



PUBLIC CONTRACTS CODE

KEY AMENDMENTS

The Portuguese Public Contracts Code was substantially revised by Decree-Law no. 177/2026, of 4 September, which entered into force on 1 October 2026.

The reform aims to make public procurement simpler, faster and more flexible, introducing relevant changes both to the selection and conduct of procurement procedures and to the performance of public contracts.

For companies that contract, or intend to contract, with the State, municipalities and other public entities, there are several changes that should be taken into account.

Among the amendments with the greatest practical impact are:

- the increase in the thresholds for the use of simplified procedures,
- the introduction of new procurement instruments
- greater procedural flexibility.

Relevant changes have also been introduced in the areas of digital procurement, contract modifications and dispute resolution.

SIMPLER PROCEDURES AND NEW THRESHOLDS

One of the main amendments concerns **the increase in the thresholds for the use of direct awards and prior consultation procedures.**

For public works contracts, direct awards may now be used for contracts with an estimated value below € 150.000,00, while prior consultation procedures may be used for contracts with an estimated value below €1.000.000,00.

For contracts for the acquisition of goods and services, the thresholds are now € 75.000,00 for direct awards and € 130.000,00 for prior consultation procedures.

In practical terms, this means that a greater number of contracts may be awarded through less complex and, in principle, faster procedures.

The revised Code **also introduces a special prior consultation procedure**, requiring invitations to at least five entities, applicable to certain projects, including those relating to European funds, public housing, digital transformation, healthcare, social support and investments considered to be priority or strategic projects.

Another **new feature is the possibility for economic operators to submit unsolicited initiatives to contracting authorities.** For this purpose, they may submit a technical study defining the subject matter of the contract, identifying the public interest pursued and setting out the main terms of the proposal, which the contracting authority must then assess in terms of legality, suitability and feasibility. Such an initiative does not grant any right to be awarded the contract or any

preference in a subsequent procurement procedure, but it creates a new channel for proposing solutions to the public sector.

The reform also seeks to reduce formalities and make procedures more flexible.

Another relevant amendment is the **replacement of the concept of “contract value” with that of “estimated contract value”**, which becomes the relevant reference for the choice of procedure and for determining the body competent to authorise the expenditure. This value must be calculated on the basis of objective economic criteria, including usual market prices, the results of preliminary market consultations or the average costs of previous procedures concerning comparable supplies or services.

The **new regime also strengthens the rules aimed at preventing the artificial splitting of procurement**, requiring related needs or supplies to be considered on an aggregated basis where appropriate.

DIGITAL PROCUREMENT AND CONTRACT PERFORMANCE

The **revised Public Contracts Code significantly strengthens digital public procurement**, providing that contracting authorities must use digital systems, including artificial intelligence tools, in the planning, preparation and conduct of procurement procedures, as well as in the performance of public contracts.

The use of these technologies must, however, comply with requirements relating to transparency and explainability, security,

personal data protection, trade secrets and other confidential information, while also ensuring appropriate human oversight and intervention and the interoperability of the systems used.

As regards contract performance, **the rules governing contract modifications have also been revised**, with the aim of clarifying the circumstances in which a contract may be amended without the need to launch a new procurement procedure. These circumstances include, within the limits established by law, low-value amendments, modifications already provided for in the contract, necessary additional supplies or services, circumstances which a diligent contracting authority could not have foreseen, and amendments that are not considered substantial.

A separate regime now also applies to cases involving an abnormal and unforeseeable change of circumstances, distinguishing such situations from amendments to the contractual terms themselves and providing, where the relevant legal requirements are met, for compensation mechanisms designed to address an exceptional increase in the burden of contract performance.

In the area of dispute resolution, arbitration is now fully voluntary, meaning that a tenderer may not be excluded from a procurement procedure solely because it refuses to accept arbitration as a dispute resolution mechanism.

Technical conciliation committees have also been reintroduced, with a view to preventing disputes or facilitating consensual solutions to

disputes arising from the performance of public contracts.

OTHER RELEVANT AMENDMENTS

The revised Public Contracts Code also introduces several other amendments of practical relevance to contracting authorities and economic operators.

In particular, **the main grounds for the exclusion of tenders are now consolidated in Article 70 of the Code**, bringing together in a single provision grounds that were previously spread throughout the Code and making the applicable rules clearer.

The reform also strengthens the principle of documentary simplification, under which contracting authorities should avoid unnecessary formalities and should not require documents or information that may be obtained through other means. In this context, certain previously mandatory declarations have been removed and the documentation to be submitted by the successful tenderer is expected to be reduced where the relevant information can be obtained by the contracting authority directly.

The **revised Code also strengthens the prior planning of public procurement**, requiring contracting authorities to place greater emphasis on identifying their needs in advance, aggregating purchases and preventing the artificial splitting of expenditure.

As regards contract invalidity, a stricter test now applies where the effects of an invalid contract are to be maintained, requiring the existence of “overriding reasons relating to the general interest”.

The reform also incorporates into the Public Contracts Code several solutions previously contained in the special public procurement measures regime, with Articles 2 to 16 of Law no. 30/2021, of 21st May, having been repealed.

ENTRY INTO FORCE

Finally, attention should be paid to the rules governing the application of the new regime over time.

As a rule, the new provisions apply to procurement procedures initiated from 1 October 2026 onwards and to contracts entered as a result of those procedures.

There are, however, relevant exceptions.

The new rules on objective contract modifications and on alternative dispute

resolution in both pre-contractual and contractual matters also apply to ongoing procedures and to contracts already being performed on the date the reform entered into force.

FINAL NOTES

The revision of the Public Contracts Code therefore represents a significant change to the Portuguese public procurement framework, seeking to combine simpler and more flexible procedures with new instruments for modernization and efficiency.

For companies that contract, or intend to contract, with the public sector, it is important to understand not only the new thresholds and procedures available, but also the new forms of participation in the public procurement market and the impact of these amendments on contracts currently being performed.

Margarida de Albuquerque Castanheira

margarida.ac@caldeirapires.pt