

Public Procurement Act: FIEC calls for genuine simplification and rules that work for construction

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Following the publication of the European Commission's *Public Procurement Act* proposal, FIEC, the European Construction Industry Federation, supports the objectives of simpler rules, fair competition and greater opportunities for quality and innovation. Given the scale of public procurement in Europe's economy, the reform should make public spending a driver of productivity, innovation and competitiveness, while ensuring the efficient use of public resources. Its success must therefore be assessed against its ability to deliver these objectives in practice for construction companies and public buyers alike.

Delivering European objectives through national flexibility: a Directive remains a better option

FIEC has repeatedly advocated retaining a directive-based framework to accommodate national and construction-sector specificities, preserve legal stability and allow flexibility in national implementation. This remains FIEC's preferred approach. We take note of the Commission's choice to propose a regulation replacing the three existing procurement directives. This represents a substantial change requiring a thorough assessment of its legal and practical consequences, particularly its interaction with national administrative and contractual frameworks and the transition for companies and public authorities.

A directly applicable instrument does not, by itself, guarantee consistent implementation or simpler procedures. The key test is whether the new framework reduces uncertainty and delivers a measurable reduction in administrative burdens and reporting requirements for both contracting authorities and economic operators, particularly SMEs, rather than shifting complexity towards individual buyers and tenderers. Particular attention is needed where substantial discretion, multiple policy objectives and requirements to be specified through later measures interact.

Supporting quality and innovation while safeguarding competition

An initial reading identifies positive directions, including the emphasis on market consultation, functional specifications, alternative solutions and the rejection of unjustified abnormally low tenders. These can help improve project preparation and reward solutions that deliver lasting value, rather than focusing solely on the lowest upfront price.

However, greater procedural flexibility must go hand in hand with transparent competition, protection of confidential business information and commercially viable contracts. Negotiation should improve technical solutions and risk allocation, not become repeated rounds of price reductions or require numerous bidders to undertake disproportionate design work before a contractor is selected.

FIEC will pay particular attention to subcontracting, exclusion rules, intellectual-property protection and the scope and transparency of in-house awards. Rules intended to prevent abuse must remain proportionate and must not undermine legitimate cooperation between specialised companies or access to projects for small and medium-sized enterprises (SMEs). Predictable contractual conditions, appropriate price-adjustment mechanisms and balanced risk allocation remain essential priorities.

Digitalisation: the strongest simplification measure in the proposal

FIEC strongly supports the Commission's ambition to make public procurement fully digital and interoperable. The single European portal, the once-only principle and reusable electronic business credentials are exactly the process harmonisation European contractors need: less repetitive paperwork, wider cross-border access, higher productivity. Digitalisation is not a burden to be absorbed — it is the most effective simplification measure in this reform, and FIEC wants it delivered in full.

Delivering it requires getting implementation right: a phased rollout tied to demonstrated operational readiness, guidance, training and funding support for SMEs, interoperable systems, protection of confidential business information, effective correction mechanisms and workable fallback arrangements during transition. These are conditions for success, not reservations about the objective.

FIEC will develop its detailed assessment with its member federations and engage constructively with the Commission, Parliament and Council. **The reform's success should be measured by stronger competition, improved productivity and innovation, and the effective delivery of the buildings and infrastructure Europe needs.**

ABOUT FIEC - European Construction Industry Federation

Through its 33 national member associations in 28 countries (25 EU countries, Norway, Switzerland and Ukraine), the European Construction Industry Federation represents construction companies of all sizes, i.e., small, and medium-sized enterprises and "global players", carrying out all forms of building and civil engineering activities. FIEC is officially recognised sectoral social partner in the *European Social Dialogue for Construction*.

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