

Public Procurement of Innovation procedure selection



The term "**innovation procurement**" refers to **any procurement process that involves acquiring the innovation process** (including R&D services) or **the outcome of the innovation**. Jacob Edler defines **public procurement of innovation as the use of the public sector's purchasing power** to demand and procure innovative products or services that are not yet available on the market, thereby simultaneously **meeting public needs and fostering market innovation**. This strategic approach stimulates private sector innovation by creating demand for novel solutions, contributing to broader economic and societal goals. Such procurement can be implemented through award criteria linking innovation to the contract's subject matter or in accordance with Article 42 of the Public Procurement Directive, which establishes technical specifications.

Additionally, the Directive provides a range of procedures, so it is important to distinguish between them and select the most appropriate one depending on the degree of innovation inherent in the goods in question and the different actors involved

The first of these procedures is the **Innovation Partnership Procedure** ([Article 31*](#)).

This procedure allows public buyers to procure both R&D and the resulting innovative **solution in one step, reducing administrative costs and mitigating procedural risks associated with two-step procurement**. This procedure is ideal when specific works, products, or services cannot be achieved through existing market solutions.

Structured in **three phases**, it begins with the selection of a partnership of suppliers, followed by a research and development phase where suppliers compete to develop optimal solutions, and concludes with the commercial phase, in which **the public buyer acquires the solution that best meets its needs**.

By fostering collaboration among diverse partners and pooling capabilities, this approach increases the likelihood of delivering complex, innovative solutions.



Another one is the **competitive procedure with negotiation** ([Article 29*](#)), a restricted procedure focused on refining offers on the basis of award criteria.

- **Publication of the Tender Notice:** The process begins with the publication of a tender notice, which should include the public buyer's intention to acquire an innovative product or service, the award criteria, and the performance conditions.
- **Reduction of Qualified Candidates:** In accordance with Article 65, public buyers may reduce the number of qualified candidates invited to participate in the procedure.
- **Submission and Negotiation of Offers:** Selected participants are invited to submit their initial offers and negotiate the technical and financial aspects of the solutions.
- **Proceeding with Eligible Candidates:** If the number of candidates is below the minimum established, public buyers may proceed with those who meet the conditions but not with those who did not apply or do not meet the criteria. The number of tenderers will be further reduced based on results and award criteria.

Once the public buyer wishes to conclude negotiations, the remaining tenders should be informed of the deadline for submitting a new or revised offer.

Another is the **competitive dialogue** ([Article 30*](#)), a procedure designed for complex projects where public buyer is unable to define the technical specifications precisely in advance.

- **Dialogues take place** - In the initial phase, the public buyer engages in dialogue with participants who meet the minimum requirements, following the publication and evaluation process by applying the award criteria laid down in the contract notice or in the descriptive document. Through this dialogue, the public buyer explores and refines solutions, which is its innovative potential.
- **After dialogues, CA sets final Technical Specifications** - Once the public buyer considers that the competitive dialogue has reached an optimal stage, the remaining participants are invited to submit their final bids.
- **Only 1 bidding round and one assessment** - After the final bids are submitted, a single evaluation determines the award of the contract.

In conclusion, although the EU legal framework does not enforce the use of any specific procedure, the choice of the most appropriate procedure to achieve the desired objective is essential. Factors such as **Technological Readiness Level (TRL) stages of the R&D process can be used as a guide**. For example, the further the innovation is to market readiness, the more appropriate the use of the **Innovation Partnership** may be, and the need to create or secure a market for the resulting innovation will also play a key role in the decision.

Careful consideration of these elements will ensure that the chosen procedure aligns with the objectives of promoting innovation and meeting specific procurement needs. To know more about these procedures, access the following link to this report published by the European Commission: **[PUBLIC PROCUREMENT PROCEDURES AND INSTRUMENTS IN SUPPORT OF INNOVATION*](#)**.

Learn more about

Do you want to know more about Innovation Procurement? Do you want to learn how to select the best procedure based on your needs?

- ✓ Let's adopt a strategic procedure to drive innovation and create opportunities for sustainable growth.
- ✓ Let's understand the market: An essential step for effective procurement of innovative solutions.

Coming up next:

MARCH 2025 - How to build collaboration by fostering PPI strategy?

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