



Scientific High-throughput and Unified Toolkit for Trace analysis by forensic Laboratories in Europe

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**Maria KAMPA & Eleni LIANOU,
Center for Security Studies, KEMEA**



Presentation Topics

Innovation Procurement – Theoretical Background

Procurement Strategy under SHUTTLE

Tender Process and Evaluation

Eligibility

Legal Framework



Presentation Topics

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Innovation Procurement

Definitions

- **Pre-Commercial Procurement (PCP)**
 - Purchase of Research and Development (R&D) services by the public sector.
 - Not concerned with the procurement of products or services existing in the market.
 - Focused on R&D phase, which involves solution exploration and design (Technology Readiness Levels-TRL 6-8) and prototyping up to the original development of a limited volume of first products or services.
- **Public Procurement of Innovative Solutions (PPI)**
 - Integration of innovative solutions available in the market into operational deployment.
 - No Procurement of R&D Services.
 - It can be used following a PCP or directly, in case industrial R&D has progressed up to the level at which a first batch of an end product has been produced, validated and made available to market in small quantity, but not commercially deployed on a large scale (TRL 8 and 9).
 - Public procurers act as launch customers/early adopters/first buyers of innovative commercial end-solutions/goods close to the market innovative goods.



Innovation Procurement

Definitions

- **The key requirement for progressing to a PCP**
 - No solution exist yet on the market to meet procurers' needs.
 - An identified public need.
 - A challenge set to the market.



Innovation Procurement

Pre-Commercial Procurement

- Radical innovation, non available solution 'in' or 'close to' the market.
- Different competing potential solutions but still need for R&D to de-risk and compare technological alternatives or approaches.
- No possibility to fix the solution requirements (R&D needed) or to proceed to large scale deployment.
- Procurer wants to induce step change in market (e.g. moving from proprietary/vendor lock-in to better open systems with multiple vendors incl. new players).
- Exempted from public EU Public Procurement Directives, WTO Procurement Agreement (GPA), 90% funding rate reference to specific call since rates may differ (Horizon 2020).



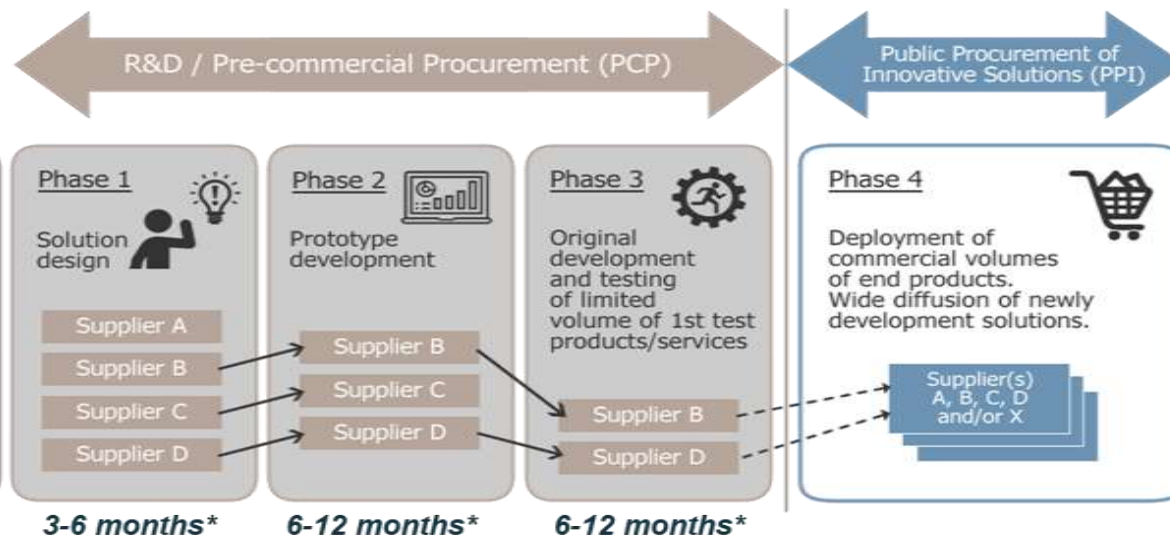
Innovation Procurement

Public Procurement of Innovative Solutions

- Mature technical solutions close to the market.
- Incremental innovation (product adaptation, scaling up of production...) or non-R&D innovation (e.g. service innovation).
- Quality/price, no need for R&D procurement.
- Suppliers could provide solutions if the market would express clear requirements and sufficient demand to purchase.
- Public sector acts as launching customer/early adopter/first buyer and provides seal of approval for the innovative solution.
- Not exempted from EU Procurement Directives– where applicable - / EU Remedies Directives are also applicable, WTO GPA, 35% funding rate reference to specific call (Horizon 2020).



Procurement Strategy - Process Outline_1



Indicative phase durations

3-6 months*

6-12 months*

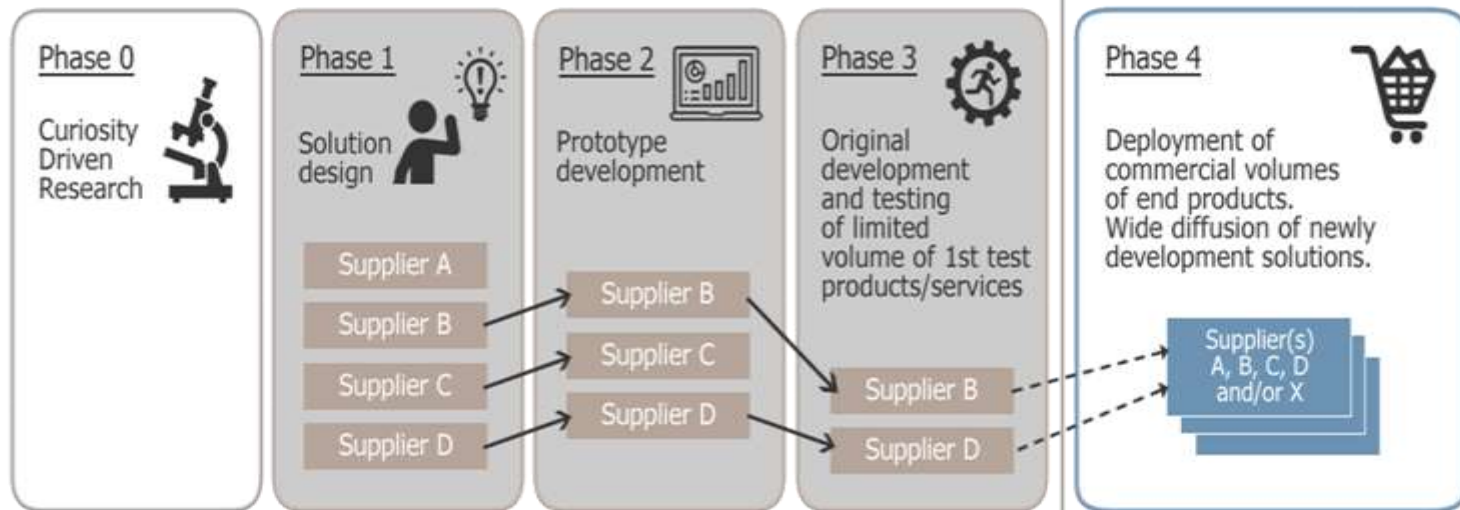
6-12 months*

- Phase 1:** - Solution Design in the context of the technical, economic and organizational requirements
 - Providers will each deliver the required deliverables together with End of Phase Report (for evaluation)
 - Assessment of Phase 1 results (for payment purposes) / provider's successful completion of Phase
 - Invitation for Bid submission in the context of Phase 2
 - Evaluation of Bids and award phase 2 contract
- Phase 2:** - Development of prototype and test in lab conditions
 - Providers will each deliver the required deliverables together with End of Phase Report (for evaluation)
 - Assessment of Phase 1 results (for payment purposes) / provider's successful; completion of Phase
 - Invitation for Bid submission in the context of Phase 3
 - Evaluation of Bids and award phase 3 contract
- Phase 3:** - Development of first limited set of products
 - Providers will each deliver the required deliverables together with End of Phase Report (for evaluation)
 - Assessment of Phase 1 results (for payment purposes) / provider's successful; completion of Phase 3

- Phase 4:**
 - ✓ Commercialization of solutions developed during the PCP by companies/consortia
 - ✓ Procurement of such a commercial solution
 - ✓ Publication of the PPI contract notice
 - ✓ Selecting suppliers and awarding the Contract(s)

PPI Process





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PPI Process



Procurement Strategy - Process Outline_2

Needs Identification / Assessment

- Identify unmet need or set of needs
- Conduct prior art analysis
- Investigate IPR, Regulation, Standardization, Certification
- Validate identified needs & Build Business Case

Open Market Consultation

- Notification of Open Market Consultation via publishing a PIN
- Consulting with other public authorities
- Prior definition of requirements & procurement outline
- **Open Market Consultation Workshop** → Finalization of Tender Docs

Publication of Contract Notice

- Start of the tendering process
- Raise awareness towards the PCP
- Allow for enough time prior to the tendering process
- Use of standard template provided by EU

Request for Tenders

- Project Description
- Project Plan, methodology, team
- Commercialization plan
- Price (Incorporating the IPR dimension)

Selection of R&D providers and awarding of framework agreement

- Open Bids received within deadline
- Evaluate Bidders against exclusion/selection criteria
- Evaluate Bids against award criteria
- Awarding of framework agreement and Phase contracts



Pre-Commercial Procurement Process Outline_3

Phase 1: Solution Design - Key Actions

- R&D providers will be engaged in the design of the potential solution and verify the technical, economic and organizational feasibility of the proposals in order to address the PCP challenge defined in the pre-tendering phase.
- Each of the participating R&D providers will be requested to deliver the outputs of their work (e.g. copies of designs, drawings, calculations , plans etc.) along with an End-of Phase 1 report incorporating all activities of the phase as well as a presentation of the relative results.
- A business/commercialization plan should also be requested.



Pre-Commercial Procurement Process Outline_4

Phase 1: Solution Design - Key Actions

- The Contracting Board will assess the aforementioned results and upon indication of a satisfactory completion, will provide a recommendation regarding their adequacy for payment purposes.
- The Contracting Board will also assess which R&D providers have successfully completed the current phase and thus are eligible for bidding towards phase 2.
- Upon successful completion of the evaluation process, the board will proceed to the awarding of phase 2 contracts.



Pre-Commercial Procurement Process Outline _5

Phase 2: Prototype Development - Key Actions

- R&D providers will be engaged in the development of a prototype and will subsequently test the said prototype in lab conditions. The testing process will take place in either the provider's lab or the procurer's lab as selected by the procurer.
- Each of the participating R&D providers will be requested by the hosting procurers to deliver the outputs of their work (e.g. software code of simulations, data lists, updated lists of IPRs etc.) along with an End-of Phase 2 report incorporating all activities of the phase in discussion along with a presentation of the relative results (e.g. product specs, test prototype production plan etc.).



Pre-Commercial Procurement Process Outline _6

Phase 2: Prototype Development - Key Actions

- The Contracting Board will assess the aforementioned results and upon indication of a satisfactory completion, will provide a recommendation regarding their adequacy for payment purposes.
- The Contracting Board will also assess which R&D providers have successfully completed the current phase and thus are eligible for bidding towards phase 3.
- The Contracting Board , upon successful completion of the evaluation, will proceed to the awarding of phase 3 contracts.



Pre-Commercial Procurement Process Outline_7

Phase 3: Dev./Test of ltd. set of products - Key Actions

- The successful phase 2 R&D providers will produce an initial limited set of products /services and after testing by the procurer in relevant environments / operational conditions. Such field testing results will then be incorporated in updating the product / producing a final limited set suitable for large scale production (following the PCP).
- Each of the participating R&D providers will be requested by the hosting procurers to deliver the outputs of their work (e.g. completed series of tested end-products, updated lists of IPRs) along with an End-of Phase 3 report that will incorporate all activities of the phase in as well as a presentation of the relative results (e.g. final product specs, tested products/ services production plan, refined production/commercialization plans etc.).



Pre-Commercial Procurement Process Outline_8

Phase 3: Dev./Test of ltd. set of products - Key Actions

- The Contracting Board will assess the aforementioned results and provide a recommendation regarding their adequacy for payment purposes.
- The Contracting Board will also assess which R&D providers have successfully completed the current phase.



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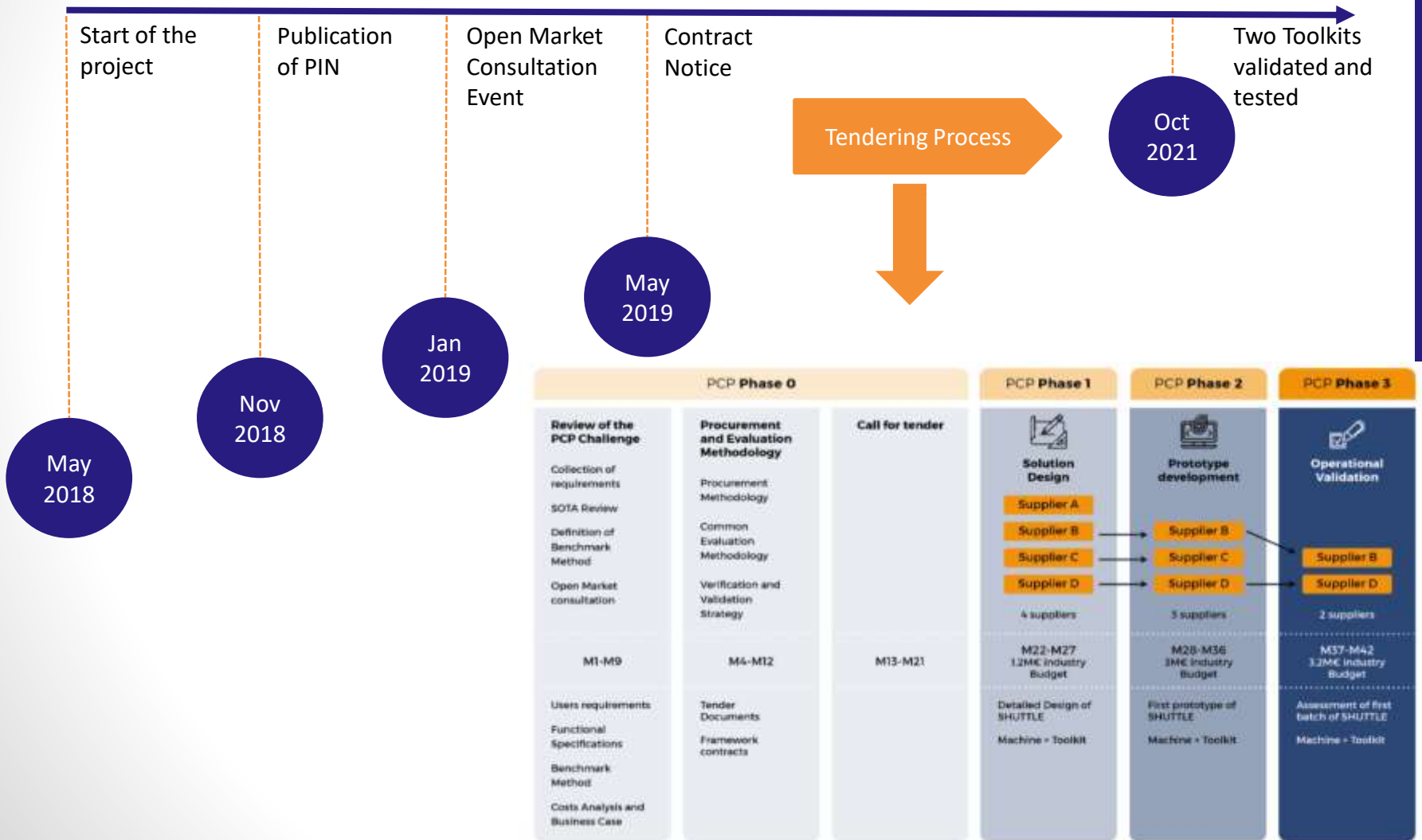
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Timeline



Procurement Methodology

SHUTTLE confirms that the procurement methodology will be implemented in compliance with the specific requirements for the implementation of Horizon 2020 co-funded PCPs and with the Model of Grant Agreement for PCP actions, following the below steps:

- **Step 1:**

- Prepare common tender specifications based on a “hybrid model” which takes into consideration the findings of the Open Market Consultation and the Buyers Group set of common tender specifications and conditions of participation to the procurement.
- The formulation of the tender ensures that all the solutions discussed, will be covered in the final specifications.



Procurement Methodology_1

- **Step 2:**

- Make a Contract Notice that is published by the Contracting Authority in the Official Journal of the European Union.
- The said document will be in English specifying that the procurement concerns a pre-commercial procurement that is exempted from Directive 2014/24 and 2009/81 and indicating the way that potential tenderers can take part in the 'Request for Tenders'.
- The Contract Notice will be promoted and advertised widely using in particular Horizon 2020 Innovation Procurement Newsletter, H2020 Internet sites and National Contact Points.
- According to the tendering rules and procedures, in case of an open public procurement procedure, the minimum time limit for submission of tenders **is 35 days** from the publication date of the contract notice.

The selected approach for ensuring effective/ timely evaluation of proposals and contracting will be stated in the project's ToR.



Procurement Methodology_2

- **Step 3:**

- All the necessary tendering documentation will be made public, according to the plan and the procedures defined.
- A request for tenders will be published, inviting all interested economic operators to participate in the tendering process.
- The request for tenders takes into consideration the findings of the open market consultation and describes the common challenge, using functional and performance based specifications, being in line with the requirements defined in project.
- The request for tenders describes also the process for the evaluation and selection of the tenderers for the first PCP Phase, the intermediate evaluations for each following PCP Phase, the minimum requirements that subcontractors must comply with during the PCP and the arrangements for intellectual property rights, confidentiality, publicity, rules on applicable law and dispute settlement.
- Before the deadline to deliver the proposals, the Consortium will be engaged in supporting the potential contractors, namely by answering questions related to the call for tender.

For this reason, a Q&A form is available in the project website.



Procurement Methodology_3

- **Step 4:** Evaluation and ranking of the tenders according to best value-for-money criteria and ensuring that the price corresponds to market conditions.
- **Step 5:** Subcontracting awards to a minimum of four (4) tenderers that will be sufficiently evaluated from the technical and financial perspective in step 4. After that, framework agreements (one agreement per selected tenderer) will be signed between the Contracting Authority (CA) and the selected tenderers, setting the terms and conditions.
- **Step 6:** Make a contract award notice which will be published, within 48 days after conclusion of the framework agreements, by the CA in the Official Journal of the European Union.



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Common Evaluation Criteria Methodology

Step 1: Definition of the exclusion criteria based on the provisions in the EU procurement directives.

Step 2: Definition of the selection criteria in compliance with the Treaty principles which are primarily related to (i) the suitability of the bidders to perform the professional activity, (ii) the economic and financial standing of the bidder and (iii) the technical and professional ability

Step 3: In addition to the price, the definition of the award criteria takes place in this step, in compliance with the Treaty principles of equal treatment and transparency. These include for example criteria based on the quality, impact and implementation of the submitted proposals. The quality part could refer to the ability to address the challenge raised in the tender, the novelty/ innovativeness of the proposed solution approach (progress beyond state-of-the art) and the technological soundness of the solution concept.

The impact part could refer to the added value for society/economy, the soundness of the commercialization plan etc., while the implementation part could refer to the quality and effectiveness / appropriateness of the proposed R&D work plan and resource allocation.



SHUTTLE Tendering Bodies

- Contracting Authority (CA) : KE.ME.A
- Contracting Board : SHUTTLE Forensic Laboratories & CA
- Technical Board : SHUTTLE Forensic Laboratories & CA
- KEMEA-SHUTTLE Procurement Board



Tender Procedure and Evaluation_1

The **Open Procedure** has been adopted. The tendering process will be conducted in **1 stage** that will include:

- Tenderers' solvency.
- Financial and Technical evaluation – Award of the contracts.

The ToR document is published with all necessary information in order for the industry to understand the scope of the tender. Also the ToR defines in detail the Operational Validation process, the operational/technical requirements, the specifications, the technical and economic criteria that will be used to evaluate the tenders in order to extract the most economically advantageous ones on a best price-quality ratio. The Terms of Reference is assumed as the principal document of the Tender and all its provisions shall remain fully valid and applicable during the whole tender process (including possible Corrigendum Notices and the Q&A as published in the website) unless otherwise clearly stated.



Tender Procedure and Evaluation_2

- The economic operators will submit a request to participate containing all the information requested in the tender document.
- Exclusion grounds will allow us to exclude candidates from participation, in case that the economic operators have been subject of a conviction by final judgment for the reasons referred to Selection Criteria will then be used in order to evaluate the candidates on their suitability to pursue professional activity, their economic and financial standing, and their technical and professional ability.
- KEMEA – SHUTTLE Procurement Board will evaluate the Solvency documents of the participants. Then, it will submit its opinion to the Contracting Board for final decision.



Tender Procedure and Evaluation_3

- The technical evaluation process of the tenders will be carried out by relevant committees that will result in a unique and joint evaluation report based on consensus.
- Those tenders which exceed the maximum amount allowed for the financial tender shall not be taken into consideration. The CA may require justification by those tenderers offering an extremely low financial tender. Such justification shall detail the conditions applicable to that tender.
- The contracts will be awarded to the tenders showing the best value for the money, that is to say, to the tender offering the best price-quality ratio using scoring model which includes evaluation criteria with automatic evaluation and evaluation criteria based on value judgement.
 - Financial evaluation will be done using criteria which are automatically evaluable.
 - Technical evaluation will be done following criteria based on value judgement.



Tender Procedure and Evaluation_4

- If the tenderers fails to provide documentation on any of these award criteria, or do not fulfil all the requirements, their proposal will not be assessed with respect to the criterion in question.
- The maximum scoring obtained after the proposal evaluation shall be 100 points, where:
 - 20 percentage points correspond to the Financial Proposal, and
 - 80 percentage points correspond to the Technical Proposal

Following the Scoring Model:

$$Li = 80 * (Ti /Tmax) + 20 * (Fmin/Fi)$$

Where

Tmax	Technical Score of the Best Technical Tender
Ti	Technical Score of the Tender i
Fmin	Lower Price of all Tenders
Fi	Price of the Tender i
Li	Total Score of the Proposal i rounded to two decimals places.



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Entitled to Participate_1

- Participation in the tendering procedure is open on equal terms to all types of operators, regardless of their size or governance structure. Tenders may be submitted by a single entity or in collaboration with others. The latter can involve either submitting a joint tender or subcontracting, or a combination of the two (2) approaches.
- Concretely:
 - Natural persons residing in one of the following countries:
 - EU and EEA (European Economic Area) member states.
 - H2020 Associated Countries having signed a Bilateral Agreement with the EU on security procedures for exchanging and protecting classified information
 - Legal entities established under the law of the following countries and having their central administration or principal place of business or registered office (seat) in one of the following countries:
 - EU and EEA (European Economic Area) member states.
 - H2020 Associated Countries having signed a Bilateral Agreement with the EU on security procedures for exchanging and protecting classified information
 - Groups of economic operators of the above natural persons or legal entities, submitting a joint tender.





Entitled to Participate_2

- Tenders will be excluded if they fall within one of the following categories, relating to the structure of groups of operators:
 - Where a single economic operator or affiliated entity is participating within more than one group of operators or both as single tenderer and as a member of a group of operators.
 - Where a single economic operator or affiliated entity has already participated as a subcontractor or partner in SHUTTLE project.
- Affiliated Entity means any legal entity directly or indirectly controlling, controlled by, or under common control with that economic operator or its subsidiary, for so long as such control lasts.



Exclusion Grounds_1

Economic operators **will be excluded** from participation if they have been the subject of a conviction by final judgment for one of the following reasons:

- Participation in a criminal organisation (as defined in Article 2 of Council Framework Decision 2008/841/JHA).
- Corruption (as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the EU and Article 2.1 of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the national law of the Lead Procurer or the economic operator).
- Fraud (within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests).
- Terrorist offences or offences linked to terrorist activities (as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision).



Exclusion Grounds_2

- Money laundering or terrorist financing (as defined in Article 1 of Directive 2005/60).
- Child labour and other forms of trafficking in human beings (as defined in Article 2 of Directive 2011/36).
- Where the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under national laws and regulations.
- Where the CA can demonstrate by appropriate means that the economic operator is guilty of grave professional (Legal or administrative finding of a commission of an act of grave misconduct in the course of business), which renders its integrity questionable.



Exclusion Grounds_3

- Where the CA has sufficiently plausible indications to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition.
- Where a conflict of interest (within the meaning of article 24 of directive 2014/24) cannot be effectively remedied by other less intrusive measures.
- Where a distortion of competition from the prior involvement of the economic operators in the preparation of the procurement procedure cannot be remedied by other, less intrusive measures.
- Where the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity or a prior concession contract which led to early termination of that prior contract, damages or other comparable sanctions.



Exclusion Grounds_4

- Where the economic operator has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, has withheld such information or is not able to submit the supporting documents required.
- Where the economic operator has undertaken to unduly influence the decision-making process of the Contracting Authority, to obtain confidential information that may confer upon it undue advantages in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.



Exclusion Grounds_5

- Failure to obtain and maintain relevant licensing or membership of an appropriate trading or professional organisation where required by law.
- Failure to provide information required or providing inaccurate / misleading information when participating in procurement exercise.
- Failure to fulfil obligations related to payment of social security contributions and/or taxes.

**Beyond the eligibility and exclusion criteria outlined above,
- Details in accordance, to the set of selection and award
criteria will be also foreseen and thoroughly explained in
the Terms of Reference (ToR), taking into consideration the
consecutive PCP Phases.**



Indicative Selection Criteria

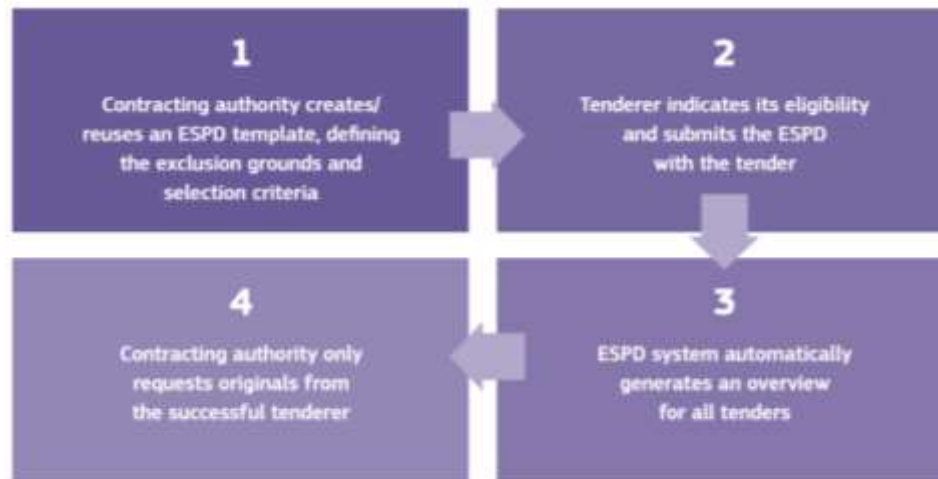
Economic operators must have:

- The capacity, tools, material and equipment to:
 - Carry out research and lab prototyping.
 - Produce and supply a limited set of first products or services and demonstrate that these products or services are suitable for production or supply in quantity and to quality standards defined by the procurers.
- The financial and organisational structures to:
 - Manage, exploit and transfer or sell the results of the PCP (including tangible and intangible results, such as new product designs and IPRs) and generate revenue by marketing commercial applications of the results (directly or through subcontractors or licensees).
- An economic and financial capacity to complete the project.



European Single Procurement Document

European Single Procurement Document (ESPD): The ESPD is a self-declaration of the economic operator's financial status, abilities and suitability for a public procurement procedure. It is available in all EU languages and used as preliminary evidence that the tenderer meets the conditions required in public procurement procedures. Thanks to the ESPD, tenderers no longer have to provide full documentary evidence and all the different forms previously used in EU procurement. This means access to cross-border tendering opportunities is now significantly simpler. As of October 2018, the ESPD must exclusively be provided in electronic form



Additional documentation may additionally be required by potential tenderers. Specific directions shall be provided in the context of the TOR.

IPRs_1

Shuttle proposes an IPR approach which is fully aligned with the fundamentals of PCP. The partners will therefore set up the suitable mechanisms that will allow sharing risks and benefits between the Contracting Authority and the PCP contractors. Those mechanisms will be based on the following principles:

- The ownership rights of IPRs generated by a supplier during the contract will be assigned to that supplier.
- All the Consortium members, and the institutions of the European Union, will be assigned a **worldwide free and non-exclusive license** to use the R&D results for internal use. These licenses **will be irrevocable**.



IPRs_2

- A **call-back provision** will ensure that ownership rights of IPRs that are not exploited within four (4) years after the finalization of the contract will return back to the Consortium members.
- Any of the Consortium members can request the contractors to offer licenses to third parties under fair and reasonable conditions with consideration of the rights of other third parties that do not accrue to the contractors.
- The price of the R&D Services provided will be considered as a market price, which includes a financial compensation according to market conditions compared to exclusive development price.



Official Language

- The Official Language of the Tender is **ENGLISH**.
- Requests to Participate and Tenders must be written in English only.
- Deliverables must be written in English only.
- Communication (relating to either the tender procedure or the implementation of the contract) must be carried out in English only.



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Tender Legal Framework_1

On the basis of article 14 of Directive 2014/24 and Article 13 of Directive 2009/81, the tender falls outside the scope of application of the directives. In this regard and in order to ensure the maximum transparency and competition of tender, SHUTTLE consortium chose to adopt the following basic principles:

- Compliance with all general principles of EU public procurement law, mainly the principle of transparency, equal treatment, non-discrimination, proportionality, protection of free and undistorted competition, without strictly following the procedural obligations set forth by Directive 2014/24.



Tender Legal Framework_2

- Maximization of the publicity of the contract by advertising it in the Official Journal of the European Union, with the concrete remark that the tender is not following the scope of application of the directive 2014/24.
- Exception of the tender from the scope of application of Greek relevant legislation on the basis of article 14 of Law 4412/2016 (OJ A 147) and of article 17 of Law 3978/2011 (OJ A 137).
- Exempted from WTO GPA.
- The decision to adopt an open procedure has been made.



Tender Legal Framework_3

- Unawareness of any of the terms and conditions of the tender documents, as well as the annexes to the documents forming part thereof, does not relieve the contractors from the strict compliance with their obligations.
- The tender and any dispute or claim arising out of or in connection with it or its subject matter or formation (including contractual/non-contractual disputes/claims) shall be governed by the Terms of References (ToR) and construed in accordance with the general principles of EU public procurement law and Greek legislation.
- The courts of Greece shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this tender or its subject matter or formation (including contractual/non-contractual disputes/claims).



Tender Legal Framework _4

- The Joint Procurement Procedure shall be set up in accordance with the provisions of the 2014 state aid framework for R&D&I (C (2014) 3282).
- The Joint Procurement Procedure shall be designed in accordance with the provisions of the EC governing PCP, such as the Communication (COM (2007)799). In particular it has to be implemented according to:
 - The price paid for the relevant services fully reflects the market value of the benefits received by the public purchaser and the risks taken by the participating providers.
 - The selection procedure is open, transparent, competitive and non-discriminatory, and is based on objective selection and award criteria specified in advance of the bidding procedure.



Tender Legal Framework _5

- The envisaged contractual arrangements describing all rights and obligations of the parties, including with regard to IPR, are made available to all interested bidders in advance of the bidding procedure.
- The procurement does not give any of the PCP contractors any preferential treatment in the supply of commercial volumes of the final products or services to a public purchaser in the Member State concerned.



SHUTTLE PCP

Benefits for the Market_1

- Opening a route-to-market for new players/SMEs.
- Helping also larger market players bring products to the market.
- Relevance to universities & bringing scientific results to market.
- Stimulating cross-border company growth.
- Encouraging commercialisation – budget efficiency.
- Creating growth and jobs in Europe.



SHUTTLE PCP

Benefits for the Market_2

- The power of the public pursue can open up market/sales opportunities for innovative companies in Europe.
- Public sector can act as launch customer to help start-ups in Europe scale up and finally go to market.
- Demand driven Innovation (through Procurement) helps shortening time-to-market for innovative products/services.



Thank you for your attention!

ANY QUESTIONS?

