

## France Digitale's answer to the public consultation on the revision of EU public procurement rules

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The revision of EU public procurement rules is essential and timely in the current economic and geopolitical context.

Enabling a **preference for European products in public procurement** is key to ensuring EU added value and fostering European innovation from research to market expansion. European public procurement represents around 16% of the Union's GDP (approximately €2.5 trillion per year)<sup>1</sup>. It is essential that this European taxpayers' money be used to support Europeans' jobs, economic activity and societal wellbeing.

At the same time, the revision must effectively **modernise and simplify procurement rules**, so that public procurement becomes a genuine lever for strategic investment, innovation and the scaling of European companies.

France Digitale welcomes the revision of the EU directives on public procurement as a critical opportunity to **strengthen Europe's long-term resilience, strategic autonomy and innovation capacity**. Public procurement is not a neutral economic activity: through their purchasing decisions, public authorities actively shape markets, influence technological trajectories and set the conditions for future competitiveness.

In a context marked by geopolitical uncertainty, technological concentration and increasing dependencies on a limited number of dominant suppliers, often non-European, **supplier diversification must be recognised as a strategic imperative**. Over-reliance on a narrow set of providers exposes public administrations to risks related to security, contractual lock-in and reduced political autonomy.

France Digitale considers supplier diversification not as protectionism, but as a **demand-side lever to ensure real competition and build robust European alternatives** over time. By acting as early and anchor customers for European startups, public authorities can strengthen Europe's innovation ecosystems and align short-term operational needs with long-term strategic interests. In this perspective, public procurement should be a central tool for building a resilient and competitive European economy.

### 1. Resilience and European preference in public procurement

#### A European preference based on a clear definition of "European company"

To be effective and legally robust, European preference in public procurement must rely on a **simple, clear and workable definition of a "European company"**.

We recommend a **primary and excluding criterion: the parent company must be based in Europe**, and thus the fiscal residence and corporate tax must be paid in Europe too.

This criterion is binary, transparent and **non-circumventable by non-European entities with subsidiaries in Europe**, while remaining compatible with the reality of globalised value chains.

While pursuing strategic autonomy, Europe should refrain from adopting approaches that would ultimately undermine innovation, competitiveness and resilience of the European innovation ecosystem:

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<sup>1</sup>[European Commission, Public Procurement](#)

- **European preference must not discriminate against non-EU investors, provided they do not hold a majority stake in the startup's capital.** Given Europe's structural lack of growth capital, many startups rely on non-European shareholders.
- Likewise, **rigid local-content or "100% European" requirements must be avoided**, as they would de facto exclude many innovative companies embedded in global supply chains.  
Even if the long-term objective is to build a full European stack, forcing innovative companies to rely exclusively on European suppliers across the whole value chain, from semiconductors and cloud providers, to subsea cables and data centers would hamper the acceleration of the European innovation ecosystem rather than strengthening it. Digital services and software cannot be excluded on sovereignty grounds simply because their value chains are global by nature.
- Crucially, **this strategic shift must apply to the entire digital sector.** A generalised European preference across the full digital value chain, from hardware to applications, is essential to progressively build European capacity, while allowing for targeted strategies in genuinely critical segments. Alongside this generalised preference, specific strategies may be pursued in strategic sectors to preserve technological resilience and secure our value chains.

### A Strategic Approach to European Preference

While European preference in public procurement should be primarily based on the exclusive criteria of being a European Company, complementary criteria could be used to establish a weighting system increasing the likelihood of the relevant actors being selected.

This would permit a shift from a narrow price-based logic to a more strategic approach to procurement. In a context of technological concentration and geopolitical risk, **public buyers must be enabled and encouraged to diversify suppliers, avoid vendor lock-in and support European value chains.**

This requires moving beyond the traditional "Most Economically Advantageous Tender" (MEAT) approach towards a "Most Strategic Approach", where award criteria explicitly include strategic considerations for Europe. These criteria should be mainstreamed across all procurement procedures, not confined to niche innovation instruments.

The **potential complementary criteria** that could be taken into account are as follows:

- **Share of employees** based in Europe
- Location of **R&D activities** and ownership of **intellectual property**
- A **preferential access for startups** could be envisaged in all calls for proposals, either through:
  - Eligibility as a beneficiary of support programmes from a Member State (e.g. CIR and JEI in France), and/or
  - The definition of startups at European level: a process that has been initiated but remains complex, given the difficulty of agreeing on a common definition of startup.
- A **preferential access for SMEs** (European Small Business Act)
- **Environmental** (carbon footprint) and **social** (e.g. gender equality) **criteria** can also be integrated, provided they rely on existing documentation to avoid additional reporting obligations. For instance, allowing the use of company-level assessments, through recognised ratings or labels already codified in EU law, can offer contracting authorities a scalable and cost-effective way to move beyond price-only awards while operating in line with EU strategic objectives. Article 43 of

Directive 2014/24/EU already enables the use of labels in procurement. With the adoption of new legislation like the EU Regulation on the transparency and integrity of ESG rating activities (Regulation (EU) 2024/3005), additional rating schemes codified under EU law could now be incorporated within this framework. Anchoring this possibility with existing, EU-wide regulated ratings, certifications and labels would provide contracting authorities with an administratively proportionate means of integrating sustainability considerations. In this regard, we call for ensuring full coherence with the Corporate Sustainability Due Diligence Directive (CSDDD) too.

## 2. Simplification and innovation-friendliness

Startups consistently face structural obstacles in accessing public procurement, largely due to complex procedures, excessive administrative requirements and disproportionate financial constraints. The revised framework should therefore prioritise procedural simplification as a core principle.

### Procedural simplification

- **Shorter and symmetric timelines** for submitting and evaluating offers. Evaluating tenders in a shorter timeframe, mirroring the minimum time provided to start-up to submit a full tender, could incentivise startups to participate more in public procurement.
- **Lower track record criteria** to ensure the eligibility of startups that cannot provide a financial track record or a proven experience in public procurement or in the field of the call for tender.
- **Proportionate financial capacity requirements:** often, required bank guarantees and risk indemnity insurances are too high for innovative and small companies. An ex-ante “SME/startup Compliance Test” could be performed to ensure there are no unnecessary administrative barriers, disproportionate requirements (financial thresholds, certifications, references), scope choices that hinder SME access (lots vs. single large contract).
- Apply the **“once only principle”** to administrative documents.
- Organise the **tender procedure in two rounds to facilitate the aggregation of documents for startups**. This will allow companies to first put forward a short candidacy, and only later provide a more detailed application, if its solution is pre-selected to fit the intended goal of the public buyer.
- Mandatory opportunity to **correct administrative mistakes** before exclusion.
- **Reducing the standard timeframes for payments for startups and SMEs** to avoid cash-flow constraints.

### Higher thresholds and more flexibility

- Increase Art. 4 procurement thresholds at least to €300k for digital technologies, recognising that €134k is too low for innovative sectors (nuclear, quantum, biotech, cleantech, etc.).

### Better access to opportunities

- **Make data on tenders and their winners more easily accessible.** The TED (tenders electronic daily) platform is only known by 19% of startups<sup>2</sup>.
- A **better link to the incubators ecosystem** could help increase the knowledge of the platform.

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<sup>2</sup> [European Commission, SME needs analysis in Public procurement \(2021\)](#)

- Indicate whether a **procurement relates to innovation** or not in the TED platform and national equivalents.
- Provide **information on the selected winners of public tenders**, to help startups shape a better candidacy for the next call.
- **Focus on the solution**, rather than the product, when drafting tenders – also through the introduction of the Service Development Call mechanism (see below). Calls for tenders should be drafted with direct involvement of technical experts, ensuring that scope, requirements and evaluation criteria are aligned with the actual state of the art.
- Implement a **better pre-tender phase**, interaction with technical actors from the field and dialogue between applicants and evaluators during both the application and assessment phases.
- Put in place genuine **support for European startups and scaleups** as they respond to tenders. Responding to calls for tenders is often a discipline in its own right, and most startups and scaleups are not yet familiar with its codes and requirements. Providing them with dedicated support would help increase their chances of success. For example, **kick-off sessions** at the start of each tender to clarify expectations and specifications and answer questions could be envisaged, as well as **reviewing submissions** and **allowing amendments** to the application files.
- Set up **workshops, training and hands-on support to startups and SMEs** to improve their understanding of rules and procedures, strengthen their administrative and operational capacity to respond, support their compliance with standards, certifications and contractual requirements, facilitate their transition from local and national markets to EU-level markets.

### Innovative public procurement

- **Mainstream innovation** criteria across **all** procurement procedures, not via a niche procedure.
- Introduce **incentives for public buyers** (e.g., derisking mechanisms, recognition/rankings for innovative and strategic purchasing).
- Foster **joint procurement**, especially cross-border, to facilitate larger markets for SMEs, reduce duplication and foster a deeper European identity. Cross-border public procurement is essential to avoid fragmented adoption across the EU and should be accompanied by the development of public-private procurement mechanisms to leverage public buyers and unlock private demand.
- Generalise and simplify the use of **Innovation Partnerships** (Directive 2014/24/EU, Art. 31). Innovation Partnerships are a suitable legal tool when there is no market-ready solution, but they remain underused. They could be enhanced by improving guidance and communication to public buyers, co-developing sovereign, innovative European technologies with the research sector and accelerating SMEs' innovation.

### Pre-commercial and new procurement instruments

**Pre-commercial** and **upgrade-friendly procurement models**, including modular and scalable contracts that allow procured technologies to evolve over time, would ensure procured technologies remain aligned overtime with the latest technological developments while answering to the demands from public actors.

**Service Development Call (SDC):** A new mechanism to create predictable multi-year markets for European providers to develop a new service over several years with guaranteed revenue for this period.

1. **Market need identification**
2. **Public-private consultation** to confirm the service addresses an unmet demand

3. **Revenue-backed commitments** from interested organisation/consortium (e.g. €1M/year) to ensure uptake of the service
4. **Tendering** for service development
5. **Guaranteed multi-year revenue** to the winner(s) who will build the product within two years and benefit from guaranteed revenues (e.g. €50M over 3–5 years) from the moment the service is launched.

This model reduces Europe's technological dependency and creates a predictable market for innovative European players.

### **Ecosystem visibility and branding**

- **EU-wide branding initiatives** improving visibility of European innovators to public and private buyers. France has “Je choisis la French Tech”, higher visibility of European alternatives should be given at EU level to increase the knowledge of European solutions and make them attractive for private and public buyers.
- **Annual ranking of public buyers** based on innovation, sustainability, and support for European startups.

### **Conclusion**

Finding clients is a key objective for any company. **Public procurement offers much more long-term advantages** to startups than grants and co-investments since they reinforce startups' financial position and sustainability in the long run, both vis-à-vis prospect clients and investors. European public services are prestigious clients for the rapidly growing companies, and trusting their services also means supporting employment, growth and consequently tax revenue in Europe.

To support startups and SME participation, the revised EU procurement framework should **prioritise simplification and strategic autonomy** through innovation-friendly and sovereignty-aware and resilience criteria, while avoiding protectionism, excessive bureaucracy and structural barriers to startups.