



PUBLIC PROCUREMENT AS A STRATEGIC LEVER FOR DIGITAL SOVEREIGNTY

Policy Building Blocks for the Digital Commons #2

**OPEN FUTURE
POLICY BRIEF**

Authors: Aditya Singh & dr Zuzanna Warso

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[Open Future](#) is a European think tank that develops new approaches to an open internet that maximize societal benefits of shared data, knowledge and culture. Open Future advocates for Digital Commons–characterized by distributed production, collective governance, and shared stewardship–as offering the most viable path towards a resilient digital ecosystem.

[Aditya Singh](#) is a Senior Policy Analyst at Open Future with expertise in digital rights, data governance, and technology ethics. His doctoral research on agricultural data governance informs his interests in commons, food systems, and knowledge infrastructures.

[dr Zuzanna Warso](#) is the Research Director at Open Future. She has fifteen years of experience with human rights research and advocacy. In her work, she focuses on the intersection of science, technology, human rights, and ethics. She holds a Ph.D. in International Law from the University of Warsaw.



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INTRODUCTION

Digital sovereignty, understood as the ability of states, organizations, and individuals to independently shape and control their digital environments, has become a central concern for the European Union. Achieving it requires more than regulatory oversight of dominant technology providers: it requires building credible alternatives. This policy brief focuses on public procurement as a strategic lever to shape markets in line with public value and creating demand-side support for alternatives to proprietary and closed ecosystems. It explores how procurement can channel investment towards the Digital Commons, strengthen the autonomy of public institutions, and also accelerate the development of interoperable, sustainable, and sovereign cloud infrastructures.

PROBLEM DEFINITION: A LOST OPPORTUNITY TO PROACTIVELY SHAPE MARKETS

Public bodies in the EU are significant purchasers of digital technologies. When they procure technology services from non-EU and proprietary providers, especially in critical sectors, this creates several risks.

Public bodies may enter into agreements that lock them into proprietary technologies and ecosystems provisioned by non-EU providers. These providers may also be subject to surveillance from non-EU jurisdictions or allow other governments to interfere with, or disrupt access to, critical infrastructure and services. This may also limit the ability of the EU to enforce its own regulatory norms.

Once proprietary technologies and standards are embedded in organizational operations, the costs of switching to new providers can become prohibitive. This makes moving away to different suppliers challenging, weakens the autonomy of these institutions, and, by extension, undermines their ability to perform their functions in ways aligned with their public nature and values. This dependence risks subordinating key public functions to commercial logics and heightens exposure to geopolitical risks.

At the same time, public procurement can be a substantial strategic lever for digital sovereignty and support for Digital Commons. Through strategic procurement, public bodies can channel investment into open source technologies, while also shaping markets in line with public values. Beyond a mechanism for purchasing technologies, procurement can be a mechanism through which public authorities can actively shape markets, influence the development of technologies, and create incentives aligned with long-term public interest.

The Digital Decade programme puts in place a target of moving all key public services online by 2030.¹ In the absence of a framework prioritizing source code availability and auditability, guaranteed exit and interoperability, as well as support and guidance on implementation, contracting authorities may default to proprietary technologies and platforms. This perpetuates a dynamic where public bodies become further entrenched in proprietary ecosystems, public funds are not used strategically, and local or open source solutions fail to receive support beyond pilot stages.

The EU, through programs such as the [Next Generation Internet Initiative](#), already funds promising open source technologies with the potential for public value. However, these technologies also need demand-side impetus to scale. Competing against dominant players with significant network effects and lock-in, as well as large amounts of capital, requires sustained and strategic procurement support. Public funding can help open source providers scale and become more competitive, and more attractive avenues for further private investment.

As explored in a previous [policy brief](#), these challenges are particularly acute in the context of cloud providers. Even with greater adoption of Digital Commons and EU-based software and platforms, dependence may persist if they operate on infrastructure provisioned by non-EU-based hyperscalers. Leveraging procurement at the software and platform layers can be a mechanism for channeling demand towards cloud providers that meet defined sovereignty criteria.²

Strategically leveraging public procurement can also address gaps in research and innovation funding,³ which tends to prioritize pilots and project-based development over long-term sustainability and integration into infrastructure. Pre-commercial procurement also provides a tool to steer research and innovation toward commercially viable solutions aligned with public needs and already on a pathway to adoption. By enabling distributed investment in targeted innovations, it allows public institutions to adopt a cohesive approach that links early-stage funding directly to the deployment of new technologies across public infrastructure.

Frameworks for procuring open solutions must also be tailored to the dynamics of open source development and address the sustainability of the ecosystem. For instance, in the

¹ Regulation (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030.

² Cloud infrastructure remains a key point of structural dependence, even a foundational. Given the strategic importance of cloud infrastructure as a foundational dependency layer, this issue is addressed in depth in a separate policy brief focused specifically on cloud and infrastructure sovereignty—Open future (2026). Cloud Infrastructure as a Foundation for Digital Sovereignty. Available at: <https://openfuture.eu/publication/cloud-infrastructure-as-a-foundation-for-digital-sovereignty/>

³ Open Future (2024). Putting money where your mouth is: Public investment in digital commons and digital sovereignty. Open Future. Available at: <https://openfuture.eu/publication/putting-money-where-your-mouth-is/>

context of open source software, public entities typically may not procure the software itself, which is already available under an open license, but rather services related to support, operation, customization, or further development. An exclusive focus on price can create incentives for practices such as underpricing tenders without allocating sufficient resources to in-house development or maintenance, excessive reliance on unpaid community contributions, or failing to contribute modifications back to the shared codebase.⁴ This places providers that invest in the long-term sustainability of open source ecosystems at a competitive disadvantage. Procurement frameworks should therefore include conditionalities that reward sustainable contribution practices and ensure that publicly funded improvements are made available upstream.

Foregrounding digital sovereignty priorities must also be part of a broader reform of the EU's public procurement framework. While the current framework allows for the inclusion of non-price and qualitative criteria, in practice, procurement remains price-driven, often sidelining other policy objectives.⁵

PROPOSED INTERVENTION: A FRAMEWORK FOR PREFERENCING OPEN SOURCE, INTEROPERABLE, SUSTAINABLE, AND SOVEREIGN TECHNOLOGY PROVIDERS

Where appropriate, procurement should prioritize:

- **Ensuring source code availability, auditability, and institutional autonomy:** Award criteria should prioritize solutions that ensure long-term public control, auditability, and reuse. This includes solutions where the contracting authority has full access to source code and the legal and practical ability to inspect, modify, maintain, and share the software independently of the original supplier. Providers must not impose contractual, technical, or licensing restrictions that create lock-in or prevent reuse across public administrations. Preference shall be given to solutions that support collaborative development and reuse within the public sector.
- **Transparency around Total Cost of Ownership:** Apply a 'total cost of ownership' perspective that accounts not only for upfront licensing and implementation costs, but also for long-term licensing fees and exit costs. Making these costs transparent as part of the procurement

⁴ Open Source Business Alliance (2025), Selection Criteria for the Sustainable Procurement of Open Source Software, 11 February 2025. Available at: <https://osb-alliance.de/publikationen/veroeffentlichungen/selection-criteria-for-the-sustainable-procurement-of-open-source-software>.

⁵ UNI Europa (2021). Public Procurement: Snapshot Report. December 2021. Available at: <https://www.uni-europa.org/wp-content/uploads/sites/3/2021/11/Public-procurement-December-2021-snapshot-report.pdf>.

process strengthens accountability and more accurately reflects the comparative advantages of open source and Digital Commons.

- **Ecosystem sustainability:** Conditions for tender fulfillment should require providers to contribute to the development and maintenance of the software and its supply chain, and to ensure that modifications to the code are published upstream in line with the principle of ‘public money, public code.’
- **Support for multi-sourcing:** For software and platform contracts of certain value—dependent on use-case or sector—or for infrastructure of critical importance, require procurement from multiple providers with one being EU-based to prevent over-dependence on any single vendor.
- **Guaranteeing exit:** Contracts must ensure organizations can migrate to alternative providers without excessive delays or punitive costs. This includes the ability to port data in standard formats. For complex IT services, providers must demonstrate—during the bidding process—that they can actually transfer systems to competitors. Contracting authorities should assess whether the proposed solution supports an open and competitive service ecosystem, including the existence—or realistic possibility—of multiple independent providers capable of delivering support and maintenance. Demonstrating the presence of a diverse provider ecosystem can also serve as an indicator of reduced dependency risk and long-term resilience.
- **Mandating interoperability:** Require that purchased systems can work together and integrate with other providers’ services, preventing vendor dependence that undermines institutional autonomy.
- **Encouraging pre-commercial procurement and innovation partnerships:** Use early-stage procurement to fund development of innovative, open solutions tailored to public needs.
- **Channeling demand for compliant cloud infrastructure:** At the software and platform layers, procurement can strategically channel demand toward cloud providers that meet defined sovereignty-related criteria, including requiring software/platform providers to provision services on top of such sovereign cloud infrastructure.

Conditionalities related to cloud sovereignty and upstream ecosystem contributions should be structured as contractual obligations to be fulfilled during the execution of a tender contract, rather than as eligibility criteria for participation in tenders. This limits excessive barriers to participation in tender processes, while enabling public bodies to shape markets iteratively and create incentives toward strategic outcomes.⁶

⁶ Mazzucato, M., Rodrik, D., and others (2023). Industrial Policy Conditionalities: A Taxonomy and Sample Cases. London: UCL Institute for Innovation and Public Purpose (IIPP), University College London. Available at: <https://www.ucl.ac.uk/bartlett/publications/2023/oct/industrial-policy-conditionalities-taxonomy-and-sample-cases>.

In certain critical sectors, meeting sovereignty-related objectives may also require allowing the preferencing of EU-based providers. However, formulating this framework requires the definition of clear and operational criteria for identifying “critical” sectors, uses, and societal functions. These criteria must assess relevance to the autonomy of institutions, continuity of essential services or critical infrastructure, and the functioning of democracy, thereby ensuring procurement safeguards are applied strategically. Where these criteria are met, favoring EU-based solutions may be justified to reduce dependencies and strengthen resilience.

A Case for Coordination

The Public Procurement Directives already allow contracting authorities to include qualitative criteria in award decisions. In practice, however, many authorities still rely primarily on price-based criteria.⁷ This is often due to limited internal capacity and the perception that using non-price criteria increases the risk of legal challenges. As a result, procurement is less able to advance strategic objectives.

Strategic procurement policies also depend on effective monitoring and enforcement. Conditionalities related to source code availability, interoperability, sustainability, or sovereignty may need to be monitored after contracts are awarded. Many public bodies may lack sufficient technical and legal resources to perform these functions. Without mechanisms to support compliance, strategic objectives risk remaining largely declaratory.

Effectively shifting procurement practices, therefore, requires mechanisms that enable pooling expertise, harmonizing standards, and providing legal certainty. Shared instruments such as model clauses and guidance on lawful inclusion of qualitative criteria can support authorities in designing and evaluating compliant and sovereignty-aligned tenders. These instruments can reduce the administrative and compliance burden at the local level, while promoting consistent application of strategic priorities across the Union.

Fragmented and non-standardized procurement processes disproportionately benefit large incumbent firms that can absorb the high transaction costs of complex tendering procedures, which may disadvantage SMEs.⁸

⁷ UNI Europa (2021). Public Procurement: Snapshot Report. December 2021. Available at: <https://www.uni-europa.org/wp-content/uploads/sites/3/2021/11/Public-procurement-December-2021-snapshot-report.pdf>.

⁸ European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (2021). SME Needs Analysis in Public Procurement – Final Report. <https://data.europa.eu/doi/10.2873/86199>.

Short of aggregating purchasing, greater coordination of expertise and professionalized procurement support can reduce duplication of effort, increase knowledge sharing, and facilitate consistent enforcement of contractual obligations. This can be in the form of coordinated support structures such as EU-level guidance platforms, national competence centers, and networks of procurement professionals. Central Purchasing Bodies in Member States already perform some of these functions, typically to aggregate demand and negotiate better terms with suppliers. Expanding their mandate to include strategic procurement objectives would allow these bodies to play a role in foregrounding public value in public investment.

Complementary to coordinated procurement capacity, certification schemes can operationalize complex strategic criteria and provide a common reference for compliance. Certification bodies can verify and audit compliance with open source, interoperability, sustainability, and sovereignty requirements, enabling contracting authorities to rely on certified assurance rather than conducting independent assessments.

FIT WITH THE MULTIANNUAL FINANCIAL FRAMEWORK

The proposed **Multiannual Financial Framework** considers public investment as a vital catalyst for private investment, and the **European Competitiveness Fund** recognizes procurement as a tool in achieving technological sovereignty and channeling strategic investment toward EU industry.⁹ In addition, the proposal for a European Competitiveness Fund positions procurement as part of its ‘integrated financial toolbox’, with instrument-neutral award procedures that allow applicants to propose solutions without being constrained to a specific funding model.¹⁰

The **InvestEU** instrument within the ECF complements public investment by providing loans, guarantees, and equity to leverage private capital and de-risk the uptake of innovative alternatives.

The **Single Market Programme**—backed by its mandate related to standardization, enforcement of single market legislation, and coordination between national authorities—can play a complementary role by strengthening procurement frameworks and standards that prioritize interoperability and open solutions.

⁹ Section 1, Proposal for a Regulation of the European Parliament and of the Council on establishing the European Competitiveness Fund, COM(2025) 16 final, 2025/0007 (COD) (“ECF Proposal”)

¹⁰ Recital 65, ECP Proposal

At the national level, the **Partnership Plans** can support consistent implementation of procurement reforms across Member States. By aligning national procurement practices with the Union’s digital sovereignty objectives, these plans should operationalize reforms that prioritize open and interoperable solutions across public institutions.

REGULATORY CONTEXT

The **Public Procurement Directives**¹¹ set the legal framework for how public authorities in the EU acquire goods, services, and works. The Directives are currently under revision, with a proposed emphasis on digital technologies, sovereignty, and open source, particularly in critical sectors.¹²

There is increasing recognition of the importance of public procurement as a strategic lever. For instance, the European Parliament’s own-initiative report on public procurement makes several references to the importance of qualitative criteria in addition to price; of a European preference in strategic sectors; and calls for stronger support for SMEs.¹³

The **Cloud and AI Development Act** (forthcoming) is a proposed regulatory framework to support large-scale and sustainable investment in cloud and AI infrastructure. The Act is likely to incorporate specific rules and guidance on the procurement of cloud services, as a way to strengthen the autonomy of public institutions and support domestic industry, providing an opportunity to embed requirements on interoperability and sustainability, particularly when public funds are deployed.

The **Digital Decade Policy Programme**¹⁴ is the EU’s framework to accelerate digital transformation across public services, industry, and society. It sets targets for connectivity, transformation of business, digital skills, and the digitalization of public administrations by 2030. Digital sovereignty related metrics should be incorporated into these measures to ensure that public procurement and digital transformation strengthen the EU’s strategic autonomy, democratic resilience, and the development of open and interoperable digital infrastructure.

¹¹ Directives 2014/23/EU, 2014/24/EU and 2014/25/EU (Public Procurement Directives).

¹² European Commission, Europe’s Choice – Political Guidelines for the Next European Commission 2024–2029 (18 July 2024) 11.

¹³ European Parliament (2024). Technological sovereignty and digital infrastructure (2024/2103(INI)). Legislative Observatory (OeIL). Available at: <https://oeil.europarl.europa.eu/oeil/en/procedure-file?reference=2024/2103%28INI%29>.

¹⁴ Regulation (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030. Official Journal of the European Union, L 323, 19.12.2022, pp. 4–26.

The Council of EU's **Conclusions on European Competitiveness in the Digital Decade**¹⁵ identify open standards, open source, and interoperability as a way to enhance transparency and competition while reducing vendor lock-in and reliance on single providers. In particular, they recognize strategic public procurement as a way to support research and innovation and the deployment of EU suppliers.¹⁶

RESOURCE REQUIREMENTS AND FUNDING INFRASTRUCTURE

Successful reform of procurement frameworks to prioritize open source and EU-based will require close coordination between EU-level and national instruments, supported by dedicated resources and targeted funding that build on existing national procurement budgets and priorities. Given the highly decentralized nature of public procurement across the EU, the precise scale and configuration of these resource requirements cannot be assessed exhaustively within this brief.

Nevertheless, effective implementation will depend on investment in enabling measures, including the development of procurement guidelines, the definition of operational criteria for compliant providers, and targeted capacity-building and training for contracting authorities. The **Digital Commons EDIC (European Digital Infrastructure Consortium)** could play a key role in providing such support to the ecosystem of providers and purchasers of open source technologies.

A procurement reform should be aligned with instruments such as the **European Competitiveness Fund, InvestEU, and the Single Market Programme**. This ensures coordinated investment, leverages existing financial mechanisms, and links procurement incentives directly to broader EU policy objectives.

POSSIBLE RISKS AND MITIGATIONS

Reforming the procurement framework and shifting procurement practice may entail addressing several risks.

First, introducing complex preferencing rules for open source or sovereign providers may prove challenging if few such providers currently exist. There is a risk of creating procurement rules that are difficult to apply in practice or that limit competition due to a lack of qualified suppliers. Introducing complex preferencing rules for open source or sovereign providers may prove challenging if few such providers currently exist. There is

¹⁵ Council of the European Union, 'Council Conclusions on European Competitiveness in the Digital Decade' [2025] ST-16430-2025-INIT.

¹⁶ Id., para 27.

a risk of creating procurement rules that are difficult to apply in practice or that limit competition due to a lack of qualified suppliers.

To mitigate this risk, procurement reform must be accompanied by other measures that bolster the Digital Commons ecosystem, as explored in [other policy briefs in this series](#). Funding frameworks should invest in innovation and the growth of companies that build on open source, interoperability, and open standards. A full life-cycle approach is needed: public investment should support both the early development phase, scaling phase, and the later procurement phase to ensure that viable providers exist when new procurement rules take effect.

Another risk while reforming procurement rules is the potential conflict with the WTO Government Procurement Agreement (GPA). The GPA covers IT services, and a binding European preference for EU-based or open source providers may raise questions about compliance with international trade commitments.

However, EU-level preferencing remains possible within the GPA framework, as demonstrated by other signatories that have applied strategic exclusions, particularly around critical infrastructure. European preferencing rules can be designed to remain consistent with the EU's GPA obligations and its broader commitments to reciprocity and open trade, provided that they are applied in a transparent and proportionate manner.

Further, transitioning to Digital Commons and sovereign providers may initially involve higher costs for migration and integration. In addition, local authorities may lack the political will or institutional mandate to initiate such shifts.

In response, a clearer political and legal mandate, introduced through revisions to the Public Procurement Directives and the forthcoming Cloud and AI Development Act, can help address challenges related to political will. Further cooperation around procurement-related functions can reduce transition costs and administrative burdens. In the longer term, ensuring interoperability and vendor autonomy lowers total costs and strengthens resilience, offsetting short-term expenditure.

IMPLEMENTATION PATHWAY

As part of the upcoming Tech Sovereignty Package, the European Open Digital Ecosystems Strategy is expected to play a central role in shaping the direction of digital sovereignty related policies. While non-legislative, it is expected to set priorities for the adoption and scaling of Digital Commons and interoperable architectures, and to inform future funding programs and procurement guidance.

The proposed Cloud and AI Development Act, also expected in early 2026, is expected to introduce procurement rules for cloud services, including criteria for sovereign cloud or effective

European control. It should also incorporate requirements on interoperability, non-lock-in, and sustainability. Accompanying guidance from the European Commission should clarify how contracting authorities can operationalize these criteria in practice, particularly in the procurement of software and platform services built on cloud infrastructure, including through the lawful use of qualitative award criteria and contractual conditions.

Legislation alone will not be sufficient. The translation of these principles into procurement practice requires immediate action, even as the legislative process unfolds. Clear guidance, institutional capacity, and early implementation efforts will be critical to ensuring that sovereignty-oriented criteria are not only defined but consistently applied across diverse procurement contexts.

Looking ahead, the revision of the Public Procurement Directives offers an opportunity to structurally embed preferences for EU-based and open source solutions within the procurement framework. Once adopted, Member States will be required to transpose the revised Directive(s) into national law, creating a window for aligning national procurement systems with these objectives.

Effective implementation at national level will depend on coordinated support structures. Instruments such as central purchasing bodies, competence centers, and European Digital Infrastructure Consortia can pool expertise, reduce administrative burden, and ensure more consistent application across decentralized procurement systems. Without such coordination, fragmentation risks undermining the intended impact of the reforms.

Progress in achieving these objectives could be tracked against the following indicators:

Procurement Spend and Market Share

- Share of public procurement budgets allocated toward Digital Commons
- Number and proportion of contracts awarded to EU-based or open source providers.

Alignment of Practice with Policy

- Number of tenders incorporating qualitative criteria related to sovereignty, interoperability, or open source.
- Use of contractual conditions that enable switching, portability, and avoidance of vendor lock-in.

Outcome-Oriented Indicators

- Number of public services hosted on non-EU cloud infrastructure, disaggregated by sector.

Tracking these indicators will also require improved transparency in public procurement data.