, capable of competing globally.

Open competition in digital procurement enables public authorities to act as reference cases that European scale-ups need to grow and compete globally. Awarding contracts based on technical excellence, security, and innovation potential strengthens Europe's digital capabilities and resilience, while reducing overreliance on any single provider or legacy system.

Construction sector: The construction sector relies heavily on open and effective competition to ensure project quality, timely delivery, technical innovation and the sound use of public funds. The growing reliance on in-house arrangements in this sector removes a significant share of demand from the market, weakens the ecosystem of private companies — in particular specialised SMEs — and reduces incentives to invest in skills, productivity and low-carbon solutions that are essential to achieving European objectives.

In practice, certain uses of in-house arrangements raise very concrete challenges for the construction sector and the healthy functioning of the public procurement market. Unjustified assignment of works projects to in-house entities, sometimes beyond its concrete corporate purpose or capabilities or by interpreting urgent or emergency reasons in a lax and flexible way, unduly restrict market access for qualified private companies and professionals to the detriment of open, competitive and transparent procedures. Many in-house entities lack sufficient human and technical resources to carry out the entrusted tasks directly and therefore subcontract the performance of those entrusted tasks to private operators; such use of an in-house award as a pass-through to subcontracted delivery shouldn't be allowed. In-house entities, when trying to recruit personnel or acquire equipment, compete with private companies creating tensions in the market of construction products or machinery rental, and in the hiring of technical personnel as well.
