

## **Public Procurement Directive revision**

Finnish Energy, representing the Finnish energy industries, would like to highlight the following three issues regarding the public procurement directive (2014/25/EU):

### **1. Simplification and flexibility of rules**

Simplifying and allowing adequate flexibility in public procurement procedures is necessary in order to ensure the continuity of supply of critical assets essential to the energy infrastructures. The current framework is perceived as overly complex, particularly regarding the selection of sellers and the modification of contracts during their term. The imperative of energy transition should be included as a case for amending contracts. We welcome facilitation options like recurring programs and qualification systems, which help reduce administrative burdens.

### **2. Address security of supply, data protection and cybersecurity**

In energy sector procurements, concerns have been raised regarding market access for companies from non-EU nations. The concerns highlight the need to carefully assess the types of restrictions to be placed on such suppliers, particularly in relation to security of supply, cybersecurity, and other critical sectors, especially in light of ongoing geopolitical tensions. Practically, procurements should have greater capabilities to exclude technology from non-EU countries. Current directives do not allow for the exclusion of certain suppliers from procurements where they pose particular risks.

### **3. Lack of competition among suppliers**

From the perspective of the grid industry as buyers, a significant challenge is, to some extent, the lack of competition among suppliers. There is a growing need for more precise, regulated and technically complex core materials, yet the pool of suppliers for many materials is very constrained, with suppliers having substantial market power. The current EU procurement directives are, however, not designed for this type of market dynamic where it is presumed that the contracting entity has market power which needs to be controlled. To address these issues and be able to purchase in the current environment, considerably more flexibility is needed in how tenders are run, and how procurement frameworks are established and operated to achieve greater competition in the long term.

Furthermore, the obligation to re-tender if only one offer is received presents significant challenges. This is the case where there is only a small pool of suppliers on the market, as is the case in many energy sector procurements. The criteria for exceptions, where re-tendering is not necessary, should be clarified.