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APPROACHES TO INNOVATION PROCUREMENT



NORTH DENMARK REGION



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APPROACHES TO INNOVATION PROCUREMENT

How to enhance the possibilities for procuring innovative solutions by applying and mixing different innovation procurement approaches available in the procurement directives



APPROACHES TO INNOVATION PROCUREMENT

1. Procurement of R&D vs. procurement of innovation
2. Procurement procedures vs. procurement approaches
3. Examples of approaches to innovation procurement





1. Procurement of R&D vs. procurement of innovation





PROCUREMENT OF R&D VS. PROCUREMENT OF INNOVATION (1)

PROCUREMENT OF R&D

- Exempted from EU procurement directives (i.a. no complex procedures) – art. 14
- Not commercial volumes
- Only test and pilots
- Pre-commercial procurement (PCP or other procedures)

PROCUREMENT OF INNOVATION

- Commercial procurement
- Commercial volumes
- Implementation of market ready solutions (or development and implementation)
- Procurement under the EU procurement directives (procedures) – if above thresholds
- General principles of equal treatment, transparency and proportionality apply



PROCUREMENT OF R&D VS. PROCUREMENT OF INNOVATION (2)

‘Research and development’ (R&D)

Directive 2009/81/EC (Defence and security directive)

Article 1, no. 27

*‘Research and development’ means all activities comprising **fundamental research, applied research and experimental development**, where the latter may include the realisation of technological demonstrators, i.e., devices that demonstrate the performance of a new concept or a new technology in a relevant or representative environment;*

See also recital no. 13.



PROCUREMENT OF R&D VS. PROCUREMENT OF INNOVATION (3)

‘Innovation:

Directive 2014/24/EU (Procurement directive)

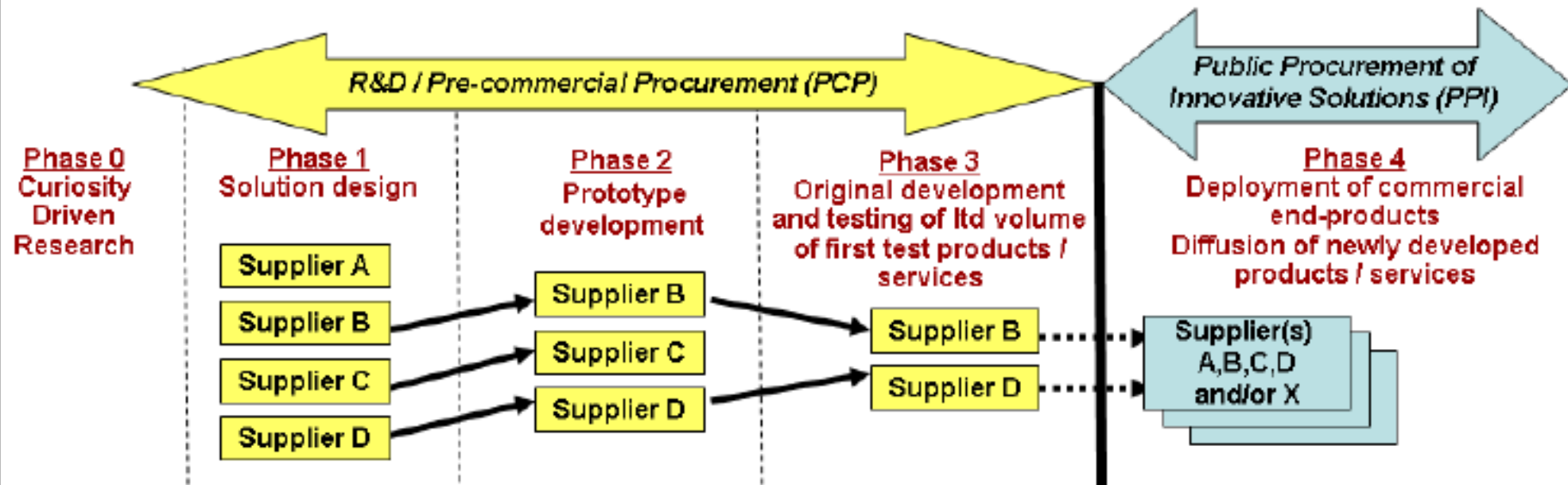
Article 2, no. 22

*‘innovation’ means the **implementation** of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations inter alia with the purpose of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth;*



PROCUREMENT OF R&D VS. PROCUREMENT OF INNOVATION (4)

- ❑ PCP to steer the development of solutions towards concrete public sector needs, whilst comparing/validating alternative solution approaches from various vendors
- ❑ PPI to act as launching customer / early adopter / first buyer of innovative commercial end-solutions newly arriving on the market





2. Procurement procedures vs. procurement approaches





PROCUREMENT PROCEDURES VS. PROCUREMENT APPROACHES (1)

- **Procedures:** The procedures subject to the EU procurement directives
 - Directive 2014/24/EU on public procurement (the new procurement directive)
 - Directive 2014/25/EU on procurement by entities operating in water, energy, transport and postal service sectors (the new utilities directive)
- **Approaches:** How you “utilise” the procedures to achieve innovative solutions in your tender



PROCUREMENT PROCEDURES VS. PROCUREMENT APPROACHES (2)

Relevant procedures for innovation procurement subject to Public Procurement Directive 2014/24/EU

- In principle – **any procedure**
- The obvious procedures
 - Competitive procedure with negotiation (art. 29)
 - Competitive dialogue (art. 30)
 - Innovation partnership (art. 31)
 - Design contest (78)



PROCUREMENT PROCEDURES VS. PROCUREMENT APPROACHES (3)

The less obvious procedures for innovation procurement – but in practice the most utilised (and encouraged) procedures:

- Open procedure (art. 27)
- Restricted procedure (art. 28)

Approaches to innovation procurement can be used **in any procurement procedure** and whether

- your tender aims at **specific innovative solutions** (not yet or newly introduced to the market), **or**
- you want to make your tender **innovation friendly**



3. Examples of approaches to innovation procurement





EXAMPLES OF APPROACHES TO ‘INNOVATION PROCUREMENT’ (1)

‘Preliminary market consultation’

Directive 2014/24/EU, art. 40:

Before launching a procurement procedure, contracting authorities may conduct market consultations with a view to preparing the procurement and informing economic operators of their procurement plans and requirements.

For this purpose, contracting authorities may for example seek or accept advice from independent experts or authorities or from market participants. That advice may be used in the planning and conduct of the procurement procedure, provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.



EXAMPLES OF APPROACHES TO 'INNOVATION PROCUREMENT' (2)

Approach	Description
<p>Preliminary market consultation</p> <ul style="list-style-type: none">• Demonstrations and presentations (supplier visits)• Early Announcement• Forward Commitment Procedure• Supplier review of tender documentation	<ul style="list-style-type: none">• Between announcement and tender: preliminary market consultation (art. 40) – have the industry solutions reached the required readiness (technology, tests, price?)• Crucial for market and technology knowledge• Proactive early announcement of intentions to procure or to deploy innovative solutions• The suppliers get the opportunity to modify or customise their existing solutions or even develop entirely new solutions• Buyer driven innovation without procurement of R&D• Option: Guarantee of minimum procurement volume to increase interest for participating in the later procurement process?• How does the market react on e.g. contract provisions or diversion of IPR?• Consider prior information notice in TED to ensure transparency



EXAMPLES OF APPROACHES TO ‘INNOVATION PROCUREMENT’ (3)

Approach	Description
Functional requirements / open specifications	<ul style="list-style-type: none">• Define technical requirements with the aim of allowing innovation, efficiency improvement, and new ways of thinking – “open specifications”• Suitable for procurement actions following PCP’s or other Public-Private-Innovation projects (art. 14)• Helps to prevent supplier lock-out / supplier lock-in, and disqualifying competitive advantages
Variants (alternative solutions)	<ul style="list-style-type: none">• Allows the procuring authority to evaluate the technical specified solutions but also other “already on the market solutions”• In principal a combined tender with, and without, open (technical) specifications• May visualise differences in price, technology, utilisation etc.
Total Cost of Ownership (TCO), Life-cycle costing (LCC) (art. 68)	<ul style="list-style-type: none">• An evaluation-technical price comprising different aspects of the costs over the life cycle of a product, solution etc.• Focus on data (from the suppliers) and transparent, objectively verifiable and non-discriminatory methods of calculating life-cycle costs• May force suppliers to reduce costs of manufacturing and/or ownership• Demands of TCO or LCC reduction may lead to new innovative solutions



EXAMPLES OF APPROACHES TO ‘INNOVATION PROCUREMENT’ (4)

Approach	Description
Remuneration for participation and shortlisting	<ul style="list-style-type: none">• Increases the incentives for participating and developing/modifying/adapting solutions• Competitive dialog , Innovation partnership (and design contest) • The same mechanisms as in PCP – competitive development - but combined with a public procurement contract• Enhance possibilities for SME’s to participate <p>Always consider the risk of illegal state aid!</p>
Using ‘innovative characteristics’ as evaluation criteria (art. 67 (2) (a))	<ul style="list-style-type: none">• Art. 67 (2) (a): “Such criteria may comprise for instance: (a)...innovative characteristics...”• Awarding suppliers for offering new solutions and may open competition for SME’s• Forcing potential suppliers to take steps towards product development
Joint (cross boarder) procurement (art. 38-39)	<ul style="list-style-type: none">• May gather critical mass for new innovative solutions to to enter the market• Sharing information end expirence among different procuring auhtorities will optimise the technical specifications