socialplatform

Brussels, June 29, 2012

Re: Social Platform's recommended amendments on the proposal for a directive on public procurement

Dear member of the IMCO Committee,

By next week, you will propose in the IMCO Committee amendments on the report on the proposal for a directive on public procurement.

Social Platform is the largest civil society alliance fighting for social justice and participatory democracy in Europe. Consisting of 46 pan-European networks of NGOs, We campaign to ensure that EU policies are developed in partnership with the people they affect, respecting fundamental rights, promoting solidarity and improving lives.

We call on you to take into consideration the following proposals for amendment in the committee report. You can find a list of our proposed amendments in annex to this letter.

Our main focus in the proposal goes to the following seven key issues:

AWARD OF CONTRACTS FOR SOCIAL SERVICES AND OTHER SERVICES

1. **Abolish the lowest cost as award criteria for social services and other services directly provided to the person; make quality a mandatory element in the award criteria for contracts concerning those services**
2. **Explicitly recognise the alternatives to public procurement in the provision of social services**
3. **Extend the possibility for contracting authorities to reserve markets for the provision of those services to non-profit organisations**
4. **Clarify the definition of social services throughout the text of the proposal for a directive and make reference to Protocol 26 on Services of General Interest**
5. **Take into account information on bidders' positive past performance in the selection criteria for contracts for social services**

PUBLIC PROCUREMENT AS A TOOL TO ACHIEVE OTHER SOCIETAL GOALS

1. **Allow social considerations related to the production process of the good / work / service procured being included throughout the whole public procurement procedure**

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2. **Improve provisions on abnormally low bids to ensure that working conditions of workers involved in the production of goods / works / services procured are respected.**

We trust that you will give these issues your utmost attention and include our amendments in your report.

Yours sincerely,





Conny Reuter

President

Pierre Baussand

Director

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Social Platform proposal for amendments –

Proposal for a directive on public procurement

On Commission's proposal and draft IMCO report

AWARD OF CONTRACTS FOR SOCIAL SERVICES AND OTHER SERVICES

1) Abolish the lowest cost as award criteria for social services and other services directly provided to the person; make quality a mandatory element of MEAT or best value for money

Social Platform proposal for amendment 1 – Article 76.2 "Principles of awarding contracts" Tarabella MEP's amendment 143		
Text proposed by the Commission	**Text proposed by the rapporteur**	**Text proposed by Social Platform**
2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. ***Member States may also provide*** that the choice of the service provider ***shall not be made solely on*** the ***basis of the price for the provision of*** the service.	2. Member States shall ensure that contracting authorities **may** take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation **as well consumer protection and social inclusion.**	2 new ***Contracting authorities shall seek to achieve the best value for money when awarding public contracts for these services.*** 3. Member States shall ensure that contracting authorities ~~***may***~~ take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users, ***their satisfaction, social inclusion and, where relevant, innovation. When drawing up quality criteria for the choice of service providers, contracting authorities may refer to the criteria set out in the voluntary European Quality Framework for Social Services.***

Justification for this proposal:
Social services of general interest have specific characteristics that make them different from other public services (e.g. service user choice, quality, sustainability, continuity, personalisation, integration of services, users' involvement and empowerment, partnership with communities and other actors, etc.). The new rules on public procurement procedures have to ensure that these characteristics are recognised and safeguarded. To do this, we call on deleting the lowest cost as award criterion for social services and other services provided directly to the person, as specified in Annex XVI.

We support Tarabella MEP's proposal to make MEAT the award criterion for all public contracts related to goods, services and works. However, we consider that MEAT (or alternatevily said, best value for money) has to be the only criterion to award at least contracts for social services and other services provided directly to the person, due to their specific characteristics.

In particular, the inclusion of quality criteria in public procurement procedures for social services has to be a mandatory criterion, as for social services, quality is essential to the outcome of the service and the well-being of the users. The way public procurement is often carried out can have a significantly negative impact on the quality of social services, as concluded by several of our members who are non profit social services providers. Our members testify that in the social sector the prices of services have often been decreased mainly by reducing salaries: tendering procedures are having a negative impact on staff training and qualification which affect the capacity of social services to provide quality services1.
Public procurement should become a tool by which to reflect in public contracts compulsory national or regional quality requirements in those countries where relevant legislation is in force and encourage the promotion and implementation of quality criteria in those member states where such legislation does not exist, such as by making use of the Voluntary European Quality Framework for social services.

Finally, in the area of social services and services to the person it is not appropriate to talk about "consumer protection", while we suggest the term user's satisfaction.

2) Explicitly recognise the alternatives to public procurement in the provision of social services

Social Platform proposal for amendment 2 – Article 74 "Award of contracts for social and other specific services"		
Text proposed by the Commission Contracts for social and other specific services listed in Annex XVI shall be awarded in accordance with this Chapter, where the value of the contracts is equal to or greater than the threshold indicated in article 4 (d).	**Text proposed by the rapporteur**	**Text proposed by Social Platform** ***Without prejudice to the freedom for member states and/or public authorities to provide social services and other specific services listed in Annex XVI themselves or to organise them in a way that does not entail the conclusion of public contracts,*** contracts for social and other specific services listed in Annex XVI shall be awarded in accordance with this Chapter, where the value of the contracts is equal to or greater than the threshold indicated in article 4 (d).

Justification for this proposal:

The possibility for member states and public authorities to organise the choice of social service providers, and other specific services listed in Annex XVI, in a way that is different from public procurement, provided that the principles of transparency and non-discrimination are respected, is mentioned in recital 11. We consider it necessary that this is explicitely mentioned also in article 74, by stating the possibility for member states and / or public authorities to provide those services themselves or in a way that does not entail the conclusion of public contracts in the meaning of this directive.

In social service delivery, it is important to promote and develop the alternatives to public procurement, starting from the experience of many member states, insofar these alternatives correspond to the historical and operational specificities of most of SSGI and allow them to fulfil at

1 Informal Network of Social Services Providers, Seminar "Impact of EU legislation on social services", Brussels, September 29, 2009

best their mission of general interest and to ensure the participation of social service users, and sometimes with a cost that is lower than the one offered by the market.

The Conclusions of the EPSCO Council of December 2010 invited the Commission to clarify and provide information on the existing alternatives to public procurement procedures when Member States choose to outsource the provision of social services of general interest.

3) Extend the possibility for contracting authorities to reserve markets for the provision of social and health services to non for profit organisations

Social Platform proposal for amendment 3 – Article 76 – paragraph 2 Tarabella MEP's amendment 143		
Text proposed by the Commission	**Text proposed by the rapporteur**	**Text proposed by Social Platform**
2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. ***Member States may also provide*** that the choice of the service provider ***shall not be made solely on*** the ***basis of the price for the provision of*** the service.	2. … ***Contracting authorities shall ensure that***, for the choice of the service provider***, due account is given to social standards and considerations in accordance with point 22b of Article 2 and Articles,40, 54, 55, 56 and 71.*** ***When choosing the service provider, contracting authorities shall consider using reserved contracts as provided for in Article 17.***	2. … Contracting authorities shall ensure that, for the choice of the service provider, due account is given to social standards and considerations in accordance with point 22b of Article 2 and Articles,40, 54, 55, 56 and 71. When choosing the service provider, contracting authorities shall consider using reserved contracts as provided for in Article 17. ***Member states may also provide that contracting authorities can choose to limit the participation in a tender procedure for the provision of social and health services to non profit organisations.*** ***The call for competition shall make reference to this provision.***

Justification for this proposal:

Member states may provide that contracting authorities can choose to limit the participation in a tender procedure for the provision of social and health services to non profit organisations; it is an option and not an obligation.

This possibility is already foreseen by jurisprudence. In fact, the ruling of the Court of Justice (Case C-70/95 Sodemare SA v Regione Lombardia) provided that a restricted access to certain services for the benefit of non profit organisations is a restriction of articles 49 and 56 TFEU. However, this restriction could be justified on a case by case basis and provided that this restriction is based on a national law that is compatible with European law, if the restriction is necessary and proportionate in view of the attainment of certain social objectives pursued by the nationa l social security system.

4) Clarify the definition of social services throughout the text of the proposal for a directive

Social Platform proposal for amendment 4 – Recital 11		
Text proposed by the Commission	**Text proposed by the rapporteur**	**Text proposed by Social Platform**
Other categories of services continue by their very nature to have a limited crossborder dimension, namely what are known as **services to the person, such as certain social, health and educational services.** These services are provided within a particular context that varies widely amongst Member States, due to different cultural traditions. A specific regime should therefore be established for public contracts for these services, with a higher threshold of EUR 500 000. Services to the person with values below this threshold will typically not be of interest to providers from other Member States, unless there are concrete indications to the contrary, such as Union financing for transborder projects. Contracts for services to the person above this threshold should be subject to Union-wide transparency. Given the importance of the cultural context and the sensitivity of these services, Member States should be given wide discretion to organise the choice of the service providers in the way they consider most appropriate. The rules of this directive take account of that imperative, imposing only observance of basic principles of transparency and equal treatment and making sure that contracting authorities are able to apply specific quality criteria for the choice of service providers, such as the criteria set out in the voluntary European Quality Framework for Social Services of the European Union's Social Protection Committee. Member States and/or public authorities remain free to provide these		Other categories of services continue by their very nature to have a limited crossborder dimension, namely what are known as ***social services, and other services provided directly to the person, such as*** ~~services to the person, such as certain social,~~ health and educational services. These services are provided within a particular context that varies widely amongst Member States, due to different cultural traditions. A specific regime should therefore be established for public contracts for these services, with a higher threshold of EUR 500 000. Services to the person with values below this threshold will typically not be of interest to providers from other Member States, unless there are concrete indications to the contrary, such as Union financing for transborder projects. Contracts for services to the person above this threshold should be subject to Union-wide transparency. Given the importance of the cultural context and the sensitivity of these services and the subsidiarity principle, ***as noted in Protocol 26 on Services of General Interest,*** Member States ~~should be given~~ ***have wide discretion*** to organise the choice of the service providers in the way they consider most appropriate, ***as closely as possible to the needs of the users, and taking into account the differences in the needs and preferences of users that may result from different geographical, social or cultural situations, and to ensure universal access, continuity and availability of the services in all territories of the Union.*** The rules of this directive take account of that imperative, imposing only observance of basic principles of transparency and equal treatment and making sure

services themselves or to organise social services in a way that does not entail the conclusion of public contracts, for example through the mere financing of such services or by granting licences or authorisations to all economic operators meeting the conditions established beforehand by the contracting authority, without any limits or quotas, provided such a system ensures sufficient advertising and complies with the principles of transparency and non-discrimination.		that contracting authorities are able to apply specific quality criteria for the choice of service providers, such as the criteria set out in the voluntary European Quality Framework for Social Services of the European Union's Social Protection Committee. Member States and/or public authorities remain free to provide these services themselves or to organise social services in a way that does not entail the conclusion of public contracts, for example through the mere financing of such services or by granting licences or authorisations to all economic operators meeting the conditions established beforehand by the contracting authority, without any limits or quotas, provided such a system ensures sufficient advertising and complies with the principles of transparency and non-discrimination.

Justification for this proposal:

A reference to Protocol 26 on Services of General Interest is necessary: the shared values of the Union in respect of services of general economic interest within the meaning of art. 14 TFEU include the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of users. Article 2 of the Protocol provides that the provisions of the Treaties do not affect in any way the competence of member states to provide, commission and organise non-economic services of general interest.

COMMENT on Annex XVI "Services referred to in article 74"		
Text proposed by the Commission	**Text proposed by the rapporteur**	**Text proposed by Social Platform**
Health and social services		Health and social services
Administrative educational, healthcare and cultural services		Administrative educational, healthcare and cultural services
Compulsory social security services		Compulsory social security services
Benefit services		Benefit services
Other community, social and personal services		Other community, social and personal services
Services furnished by trade unions		Services furnished by trade unions
Religious services		Religious services

Comment:
Social Platform is in favour of keeping Annex XVI. However, we point out that there is confusion in the list, which has to identify social services of economic nature and not welfare benefits and compulsory social security schemes that are non economic and which, therefore, should be deleted from this list.

5) Take into account information on bidders' positive past performance in the selection criteria for public contracts for social services

Social Platform proposal for amendment 5 – Article 75 a "Principles of selection criteria for social services and other specific services listed in Annex XVI"		
Text proposed by the Commission	**Text proposed by the rapporteur**	**Text proposed by Social Platform**
1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.	Deleted	New ***Contracting authorities may establish conditions for participation in a tendering process for social services or other specific services listed in Annex XVI, as specified in article 56.*** ***With regard to technical and professional ability in the award for social services, contracting authorities may take into account relevant information on the bidders' positive past performance, including on relationships built up during service provision between the service user, the provider and its staff.***

Justification for this proposal:

In the area of social services and other services to the person, the experience and knowledge gained in previous provision of services contribute to the ability of a provider to provide a quality service. In addition, relationships built up during social service provision between the service user and the provider and its staff have a positive impact on service users.

PUBLIC PROCUREMENT AS A TOOL TO ACHIEVE OTHER SOCIETAL GOALS

6) Allow social considerations related to the production process of the product / work / service procured being included in technical specifications and not only in award criteria or contract performance conditions

Keep Sippel MEP's amendment 10 (in particular the parts highlighted in yellow) Recital 41

Text proposed by the Commission	Text proposed by the rapporteur	Text proposed by Sippel MEP
Furthermore, in technical specifications and in award criteria, contracting authorities should be allowed to refer to a specific production process, a specific mode of provision of services, or a specific process for any other stage of the life cycle of a product or service, provided that they are linked to the subject-matter of the public contract. In order to better integrate social considerations in public procurement, procurers may also be allowed to include, in the award criterion of the most economically advantageous tender, characteristics related to the working conditions of the persons directly participating in the process of production or provision in question. Those characteristics may only concern the protection of health of the staff involved in the production process or the favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract, including accessibility for persons with disabilities. Any award criteria which include those characteristics should in any event remain limited to characteristics that have immediate consequences on staff members in their working environment. They should be applied in accordance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services22 and in a way that does not discriminate directly or indirectly against economic operators from other Member States or from third countries parties to the Agreement or to Free Trade Agreements to which the Union is party. For service contracts and for contracts	*Les pouvoirs adjudicateurs devraient aussi pouvoir se référer* **aux caractéristiques du cycle de vie et au processus de production socialement durable** *dans les spécifications techniques et* **dans** *les critères d'attribution, pour autant* **que ces caractéristiques ou ce processus soient liés** *à l'objet du marché public.* **Les spécifications techniques et critères d'attribution devraient être interprétés au sens large. Par conséquent, les spécifications techniques et critères d'attribution peuvent se référer au cycle de vie et au processus de production socialement durable, y compris aux aspects sociaux et environnementaux du processus de production ou de la fourniture de produits ou de services. Les pouvoirs adjudicateurs peuvent également utiliser les spécifications techniques ou critères d'attribution pour minimiser les effets sociaux ou environnementaux préjudiciables ou pour maximiser les effets sociaux ou environnementaux positifs.** *Afin de mieux intégrer les considérations sociales dans la passation de marchés publics, les acheteurs devraient aussi*	Furthermore, in technical specifications and in award criteria, contracting authorities should be allowed to refer to ***life cycle characteristics, such as*** a specific production process, ***including for example social and environmental aspects,*** a specific mode of provision of services, ***functional or performance requirements aimed at minimizing or maximising environmental or social impacts,*** or a specific process for any other stage of the life cycle of a product or service, provided that they are linked to the subject-matter of the public contract. ***The link to the subject matter rule should be interpreted broadly. Accordingly, in*** order to better integrate social considerations in public procurement, procurers may also be allowed to include, in the ***technical specifications and*** award ***criteria***, characteristics related to the working conditions of the persons directly participating in the process of production or provision in question. Those characteristics may ***for example*** concern the protection of health of the staff involved in the production process, ***gender balance (e.g. equal pay, work-life balance), access to on-site vocational training, users' involvement and consultation, affordability, human rights, ethical trade*** or the favouring of social integration of disadvantaged persons or members of vulnerable groups (***such as long-term unemployed persons, Roma, migrants or younger and older workers***) amongst the persons assigned to performing the contract, including accessibility for persons with disabilities. Any award criteria

involving the design of works, contracting authorities should also be allowed to use as an award criterion the organisation, qualification and experience of the staff assigned to performing the contract in question, as this may affect the quality of contract performance and, as a result, the economic value of the tender.	*pouvoir* **inclure dans les spécifications techniques et dans les critères d'attribution les** *caractéristiques concernant les conditions de travail des personnes participant directement au processus de production ou à la fourniture des produits ou services en question. Ils devraient être appliqués dans le cadre d'une prestation de services, d'une manière qui ne crée pas de discrimination directe ou indirecte à l'égard d'opérateurs économiques d'autres États membres ou de pays tiers parties à l'Accord ou à des accords de libre échange auxquels l'Union est partie. Pour les marchés de services et les marchés incluant la conception d'ouvrages, les pouvoirs adjudicateurs devraient également pouvoir retenir comme* **spécifications techniques et** *critères d'attribution l'organisation, les qualifications et l'expérience du personnel affecté à l'exécution du marché, dans la mesure où elles peuvent avoir une incidence sur la qualité* **et la durabilité sociale** *de la prestation, et donc sur la* **détermination** *de l'offre* **qui fournit le meilleur résultat en termes de rapport coûts-avantages.**	which include those characteristics should in any event remain limited to characteristics that have immediate consequences on staff members in their working environment. They should be applied in a way that does not discriminate directly or indirectly against economic operators from other Member States or from third countries parties to the Agreement or to Free Trade Agreements to which the Union is party. For service contracts and for contracts involving the design of works, contracting authorities should also be allowed to use as an ***technical specifications or award criteria*** the organisation, qualification and experience of the staff assigned to performing the contract in question, as this may affect the quality ***and sustainability*** of contract performance and, as a result, the economic value of the tender. ***Contracting authorities may also integrate into technical specifications or award criteria social considerations relating to external social costs directly linked to the life-cycle, such as the impacts of production on the surrounding environment and adjacent communities. Contracting authorities should lay down in the technical specifications obligations relating to social and employment conditions, health and safety at workplace, social security and working conditions as set out by EU and national laws, regulations or administrative provisions, arbitration award, collective agreement and contracts, and international labour law provisions listed in Annex XI, that apply in the place where the work, service or supply is performed; these obligations shall also apply in cross-border situations,***

		where workers from one Member State provide services in another Member State.

Justification for this proposal:

We consider the indicative list of social considerations provided by the rapporteur of the EMPL Committee opinion is a good one and should be kept. Another example of social considerations could be, where relevant, to include conditions which ensure that volunteers are complementing the work of paid staff and not replacing it.

Social Platform proposal for amendment 6 – Article 66 "Contract award criteria" Tarabella MEP's amendment 114		
Text proposed by the Commission Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which contracting authorities shall base the award of public contracts shall be ***one of the following:*** ***(a)*** the most economically advantageous tender***;*** ***(b) the lowest cost***.	**Text proposed by the rapporteur** Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which contracting authorities shall base the award of public contracts shall be the most economically advantageous tender.	**Text proposed by Social Platform** Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which contracting authorities shall base the award of public contracts shall be the most economically advantageous tender, ***otherwise understood as best value for money.***

Justification for this proposal:

We have the preference for the concept of "best value for money" rather than "the most economically tender", as in the second option the award criterion could be understood as privileging the criterion of costs against other criteria, such as quality, socially sustainable production processes, etc. However, as the MEAT criterion has been in use so far, we agree with keeping it, by giving it the same meaning as "best value for money".

Social Platform proposal for amendment 7 – Article 67 "Life-cycle costing"		
Text proposed by the Commission 1. Life-cycle costing shall to the extent relevant cover the following costs over the life	**Text proposed by the rapporteur**	**Text proposed by Social Platform** 1. Life-cycle costing shall to the extent relevant cover the following costs over the life cycle of a product, service or works as defined in point (22) of Article 2:

cycle of a product, service or works as defined in point (22) of Article 2: internal costs, including costs relating to acquisition, such as production costs, use, such as energy consumption, maintenance costs, and end of life, such as collection and recycling costs andexternal environmental costs directly linked to the life cycle, provided their monetary value can be determined and verified, which may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.		***a)*** nternal costs, including costs relating to acquisition, such as production costs, use, such as energy consumption, maintenance costs, and end of life, such as collection and recycling costs, and ***including social costs, such as precarious work, long working hours, poor health and safety compliance, lack of vocational training*** b) external environmental costs directly linked to the life cycle, ***where possible expressed and verified in monetary value,*** which may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs c) ***New: external social costs, such as impacts of production processes on adjacent communities.***

Justification for this proposal:

Paragraph 1 needs to be more explicit on the possibilities to take into account external social costs. Life-cycle costing is a tool to achieve more efficient public spending, and in some ways to promote sustainable development. It will be valuable for sector-specific life-cycle costing methodologies to be developed by the Commission, but the Directive should be stimulating and endorsing continuing refinement of such methodologies. By making it compulsory to use methodologies established at the Union level, where such exists the Directive constrains contracting authorities who wish to use updated data-points or more comprehensive, innovative methodologies. Therefore this does not maximise the potential of this tool, nor respond to the desire to make this Directive an enabling framework. The safeguards set out in paragraph 2, in addition to the principles of transparency and equal treatment, are sufficient.

Social Platform proposal for amendment 8 – Article 70 " Conditions for performance of contracts"		
Text proposed by the Commission	**Text proposed by the rapporteur**	**Text proposed by Social Platform**
Contracting authorities **may** lay down special conditions relating to the performance of a contract, provided that they are indicated in the **call for competition or in the specifications.** **Those conditions may, in particular, concern social and environmental considerations.** They may also include the requirement that economic operators foresee compensations for risks of price increases that are the result of price fluctuations (hedging) and that could substantially impact		1. Contracting authorities may lay down special conditions relating to the performance of a contract ***and concerning in particular social and environmental considerations,*** provided that ~~they are indicated in the call for competition or in the specifications~~ ***these are indicated in the contract notice.*** … 2. new: ***As regards social and employment protection and working conditions the contracting authorities shall include conditions to ensure the protection of the workers in the place where the work, service or supply is performed, as set out by collective***

the performance of a contract.		***agreements and/ or national legislation or international labour law provisions listed in Annex XI.***

Justification for this proposal:
The proposal for amendment clarifies what contracting authorities may do in order to ensure the necessary social and environmental protections.
Volunteers complement the work of paid staff in social service delivery, adding a unique element of solidarity to social service delivery and in no respects should be used to replace paid staff as a cost-cutting exercise. Non-profit organisations that mobilise volunteers as part of the service delivery mechanism should not be penalised in the case when job-creation is a positive criterion for allocation of tenders.

The Policy Agenda for Volunteering in Europe (P.A.V.E.) includes a recommendation to this regard: "4.1.2 Recognise volunteers as an added value in public procurement procedures in the health and social sector. This would make the ability to mobilise a certain number of volunteers in specific cases a positive criterion in public tenders equal to the creation of new jobs."

7) Improving provisions on abnormally low bids to ensure that working conditions of workers involved in the production of goods, services or works procured are respected

Social Platform proposal for amendment 9 – SEE :Tarabella's report (Amendment 127) and Article 69 of the Commssion's proposal		
Text proposed by the Commission	**Text proposed by the rapporteur:**	**Text proposed by Social Platform**
1. Contracting authorities shall require economic operators to explain the price or costs charged, where all of the following conditions are fulfilled:	1. Contracting authorities shall require economic operators to explain the price or cost changed, were all of the following condition are fulfilled:	1. Contracting authorities shall require economic operators to explain the price or cost changed, were ~~all~~ ***one*** of the following condition ~~are~~ ***is*** fulfilled:
(a) the price or cost charged is more than 50 % lower than the average price or costs of the remaining tenders	(a) the price or cost charged is more than 30% lower than the average price or costs of the remaining tenders	a) the price or cost charged is more than 30% lower than the average price or costs of the remaining tenders
(b) the price or cost charged is more than 20 % lower than the price or costs of the second lowest tender;	~~(b) the price or cost charged is more than 20% lower than the priceor costs of the second lowest tender~~	b) ***the price or cost charged is more than 20% lower than the priceor costs of the second lowest tender***
(c) at least five tenders have been submitted.	(c) at least **three** tenders have been submitted	~~c) at least **three** tenders have been submitted~~

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