# eafip

## The *eafip* innovation procurement Toolkit

### *Brussels, 4th of December 2015*

# The *eafip*-initiative

▶ The *eafip* initiative focuses on promotion of the benefits of innovation procurement, as well as training and assistance to public procurers with a concrete interest in implementing innovation procurements of ICT based solutions across the EU during 2015-2017.

▶ It aims to promote the benefits of and best practices in innovation procurement across Europe to encourage public procurement innovative ICT solutions.

# The *eafip*-initiative: key-components

1. Identification and establishment of contacts with key public procurers of ICT based solutions across Europe across different sectors of public interest, gathering information about their needs for innovative solutions and awakening their interest in undertaking innovation procurement      .

2. Preparation of a Toolkit to assist policy makers, public procurers and legal services in how to support, design and implement PCP and PPI procurement procedures      .

3. Provision of assistance to selected procurers in the design and implementation of a PCP or PPI procurement      .

4. Organisation of 3 major EU-wide events to raise awareness about PCP and PPI initiatives across Europe and to discuss new ideas and initiatives for EU-wide cooperation on PCP and PPI      .

5. Organisation of 9 workshops across Europe specifically targeted at providing procurers with access to good practice approaches and hands-on support      .

# The *eafip*-initiative:
# the sectoral approach

▶ Construction, housing and community amenities

▶ Health and social protection

▶ Education, recreation, culture and religion

▶ Environment

▶ General public / services – public administration – economic and financial affairs

▶ Public order, safety and defence

▶ Exploration, extraction, production, transport and distribution of energy such as electricity, gas, heat, oil, coal, other solid fuels

▶ Transport services such as railway, urban railway, tramway, trolleybus, bus services, airport and port related activities

▶ Water

▶ Postal services

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European Assistance For Innovation Procurement

# The *eafip*-initiative

▶ DG CONNECT

▶ 2015-2017

▶ Stella Consulting & Corvers

▶ Dedicated website:

# www.eafip.eu

▶ Procurement forum

▶ Twitter

# *eafip* INITIATIVE

# Events & Workshops

▶ **3 cross-sectoral events (two-days conference)**

Paris-event, October, 27th and 28th, 2015:

explaining & understanding the Innovation
Procurement policy perspective both from an EC level
as from a national & regional level

▶ **3 webinars (as follow-up on event)**

December 14th, 2015

▶ **9 sectoral workshops ( 1 day)**

Manchester (UK), health, November, 24th, 2015

Leeuwarden (NL), water, February, 7th, 2016

# Local assistance I

▶ Supporting activities

▶ Senior level and limited support

▶ Pending process on analysing contracting authorities needs

▶ 6 PCP

▶ 6 PPI

# Local assistance II
# What kind of assistance is needed ?

▶ Questions for support (example):

1. Strategic level:

   understanding the concept of Innovation Procurement and how that interrelates with the CA's vision and strategy

2. Tactical level:

   set up of a innovation procurement & contracting strategy;

   Set up of market consultations / dialogue

3. Operational level:

   Questions regarding evaluation schemes

   Questions regarding contractual clauses etc.

# Interaction between local assistance & toolkit

▶ FAQ-list (living document) (website)

▶ Updated on basis of experiences:

    Local assistance

    Modifications of toolkit

# *eafip* TOOLKIT OBJECTIVES - THE "WHY WE DID IT"

- Explain innovation procurement

- Clarify and demonstrate the principles and the benefits of innovation procurement

- Provide best procurement practices for the implementation of innovation procurement projects

# *eafip* TOOLKIT BASIS - THE "HOW WE DID IT"

Searching for Best Practice

- Legislative & policy review (EU directives, Commission Communications, policy documents, economic studies etc.)

- Literature review

- Information gained during conferences

- Case studies, best practices and lessons learned from completed and/or on-going innovation procurement projects

- Latest trends in innovation procurement methodologies and practical experiences

# *eafip* TOOLKIT BASIS - THE "HOW WE DID IT"



- User friendly
- Clear
- Concise
- Checklists
- Text
- Images/diagrams
- Text boxes including case examples
- Cross references

# *eafip* TOOLKIT - THE "HOW IT LOOKS"

## Why prior analysis and IPR search are important

### Prior art analysis

Once the needs of the public procurers have been identified, a prior art analysis should be conducted. This should include a review of the existing literature (studies, projects, scientific publications (if applicable) etc.) in order to gain an in-depth understanding of the prior art. The prior art analysis is led by the needs identified at the previous stage (see section 2.2 above).

There are several reasons to undertake this step:

- it reveals if the solutions to the identified need are already available or will already become available before the planned procurement will start;

- it helps validating the identified need(s);

- it helps confirming the novelty of the identified need(s).

If prior art analysis reveals that solutions are already available or will already become available before the planned procurement will be started, then there is no more need to build a business case for the innovation procurement nor to start an open market consultation.

### IPR search

Additionally, an IPR search, in the form of a patent search is equally important. This is because:

- it is a way to safeguard the fact that the technological solutions to be developed during the planned project are innovative and can thus be protected by IPR;

- alternatively, it will reveal whether there is a provider who owns all IPR needed to develop the solution to the identified need(s).

# *eafip* TOOLKIT - THE "HOW IT LOOKS"

| STEP-BY-STEP PROCESS | CHECKLIST / TO DO LIST | QUESTIONS TO ANSWER | INSTRUMENTS |
|---|---|---|---|
| Needs identification and assessment | - Start early<br>- Everything starts with a need<br>- Make sure it is an unmet need<br>- Recognize unmet needs and opportunities<br>- Make sure the need it clearly identified and it responds to a societal challenge<br>- Define outcome-based requirements | ➤ Did I identify the correct need?<br>➤ Is the meet unmet?<br>➤ Did I pull unmet needs and opportunities into focus?<br>➤ Does the need meet a societal challenge for which I am responsible? | ▪ WIGBI approach<br>▪ Workshops with customers<br>▪ Identify-Validate-Verify approach<br>▪ Methodology used to identify and assess needs<br>▪ Relevant section in the Toolkit |
| Constructing a business case | - Plan wisely<br>- Allocate resources<br>- Calculate available budget | ➤ Did I carefully consider all resources needed for the implementation of the project?<br>➤ Is the business case viable and sustainable?<br>➤ Do I have the required resources? | ▪ Business case template<br>▪ Relevant section in the Toolkit |
| Conduct market consultations | - This is the moment to validate the identified need<br>- Make sure to clearly differentiate the market consultation from the tender procedure<br>- Build trust between the public and the private sector<br>- Involve end users | ➤ Is there a solution ready available to meet the need?<br>➤ If not, is it possible to develop a solution to meet the need?<br>➤ Does the technology exist on the market or does it need to be created / developed?<br>➤ Is the business case viable?<br>➤ Is PCP the right procurement model or is PPI better?<br>➤ Did I secure transparency, equal treatment and non-discrimination for all parties? | ▪ Templates<br>▪ Best practices examples and fact sheets<br>▪ Relevant section in the Toolkit |

# *eafip* TOOLKIT BASIS - THE "HOW IT LOOKS"

! Whereas a patent search would complement the market consultation exercise, it is most suitable to undertake an IPR search before starting an open market consultation [*link to section 2.3 prior art analysis and IPR search*].
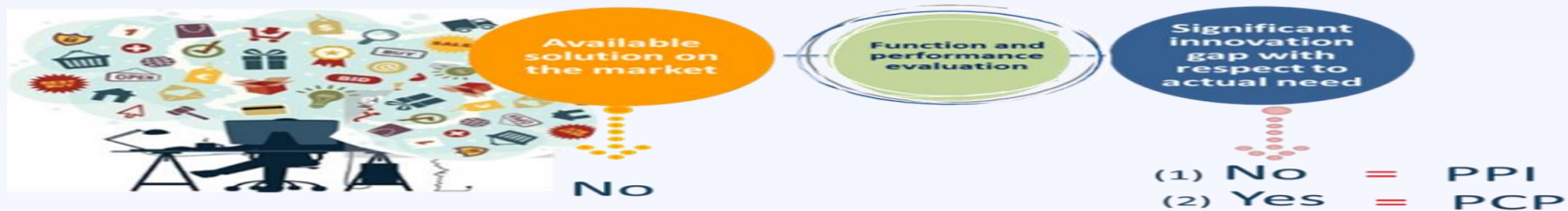


In order for the open market consultation to result in the a clear overview of the suppliers' potential to provide innovative solutions, keep in mind that:

- the identified needs must be communicated **openly** and **clearly**, by means of performance/output based specifications (see also section 2.2.3 above);
- specific technologies that the public procurers have become aware of should be mentioned by means of examples;
- the suppliers should be allowed sufficient time to respond;
- the invitation to participate in the market consultation has to specifically mention the desire for an innovative outcome.

### Example of a market consultation approach

**1st step** – Create an online platform in order to collect information (by means of an online questionnaire) about the innovative solutions available on the market. The HAPPI online platform (DARS) was open for submission from end September 2013 until end January 2014 (http://www.happi-project.eu/happi-platform).**2nd step** – Informed the European companies, and especially SMEs, about the project and the HAPPI platform. 4 INFODAYS were organized in 4 European Countries (UK, France, Italy and Austria) from September 2013, to December 2013. **3rd step** – In February 2014, 3 Experts Committees were organized in 3 European cities (London, Turin and Paris). It was decided to create separate meetings in different countries in order to capture the country-related approaches, sensitivities and point of views. *Source: HAPPI project:* www.happi-project.eu
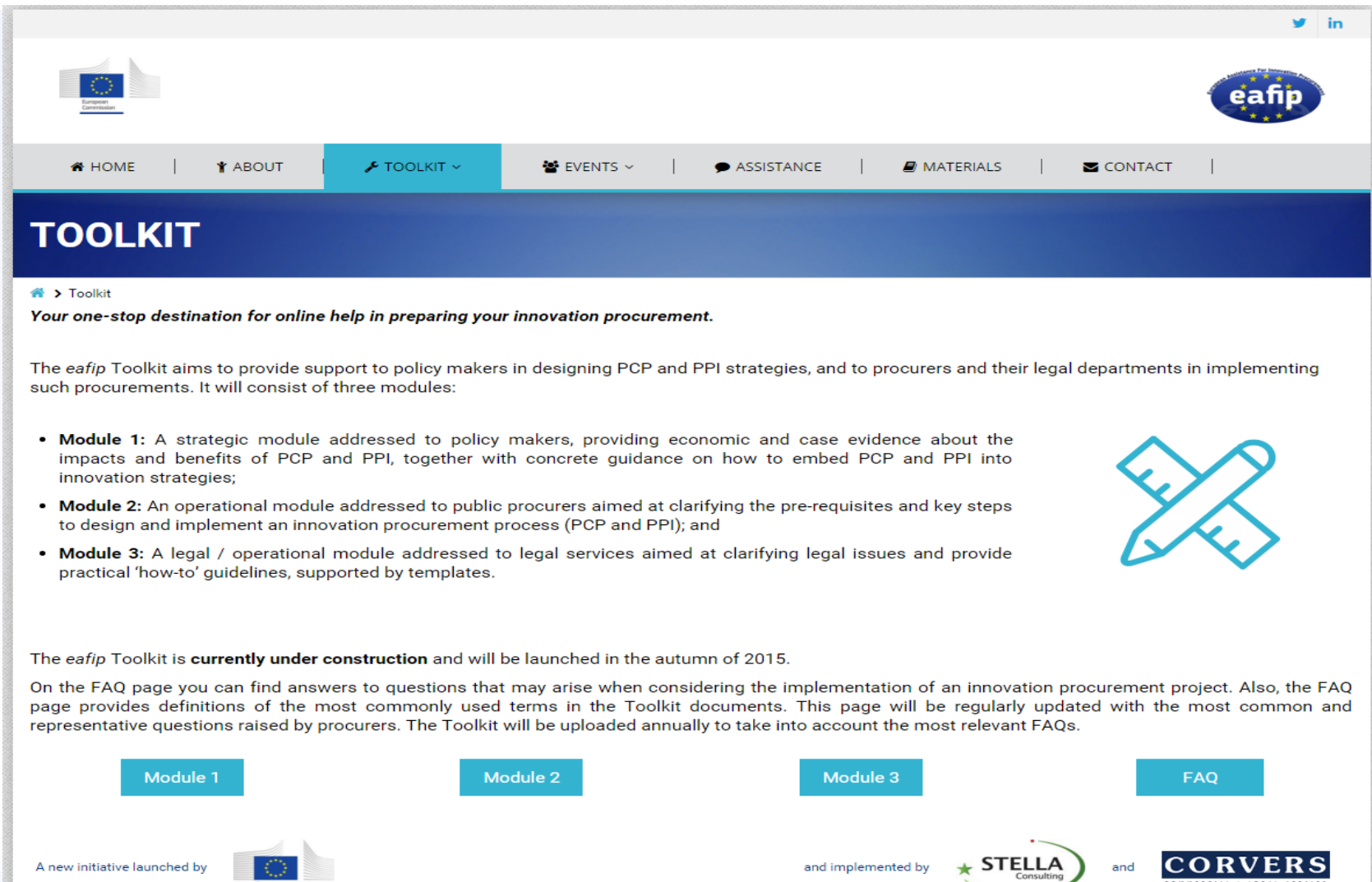
# *eafip* TOOLKIT - A "LIVING DOCUMENT"

- To be updated during *eafip*
- Feedback from:
  - ❖ Workshops
  - Assistance
  - FAQ
  - Your input
  - Changes in legislation
  - New case law from the ECJ
  - Lessons learned and best practices

# *eafip* TOOLKIT – WHERE TO FIND IT
# eafip.eu

# *eafip* TOOLKIT MODULES

Toolkit

- **MODULE 1**
  **Policy maker**

- **MODULE 2**
  **Public procurer**

- MODULE 3
  Legal expert

# *eafip* TOOLKIT – MODULE 1

**Section 1: Introduction**

**Section 2: Definitions**

**Section 3: Understanding innovation procurement**

**Section 4: Defining an innovation procurement policy**

**Section 5: Available funding under Horizon 2020, the new Research and Innovation Program and synergies with the European Structural and Investment Funds (ESIF)**

# *eafip* TOOLKIT – MODULE 1
## *Defining an innovation procurement policy*

**Political commitment**

OFFICIAL
GOVERNMENT
DECISION

**Preparation**

- understand;
- Involve stakeholders;
- Integrated policies;
- Analyze framework conditions;
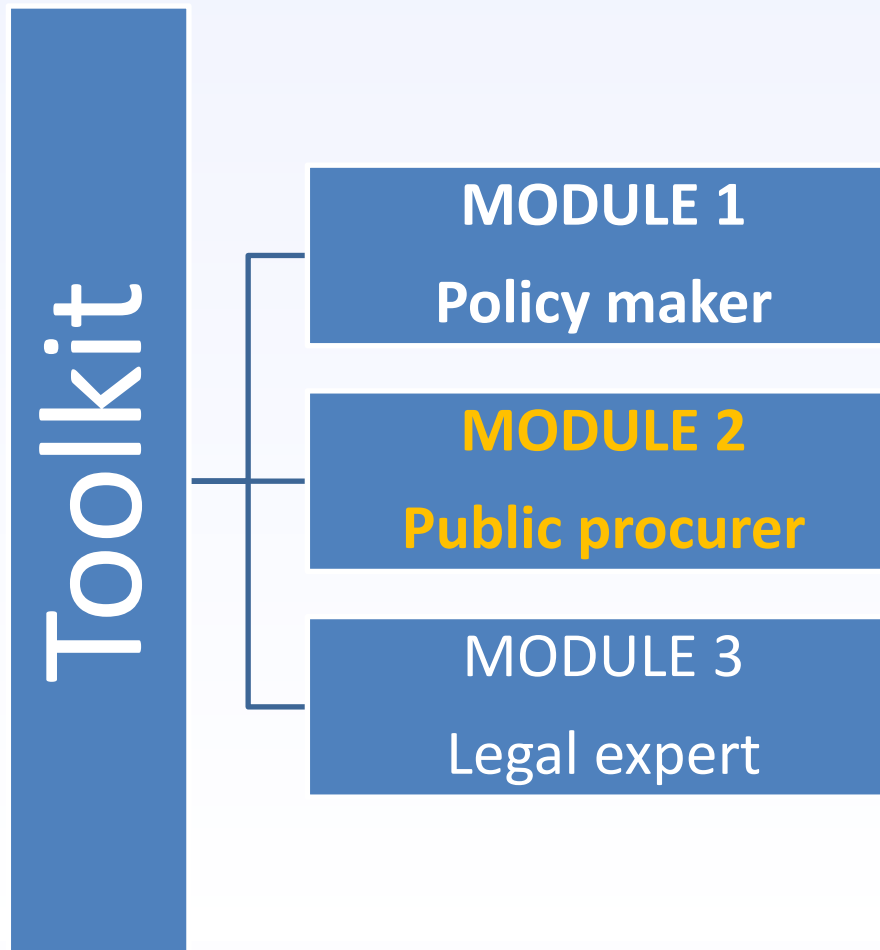- Address obstacles.

**Action Plan**

- starting situation;
- vision, mission & objectives;
- Implementation (pilot, timeframe, budget, resources and roles allocation etc.)
- Monitoring evaluation and review

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# *eafip* TOOLKIT MODULES

Toolkit

**MODULE 1**

**Policy maker**

**MODULE 2**

**Public procurer**

MODULE 3

Legal expert

# *eafip* TOOLKIT – MODULE 2 – THE "WHO WE DID IT FOR"



- the decision makers and the procurement officers involved in the procurement process
- those professionals responsible for the procurement planning and execution of related activities

# *eafip* TOOLKIT – MODULE 2

- **Structure**:
    - Section 1: Introduction
    - Section 2: A step-by-step approach to innovation procurement (PCP&PPI)
    - Section 3: Joint procurement
- **Objectives**:
    - What form of innovation procurement a public procurer could choose
    - What are the main steps that public procurers should consider when preparing and implementing an innovation procurement procedure
    - Why each of these steps is important
    - How to implement each of these steps
    - How to implement joint procurement

# *eafip* TOOLKIT – MODULE 2

- **Important issues clarified by Module 2**:

    ✔ the pre-requisites for a successful implementation of Pre-Commercial Procurement (PCP) and of Public Procurement of Innovative Solutions (PPI);

    ✔ how to prepare and implement a PCP and/or PPI procurement, covering the activities before and during the procurement procedure up to the award of the procurement contract(s); and

    ✔ how to manage and monitor an ongoing PCP and/or PPI procurement, covering the activities to be undertaken after the award of the procurement contract(s) and during the implementation of the PCP / PPI contract.
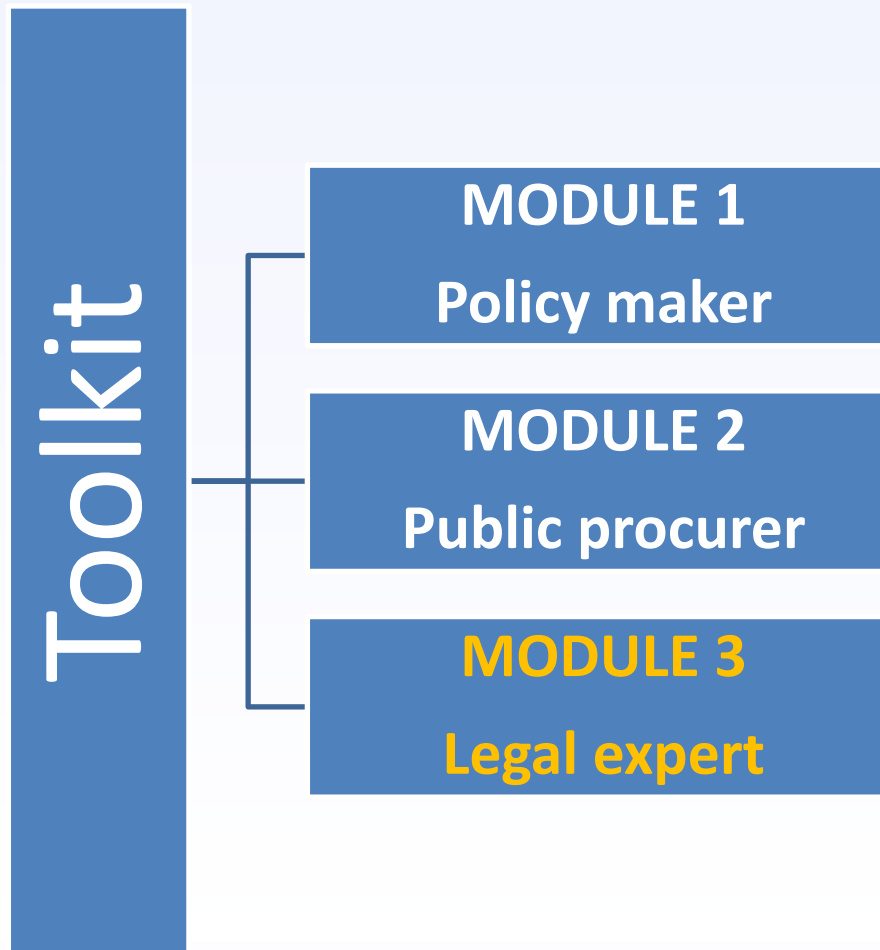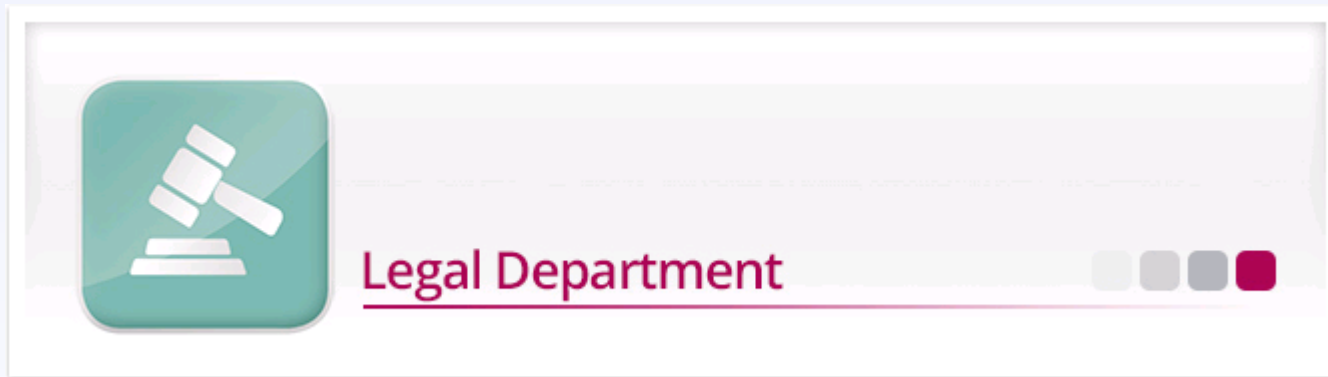
# *eafip* TOOLKIT – MODULE 2

Covers all the phases in a procurement process, namely the steps required in the "before procurement", "during procurement" and "after procurement" stages and explains how to address each step:

- Needs identification and assessment;
- Prior art analysis and IPR search;
- Drafting a business-case;
- Open market consultation;
- IPR and confidentiality strategies and setting the link to standardization;
- Drafting the tender documentation;
- Conducting the procedure;
- Monitoring and evaluating the contract performance.

# *eafip* TOOLKIT MODULES

Toolkit

**MODULE 1**

**Policy maker**

**MODULE 2**

**Public procurer**

**MODULE 3**

**Legal expert**

# *eafip* TOOLKIT – MODULE 3 – THE "WHO WE DID IT FOR"


Legal Department

- the legal expert within the public procurer
- the persons responsible for checking compliance of the procurement documents with the applicable legal provisions

- **<u>Structure</u>**:
  - Section 1: Introduction
  - Section 2: A step-by-step approach to innovation procurement (PCP&PPI)
  - Section 3: Joint procurement

- **<u>Objectives</u>**:
  - What form of innovation procurement a public procurer could choose
  - What are the main steps that public procurers should consider when preparing and implementing an innovation procurement procedure
  - Why each of these steps is important
  - How to implement each of these steps
  - How to implement joint procurement

- **Important issues clarified by Module 3**:

  How to draft the documentation for a PCP and/or a PPI procurement in compliance with the applicable legal provisions, covering the activities before and during the procurement procedure up to the award of the procurement contract(s);

  How to enforce the PCP/PPI contract in compliance with the applicable legal provisions; and

  How to implement joint procurement models in compliance with the applicable legal provisions.
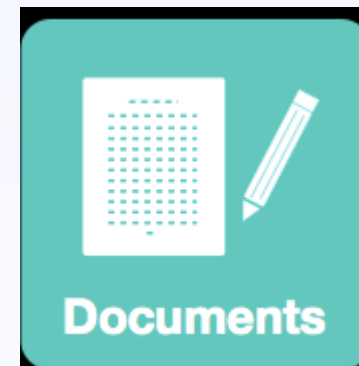
# *eafip* TOOLKIT – MODULE 3

Covers all the phases in a procurement process, namely the steps required in the "before procurement", "during procurement" and "after procurement" stages and explains how to address each step:

- Needs identification and assessment;
- Prior art analysis and IPR search;
- Drafting a business-case;
- Open market consultation;
- IPR and confidentiality strategies and setting the link to standardization;
- Drafting the tender documentation;
- Conducting the procedure;
- Monitoring and evaluating the contract performance.

# *eafip* TOOLKIT – MODULE 3 – additional instruments

▶ Templates

- Market consultation
- Tender documentation
- Joint procurement

▶ Checklists

# *eafip* TOOLKIT – LINKS

There is a particularly strong link between Module 2 and Module 1 and, respectively, between Module 2 and Module 3:

- Module 2 is based on and builds upon the content of Module 1, which sets the underlying rationale and benefits to undertaking innovation procurement, and explains the steps for the adoption of a national/regional innovation procurement policy

- Module 2 outlines the steps to be followed in the implementation of PCP and PPI, in full compliance with the legal framework detailed in Module 3

# *eafip* TOOLKIT – MODULE 3 – LINKS

There is a particularly strong link between Module 3 and Module 2 :

- Module 3 provides the legal framework to implement the steps to be followed in the implementation of PCP and PPI

# Thank you for your attention!

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