DSO ENTITY
DSOs FOR EUROPE



DSO Entity's reaction to the Public Procurement Act

November 2026

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About DSO Entity

DSO Entity is the legally mandated EU body for European electricity and gas Distribution System Operators (DSOs), established under the Electricity Market Regulation (EU) 2019/943 and the Gas Market Regulation (EU) 2024/1789. It brings together around 1,000 DSOs of all sizes across the EU, connecting over 250 million households and industrial customers to the electricity grid and nearly 75 million for gas. Together with ENTSO-E, ENTSO-G and ENNOH, DSO Entity contributes to developing a future-proof energy system while supporting a seamless and affordable energy transition.

Overview of DSO Entity's Reaction

DSO Entity welcomes the revision of the EU public procurement directives and the European Commission's proposal for a Public Procurement Act1. As operators of critical infrastructure at the heart of the energy transition, DSOs support the objectives of simplifying procurement rules, strengthening resilience and security of supply, and reinforcing Europe's industrial base, provided that the new framework preserves the flexibility utilities need to deliver grid investments efficiently and on time.

Grid utilities face specific procurement challenges that should be reflected in the design of the new framework. The rapid build-out of distribution grids requires the timely procurement of highly technical equipment and works, often in concentrated supplier markets characterised by long lead times, capacity constraints, price volatility and rapidly evolving technologies. Procurement rules should therefore provide sufficient flexibility to respond to changing market conditions, while avoiding unnecessary administrative burden and delays to critical electricity and gas infrastructure projects.

Main Takeaways:

- **Keep utilities distinct to ensure a flexible fit-for-purpose framework**: The proposal merges the current public procurement, utilities and concessions frameworks into a single Regulation. While a common framework can improve consistency, it is also important to preserve the differentiated approach currently applicable to utilities, reflecting the specific characteristics of the markets in which they operate. DSOs operate in procurement markets characterised by complex technical and regulatory requirements, long-term investment programmes, a strong call for innovation, and, in several cases, limited supplier availability. The new framework should therefore ensure that procurement rules applicable to utilities remain fit for purpose and responsive to these market conditions and preserve sufficient flexibility to adapt procurement procedures and contract arrangements to these specific market conditions.

- **Simplify procurement and reduce administrative burden:** The proposal brings new reporting, documentation and justification requirements. These requirements should be proportionate to the value, complexity and risk of the procurement, and new digital obligations should be accompanied by clear technical specifications, interoperable systems and realistic implementation timelines, allowing contracting entities to adapt their systems, test interfaces and train users before the requirements become mandatory.

- **Improve clarity and legal certainty**: The proposal gives the Commission significant powers to adopt delegated acts in areas that may directly affect procurement requirements and sourcing decisions. For utilities undertaking multi-annual procurement and investment planning, changes to applicable requirements need to be sufficiently predictable. The scope and triggers for such delegated acts should therefore be clearly defined, with appropriate safeguards and lead times, rather than relying on broadly framed powers. Where detailed rules are needed, implementing acts should be preferred

[1] European Commission, Proposal for a Regulation of the European Parliament and of the Council on public contracts and concessions (Public Procurement Act), COM(2026) 590 final, 2026/0265 (COD), 9 September 2026.

to delegated acts, to ensure Member States' participation in the decision-making process. This is particularly relevant for the provisions on security, resilience and European preference.

- **Ensure coherence across EU legislation:** Procurement obligations are increasingly being introduced through a range of legislative instruments, including the Fgas Regulation, the Net Zero Industry Act, the Industrial Accelerator Act, the Cyber Resilience Act, the NIS2, the Critical Entities Resilience Directive and the forthcoming Cyber Security Act and PFAS ban. Combined with the obligations under the proposed Public Procurement Act, these different regulations and their requirements create regulatory uncertainty in some cases, also considering overlapping with existing national legislation. Together, these create a cumulative administrative burden for procurement teams, who must balance resilience, sustainability, security of supply and industrial policy objectives alongside value for money. The EU should therefore ensure coherence, so that the cumulative framework remains workable for utilities and does not unnecessarily delay critical grid investments.

- **Give the sector sufficient time for the transition:** The transition to the new framework should take into account the long-term nature of utility procurement and existing investment programmes and the need to ensure a smooth transition from current national procurement frameworks and practices. In addition to a sufficiently long application period, the Act should provide clear transitional provisions for contracts, framework agreements and qualification systems already in place, so that ongoing procurement is not disrupted by the change of regulatory framework (Art. 149). A Directive would in any case have given Member States greater flexibility regarding the timing of transposition.

- **Safeguard DSOs' ability to secure equipment in a sellers' market:** DSOs need to procure critical equipment in markets where demand is increasing rapidly, supplier capacity can be limited (also due to new EU regulatory requirements) and lead times for key components can be substantial. In some cases, European demand also competes with global demand for the same equipment. The procurement framework should therefore not restrict DSOs' access to suppliers or products that are needed to deliver grid investment programmes on time. In particular: Utilities need to retain their current flexibilities so that prescriptive technical specifications and standards can be utilized without requiring a derogation. Resilience resilience and European preference measures should be designed in a way that supports security of supply without creating additional sourcing constraints where sufficient European supply is not available.

DSO Entity's core recommendations

For detailed recommendations, please consult the annex of the document.

1. Preserve Flexibility in Public Procurement

DSO ask: preserve flexibility for complex, long-term procurement and contract management: Framework agreements, negotiated procedures and qualification systems are the instruments DSOs use for the bulk of their spend. They exist because grid equipment has long production times, is bought in volume against multi-year investment plans, and comes from a supplier base too narrow to re-tender item by item. In this respect the following is positive in the proposal: qualification lists remain largely intact, and the rules on contract modification and the new dynamic procedure improve the present regime. By contrast, the rules on framework agreements and negotiated procedures are tightened, without any problem having been demonstrated in the utilities sector that would justify this.

1.1. Framework Agreements — Article 103

Restore the current maximum duration of eight years for utilities, allowing framework agreements to align with long-term infrastructure investment and delivery programmes. At a minimum, preserve the possibility of longer durations where justified by the subject matter of the framework, without limiting this to "exceptional cases" or imposing a "strictly necessary" test that cannot be defined in advance.

1.2. Choice of Procedures and Conduct of Procurement — Articles 30–34, 47–49

Preserve contracting entities' flexibility in choosing and conducting procurement procedures, including negotiations, market consultations, pre-qualification and qualification systems, and direct awards where justified. In particular, retain flexibility in the choice of procedures (Article 31), avoid unnecessary constraints on negotiations and market consultations (Articles 30, 33, 34), restore relevant grounds for direct awards, including preserving flexibility for additional deliveries from the original supplier where changing suppliers would cause technical difficulties, disproportionate costs, cybersecurity risks or threats to operational continuity. The proposed two-year time limit for such deliveries should be removed or, at a minimum, a specific exemption should be introduced for utilities and critical infrastructure (Article 47). Ensure that qualification systems remain suitable for utilities' sector-specific needs (Articles 48–49).

1.3. Contract Execution, Termination and Exclusion — Articles 24, 25, 105–107, and other relevant provisions

Ensure that exclusion requirements are proportionate and preserve the possibility of self-cleaning where appropriate (Article 25). Ensure that contract modification rules support the management of long-term contracts (Articles 105–106) and avoid mandatory termination where it could jeopardise security of supply or the delivery of critical investments (Article 107). Clarify the limits on subcontracting to prevent the main contractor from subcontracting all or nearly all of a contract while performing only a negligible share of the work itself, while ensuring that the applicable criteria are clearly defined (Article 24).

1.4. Flexibility Services — Article 85(2)(b)

Explicitly exclude contracts for flexibility services procured by DSOs from the scope of the Public Procurement Act (Article 85(2)(b)). These services are closely linked to local network constraints and require effective, market-based procurement mechanisms tailored to specific operational needs. Applying public procurement procedures could create unnecessary administrative barriers, limit market participation and hinder timely procurement.

1.5. Specifications – Article 88

Preserve contracting entities' flexibility in choosing the type of tender specification, in particular without requiring any derogation to use prescriptive technical specifications and standards.

2. Simplify Procurement and Reduce Administrative Burden

> **DSO ask:** simplification should reduce administrative burden, not add to it. New reporting, documentation and justification requirements should be proportionate to the value, complexity and risk of the procurement. New digital obligations should be accompanied by clear technical specifications, interoperable systems and realistic implementation timelines, allowing contracting entities to adapt their systems, test interfaces and train users before the requirements become mandatory. The Regulation should simplify procurement in practice, rather than transfer additional administrative and implementation costs to contracting entities.

2.1. General Framework and Access to Procurement — Articles 2 and 10(2)(a)

Review procurement thresholds to ensure that the rules remain proportionate and fit for purpose, while facilitating joint procurement and cooperation between operators (Article 10(2)(a)). These measures should enable DSOs to organise procurement efficiently and benefit from opportunities for cooperation, without creating unnecessary administrative obstacles.

2.2. Procurement Procedures and Requirements — Articles 27, 100, 101, 102(2) and 103(4)

Ensure that selection requirements are proportionate to the nature and complexity of the contracts concerned (Article 27). Rules on the division of contracts into lots (Article 100), abnormally low tenders (Article 101) and the publication of call-offs under framework agreements (Article 103(4)) should remain practical and proportionate, avoiding unnecessary administrative work that could delay procurement without delivering clear benefits. Contracting authorities should also be able to request the supplementation, clarification or correction of documentation, including after the tender submission deadline, provided that this does not change the tender (Article 102(2)).

2.3. E-procurement Tools and Digital Infrastructure — Articles 28(2), 29 and 129–133

Digital tools should simplify procurement and reduce administrative work, rather than introduce new burdens for contracting entities. Automated verification and eligibility services (Articles 28(2) and 29), together with the proposed digital infrastructure and e-procurement tools (Articles 129–133), should ensure interoperability, compatibility with existing systems and realistic implementation timelines.

2.4. Procurement Information, Documentation and Data Spaces — Articles 109–112 & 134–135

Documentation, publication and data-transmission obligations should be limited to what is necessary to ensure transparency and effective oversight. Where appropriate, aggregated or periodic reporting should replace individual publication requirements for contracts awarded under framework agreements or qualification systems. Requirements should avoid duplicating information already available to public authorities or requiring the unnecessary transmission of complete tenders, contracts or technical documentation. Strong data minimisation and confidentiality safeguards should protect commercially sensitive information, procurement volumes, strategic stocks, supplier dependencies and critical infrastructure data. National and EU procurement data spaces should also ensure equivalent data sovereignty safeguards, including EEA-based data storage and effective control.

3. Award Criteria

> **DSO ask:** keep the flexibility of the existing most economically advantageous tender (MEAT framework) and keep environmental and social criteria voluntary: The MEAT-framework already lets DSOs weigh quality, sustainability and innovation where relevant. A fixed minimum quality weighting for every contract, from a cable reel to a substation, replaces that judgement with a one-size-fits-all percentage. DSO Entity calls for MEAT to be retained, with the award method left to the contracting entity.

3.1. Award Methods and Quality Weightings — Articles 35 and 98(1)–(5)

Preserve the choice of award method (Article 35) and strengthen the derogation from mandatory minimum quality weightings (Article 98(5)). In particular, Article 98(5) should explicitly allow standardised utility network equipment procured through qualification systems to be awarded based on price or cost alone where technical specifications already ensure the required quality level. The derogation should also cover framework agreements where quality has already been assessed at the award stage, avoiding unnecessary duplication at the call-off stage.

3.2. Life-Cycle Costing and the Case for MAT — Article 99

Support life-cycle costing, based on clear and consistent calculation methodologies tailored to each procurement process. DSO Entity also reiterates its January 2026 proposal to recognise the “Most Advantageous Tender” (MAT) as an additional optional award criterion, complementing MEAT. This would allow contracting entities to account for long-term procurement resilience, supplier diversity and innovation where these deliver benefits over an asset’s life that may not be reflected in short-term cost alone (Article 99).

4. Green and Social Procurement

> **DSO ask:** Environmental and social objectives are important, but requirements should remain proportionate and tailored to the characteristics of each contract. DSOs already incorporate environmental and social considerations where appropriate, including through technical specifications. DSO Entity therefore supports maintaining a voluntary approach to green and social procurement and

ensuring that mandatory environmental requirements do not compromise technical compatibility, security of supply or network reliability.

4.1. Green Procurement and Circular Economy — Articles 50–51

Maintain the voluntary nature of green procurement and circular economy criteria (Articles 50–51). DSOs should retain the ability to incorporate environmental requirements through technical specifications where appropriate to the products being procured, rather than being subject to additional mandatory horizontal requirements.

4.2. Mandatory Environmental Requirements — Article 54

Preserve the derogations for cases where no reasonable alternative is available, compliance would entail disproportionate costs or technical incompatibility would arise (Article 54(3)). Any future delegated acts establishing mandatory environmental characteristics should involve thorough consultation with critical infrastructure operators and take account of market availability, competition, interoperability and supply chain resilience (Article 54(2)). Further clarification of what constitutes disproportionate costs would also be useful.

4.3. Socially Responsible Procurement — Article 55

Maintain the voluntary nature of social considerations in public procurement (Article 55). Contracting entities should retain the flexibility to determine when such criteria are appropriate and how they can be linked to the subject matter of each contract. Given the diversity of DSO procurement, a uniform mandatory social layer could increase evaluation and compliance work without necessarily delivering corresponding benefits.

5. Strengthen Security of Supply, Resilience and European Industrial Capacity

DSO ask: support EU strategic objectives while preserving the flexibility to source equipment inside and outside Europe. DSOs need flexibility to build resilience across a portfolio of suppliers, including through multi-party framework agreements that allow volumes to be distributed, alternative suppliers to be maintained and new entrants to develop. Requirements focused on individual suppliers should not prevent this portfolio-based approach. European grid operators already source much of their equipment from European manufacturers, but European manufacturing capacity remains constrained in key markets. *"Made in Europe"* must therefore be matched by *"sell in Europe"*. Incentives should encourage manufacturers to serve European demand rather than impose obligations on buyers that may not be able to source the equipment they need. Any European preference requirements should remain voluntary. If mandatory, they should include workable exemptions where European supply is insufficient and safeguards against retroactive application.

5.1. Security and Resilience Requirements — Articles 66– 69

Improve the clarity, predictability and proportionality of the provisions on security and resilience, including the related delegated acts (Articles 66 and 69). Requirements should provide sufficient certainty for

contracting entities while taking account of the practical conditions in which DSOs procure critical equipment.

5.2. European Preference — Articles 71 and 73 and other relevant provisions in Articles 70–77

DSO Entity supports the objective of strengthening European supply capacity through European preference but it's important to highlight that its implementation should take into account the specific needs of utilities and ensure that the framework avoids supply restrictions, bottlenecks, disproportionate costs and delays where European capacity is insufficient. The conditions for adopting delegated acts should also be clearly defined to provide predictability for DSOs (Articles 70–77).

6. Affiliated Undertakings, Controlled Entities and Concessions

Rules on affiliated undertakings, controlled entities and concessions should reflect the operational structures of utility groups and provide legal certainty for electricity and gas distribution operators.

6.1. Contracts Awarded to Affiliated Undertakings — Article 83

Consider reducing the turnover threshold for affiliated undertakings from 80% to 50%, facilitating procurement and the sharing of capabilities within corporate groups (Article 83).

6.2. Contracts Awarded to Controlled Entities (in-house awards) – Article 80

Retain the possibility of awarding contracts in-house to controlled legal entities in its current form (Article 80).

6.3. Concessions for Electricity and Gas Distribution — Article 117

Clarify the reference to Annex III in Article 117(1)(f), as electricity and gas distribution is no longer explicitly listed in that annex. Including electricity and gas distribution in Annex III would provide legal certainty regarding the exclusion of concessions based on exclusive rights and maintain a framework substantially equivalent to that under the current Concessions Directive (Article 117).

6.4. Reporting Obligations for Concessions — Article 121

Avoid duplicating existing national reporting obligations and ensure that reporting requirements remain proportionate (Article 121).

ANNEX: Detailed recommendations on key topics:

Code: Support | Concern | Oppose

1. Preserve Flexibility in Public Procurement

Provision	What is in the proposal	DSO Entity's Recommendation	Code
Art. 8 — Contracting entities	The proposal maintains the definition of contracting entities, covering contracting authorities, public undertakings and entities operating on the basis of special or exclusive rights in the relevant utility sectors, subject to the exception for activities directly exposed to competition. It also sets out the criteria for determining dominant influence over public undertakings and clarifies when rights granted through transparent procedures based on objective criteria do not qualify as special or exclusive rights.	While the concept of contracting entities is maintained, the proposal significantly reduces the distinctive procurement flexibility traditionally available to utilities. The specific operational needs of network operators should continue to be recognised throughout the Regulation. The rules should preserve sufficient flexibility for utilities to organise procurement in a way that reflects the technical complexity, operational constraints and specific requirements of critical network infrastructure.	
1.1 Framework Agreements — Article 103			
Article 103 – Framework agreements **Art. 103(2) — Framework duration**	Maximum duration falls to three years with one economic operator and five with several, against eight years for contracting entities today. A longer duration is possible only in "exceptional cases" justified by complexity or specialised nature, and only for what is "strictly necessary".	Restore the current eight years maximum framework duration for Utilities. Framework durations have to align with strategic infrastructure funding and delivery programmes, and the eight-year term works in practice once the time needed to re-tender is taken into account. As a minimum, keep the present ability to set a longer duration where duly justified by the subject-matter of the framework, without the "exceptional cases" qualifier and without a "strictly necessary" test that cannot be defined in advance.	
Art. 103(4) — Duration of call-offs	Entirely new: a contract based on a framework may not run beyond the framework's end by more than 50 % of the framework's duration.	Delete, or disapply for contracting entities. DSO construction contracts can run for five to ten years, and delay in construction is common. The provision has no counterpart in the current Directives, no evident purpose, and creates a risk that a lawfully awarded contract becomes unlawful through delays outside the control of the contracting entity.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
1.2 Choice of Procedures and Conduct of Procurement — Articles 30–34, 47–49			
Art. 33 — Conduct of negotiations	A prescriptive procedure replaces the near-complete freedom contracting entities have today. Negotiation is confined to "non-essential characteristics", the non-negotiable elements must be identified up front, and negotiation ends once final tenders are invited.	Contracting entities should retain the flexibility to negotiate throughout the procurement procedure, including with the preferred tenderer before award. This is essential for complex infrastructure contracts, where technical details may emerge and critical issues may only be resolved in the final stages; restricting negotiations could increase the risk of unsuccessful or deserted procedures and create subsequent delivery risks. The distinction between negotiable and non-negotiable ("essential") characteristics is unclear. Quality, quantities, delivery schedules, resilience requirements and commercial conditions may all be essential elements of critical infrastructure procurements. The Regulation should clarify what constitutes an essential characteristic and avoid requiring contracting entities to categorise large numbers of procurement requirements individually. The obligation to identify non-negotiable elements upfront should therefore be reconsidered. In addition, prequalification should be available to help filter out unsuitable operators and reduce the workload associated with subsequent stages of the procedure.	
Art. 34(2) — Art. 34 (5) open procedure	An expression of interest must be accompanied by a first tender, so the two-step pre-qualification then tender process is no longer available.	A two-step procedure should be available as an option for contracting entities, allowing prequalification to take place before the submission of a full tender. Requiring economic operators to submit a full tender before knowing whether they meet the eligibility requirements would substantially increase bidders' workload and could deter participation, particularly in complex infrastructure procurements. In addition, the distinction between essential and negotiable characteristics is unclear and difficult to apply in practice. Quality, quantities, delivery schedules, resilience requirements, supply chain considerations and commercial conditions are often core elements of electricity network procurements. Contracting entities should not be required to categorise each procurement requirement as negotiable or non-negotiable, as this could create unnecessary administrative burdens and increase the risk of litigation.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
Art. 31 — Choice of Procedures	Article 31 limits the procedures available to public buyers to the Open Procedure and the Dynamic Simplified Procedure, with other procedures governed separately.	Retain a broader choice of procedures for complex and technically demanding procurements. The removal of the existing Utilities negotiated procedure and competitive dialogue procedure reduces the procedural options available to Utility buyers, including in the case of the competitive dialogue for procurements where the technical solution cannot be fully defined at the outset. Contracting entities should retain sufficient flexibility to select the procedure best suited to the complexity and characteristics of the procurement.	
Art. 47 — Direct award grounds	Several existing exemptions disappear where no tenders or no suitable tenders or requests to participate were submitted following a call for competition; where the contract is purely for research, experiment, study or development; repetition of similar works or services by the same contractor; and bargain purchases. The research derogation now effectively reaches only pre-commercial procurement as defined in Art. 6(13).	Reinstate these grounds. Derogation for failed procedures, the repeat of work/services and situation for single bidder shall be granted. The research and experimentation exemption is the one DSOs most rely on, and it is used to trial existing goods and technologies on the network before going to tender, not only to buy prototypes. Narrowing it to pre-commercial procurement removes that use entirely.	
Art. 48 — Emergency and crisis	Article 48 allows the direct procurement mechanism under Article 46 to be used where extreme urgency, not attributable to the public buyer, prevents compliance with the normal procedural time limits.	Support but extend the flexibility to supply shortages on contracts and/or frameworks. The provision is useful for genuine emergencies and crises, but should also cover situations where an existing supplier is unable to provide the quantities required within the necessary timeframe. For grid operators, shortages or sudden reductions in supplier capacity may arise without amounting to a formal emergency or crisis, while still creating an immediate need to secure alternative supplies.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
Art. 49 — Qualification lists	Qualification systems become qualification lists, with broadly the same functionality, successive stages and the ability to charge proportionate fees.	Support. Qualification lists are a key instrument for utilities and should remain fully compatible with sector-specific supplier qualification systems. The relationship between Article 49 and the Electronic Eligibility Service under Article 133 should be clarified, explicitly recognising that eligibility verification cannot replace utility-specific assessments of technical capability, manufacturing capacity, cybersecurity and supply chain resilience. The continuing obligation to verify exclusion grounds throughout the life of the qualification list should also be implemented in a proportionate and practical manner, taking into account the administrative burden of ongoing monitoring. In addition, where quality is already ensured through qualification systems and technical specifications, contracting entities should be able to rely on the derogation under Article 98(5) and award contracts on the basis of price or cost only.	
1.3 Contract Execution, Termination and Exclusion — Articles 24, 25, 105–107 and other relevant provisions			
Art. 25 and Recital 13 — Mandatory exclusions	Eleven mandatory exclusion grounds, applied for five years, extended to convictions of "key persons", with no self-cleaning available. Contracting entities have no mandatory exclusions today.	We support mandatory exclusions for serious misconduct. However, the exclusion regime should be proportionate to the nature of the offence and the circumstances of the case. A robust self-cleaning mechanism should be available, particularly for less serious exclusion grounds, including environmental criminal offences, allowing economic operators to demonstrate that they have restored their reliability through effective remedial measures. The implications of extending exclusions to convictions involving senior management should also be carefully assessed. Additional checks should be undertaken to clarify the practical impact of the proposed regime.	
Art. 107 — Termination of contracts	New: a running contract must be terminated on a final conviction for any Art. 25 ground. No equivalent exists in either current Directive.	Contract termination should not be mandatory where it would jeopardise security of supply, the delivery of critical infrastructure, network resilience or lead to disproportionate costs. Contracting entities should retain discretion to apply alternative mitigation measures where continuity of essential services is at stake. The approach should distinguish between serious offences with a significant impact and offences whose consequences can be effectively addressed through	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
		remedial measures or self-cleaning. The overriding public interest exception alone may not sufficiently address situations where termination would cause delivery failures or substantial cost increases.	
Arts. 105–106 — Adjustment and modification	Substantially wider scope for permissible modification, a 15 % de minimis retained for supplies and services, and explicit recognition of regulatory change, technological development and crisis. Frameworks remain expressly covered.	We welcome the increased flexibility for contract and framework agreement modifications, particularly in response to regulatory changes, technological developments and supply chain disruptions affecting critical infrastructure operators. The rules should clarify the distinction between contractor deficiencies and external circumstances affecting contract performance, to ensure that legitimate external changes can be addressed without being treated as failures by the contractor. It should also be clarified that the new modification rules apply to contracts and framework agreements concluded before the Regulation becomes applicable, in line with the approach taken during previous transitions. Finally, the relationship between the adjustment mechanisms under Article 105 and contractual review clauses should be clarified to ensure legal certainty and avoid overlap.	
Arts. 106(6) and 138(2) — Prior publication and review of modifications	A public summary of modification must be published *before* any modification exceeding 50 % of the initial value, and Member States may subject such modifications of large infrastructure projects and long-running contracts to prior review by the national coordinating authority.	Clarify whether prior publication triggers a standstill before the modification can take effect; if it does, that is a serious operational problem. Oppose Art. 138(2) or disapply it to contracting entities: external prior approval of contract modifications would delay works already under way.	
Art. 24 — Subcontracting	The article implies that a main contractor may subcontract parts of a contract but is prohibited from subcontracting the contract in its entirety.	The term "in its entirety" is ambiguous and allows for the circumvention of this prohibition; for instance, a main contractor could perform only a negligible portion of the contract - such as 0.1% - while subcontracting the remaining 99.9%. Furthermore, it is unclear whether the "extent" of subcontracting should be assessed based on value, volume of work, or the significance of the tasks involved. Such ambiguity creates legal uncertainty and may lead to inconsistent interpretations. We propose replacing the term "in its entirety" with a clear, unambiguous rule that prevents a main contractor from subcontracting the whole - or nearly the whole - of a contract while performing only a negligible portion of the work themselves. Additionally, the specific criterion used to evaluate the extent of subcontracting must be clearly defined.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
1.4. Flexibility Services — Article 85(2)(b)			
Art. 85(2)(b) — Other excluded public contracts	"In addition to the provisions of paragraph 1, this Regulation does not apply to the following contracts which concern activities in the field of utilities pursuant to Part II, Title I, Chapter 2: (...) (b) contracts awarded by contracting entities themselves being active in the energy sector by being engaged in an activity referred to in Article 12(1), 13(1) or 18 for the supply of energy or of fuels for the production of energy;"	Explicitly exclude contracts for flexibility services procured by DSOs from the scope of the Public Procurement Act (Article 85(2)(b)). These services are closely linked to local network constraints and require effective, market-based procurement mechanisms tailored to specific operational needs. Applying public procurement procedures could create unnecessary administrative barriers, limit market participation and hinder timely procurement.	
1.5. Specifications — Article 88			
Art. 88 - Specifications	Article 88 makes functional/performance specifications the default form of technical specification (Article 88(3)). Contracting entities may formulate specifications by reference to prescriptive technical prescriptions or standards only where standards are mandatory under Union law or where characteristics cannot be sufficiently or appropriately described in functional terms (Article 88(4)).	This represents a material change of approach to specifications compared with the equivalent Article 60 of the current Utilities Directive and is not suitable for utilities: it would require a justifiable derogation for each tender, demonstrating that the characteristics of the tender requirements cannot be sufficiently described in functional terms. We therefore ask that contracting entities' flexibility in choosing the type of tender specification be preserved, in particular without requiring any derogation to use prescriptive technical specifications and standards.	

2. Simplify Procurement and Reduce Administrative Burden

Provision	What is in the proposal	DSO Entity's Recommendation	Code
2.1 General Framework and Access to Procurement — Articles 2 and 10(2)(a)			
Art. 2 — Thresholds	Thresholds are carried over essentially unchanged, having lost value in real terms since 1994.	Raise them to EUR 2 million for supplies and services and EUR 13 million for works, as DSO Entity and ENTSO-E asked in January 2026. We should table this knowing that GPA alignment constrains how far the Commission can move, and should therefore also press for the thresholds to be reviewed against inflation at each revision.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
Art. 10(2)(a) — Joint procurement	The agreement governing joint procurement may now cover "rights to be transferred".	Joint procurement should remain operationally simple and avoid excessive governance requirements that could discourage cross-border procurement initiatives among critical infrastructure operators. Grid operators should be able to sell or swap procured equipment among themselves and to pass on call-off rights under existing frameworks, on the model of Art. 13(f) of Directive 2009/81/EC. This was a joint DSO Entity and ENTSO-E ask in January 2026 and has not been taken up; it would save six to twelve months in a shortage or emergency.	
2.2 Procurement Procedures and Requirements — Articles 27, 100, 101, 102(2) and 103(4)			
Art. 27 — Selection criteria	Minimum turnover capped at 50 % of the estimated annual contract value, and prior experience in public contracts may be required only where justified by complexity or subject-matter.	Contracting entities should retain sufficient flexibility to set objective and proportionate selection criteria reflecting the technical complexity, safety requirements and risks of utility procurement. These criteria should allow critical infrastructure operators to assess not only legal, financial and technical capability, but also manufacturing capacity, supply chain resilience, operational scalability and long-term delivery capability. The 50% turnover cap and limitations on experience requirements should not unduly restrict utilities' ability to manage procurement risks associated with strategic network equipment supply and contractor delivery. Higher turnover caps and prior experience criteria should remain acceptable where the financial capacity or relevant experience required to perform the contract safely and reliably warrants them.	
Art. 100 — Division into lots	A duty to consider lots and to record reasons for not dividing, which is new for contracting entities, plus Art. 100(7) allowing Member States to make division compulsory.	Contracting entities should retain sufficient flexibility to determine whether and how contracts are divided into lots, taking into account the specific characteristics and requirements of utility procurement. For critical infrastructure projects, contracting entities should retain the ability to aggregate procurement into larger lots where necessary to ensure technical integration, operational efficiency and system reliability. The decision to divide or aggregate contracts should reflect the specific needs of the procurement rather than a one-size-fits-all approach.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
Art. 101 — Abnormally low tenders	Where the explanations given are not satisfactory, the buyer **shall** reject the tender. Under the current Directives rejection is the buyer's decision except on environmental, social and labour grounds.	Contracting entities should retain discretion to assess abnormally low tenders and decide whether rejection is justified, taking into account the tenderer's explanations and the circumstances of the case. Article 101 makes rejection mandatory where the explanations are considered unsatisfactory, whereas under the current Directives rejection is generally left to the contracting entity, except in cases of non-compliance with applicable environmental, social and labour obligations. The proposed provision should preserve this discretion while retaining mandatory rejection where required by those obligations.	
Art. 102 (2) — Corrections during procedures and cancellation	Correcting documentation of economic operator	We propose to delete second sentence of paragraph and allow the contracting authority, during the public procurement procedure, to request documents or information from an economic operator, or to request that previously submitted documents or information be supplemented, clarified, or corrected, provided that this does not result in a change to the tender. The opportunity to supplement documentation should not be limited solely to the rectification of minor informality or irregularity of a tender. Supplementary documents may be issued or obtained even after the deadline for the submission of tenders, provided that they demonstrate compliance with the required conditions, at the latest, by the time the contracting authority makes a decision regarding the fulfillment of participation requirements, grounds for exclusion, or the award of the contract, and provided that this does not result in a change to the content of the tender. Restricting the supplementation of documentation exclusively to minor informalities may lead to the exclusion of otherwise qualified economic operators due to administrative errors that could easily be rectified. Allowing the submission of a document issued after the tender submission deadline is particularly justified when the document serves to confirm the current legal or factual situation.	
Art. 103(4) — Publication of call-offs	A public summary of result must be published for every individual contract concluded under a framework agreement.	The requirement would create a substantial recurring administrative burden.	

Provision	What is in the proposal	DSO Entity's Recommendation	Code
2.3 E-procurement Tools and Digital Infrastructure — Articles 28(2), 29 and 129–133			
Art. 28(2) — Reliance on automated verification	Where the eligibility service performs an automated verification of an exclusion ground or selection criterion, the buyer must use that verification for its eligibility decision.	We recognise that automated verification can reduce costs and avoid duplicative checks. However, contracting entities should retain the ability to question the outcome where there are reasonable grounds to doubt its accuracy or validity, particularly where they remain responsible for the eligibility decision. A suitable transition period should be provided to allow contracting entities and economic operators to adapt their systems and procedures and ensure that the electronic eligibility service operates reliably before its use becomes mandatory.	
Arts. 29 and 133 — Eligibility service and credential tools	Digital business credential tools are to be implemented in all Member States by 30 June 2028, and national databases connected by 15 June 2029, both of which fall after the likely application date of the Regulation.	The implementation timetable should take account of the substantial IT changes required, including the development of interfaces with existing eProcurement systems and adequate training and testing for both contracting entities and economic operators. The technical and operational set-up of the electronic eligibility service should be clarified to ensure that it can be integrated effectively into existing procurement processes. The electronic eligibility service should complement, and not replace, sector-specific supplier qualification systems used by critical infrastructure operators. Utilities must retain the ability to assess technical capability, manufacturing capacity, supply chain resilience and operational performance beyond the standard electronic eligibility checks.	
Arts. 129–132 — Standards and the Commission platform	Harmonised standards and common specifications for procedures and procurement detail, obligations on eProcurement service providers, and a Commission platform that Member States may require buyers to use.	Harmonised standards and common specifications should be developed at EU level to promote interoperability between eProcurement systems. Contracting entities should retain the ability to use their existing procurement systems and ecosystems, provided they comply with the applicable requirements and can interoperate with relevant Union services. The Commission platform should remain voluntary and should not limit the ability of utilities to rely on their existing procurement systems. Sufficient implementation time should be granted to allow the necessary IT changes, integration and testing, with appropriate transitional or grandfathering arrangements for existing eProcurement platforms. These measures should ensure interoperability without unnecessarily	

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		restricting flexibility in the design and operation of procurement procedures.	
2.4 Procurement Information, Documentation and Data Spaces — Articles 109–112 and 134–135			
Art. 109 — Individual documentation	Every stage of every procedure must be documented with an origin, evolution and approval history, and made available through the national data space.	The documentation requirements should be clearly defined and proportionate to the value and risk of each procurement, with appropriate safeguards for confidential information. Critical infrastructure operators should not face excessive administrative burdens that do not contribute to better procurement outcomes. Implementation should also take account of the system changes needed to record and manage the required documentation.	
Arts. 110–112 — Publication of procurement information	Articles 110–112 establish the information requirements, deadlines and publication arrangements for public procurement summaries covering consultations, competitions, results, contracts, modifications and completion. Public buyers must generally submit summaries of results, contracts and completion within 20 days of the relevant event. Certain information may be withheld from public disclosure where publication would harm legitimate commercial interests, prejudice fair competition or conflict with the public interest, although it must still be provided to the National Public Procurement Data Space (NPPDS) as non-public information. The Commission may adopt delegated and implementing acts to amend or further specify the information required, its sequencing, reuse and technical publication arrangements.	The information and documentation requirements under Articles 110–112 should be proportionate to the value and risk of each procurement. Critical infrastructure operators should not face excessive administrative burdens that do not contribute to better procurement outcomes, and opportunities to reduce information requirements and reuse information already submitted should be maximised. The provisions allowing certain information to be withheld from public disclosure should be preserved. Implementation should also take account of the impact on DSOs' existing IT infrastructure and procurement systems. Sufficient transition time and reasonable implementation deadlines should be provided to allow the necessary system adaptations, integration and testing.	
Arts. 134–135 — Data spaces	Articles 134–135 establish National and Union Public Procurement Data Spaces covering procurement and contract-lifecycle information. Article 134 requires information on concluded and completed contracts worth at least EUR 10,000 to be made available through the national data space where the preceding procurement would have been covered by the Regulation if its value had exceeded the relevant threshold under Article 2. The required information includes participants and outcomes, subcontractors, procurement details, tenders,	We support greater transparency in public procurement but considers that the scope of information required under Article 134 should be proportionate to the needs of effective monitoring and should not create excessive administrative burdens for critical infrastructure operators. Implementation should allow sufficient time for the necessary technical specifications, systems and interfaces to be developed and tested, with data transfer from existing eProcurement systems used wherever feasible.	

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	contracts and handover documents, budgets and individual payments, as well as other information used to assess compliance and procurement-market performance. Member States must impose effective, proportionate and dissuasive fines for infringements relating to the obligation to provide access to procurement information. Article 135 establishes a Union-level data space as a central repository of procurement information originating from national data spaces.	Access rules and confidentiality safeguards should be strengthened to protect commercially sensitive information, supply chain data, critical infrastructure contracts and cybersecurity-related information. Clear proportionality mechanisms should ensure that disclosure requirements do not compromise network security or the protection of sensitive information. The experience with the eForms rollout highlights the importance of allowing sufficient time for implementation and testing.	

3. Award Criteria

Provision	What is in the proposal	DSO Entity's Recommendation	Code
3.1 Award Methods and Quality Weightings — Articles 35 and 98(1)–(5)			
Art. 98 Award Criteria **Art. 98(1)–(4) — BPQR and minimum quality weighting**	Best price-quality ratio (BPQR) becomes the standard award method, with quality criteria weighted at least 30 % of total points and at least 50 % for labour-intensive contracts.	Retain MEAT and leave the choice of award method to the contracting entity. The minimum weightings reduce flexibility in procurement design, increase evaluation workload and create additional challenge risk, for purchases that are handled without difficulty today.	

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Art. 98(5) — Derogation	Buyers may derogate where quality is secured through specifications or contract performance conditions, but must state in the public summary which route justifies the derogation.	Article 98(5) is a key provision and should be strengthened to provide an effective derogation from the mandatory minimum quality weightings. The 30% minimum quality weighting is excessive for highly standardised utility network equipment, such as transformers and cables, where technical specifications already ensure the required quality level. Mandatory quality weightings for these purchases risk increasing evaluation workload, encouraging artificial quality criteria, increasing the risk of legal challenges and slowing down tender procedures. Article 98(5) should explicitly recognise that standardised utility network equipment procured through qualification systems may be awarded on the basis of price or cost alone where the required quality level is already ensured by technical specifications. The Article should also cover framework agreements where quality has already been assessed at the framework award stage, avoiding unnecessary duplication of the assessment at call-off stage.	
Art. 35 — Finalisation of the procedure and award of the contract	Public buyers must award the contract to the tenderer or tenderers offering the best quality for money, in accordance with Article 98. Without prejudice to the applicable standstill period under Directives 89/665/EEC and 92/13/EEC, the contract is concluded in accordance with the applicable law of the Member State concerned.	Although Article 35 is not problematic, making best quality for money the default award mechanism reinforces the concerns associated with Article 98. Utilities should retain the possibility to award standardised network equipment based on price or cost alone where technical specifications and qualification systems already ensure the required quality level.	
Art. 90 — Link to the subject-matter	A link may now be direct or indirect, with indirect links expressly covering working conditions across the life-cycle and responsible sourcing and supply chain transparency.	Support. The explicit recognition of indirect links gives contracting entities a clearer basis for supply chain requirements than the present framework does.	
3.2 Life-Cycle Costing and the Case for MAT — Article 99			
Art. 99 — Life-cycle costing and the case for MAT	Life-cycle costing counts within the quality weighting. There is still no award route that lets a buyer prefer long-term supply resilience over short-term cost.	We support the use of life-cycle costing, while highlighting the importance of a clear and consistent calculation methodology. In addition, DSO Entity reiterates its January 2026 proposal to recognise the "most advantageous tender" (MAT) as an additional optional award criterion, complementing MEAT. This would give contracting entities greater flexibility to account for long-term procurement resilience,	

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		supplier diversity and innovation where these deliver benefits over the asset's life that may not be reflected in short-term cost alone.	

4. Green and Social Procurement

Provision	What is in the proposal	DSO Entity's Recommendation	Code
4.1 Green Procurement and Circular Economy — Articles 50–51			
Arts. 50–51 — Green procurement and circular economy	Environmental, climate and circularity considerations remain optional ("may"), with a clearer legal basis across the procurement cycle.	We support the proposal as drafted and oppose amendments that would make the requirements under Articles 50–51 mandatory. The current optional regime is working: DSOs already use technical specifications to incorporate green requirements where appropriate, tailored to the product being procured. Recital 39 confirms that such criteria must be linked to the subject-matter of the contract and excludes criteria relating to a supplier's general corporate policy.	
4.2 Mandatory Environmental Requirements — Article 54			

Provision	What is in the proposal	DSO Entity's Recommendation	Code
Art. 54 — Mandatory requirements for certain products	For products, product families or technologies covered by the EU legal acts listed in Annex VII, Article 54(1) requires public buyers to include appropriate environmental characteristics in technical specifications, award criteria or contract performance conditions. Under Article 54(2), the Commission may adopt delegated acts specifying mandatory environmental characteristics, considering market availability, economic feasibility, the value and volume of public contracts and the effects on competition. Article 54(3) allows buyers not to apply characteristics specified in such delegated acts where there is no reasonable alternative to a sole supplier, or where compliance would entail disproportionate costs or technical incompatibility in operation and maintenance.	The derogations under Article 54(3) should be preserved, as they recognise situations where environmental requirements may conflict with technical compatibility, operational reliability, security of supply or disproportionate costs. Any delegated acts adopted under Article 54(2) should be subject to thorough consultation with critical infrastructure operators and should carefully consider market availability, competition, interoperability and supply chain resilience. Environmental requirements should complement, and not undermine, network reliability and security of supply. Further clarification of what constitutes disproportionate costs would also be useful.	
4.3 Socially Responsible Procurement — Article 55			
Art. 55 — Socially responsible procurement	Article 55 allows public buyers to take social considerations into account when procuring supplies, services and works, with the aim of achieving positive social outcomes or preventing or mitigating adverse social impacts throughout their life cycle. These considerations may include social inclusion and labour market integration, quality jobs and improved working conditions, accessibility, worker training, gender equality and non-discrimination, promotion of the social economy, and human rights protection across relevant supply chains. They may be incorporated into technical specifications, award criteria, contract performance conditions or, where relevant to the subject-matter, selection criteria. Any such considerations must be linked to the subject-matter of the contract and comply with the principles of transparency, non-discrimination and proportionality. Mere compliance with applicable labour and social law obligations does not, by itself, constitute socially responsible public procurement.	We support the proposal to keep social considerations voluntary. Contracting entities should retain the flexibility to determine when such criteria are appropriate and how they can be linked to the subject-matter of each contract. Given the diversity of DSO procurement, including technical equipment and specialised works, a uniform mandatory social layer could add evaluation and compliance work without necessarily delivering corresponding benefits. The existing approach should therefore be preserved.	

5. Strengthen Security of Supply, Resilience and European Industrial Capacity

Provision	What is in the proposal	DSO Entity's Recommendation	Code
5.1 Security and Resilience Requirements — Articles 66–69			
Chapter 4 — Security and Resilience **Art. 66 — Security considerations in public procurement** **Art. 66(6) — Delegated act**	The article adds a new mandatory requirement that **buyers must take appropriate measures wherever a procurement presents a security or public-safety risk**. The standard is open-ended. Art. 66(6) empowers the EC to adopt delegated acts by establishing mandatory technical specifications or selection / award criteria for specific goods which address a specific security and public safety interest of the EU.	The open wording of Article 66 preserves the contracting entity's ability to assess security risks in the context of the specific procurement, but may also create uncertainty as to what constitutes appropriate measures. Any mandatory measures introduced through delegated acts under Article 66(6) should be developed in close consultation with critical infrastructure operators and take into account market availability, technical compatibility, operational continuity and security of supply. The relationship between Article 66 and Article 69 should also be clarified to distinguish general security and public-safety requirements from resilience and security-of-supply requirements, and to avoid overlapping or duplicative obligations.	
Art. 67 — Security measures during contract implementation	Power to terminate a contract or exclude an operator where a security risk materialises, subject to a written assessment and a right to be heard.	The proportionality test and the requirement to consider the impact of termination on the delivery of public services should be preserved. It should also be clarified that the contracting entity may base its decision on assessments by the competent national authorities, where relevant. This would help ensure that security-related decisions are informed by the appropriate national expertise while preserving the safeguards provided for in Article 67.	
Art. 69 — Resilience and security of supply for critical entities or infrastructures **Art. 69(4) —Delegated act**	Critical entities must include supply-chain resilience requirements, addressed to individual tenderers and may take different measures (open-ended). e.g. diversification of the supply chain (geographic diversification of production), SoS continuity (stockpiling, BC and disaster recovery plans), crisis preparedness. Art. 69(4) allows the EC to establish mandatory requirements related to resilience or supply chain transparency for specific categories of suppliers or services where a critical dependency, a systemic risk or critical-infrastructure dimension has been identified.	We support the objective of strengthening resilience and security of supply for critical infrastructure. However, requirements should reflect actual market capabilities and should not unintentionally restrict competition or discourage supplier participation, particularly in strategic grid-equipment markets where supply capacity may be limited. Contracting entities should be able to build resilience at portfolio level, including through multi-party framework agreements and the allocation of volumes across several suppliers, rather than relying solely on individual suppliers to provide extensive resilience commitments. Requirements relating to stockpiling, surge capacity and continuity should be proportionate to the contract and the effective capabilities and structure of the relevant market. In this regard we recommend the possibility to introduce derogation on the	

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		abovementioned requirements. The power to adopt delegated acts under Article 69(4) should be confined to clearly defined limits and activated only by concrete, exceptional triggers, such as a pandemic or a military confrontation, rather than being framed as a broad, open-ended power. Any such delegated acts should be subject to a proportionality assessment, providing sufficient legal certainty for contracting entities and suppliers.	
Cybersecurity mentioning in **Art. 68 and Art. 66(5)**	Cybersecurity is mentioned twice but does not introduce new requirements but highlights the need to comply with existing rules: Art. 68 refers to the Critical Resilience Act (EU) 2024/2847 and Art. 66(5) to the ongoing revision of the Cybersecurity Act 2 *(i.e. exclusion of high-risk suppliers in relation to the provision of ICT components).*	The explicit reference to the Cyber Resilience Act is useful, and alignment with the forthcoming revision of the Cybersecurity Act should be ensured. The relationship between cybersecurity requirements under Article 68 and the resilience and security-of-supply requirements under Article 69 should be clarified to avoid overlaps or uncertainty about their respective scope. The Commission should also clarify how the cybersecurity framework applies to operational technology (OT) used in critical infrastructure, including whether specific requirements apply to such systems. Any requirements should reflect the relevant risk and remain proportionate to the equipment and its operational context.	
5.2 European Preference — Articles 71 and 73 and other relevant provisions in Articles 70–77			
Chapter 5 European Preference (Art. 70-77)		The voluntary approach is supported, with robust workable exemptions where European supply capacity is insufficient, and no retroactive application.	
Art. 71 — Determining the scope of coverage for 3rd country covered economic operators, goods, services or works **Art. 72 — Restrictions on covered economic operators, goods, services or works**	A free public online tool will set out the Union's procurement commitments under international agreements, i.e. what is included in "made in EU". Art. 72 lets the Commission decide by delegated act that operators or goods from a given third country are no longer covered.	The public coverage tool under Article 71 is useful and should be supported. It should provide transparent and up-to-date information on coverage decisions, including historical data and the reasons for exclusions, and, where feasible, automatic alerts on ongoing procedures. Restrictions introduced through delegated acts under Article 72 may create significant uncertainty for contracting entities and suppliers, particularly in strategic supply chains with a limited number of qualified suppliers. Such restrictions could increase costs, create bottlenecks and delay network investment where alternative EU supply cannot meet demand. The same safeguards proposed under Article 75 should	

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		therefore apply, including adequate lead time and protection for contracts and framework agreements already concluded. A workable derogation mechanism should also allow exceptions where EU supply capacity is insufficient, restrictions would cause significant delays, or their application would undermine network resilience and the delivery of regulated investment programmes.	
Art. 73 — European preference requirements **Article 74 Origin**	Article 73 allows public buyers to apply European preference requirements, including requiring EU or covered origin for goods, services or works, applying price adjustments or additional award points, or rejecting tenders below a specified EU-origin threshold. Article 74 establishes how the origin of economic operators, subcontractors, goods, services and works is to be determined for the purposes of European preference requirements	We support the voluntary nature of European preference requirements. However, their application could reduce access to global supply chains. Strict application could exclude the latest technologies not manufactured in the EU, particularly power electronics and automation equipment, reduce competitive pressure on European manufacturers and create bottlenecks in the supply of critical energy infrastructure equipment. A waiver should be available until sufficient EU production capacity exists to meet the required volumes and quality standards. To limit the administrative burden associated with origin verification, exemptions for low-risk components should be considered and supplier self-certification should be permitted.	
Art. 75 — Union restrictions by delegated act	The Commission may adopt delegated acts to make any of the European preference requirements	The conditions for adopting delegated acts should be clearly defined to provide predictability for DSOs. Where mandatory European preference requirements are introduced, sufficient implementation time should be allowed, taking into account the lead times required for the equipment concerned. An express derogation should be provided for DSOs.	
Art. 76 — Exceptions	Exceptions cover emergencies, unavailability from Union or covered operators, absence of suitable tenders and disproportionate cost.	We welcome the exemptions provided for in Article 76 but consider that their scope should be clarified and broadened. The exemption should also apply where Union or covered suppliers cannot provide the quantities required by the contracting entity within the timeframe needed, particularly for critical infrastructure operators. The assessment of availability should take account of the actual volumes required and not merely whether a supplier can provide some units. Exemptions should also cover cases of technical incompatibility in operation and maintenance, and the disproportionate-cost threshold should reflect actual market price differences.	

6. Awards to Affiliated Undertakings or Controlled Entities and Concessions

Provision	What is in the proposal	DSO Entity's Recommendation	Code
6.1 Contracts Awarded to Affiliated Undertakings — Article 83			
Art. 83 — Contracts awarded to affiliated undertakings	The proposal sets an 80% turnover threshold for contracts awarded to affiliated undertakings.	Consider reducing the turnover threshold from 80% to 50% to facilitate procurement and the sharing of capabilities within corporate groups (Article 83).	
6.2. Contracts Awarded to controlled entities (in-house) awards – Article 80			
Art. 80 — Contracts awarded to controlled entities (in-house awards)	Article 80 maintains the existing in-house exemption: contracts awarded to a legal person controlled by the public buyer fall outside the scope of the Regulation where (i) the buyer exercises control over the entity similar to that over its own departments, (ii) more than 80% of the controlled entity's activities are carried out for the controlling buyer(s), and (iii) there is no direct private capital participation in the controlled entity (subject to a narrow exception for non-controlling, non-blocking participation required by national law).	Retain the possibility of awarding contracts in-house to controlled legal entities in its current form (Article 80).	
6.3 Concessions for Electricity and Gas Distribution — Article 117			
Art. 117 — Concessions for electricity and gas distribution	Article 117(1)(f) refers to Annex III in the context of excluding concessions awarded on the basis of exclusive rights. Electricity and gas distribution are not explicitly listed in the referenced annex, creating uncertainty about the treatment of these concessions	Clarify the reference to Annex III in Article 117(1)(f) and include electricity and gas distribution in Annex III to provide legal certainty regarding the exclusion of concessions based on exclusive rights, maintaining a framework substantially equivalent to that under the current Concessions Directive.	
6.4 Reporting Obligations for Concessions — Article 121			
Art. 121 — Reporting obligations for concessions	The proposal establishes reporting obligations for concessions under Article 121.	Avoid duplicating existing national reporting obligations and ensure that reporting requirements remain proportionate.	