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FoodServiceEurope Position on the revision of the EU Public Procurement Directive

FoodServiceEurope strongly welcomes the revision of the EU Public Procurement Directive 2014/24, as announced in the European Commission President's 2024-2029 [Political Guidelines](#). Contract catering encompasses food and ancillary services provided to people working or living in communities – private and public undertakings, schools, universities, hospitals, retirement homes and prisons – under the terms of a contract with the client communities. It is a unique part of the food system and differs significantly from other forms of food service, as services are provided on the premises of the contracting party, which awards contracts through procurement tenders.

We believe that the revision is an opportunity for EU policymakers to build a better, more resilient and more sustainable European society. Accounting for 14% of the EU's GDP, public procurement is crucial for realizing the strategic goals of the EU. The revised framework should lead to better rules that help the contract catering sector perform its essential and social function, as recognised during the peak of the COVID-19 crisis.

FoodServiceEurope's recommendations

- **Bring the contract catering sector fully in scope of the Directive:** The contract catering sector is subject to a 'light touch' regime which prevents it benefiting from harmonized rules across the EU.
- **Ban the awarding of contracts solely on price** and mandate instead the use of quality criteria, encapsulated in the notion of the "economically most advantageous offer", as outlined in the EFFAT-FoodServiceEurope [Best Value Guide](#).
- **Include price review clauses in contracts** if there are significant wage and non-wage related costs (inflation, changes in Collective Agreements or labour legislation).
- **Adopt an EU definition of abnormally low tenders** providing objective definitions of when an offer is considered abnormally low.
- **Level the playing field between public and private sector** by revisiting the broad exemptions that public sector operators enjoy under public procurement rules.
- **Eliminate the many sizeable VAT exemptions that in-house public sector service providers benefit from** and that distort competition with private sector operators.
- **Include training and capacity building for public authorities in Sustainable Public Procurement** instead of mandating minimum mandatory criteria for sustainability

Scope of the Directive

The existing public procurement rules exclude the contract catering sector from the full scope of the Directive. “Hotel and restaurant services” are currently included under Annex XIV and thereby subject to the lighter regime set out for social services (Articles 74, 75, 76). Under these provisions, only basic principles apply to crucial aspects of public procurement. Therefore, the protections included in the Directive do not necessarily apply to our sector. The reasoning is that there is not enough cross-border procurement to justify EU level requirements. However, since the introduction of the current Directive in 2014, the market landscape has evolved, and cross-border activity in contract catering has increased.

Recommendations:

- **Bring the contract catering sector fully in scope of the Directive.** This would allow contract catering operators to benefit from harmonized rules across the EU, granting them a level playing field across the EU while ensuring legal certainty.
- **Replace the Directive by a Regulation to harmonize the rules across the EU.** As cross-border activity in the contract catering sector continues to grow, national interpretations of the Public Procurement Directive create legal uncertainty and fragmentation. Replacing the Directive with a Regulation would ensure consistent application of procurement rules across Member States, eliminating discrepancies and facilitating cross-border participation in public tenders.

Contract Award Criteria (Article 67)

The fundamental obstacle for contract catering operators is that public sector procurement contracts are still predominantly awarded based on the lowest price. Competing on price alone can lead to a race to the bottom both in terms of services provided and working conditions – with huge potential losses for the clients, workers, users and the sector as a whole. This assessment is shared by former Italian Prime Minister Enrico Letta in his [Report on the Future of the EU Single Market](#). As he rightly points out, **“reliance on the lowest price award criterion as the default approach in public procurement warrants critical examination”**.

Moreover, a [study](#) conducted by the EU Joint Action Best-reMaP project on EU and national public procurement legislation identified the requirement to choose the cheapest offer as the main issue for food procurement, as it is an obstacle to providing the highest quality and healthiest food. As per the most recent [European Parliament Study on Public Procurement](#), most EU Member States award between 60% to 95% of public tenders based solely on the lowest cost. This “lowest-cost approach” undermines collective bargaining, quality jobs and sustainable business conduct.

As the EU pivots towards creating a more sustainable EU food system, now more than ever the contract catering sector needs to be supported in its efforts to raise the bar in terms of sustainability, including the social dimension, and nutrition. **Labour and skills shortages are a key challenge for the EU, and the contract catering sector is no exception.** As recent [Council conclusions](#) point out, labour and skills shortages are increasing in all EU countries, driven by demographic change, demand for new skillsets, and poor working conditions in certain sectors.

The most effective way to fix these issues, and thus increase the attractiveness of the sector in the context of labour and skills shortages, is by ensuring that contracts are awarded based on quality criteria, a ‘best value approach’, rather than the lowest price.

FoodServiceEurope has been calling for a best value approach to public procurement for many years, as outlined in our [Best Value Guide](#) – ‘Choosing Best Value in Contracting Food Services’, developed with our social dialogue partners EFFAT. We also called for a best value approach to public procurement in our [Joint Declaration on Public Procurement and Collective Bargaining](#) with EFFAT. It

is high time that the EU took decisive action in this regard, for without it, the important objectives of the Farm to Fork Strategy will remain elusive for our sector.

Moreover, the [report of the Strategic Dialogue on the Future of EU Agriculture](#), in which we participated as members, and the [Vision for Agriculture and Food](#) call for a **revised EU Public Procurement that enshrines this “best value” approach which rewards quality, including the sustainability of the food to be provided as part of the service.**

Furthermore, public procurement contracts must allow for more flexibility. The contract sector has been battling unprecedented cost increases in the past few years while trying to operate within the confines of fixed-price contracts. Provisions must be provided that allow for a review of contracts in the face of such price increases.

Recommendations:

- **Ban the awarding of contracts solely on price**, and mandate instead the use of quality criteria, encapsulated in the notion of the “economically most advantageous offer”, as outlined in the EFFAT-FoodServiceEurope [Best Value Guide](#).¹ Thus, we call for an adequate definition of the MEAT criterion that necessarily includes quality criteria other than price. Currently, according to Article 67, the MEAT criterion *‘may include the best price-quality ratio, which shall be assessed on the basis of criteria, including qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question’*. Therefore, Article 67 not only allows for tenders to be awarded based on price only but allows contracting authorities to claim they are basing their decisions on a MEAT criterion when their decision is explicitly based only on price.
- **Enhance transparency and best-value compliance through digital procurement.** Digital procurement platforms and automated evaluation systems are essential for improving transparency, efficiency, and compliance with best-value criteria in public procurement. These technologies help standardize processes, reduce bias, and ensure that decisions prioritize cost-effectiveness, quality, sustainability, and innovation rather than focusing solely on price. For instance, Spain’s Public Sector Procurement Platform (Plataforma de Contratación del Sector Público) serves as an example of how a centralized, free, state-run digital platform can enhance procurement processes. It guarantees transparency and traceability by digitally recording all transactions, ensuring an auditable process that prevents manipulation. The platform consolidates all procurement stages, from publication in the Official Journal of the EU to contract formalization, making procurement procedures accessible, structured, and intuitive. However, its current limitations, such as file size restrictions, frequent system crashes, and Java-based updates, highlight the need for further investment and technological reinforcement. **Therefore, to strengthen best-value compliance, the EU should support the development of robust, interoperable digital procurement platforms across Member States**, based on the principles of transparency, accessibility, and security. Establishing a standardized digital infrastructure would improve cross-border participation, prevent corruption, and ensure that procurement decisions are made fairly and efficiently, in full alignment with best-value principles.

FoodServiceEurope is fully aware of the budget constraints facing public authorities and that in markets where price is the main competitive driver the lowest price criterion might provide a clear and objective basis for their decision. However, FoodServiceEurope strongly reaffirms that this is definitely

¹ In 2021, Hungary introduced a new government decree (Government Decree No. 676/2020) that establishes that price should not be the only value criterion in public contracts. This could serve as inspiration for the EU.

not an adequate solution for contract catering and other services, where quality has to be ensured in the public interest.

This is particularly true in the case of schools, hospitals and retirement homes, where contract catering companies must be enabled to meet their responsibility to provide health-promoting meals. This should therefore be expressly safeguarded at EU level.

Review of contracts (Article 72)

A revision must strengthen legal certainty for buyers under which conditions they shall revise prices of running contracts. FoodServiceEurope believes this is legally necessary for specific conditions related to unforeseen economic or regulatory changes that impact wage and non-wage related costs. Otherwise, in times of exceptional inflation, missing legal obligations for price revisions disturb the contractual equilibrium between buyer and supplier, which impacts heavily the financial sustainability of SMEs and availability of essential services.

Article 72 of the Directive does not include provisions and legal certainty for buyers to adapt contracts to changes in Collective Agreements, fiscal and labour law, or high national annual inflation rates. However, the contract catering sector is sensitive to unforeseen and substantial changes in the economic and regulatory environment of a public contract. For example, a reduction of working time, either by labour law or as set out in Collective Agreements, has a direct impact on the expected cost structure for the duration of an existing public contract. Especially in the past years, labour and operational costs increased significantly within multi-annual contracts:

- The past three years saw exceptional and unforeseen peaks in inflation, leading to a substantial increase in operational costs such as gas and product prices.
- As per [Eurofound](#), Statutory Minimum Wages increased substantially in Europe. In our sector, Social Partners have adopted in Collective Agreements significant wage increases.

As it stands, the burden of these costs is, in running public contracts, solely carried by the supplier, which has severe consequences for the financial sustainability of essential services sectors like contract catering, especially SMEs. Mandatory, but conditional price revision clauses would ensure that suppliers don't cut corners and avoid that unlawful competitors pass on decreasing margins to workers detrimental to fair pay, good working conditions and quality services. FoodServiceEurope therefore stresses that a public contract with contract catering services should, under strict conditions, be adapted to the changing environment.

Recommendations

- **Allow for the review of contracts** if there are significant wage and non-wage related costs. The revision should include a clause in Art. 72 whereby, throughout their duration, public contracts must provide for price variations and guarantee full adaptation to the suppliers' cost increases, at least conditional and restricted to a proven link to:
 1. Changes in Collective Agreements, concluded by representative trade unions and employer organisations that impact costs of service providers, as per the date they become effective and eventually limited to the national inflation rate or alternative objective indices.
 2. Changes in fiscal and labour legislation that have an impact on labour costs.
 3. National annual inflation rates above the 2% target of the European Central Bank, e.g. in form of automatic indexations. Suppliers must duly justify price revisions. The Directive should recommend public buyers to engage with the representative sectoral

Social Partners to confirm justified price revisions due to changes in Collective Agreements.

- **End the forced extension of contracts** that contract caterers are subject to in some Member States, such as Italy or Spain. Operators must be granted the right to renegotiate contracts before an extension being imposed on them.

Abnormally Low Tenders (Article 69)

FoodServiceEurope regrets the lack of definition at EU level of objective criteria for the identification of abnormally low tenders which would bring clarity and additional legal certainty.

Recommendation

- **Adopt a definition of abnormally low tenders at EU level** whereby an offer is to be considered abnormally low when the price or costs charged is more than 20% lower than the average cost or price of the other tenders. In addition, where tenders appear to be abnormally low for any other reason, contracting authorities should still be required to request economic operators to explain the price or costs charged.

Public-Public Cooperation (Article 12)

Contract catering plays a crucial social function. Meals are regularly delivered to vulnerable consumers (e.g., children, patients), at a subsidized “social” price. Contract catering thereby guarantees access to nutrition to individuals that may not otherwise have it.

The cost-of-living crisis that has emerged in the last year has resulted in increased levels of poverty in the EU. According to a 2023 [report](#) from Save the Children, over 200,000 more children were driven to the brink of poverty in EU countries in 2021, bringing the total number of children at risk of poverty to over 19.6 million, or one in four. Overall, in the EU, in 2021, 95.4 million people, representing 21.7% of the population, or one in five, [were](#) at risk of poverty or social exclusion.

To address the increasing needs of those at risk of poverty, the revision of the Public Procurement Directive should further leverage the social function of contract catering by facilitating the strategic deployment of public procurement. Critical to this is the need to level the playing field between the public and private sectors.

FoodServiceEurope strongly maintains that **in-house and public-public cooperation exemptions should be narrowly defined** to give private enterprises fair and equal access to public contracts, thus avoiding distortions to competition in the internal market.

FoodServiceEurope believes that the current criteria to define ‘in-house’ exemptions under Article 12 are too wide in that they do not ensure that the essential part of the in-house entity’s activities are confined to the tasks conferred by the controlling entity. In FoodServiceEurope’s view, the reform of the EU Public Procurement Directives should be an opportunity to limit such exemptions to contracts awarded to a legal person that is 100% publicly owned and does not perform any activity on the open market.

Recommendations

- **Level the playing field between public and private sector entities by revisiting the broad exemptions that public sector operators enjoy under public procurement rules.** In-house and public-public cooperation exemptions should be narrowly defined and not allow for public bodies to offer services outside their organizations without opening the public contracts to competition.

- **Eliminate the many sizeable VAT exemptions that in-house public sector service providers benefit from and that distort competition with private sector operators.** Enabling private sector operators to compete with in-house service providers on the same basis will unlock major efficiencies, to the benefit of the taxpayer.
- **Mandate the universal provision of free school meals, with a focus on primary schools.** While the 2021 Council Recommendation on the European Child Guarantee took a step in the right direction by recommending that Member States provide at least one healthy meal each school day, we call on policymakers in the next EU mandate to go a step further and require Member States to include the provision of free school meals in their national Child Guarantee Action Plans. As a first step, Member States should be required to provide free school meals to all children below the poverty threshold, with a view to extending the provision of school meals to all children. Finland and Sweden, which currently [provide free meals](#) for all school-goers up until secondary school, can be used as models.

Sustainable Public Procurement

The poly-crisis environment of recent years has given the EU a renewed impetus to build a resilient and sustainable food system to help mitigate these challenges, ensure food security and protect the planet for generations to come.

The contract catering sector is committed to contributing to improving the sector's performance and providing clients and consumers with healthy and increasingly sustainable meals. We understand the important role that our sector can play in providing healthy and sustainable meals to EU citizens. For instance, according to [estimates](#), school food may deliver more than half the daily energy requirement for many children in the EU.

However, in the case of contract catering and public procurement, the fundamental obstacle to raising the bar further in terms of sustainability is not lack of voluntary action or lack of regulation. It is the major gap that often separates contracting authorities' desires and the price that they are willing to pay for healthy sustainable food: price, not quality, remains the most important factor in awarding contracts to contract catering operators.

Yet it is not through mandatory sustainability criteria for food procurement that this gap will be closed, as it seems to be the intention of the European Commission either under the Framework for Sustainable Food Systems (FSFS) proposal or the Sustainable Public Procurement criteria being currently drafted by the JRC. **Evidence already exists of how mandatory criteria can have unintended effects, namely through the existing, voluntary but widely used and often de facto mandatory, EU Green Public Procurement (GPP) criteria.** When a public authority includes GPP criteria in the tender, it is mandatory for the contract caterer to comply and contract caterers can face fines if they are not able to fulfil the criteria in the contract, even when non-compliance is due to lack of market availability.

The below aspects must be considered when discussing mandatory criteria:

1. **Market availability:** The objective of mandatory criteria is to boost the supply of sustainable goods and services by stimulating demand. However, when criteria targets are set without adequate assessment of market availability of the products and cost implications, the terms of the contract cannot be fulfilled, and the sustainability objectives are not met. Setting criteria for which the ambition is beyond the market availability and affordability only results in non-compliance, and there is no environmental benefit. For instance, a contract is agreed with a fixed budget for a certain period, which covers operational and labour costs and food procurement. When higher demand or a shortfall in supply limits the availability of premium products and causes prices to rise, contract caterers must turn to conventional products to

stay within the agreed budget and face fines for not providing the requested premium products.

2. **Life-cycle approach:** Often when GPP criteria are set, the life cycle approach is not taken into account. This can mean that environmental benefits in one part of the chain do not result in an increase in environmental impacts in other parts of the chain. This is closely linked to the above point on market availability. For example, the insufficient availability and high price of organic produce (often tenders set a 50% organic criterion, particularly for schools) means that contract caterers have to source organic produce from other continents, which, on a life-cycle basis, is less desirable than a conventional EU product.
3. **Premium costs for sustainable product:** Sustainable products are more expensive than conventional products on average. Although public authorities often want more sustainable offerings, such as locally sourced, organic or Fairtrade products, this is often not compensated for in the tenders they offer. This can make meeting the sustainability criteria, which is often based on volumes of specific products very challenging to meet when prices of those products increase or when the products are not available. Switching to a value-based approach that allows contract caterers to choose what kind of sustainable products to procure depending on price and availability can alleviate this challenge to some extent.
4. **Over reliance on organic:** Sustainable public procurement is often equated to how much certified organic food can be sourced. The use of organic targets within GPP criteria provides a clear example of how setting targets without considering market availability or a life-cycle approach can have a detrimental impact. Organic products are more expensive than conventional products on average. According to the World of Organic Agriculture, Statistics and Emerging Trends report in 2022, organic eggs in Germany are at least double the price of conventional eggs ([FiBL and IFOAM, 2022](#)). Given that organic farming only accounted for 10.9% of all agricultural land in Europe in 2025 ([FiBL, 2025](#)), the environmental impacts of sourcing a certain proportion of organic food must be carefully evaluated. For instance, if the supply of organic food is fragmented and requires each supplier to deliver their products separately, it is possible that more trucks will be needed and CO₂ emissions from transportation will increase. Moreover, if an organic target is set above the capacity of local production, the environmental footprint of importing organic food from further afield needs to be weighed against the footprint of using conventional, seasonal and locally produced food. Although organic production in the EU has increased in recent years, supply still is not able to meet demand, despite the existence of pull measures in the shape of the GPP criteria, which become mandatory when included in tenders. This is proof that demand-side measures on their own are not an effective tool for establishing a sustainable food system.
5. **Stifling competition for sustainability:** The idea that imposing specific and detailed criteria for GPP for food will drive sustainability is, in light of the other considerations above, flawed. The more detailed and prescriptive such criteria, the less competition for sustainability there will be as tenderers will all need to meet the same criteria, so that competition amongst tenderers will yet again be on price alone. This is not a desirable dynamic, especially considering the insufficient availability of sustainable food products and the unwillingness of many authorities to reflect quality in price. It is far preferable in this context to have a principles-based approach, whereby authorities set ambitions, encourage competition for sustainability, and incentivise it economically.

It is clear, therefore, that simply strengthening further existing demand-side measures (e.g. through mandatory GPP) will not, as the Farm to Fork Strategy states “boost sustainable farming systems”, especially when supply-side measures (the Common Agricultural Policy) are inadequate.

Consequently, **FoodServiceEurope urges the Commission not to set minimum mandatory criteria for sustainable food procurement, as these would likely exacerbate current perverse effects - unless done contemporaneously with a fundamental overhaul of the framework EU public procurement legislation.** Thus, the revision of the Directive should lead to the ban the awarding of contracts solely on price, and to mandate instead the use of quality criteria, encapsulated in the notion of the “economically most advantageous offer” as explained above.

Recommendations

- **Include sustainable food procurement as a priority in the next round of funding for the European Regional Development Fund**, starting in 2028, and any other relevant EU funding mechanisms.
- **Include training and capacity building for public authorities in Sustainable Public Procurement in the priorities for the next European Social Fund period**, starting in 2028.
- **Provide EU-funded training programs for contract catering SMEs to help them navigate procurement processes more effectively.** Ensuring fair access to public contracts requires not only well-trained public authorities but also support for SMEs in navigating complex procurement processes. Many contract catering SMEs face challenges in meeting administrative and technical requirements, limiting their ability to compete effectively in public tenders. To address this, the EU should establish EU-funded training programs for catering SMEs, equipping them with the necessary knowledge and skills to participate in public procurement. These programs should focus on tendering procedures, compliance with best-value criteria, sustainability requirements, and digital procurement tools. By strengthening the capacity of SMEs, the EU can foster greater competition, innovation, and inclusion in public procurement markets, ensuring a more diverse and resilient food service sector.
- **Establish general provisions and requirements aimed to raise awareness of sustainable public procurement**, capacity building and most importantly, supporting local authorities in deploying public procurement strategically. This should include the introduction of practical and user-friendly guidelines for sustainable public procurement that integrates environmental, social and economic sustainability. We urge legislators not to pursue the approach of setting minimum mandatory criteria for sustainable food procurement, as these would stifle competition for sustainability and exacerbate the current challenges our sector faces, particularly those linked to the awarding of contracts solely on the lowest price and fixed-price contracts.
- **Leverage the EU Code of Conduct for Responsible Food Business and Marketing Practices as a catalyst for change in the EU food system.** The Commission should continue to play an active role in the Code, which FoodServiceEurope co-founded, and support its signatories in their efforts to meet the aspirational objectives of the Code. More details on our members’ numerous sustainable initiatives can be found in our [annual reports](#) for the Code.

About FoodServiceEurope

FoodServiceEurope represents the European contract catering sector at the EU level. It brings together 10 National Member Associations, as well as four Associate Member companies, which together represent a significant share of the EU market.

Contract catering encompasses food and ancillary services provided to people working or living in communities – private and public undertakings, schools, universities, hospitals, retirement homes and prisons – under the terms of a contract with the client communities. It is a unique part of the food system and differs significantly from other forms of food service, as services are provided on the premises of the contracting party, which awards contracts through procurement tenders.

Contract catering plays a crucial social function. Its meals are regularly delivered to vulnerable consumers (e.g., children, patients), at a subsidized “social” price. Contract catering thereby guarantees access to nutrition to individuals that may not otherwise have it.

With an annual turnover of around €25 billion, the sector’s 600,000-strong workforce delivers approximately 6 billion meals each year to workers, civil servants, pupils, students, hospital patients and care home residents in the EU.