

POSITION PAPER

Reform of EU Public Procurement Law – Public Procurement Act

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1. About the QualitätsVerbund Planer am Bau

The QualitätsVerbund Planer am Bau (Dr. Weng Dr. Marhold) is a German advisory and quality standards organisation that has been supporting small and medium-sized architectural and engineering planning offices since 2007. We develop and maintain the QualitätsStandard Planer am Bau (QS_PaB), on the basis of which member offices can obtain the QualitätsZertifikat Planer am Bau (QZ_PaB). The certificate is independently audited and awarded by TÜV Rheinland as an external certification body. It attests to office organisation, quality management processes, professional competence and reliability – making quality measurable and transparent for contracting authorities.

The QZ_PaB is recognised by public contracting authorities across Germany and is explicitly requested in some tender procedures as a quality credential. Currently, more than 370 planning offices are members of the QualitätsVerbund Planer am Bau.

The QualitätsVerbund understands itself as an advisory and quality standards organisation, not as a professional association or lobby group in the traditional sense. This position paper is based on the experience gained from nearly 20 years of accompanying planning offices in public procurement procedures.

2. General Assessment

We welcome the European Commission's initiative to reform the EU public procurement framework. The shift from lowest-price-only awards towards quality, sustainability, and innovation criteria is long overdue – particularly for planning and design services, where the quality of the process directly determines the quality of the built environment.

We support the Commission's goal of reducing administrative burdens and improving SME access to public procurement. At the same time, we urge the legislator to ensure that simplification does not come at the expense of quality standards or effective SME participation.

German model: The Procurement Acceleration Act (Vergabebeschleunigungsgesetz), which entered into force on 1 July 2026, demonstrates how central reform objectives – less bureaucracy, better SME access, stronger quality orientation – can already be implemented at national level. We recommend that the European Commission draw on the regulatory approaches tested there and develop them further at EU level.

3. Key Positions and Recommendations

3.1 Recognition of Independently Audited Quality Credentials as Eligibility Evidence

Current situation:

Contracting authorities frequently lack objective tools to assess the quality of planning offices beyond price and formal references. They also often lack the time and staff resources for a thorough qualitative assessment of candidates. Both factors disadvantage smaller, quality-oriented offices in favour of larger ones with more extensive reference lists.

Our position:

EU law already permits contracting authorities to accept appropriate quality management systems as evidence of technical and professional ability – irrespective of whether those systems are based on an ISO norm (cf. Art. 62(2) Directive 2014/24/EU). What matters is not the normative origin of a standard, but its independent verifiability and reliability.

The QualitätsZertifikat Planer am Bau (QZ_PaB) meets precisely this requirement: the underlying standard is independently audited by TÜV Rheinland. Public contracting authorities across Germany already accept this credential – because it makes verifiable what would otherwise remain a mere assertion: structured office organisation, quality management processes, and professional reliability.

The new Public Procurement Regulation should explicitly secure this practice through an opening clause. We recommend specifically:

- an opening clause enabling Member States to recognise independently audited, sector-specific quality credentials as admissible eligibility evidence for planning services
- minimum criteria for such recognition: independence of the auditing body, defined audit scope, and periodic review
- the QZ_PaB as an example of a functioning national system that could serve as a reference model

Practical impact: This would provide contracting authorities with a reliable, low-bureaucracy quality indicator, and create a direct incentive for planning offices to invest in quality management – without imposing additional reporting burdens on SMEs.

3.2 Proportionate Eligibility Criteria for SMEs

Current situation:

Minimum turnover, reference, and insurance requirements are frequently set at levels that systematically exclude SMEs – even when those offices are fully capable of delivering the required services.

Our position:

- eligibility criteria must be strictly proportionate to the subject matter and estimated value of the contract – not to the size of the contracting authority or the overall project
- minimum annual turnover requirements for planning services should not exceed twice the estimated contract value
- reference requirements should recognise comparable projects, not only identical ones; project descriptions should count as evidence
- for architects' and engineers' services, specific provisions that explicitly address smaller office structures and early-career professionals should be enshrined in the EU regulation – in line with the rules already established in German law (§§ 17, 42, 48 VgV as amended by the Procurement Acceleration Act 2026)

Best practice Germany: The Procurement Acceleration Act 2026 strengthens the self-declaration principle in § 122(3) GWB: extensive eligibility documents no longer need to be submitted with

every tender from the outset, but only on request and only from promising bidders. This significantly reduces the burden on SMEs and should serve as a model for the EU regulation.

3.3 Preservation and Strengthening of Lot-Based Procurement for Planning Services

Current situation:

The trend towards bundled procurement – models in which planning and construction are awarded together to a single contractor (design-and-build, general contractor models) – is increasingly marginalising independent planning offices in the public procurement market. When planning services are absorbed into such structures, quality control and professional independence are compromised.

Our position:

- planning services must be procured as separate, independent lots in all cases where the planning scope is substantial
- the regulation should establish a clear presumption in favour of separate procurement of planning services, with a high threshold for exceptions
- where general contractor or design-and-build models are used, minimum requirements for the qualification and independence of the planning sub-contractor should be mandatory
- the clarification already established in German law – that planning services remain subject to VgV rules even when procured as a lot within a construction contract (§ 2 VgV as amended by the Procurement Acceleration Act 2026) – should be reflected at EU level
- an explicit opening or preservation clause should allow Member States to maintain lot-based procurement rules that go beyond the EU minimum standard – such as § 97(4) and § 97a GWB in German law

Critical note: The Procurement Acceleration Act 2026 introduced exceptions to the lot principle in § 97a GWB, permitting bundled procurement for certain time-critical, large-scale infrastructure projects. We view these exceptions critically and call on the EU regulation to limit such exceptions strictly – and to ensure in particular that planning services are always procured as separate lots.

3.4 Mandatory Rejection of Abnormally Low Tenders for Planning Services

Current situation:

Price competition in planning services has led to structural underpayment of planning fees in many public procurement procedures. This undermines quality and ultimately costs contracting authorities more – through change orders, disputes, and poor project outcomes.

Our position:

- the regulation should establish a mandatory obligation – not merely a discretionary power – to reject tenders for planning services where the offered price does not allow for quality-compliant service delivery
- fee benchmarks – comparable to the German HOAI model – should be available as reference points for the assessment of abnormally low tenders
- contracting authorities should be required to document their price assessment for planning services in a standardised format

Best practice Germany: The Procurement Acceleration Act 2026 tightened the legal consequence for abnormally low tenders in § 60 VgV: the discretionary “may reject” became a “should reject”. This is a step in the right direction that should be enshrined at EU level as a binding obligation – particularly for planning services, where quality cannot be corrected after the fact.

3.5 Sustainability and Social Criteria: A Level Playing Field

Current situation:

Sustainability and social criteria are increasingly demanded of planning offices, but without a standardised framework, they create additional administrative burden rather than genuine quality improvement.

Our position:

- the regulation should define a core set of sustainability and social criteria applicable to planning services, with proportionate requirements for SMEs
- relevant social dimensions include in particular: commitment to training and apprenticeships, occupational health and safety in office operations, fair and transparent pay structures, and work-life balance measures
- quality management systems such as the QZ_PaB, which already incorporate these dimensions as part of the quality standard, should be recognised as satisfying the corresponding procurement criteria
- reporting obligations for SMEs should be significantly lighter than for large enterprises

3.6 Appropriate Thresholds for Planning Services

Current situation:

Planning services currently fall under the general EU threshold for supplies and services (from 1 January 2026: €216,000). This threshold is not calibrated to the typical contract values of planning services. For small offices in particular, the burden of a full EU-wide procurement procedure from this threshold is disproportionate to the contract volume.

Our position:

- a significant increase in the EU threshold for planning services, or – preferably – the introduction of a separate, higher threshold specifically for planning and design services
- below this threshold, simplified nationally regulated procedures should remain possible, reflecting the particular nature of planning services

4. Summary of Recommendations

Issue	Recommendation	Priority
Quality credentials	Opening clause for recognised eligibility evidence; minimum standards for independence and audit scope	High
Eligibility criteria	Strict proportionality; self-declaration principle enshrined EU-wide (§ 122 GWB as model)	High
Lot-based procurement	Mandatory separate lots for planning services; preservation clause for stricter national rules	High
Quality over price	Mandatory rejection of abnormally low tenders; HOAI benchmarks as reference	High
Sustainability & social criteria	Core catalogue with proportionate SME requirements; quality credentials as compliance evidence	Medium
Thresholds	Significant increase or separate threshold for planning services	Medium

The Federal Chamber of German Architects (BAK), the Federal Chamber of German Engineers (BIngK), and the Architects' Council of Europe (ACE) are invited to incorporate these positions into the parliamentary process. The QualitätsVerbund Planer am Bau is available as a discussion partner.

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