



Legal aspects of Innovation Procurement supported at EU level

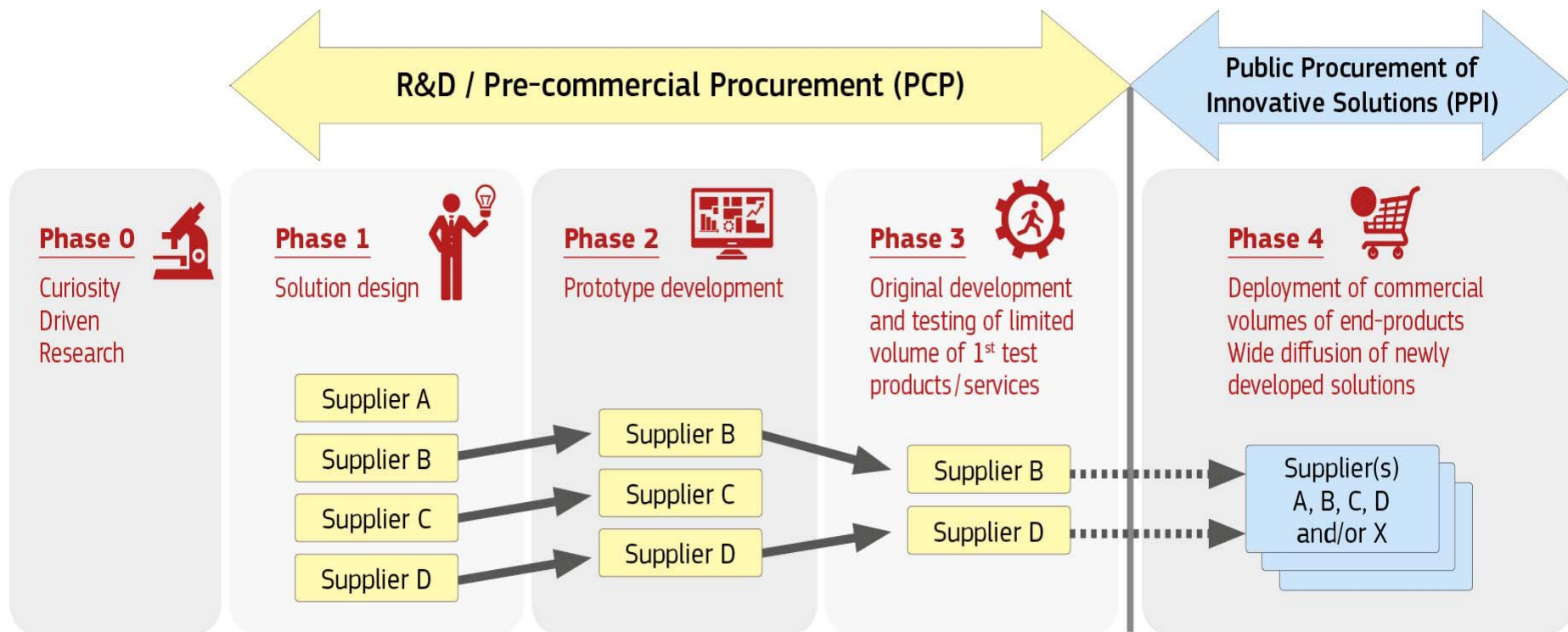
*Lieve Bos
European Commission
DG CNECT
Innovation Unit (F2)*

HORIZON 2020

Innovation Procurement = PCP + PPI / Complementarity



- **PCP** to steer the development of new solutions towards concrete public sector needs, whilst comparing/validating alternative solution approaches from various vendors and enabling new players to prove themselves against established ones
- **PPI** to act as launching customer / early adopter / first buyer of innovative commercial end-solutions newly arriving on the market



H2020 definition PCP



'Pre-commercial procurement (PCP)' means procurement of R&D services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation between the procurement of the R&D services procured from the deployment of commercial volumes of end-products.

'Risk-benefit sharing under market conditions' refers to the approach in PCP where procurers share with suppliers at market price the benefits and risks related to the IPRs resulting from the R&D.

'Competitive development in phases' refers to the competitive approach used in PCP by procurers to buy the R&D from several competing R&D providers in parallel, to compare and identify the best value for money solutions on the market to address the PCP challenge. To reduce the investment risk for the procurer, reward the most competitive solutions and facilitate the participation of smaller innovative companies, the R&D is also split in phases (solution design, prototyping, original development and validation / testing of the first products), with the number of competing R&D providers being reduced after each phase subsequent to intermediate evaluations.

'Separation from the deployment of commercial volumes of end-products' refers to the complementarity of PCP, which focuses on the R&D phase before commercialisation, and PPI, which does not focus on R&D but on the commercialisation/diffusion of solutions. Procurers can but are not obliged to procure at market price R&D results from a PCP.

H2020 definition PPI



'Public procurement of innovative solutions (PPI)' means procurement where contracting authorities act as a launch customer of innovative goods or services which are not yet available on a large-scale commercial basis, and may include conformance testing.

'Launch customers', also called early adopters, refers to the first approx. 20% customers on the EU Internal Market in the market segment of the procurers that are deploying innovative solutions to tackle the challenge addressed by the PPI procurement. PPI must result in the first application/commercialisation of innovative solutions, meaning that the solutions have to be new to the procurers' market segment or new to the EU Internal Market, and relevant to procurers in other Member States and/or Associated Countries.

'Innovative solutions' are innovative goods or services with better than best available performance levels which suppliers are called to meet through production innovation. This includes solutions that typically have already been (partially) technically demonstrated with success on a small scale, and may be nearly or already in small quantity on the market, but which owing to residual risk of market uncertainty have not been produced at large enough scale yet to meet mass market price/quality requirements and have therefore not widely penetrated the market segment of the procurers yet. This also includes solutions based on existing technologies that are to be utilised in a new and innovative way. PPI does not include the procurement of R&D.

PCP and PPI actions – participation requirement



PCP/PPI actions co-finance 1 joint transnational PCP/PPI procurement per action

Minimum 3 independent participants from 3 different MS or AC, of which minimum 2 public procurers (buyers group**) from 2 different MS or AC**

- **Sole participants formed by several legal entities** are eligible if the minimum conditions are satisfied by the legal entities forming together the sole participant (e.g. European Research Infrastructure Consortia, European Groupings of Territorial Cooperation, Central Purchasing Bodies)
- **In addition to the above minimum, other entities can also participate**
 - In buyers group: e.g. private/NGO procurers providing services of public interest
 - In coordination/networking activities: any private/public type of entity (e.g. experts, end-users, certification bodies that assist procurers) that has no conflict of interest with the PCP/PPI (**that will not bid as supplier for the PCP/PPI**)

MS = Member States, AC = Countries Associated to H2020

Who qualifies as public procurer



Public procurers are contracting authorities or contracting entities as defined in EU public procurement directives 2014/24/EU, 2004/25/EU, 2009/81/EC

'Contracting authorities': *the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or bodies governed by public law (see Art. 2(1)(1) of Dir 2014/24/EU).*

- **Bodies governed by public law also include entities *financed* mostly by the State, regional or local authorities, or other bodies governed by public law and entities *controlled* by those bodies (for the full definition, see Article 2(1)(4) of Directive 2014/24/EU).** This includes for example ministries, regions, cities, road management authorities, public hospitals, central purchasing bodies etc.

'Contracting entities': *entities operating in specific sectors (e.g. utilities for water, energy, transport, postal services covered by Directive 2014/25/EU and contracting entities in the field of security covered by Directive 2009/81/EC). They may be contracting authorities, public undertakings or entities operating on the basis of special or exclusive rights (see Art 4, Dir 2014/25/EU).*

For H2020, public procurers include also entities that are CAs/CEs according to the above definition but to which the EU public procurement Directives itself do not apply (e.g. international organisations such as ERICs formed by several CAs).

PCP and PPI actions - Role different actors



❑ **Buyers group**

- Beneficiaries that provide the financial commitments for the PCP or PPI.
- Min 2 public procurers from 2 different Member States or associated countries
- Shall represent the demand side for the innovations, a critical mass of procurers that can trigger wide implementation of the innovations, shall aim for ambitious quality/efficiency improvements in area of public interest.

❑ **Lead procurer**

- Public procurer in project appointed by the buyers group to lead and coordinate the PCP or PPI. Can be part of buyers group or not.

❑ **Subcontractors**

- Successful tenderers, selected by the buyers group & lead procurer as result of the PCP or PPI call for tender, to provide the R&D services (PCP) or innovative solutions (PPI).
- They do 'NOT' enter the grant agreement with the EC.

One PCP or PPI - One Common Challenge



□ PCP action

- Focus on **one concrete procurement need that requires R&D** and is a **common challenge** in the innovation plans of all participating procurers.
- Common challenge consisting of **building blocks** allowed, as long as all procurers need and contribute budget to buy the R&D for all building blocks.
- **One joint PCP procurement** (one set of common tender specs, all procurers share the total PCP procurement cost). All participating providers compete to try to solve the same challenge (possibly subcompetitions per building block).

□ PPI action

- Focus on one concrete unmet need shared by the participating procurers. requiring **deployment of innovative solutions that are to a significant extent similar across countries**. The solutions procured by all procurers have the **same core functionality** and performance characteristics (common tender specs), but may have **additional 'local' functionality** per procurer.
- **One joint PPI procurement** may consist of several lots (building blocks), or a framework contract (common part) with specific contracts (local part) per procurer (each procurer pays only for products he buys).

PCP and PPI actions - Eligible activities



❑ Preparation stage

- Preparation of **one** joint PCP or PPI procurement per action
 - Open market consultation /verification of market readiness to meet procurement need
- Outcome
 - Agreed common tender specifications + Joint procurement agreement
 - Confirmation of availability of financial commitments to start PCP/PPI

❑ Execution stage

- Joint procurement of the R&D services (PCP) or innovative solutions (PPI)
- Monitoring of suppliers and validation of results
 - PCP: Validation/comparison of the performance of the competing PCP solutions against jointly defined criteria in real-life operational conditions
 - PPI: Evaluation of results of deploying and operating the procured solutions in real-life operating conditions
- Dissemination/exploitation of results

Other coordination/networking activities relevant to the action (e.g. preparation of follow-up PPI, contribution to standardisation / regulation / certification)

Example PCP action

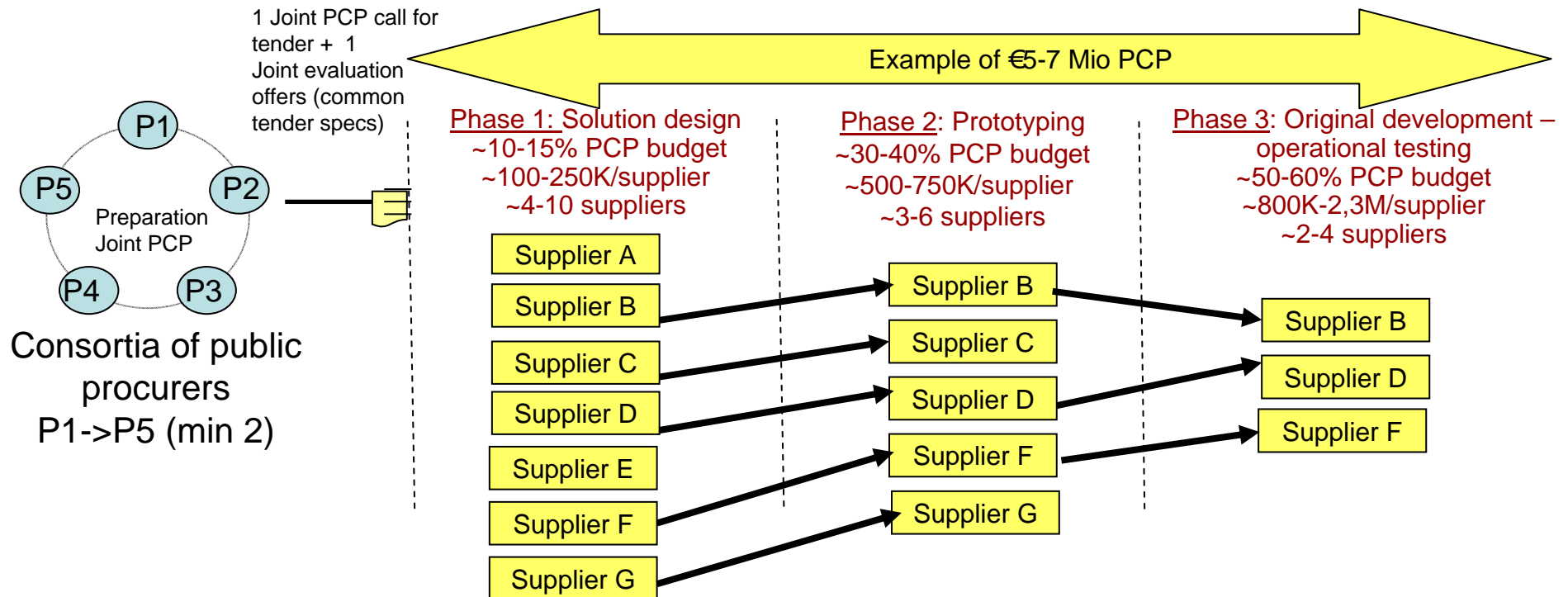


Example: 5 €M PCP action grant

- EU contribution: e.g. 0,7 €M for coordination + 4,3 €M for PCP (procurement of 4,77 €M)
- EU contribution: Max 1,5 €M for coordination + 3,5 €M for PCP (procurement of 3,88 €M)

Example: 3 €M PCP action grant

- EU contribution: e.g. 0,7 €M for coordination + 2,3 €M for PCP (procurement of 2,55 €M)
- EU contribution: Max 0,9 €M for coordination + 2,1 €M for PCP (procurement of 2,33 €M)



One joint PCP coordinated by the lead procurer



- In their proposal, consortium shall have already identified one concrete procurement need as proposed focus for the PCP that is identified as a **common challenge** in the innovation plans of the buyers group and requires R&D!

- 1 joint PIN to **announce the open market consultation**
- 1 joint **call for tender** published EU wide
- 1 joint **evaluation of offers**
- 1 lead procurer **awarding all contracts** in the name and on behalf of all procurers in buyers group
 - Each winning tenderer gets: 1 framework agreement to participate in the PCP + one specific contract per PCP phase (solution design, prototyping, testing)
- 1 total **jointly committed budget** (grouping financial commitments of all procurers in buyers group) from which all R&D providers are paid

- But, actual **payments** can be carried out centralised or distributed
 - Either all R&D providers paid by the lead procurer
 - Or each R&D provider paid pro rata by each procurer in the buyers group according to the share of each procurer's contribution to the common pot (total jointly committed PCP budget)
- Also **monitoring suppliers and testing of solutions** can be centralised or distributed
 - Choice between testing all solutions of all R&D providers in 1 procurers site or on several sites procurers sites etc

Specific requirements PCP procedure (Annex E WP)



□ Procedure: H2020 specific requirements

- Definition PCP (H2020 and PCP COM): PCP covers phase 1-3, multiple competitors
 - 1 framework agreement/supplier with specific contracts per phase
- EU-wide published open market dialogue and call for tender
 - Announced widely (TED), at least in English and well in advance (PIN 60 days before start open market consultation, CN award date announced in PIN, CAN after award)
- PCP call for tender open for at least 60 days
- Functional / performance based specifications
 - Not prescribing solution approach
- Avoid disproportionate financial guarantee and qualification requirements
 - Commercialisation plan as award criteria
- All offers evaluated based on same objective evaluation criteria
 - Regardless of geographic location, organization size or governance structure
- Best value for money award criteria (not just lowest price)
- Contributing to growth and jobs in Europe
 - Min 50% of R&D and operational activities covered by the PCP contract performed in MS/AS; including principle researchers working on the PCP contract
- IPRs shared at market price (nxt page), division of IPR rights published up front (no State aid)
 - Financial compensation for leaving IPR ownership with R&D providers

Specific requirements PCP procedure (Annex E WP)



▪ Results/Foreground

- R&D providers generating results in PCP shall own attached IPRs. Obligation to protect IPR and endeavour to commercially exploit results.
- Procurers shall enjoy royalty-free access rights to use results for own use
- Procurers shall also enjoy the right to grant or to require participating R&D providers to grant non-exclusive licenses to third parties to exploit the results under fair and reasonable market conditions without any right to sublicense
- A call-back provision shall ensure that if an R&D provider fails to commercially exploit the results within a given period after the PCP as identified in the contract (min 4 years) or uses the results to the detriment of the public interest, including security interests, it shall transfer any ownership of results to the procurers upon request of the procurers.
- The public procurers should ensure that the PCP contracts with R&D providers contain a financial compensation according to market conditions compared to exclusive development price for assigning IPR ownership rights to participating R&D providers (e.g. ex-ante price reduction on PCP price, ex-post royalties on sales/profit).

▪ Background & Sideground

- Ownership by the one that generated it. Access to procurer/providers' back-side ground on fair and reasonable conditions (for free for executing tasks during PCP contract)

Results, background, sideground, commercially exploit defined in H2020 model tender docs

Example PPI action

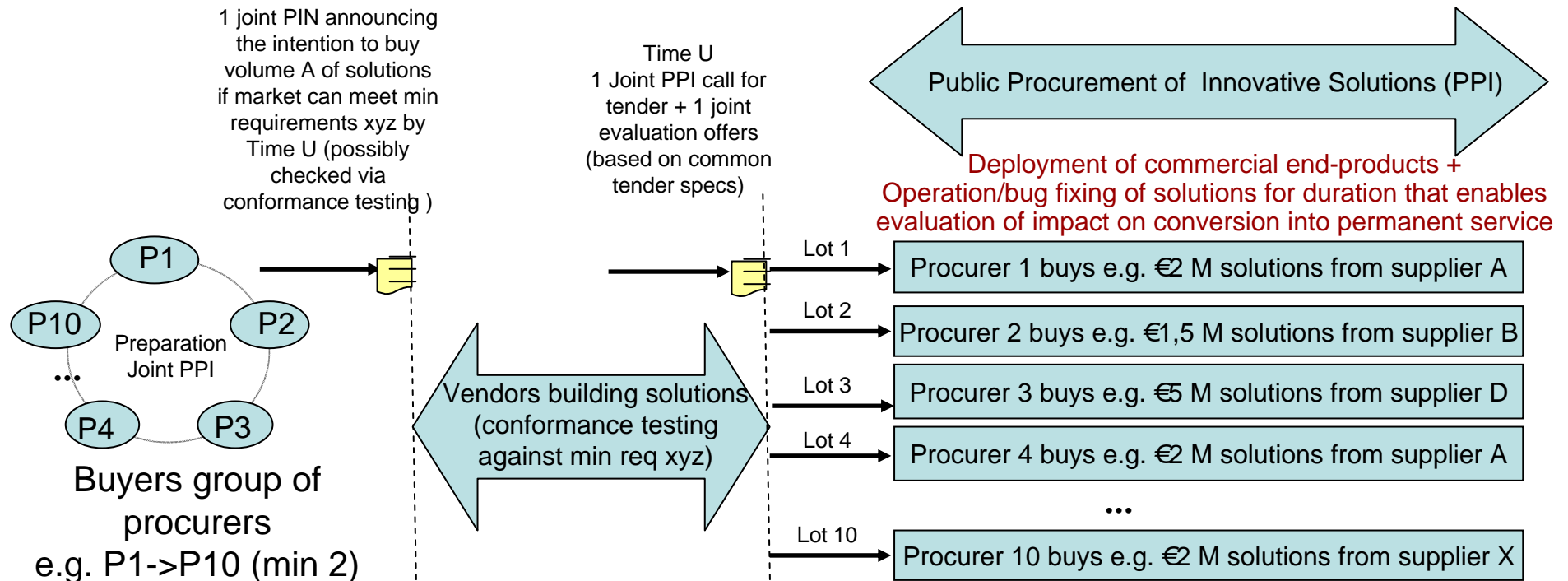


Example: 5 €M PPI action grant

- EU contribution: e.g. 0,5 €M for coordination + 4,5 €M for PPI (procurement of 12,85 €M)
- EU contribution: Max 2,5 €M for coordination + 2,5 €M for PPI (procurement of 7,14 €M)

Example: 2,5 €M PPI action grant

- EU contribution: e.g. 0,5 €M for coordination + 2 €M for PPI (procurement of 5,71 €M)
- EU contribution: Max 1,25 €M for coordination + 1,25 €M for PPI (procurement of 3,57 €M)



One joint PPI coordinated by the lead procurer



- In their proposal, consortium shall have already identified one concrete procurement need as proposed focus for the PPI that is identified as a common challenge in the innovation plans of the buyers group and requires innovative solutions!

- 1 joint PIN to **announce the open market consultation**
 - 1 joint PIN to **publish the intention to buy (subject to conformance testing before contract award)**
 - 1 joint **call for tender** published EU wide (unless PPI procures limited set of prototypes / test products developed during PCP, then negotiated procedure without publication foreseen in public procurement directives possible)
 - 1 joint **evaluation of offers**
- But **contract award** can be centralised or distributed
 - Either one lead procurer awarding all contracts to all suppliers on behalf of all procurers in the buyers group
 - Or one lead procurer only awarding a framework contract with lots to each supplier (e.g. lot per procurer), and each procurer awarding (a) specific contract(s) for his lot(s) to the supplier(s) delivering the solution(s) he buys
 - » This means same **core functionality** and performance characteristics for solutions procured by all procurers, but possible additional local functionality for each procurer
 - Also **monitoring suppliers and payments** can be centralised or distributed (payment of all suppliers by lead procurer or by individual procurers in buyers group for quantity of goods each buys)

Specific requirements PPI procedure (Annex E WP)



- ❑ Procedure: Compliance with applicable national procurement rules + compliance with additional specific requirements

Unless PPI limited to prototypes,
test-products developed during
pre-ceding PCP action

- Definition PPI (Horizon 2020 RfP). Choice between procurement procedures covered by procurement directives that do not include procurement of R&D
- EU wide publication of open market consultation, early announcement of target date for launching the PPI and call for tender, PPI call for tender (at least in English, well in advance)
- PPI call for tender open for at least 60 days
- PPI call for tender open to tenderers from EU Member States and Horizon 2020 associated countries + (if applicable) additional countries that ratified WTO GPA
- Possibility of conformance testing before contract award
- Functional / performance based specifications
- All offer evaluated according to same objective award criteria
- Avoid disproportionate financial guarantee and qualification requirements
- Best value for money award criteria

- ❑ IPR arrangements for PPI

- IPRs attached to results generated during PPI shall be owned by the party that generated the results, unless duly justified cases (e.g. party generating results is not able to exploit IPRs)

What are the legal reference docs for all this



Requirements "PCP/PPI actions" funding instrument in General Annexes to the H2020 Work Program (D & E in particular) – contain also the refs to articles in proc dirs, state aid rules, WTO GPA, Treaty, H 2020 RfP:

http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html#h2020-work-programmes-2016-17

Annotations/Examples for each legal provision in Model Grant Agreement (pages 560-605 for PCP-PPI actions MGA):

http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf

H2020 templates for PIN for open market consultation, Contract Notice, Contract Award Notice, Request for tenders for PCP-PPI projects

Expected be uploaded/linked to MGA by end 2015



Possible synergies between ESIF and Horizon 2020 on innovation procurement

Lieve Bos
Policy Officer Innovation Procurement
Innovation Unit (F2)
DG CNECT
European Commission

CATEGORIES OF POSSIBLE SYNERGIES BETWEEN H2020 AND ESIF ON PCP/PPI

**Joint or
simultaneous
use of funds**

**Sequential
funding**

**Additional
funding**

**Alternative
funding**

Concrete implementation scenarios for synergies: http://ec.europa.eu/newsroom/dae/document.cfm?action=display&doc_id=10945
DG REGIO guide on these synergies: http://ec.europa.eu/regional_policy/sources/docgener/guides/synergy/synergies_en.pdf



GENERAL RULE

IT IS NOT ALLOWED !!!!!

-To use ESIF and H2020 funding accumulatively to finance the same cost/expenditure item

-To finance the own contribution of the participant from H2020 or ESIF



A. JOINT OR SIMULTANEOUS USE OF FUNDS

**Different funding sources in the same project.
This is only possible if the cost items (eligible and submitted)
are NOT the same.**

Requires very strict financial management to separate the cost items clearly from the conception phase of the project and will only work if the funding decisions of H2020 and ESIF are synchronised.

The rules of both funding sources (ESIF – H2020) should be respected by all beneficiaries even if they receive co-financing from only one funding source.

A partner who receives co-financing from ESIF to participate in a H2020 project should also respect the H2020 rules and vice versa.



Possible scenario on PCP

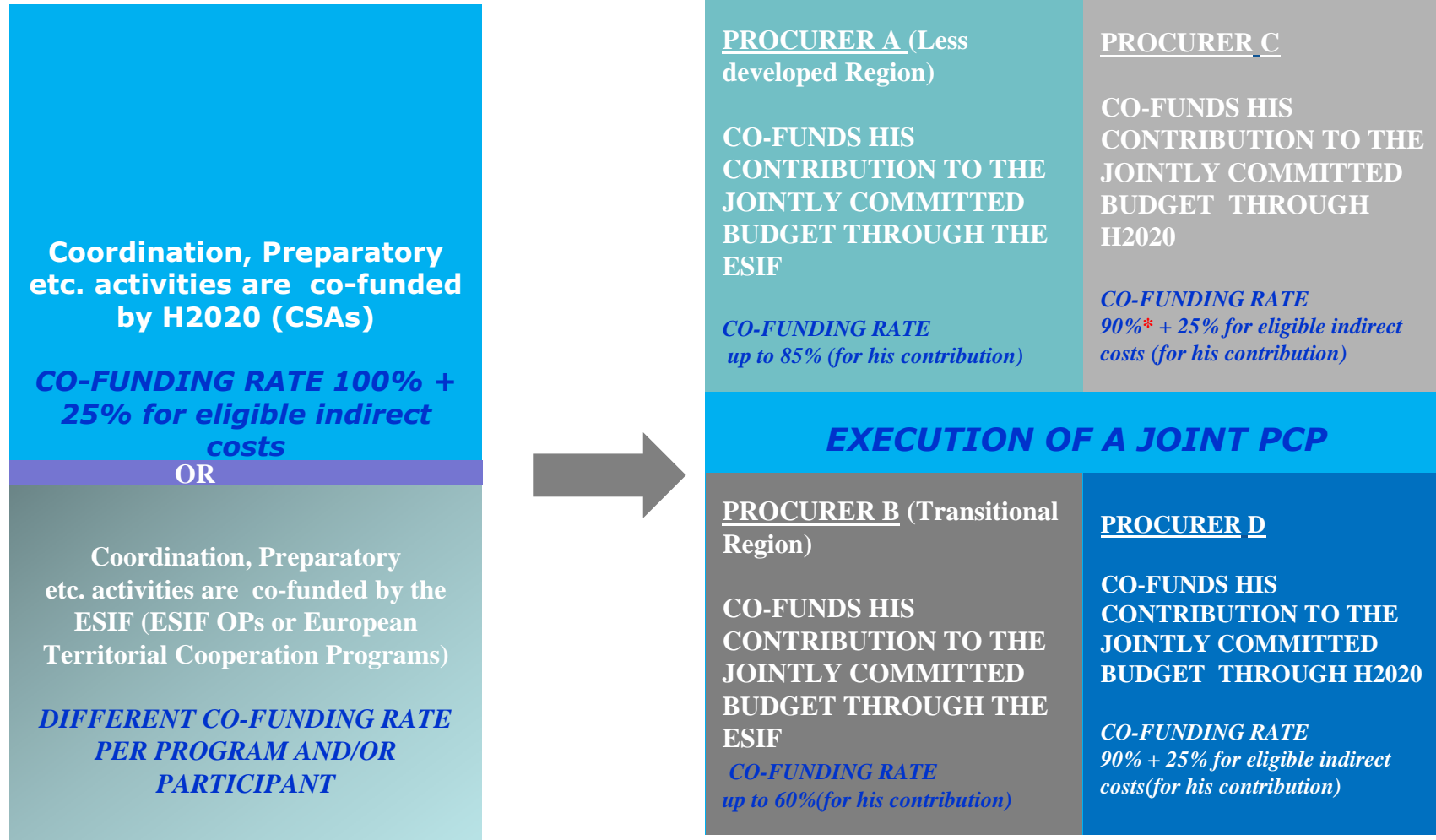
- Preparation of the PCP procurement is supported by H2020 or ESIF
- In the framework of PCP action calls, some participants of the buyers group may receive co-funding from the ESIF and others from H2020.
- This case is applicable only if there is a clear distinction between budgets offered per OP and between expenditures co-funded by the ESIF (per OP) vs expenditures co-funded by H2020.

Example - each R&D provider is paid pro rata by each procurer in the buyers group according to the share of each procurer's contribution to the jointly committed budget.

Condition for success : synchronization between the ESIF calls and the H2020 PCP action calls



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* New from 2016-2017 Horizon 2020 work programmes (



Possible Scenario on PPI

Some procurers located in a less developed Region purchases the innovative solution co-funded by the ESIF (up to 85% rate) and other procurers in other MS are co-funded by H2020 (35% rate) to buy the innovative solution.

Preparation of the PPI may be co-funded either by the ESIF or by the H2020 (CSAs). In case they haven't received co-financing for the preparatory activities these can be co-funded by the PPI actions according to the rules applicable to these actions.

Applicable Scenario in cases:

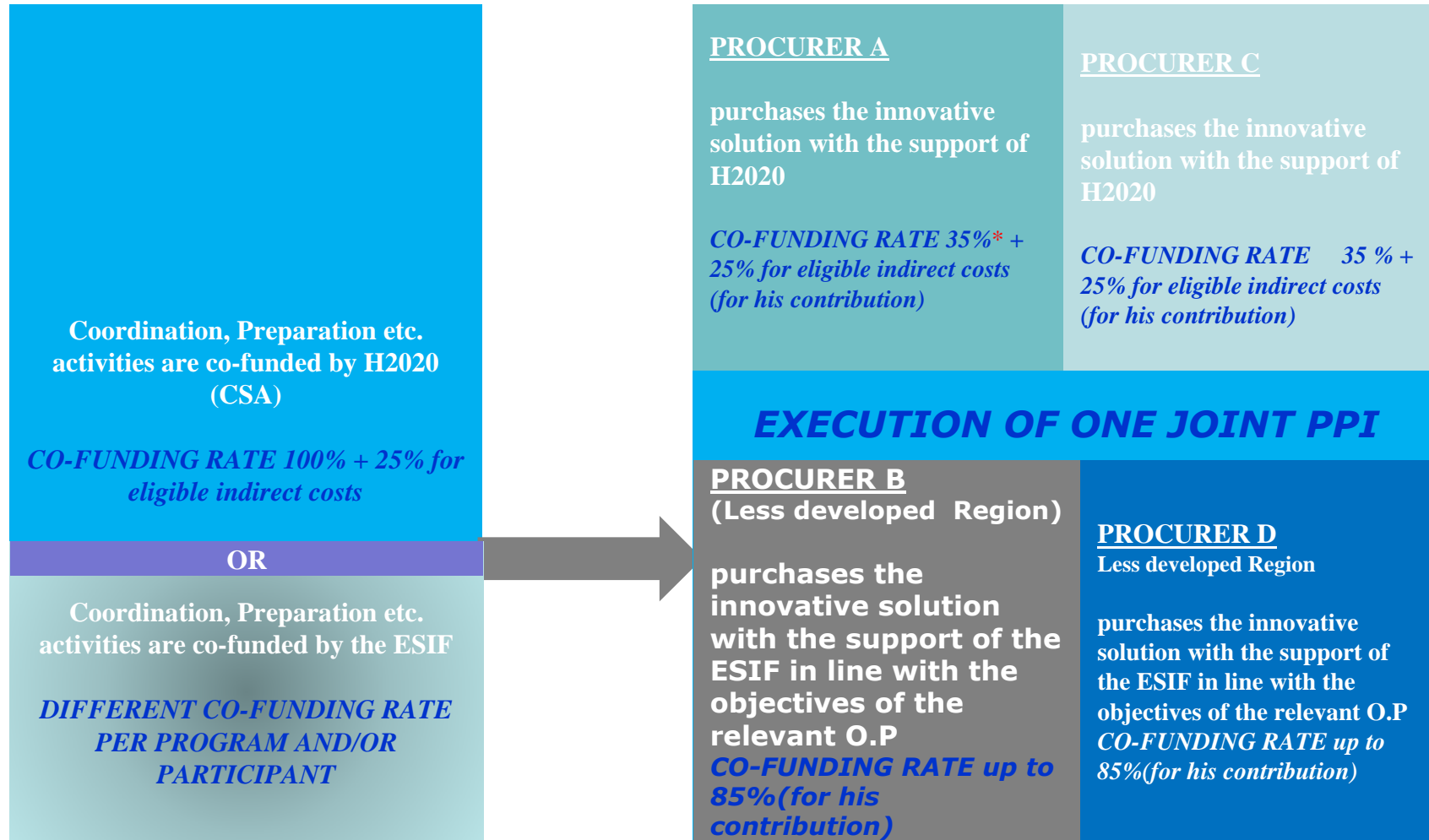
➤ *Under a joint Framework Contract/Agreement which provides the joint technical specifications separate specific contracts (possibly with lots) are implemented by the individual procurers according to their national law for the purchase of the innovative solutions they each individually need. The procurers pay individually the invoices corresponding to the innovative solutions each buys.*

Or

➤ *The lead procurer launches one procurement procedure, awards all the contracts and pays all the invoices on behalf of the group of procurers*



European
Commission



* New from 2016-2017 Horizon 2020 work programmes (



In one project/consortium that prepares a future joint PCP or PPI, Procurers A and B from less developed regions are co-funded by the ESIF (up to 85% co-funding rate) and procurers B and C are co-funded by H2020 (via CSAs – if there is a specific call with co-funding rate 100% + 25% for eligible indirect costs)

❖ The execution of the joint PCP/PPI can follow one of the scenarios presented in the previous slides.

❖ Minimum conditions for success:

- Separate and distinguished cost/expenditure items even at project proposal level
- Synchronization and coordination between ESIF MAs and H2020 Managing Bodies

PROCURER A
(Less developed Region)

Coordination and networking activities to prepare for a PCP are co-funded by the ESIF

CO-FUNDING RATE up to 85% (for his contribution)

PROCURER B
(Transitional Region)

Coordination and networking activities to prepare for a PCP are co-funded by the ESIF

CO-FUNDING RATE up to 60% (for his contribution)

PROCURER C

Coordination and networking activities to prepare for a PCP are co-funded by H2020 (CSA)

CO-FUNDING RATE 100% + 25% for eligible indirect costs (for his contribution)

PROCURER D

Coordination and networking activities to prepare for a PCP are co-funded by H2020 (CSA)

CO-FUNDING RATE 100% + 25% for eligible indirect costs (for his contribution)



**EXECUTION
OF A JOINT
PCP**

PROCURER A
(Less developed Region)

Coordination and preparation etc. activities for a PPI are co-funded by the ESIF

CO-FUNDING RATE up to 85% (for his contribution)

PROCURER B
(Transitional Region)

Coordination and preparation etc. activities for a PPI are co-funded by the ESIF

CO-FUNDING RATE up to 60% (for his contribution)

PROCURER C

Coordination and preparation etc. activities for a PCP are co-funded by H2020 (CSA)

FLAT CO-FUNDING RATE 100% + 25% for eligible indirect costs (for his contribution)

PROCURER D

Coordination and preparation etc. activities for a PCP are co-funded by H2020 (CSA)

FLAT CO-FUNDING RATE 100% + 25% for eligible indirect costs (for his contribution)



**EXECUTION
OF A JOINT
PPI**



B. SEQUENTIAL FUNDING

**Separate successive and legally/financially not linked projects with alternating H2020 or ESIF support –
- First PCP and then PPI –**

This is an easier way to combine funds with less risk of (involuntarily) creating double co-funding scenarios.

Sequential funding can go in both directions:
First ESIF and then H2020 or vice versa.



Possible Scenario

First PCP (H2020) to develop and test the innovative solution and then PPI (ESIF) for the deployment of the innovative solutions developed and tested through PCP and vice versa (ESIF for PCP and H2020 for PPI)

Example:

A group of Public Procurers from different cities are looking for a new sustainable public water supply system. It requires R&D. At first they implement a PCP (Phases 1,2,3) with the support of H2020 and different solutions are developed and tested.

Thereafter they implement a PPI with the support of ESIF/ERDF to co-fund the preparation of the call for tender and the purchase of these new solutions (each MA for the territory covered by its OP).



C. ADDITIONAL/PARALLEL USE OF FUNDS

ESIF money is not linked to a H2020 project (PCP/PPI), but a regional/national authority decides to co-fund a regional/national project or beneficiaries to enhance the H2020 project or programme in its region.

This may be particularly relevant to skills development or capacity building in innovation and cooperation

Example

Skills enhancement of the public procurer focused on the use of the innovative product that is purchased in the framework of a PPI that is co-funded by H2020



D. ALTERNATIVE FUNDING

ESI Funds could be used for project proposals that have received positive evaluation under H2020 and could not be co-funded due to lack of H2020 funds under the call.

These proposals could be reoriented towards ESIF requirements and submitted at national/regional level, if this type and topic of project fits into the operational programmes of the concerned territories.



CONDITIONS FOR SUCCESS

- Include innovation procurement in the RIS3 SWOT and policy mix.
- Build PCP/PPI references into OPs in every relevant thematic objective.
- Ensure support of public demand driven innovation in the framework of the European Territorial Cooperation.
- Involve MA from the beginning to ensure availability of ESIF & synchronisation.



Additional Slides

New May 2014 Provisions

In public procurement directives
and State Aid Rules on R&D&I

New innovation related provisions



- Provisions for open market consultations
- Best value for money becomes mainstream
- Legal basis for joint cross-border procurement
- Explicit possibility to specify in tender specs that procurer leaves IPRs with providers
- Explicit reference to PCP, exemption used by PCP clearer
- PCP-PPI versus innovation partnerships: for different uses. Conditions when both not considered State aid specified
- Limit of where R&D stops specified in R&D&I State aid rules

Difference PCP-PPI combination versus Innovation Partnership procedure

European
Commission

Different streams to
finance industrial R&D

200 €Bn/Y (2% GDP)
Mainstream R&D funding routes
not procurement based

Own Company financial resources,
R&D grants, Venture Capital etc

PCP

2,5 €Bn/Y (0,025% GDP)
Procurement of R&D

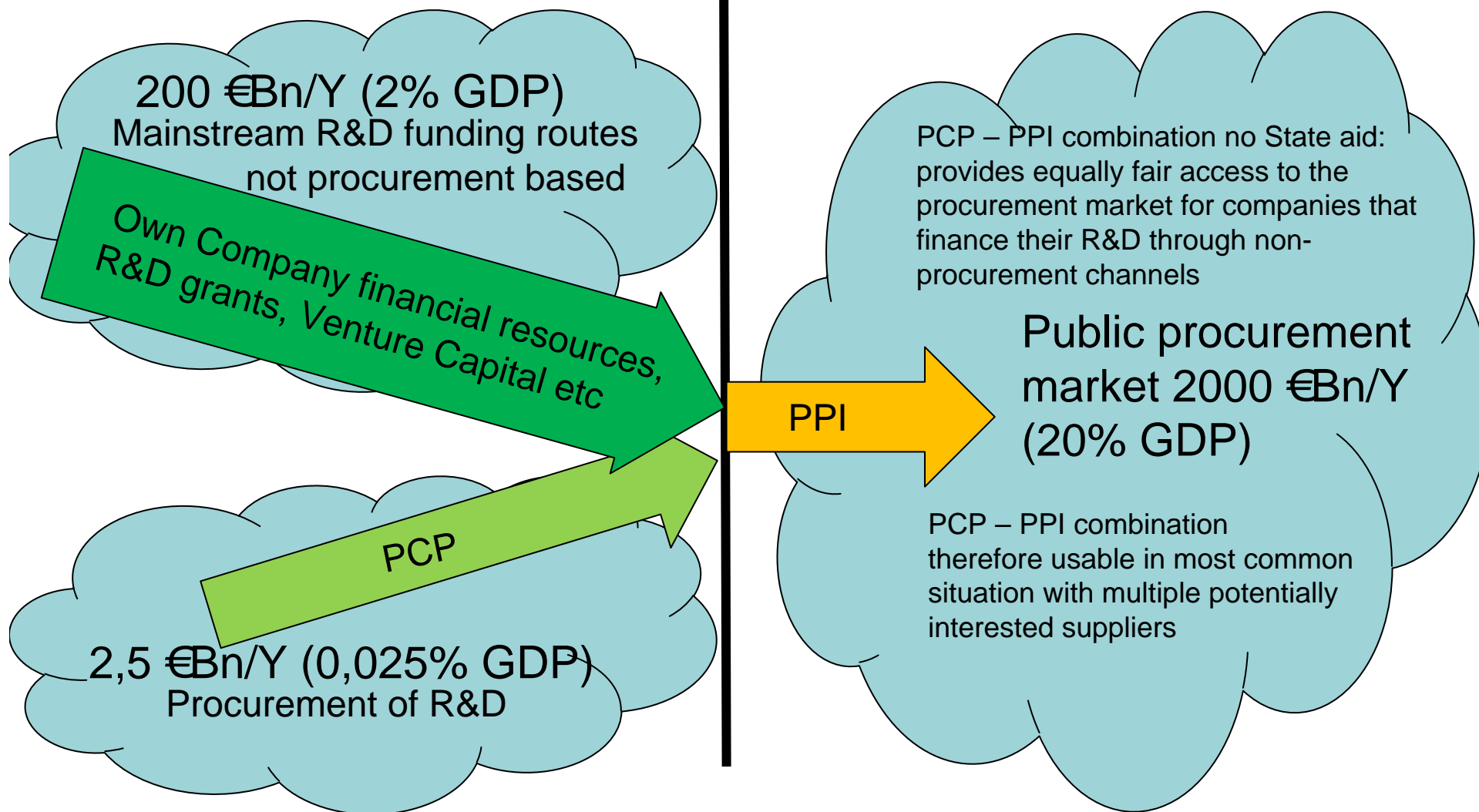
Deployment commercial
volumes of final end-products

PCP – PPI combination no State aid:
provides equally fair access to the
procurement market for companies that
finance their R&D through non-
procurement channels

Public procurement
market 2000 €Bn/Y
(20% GDP)

PCP – PPI combination
therefore usable in most common
situation with multiple potentially
interested suppliers

PPI



Difference PCP-PPI combination versus Innovation Partnership procedure

European Commission

Different streams to finance industrial R&D

200 €Bn/Y (2% GDP)
Mainstream R&D funding routes
not procurement based

Own Company financial resources,
R&D grants, Venture Capital etc

2,5 €Bn/Y (0,025% GDP)
Procurement of R&D

Deployment commercial volumes of final end-products

New IP Procedure limits access to procurement market to only the company(ies) whose R&D was financed by the innovation partnership

New IP Procedure therefore only to be used in exceptional situations of unique / specialised products !!! Art 2.3-33(c) ft 29 of 2014 R&D&I state aid rules (if no other potentially interested suppliers on the market)

Otherwise State aid – foreclosing competition & crowding out of mainstream R&D investments

Public procurement market 2000 €Bn/Y (20% GDP)

Innovation Partnership Procedure

Not possible

Advantages split PCP-PPI approach versus innovation partnership approach



- Get 20% better value for money products(US defense data)
- Use PPI also if no(more) R&D needed for procurement need
- Use a small budget PCP to de-risk a large budget PPI
 - PPI spec can be 'completely rephrased' benefiting from PCP lessons learnt
- Use conditions that encourage job creation 'in Europe'
 - Because PCP falls outside WTO rules
- Prevent foreclosing of competition & crowding out of private investment in R&D
 - Companies that are not financing their R&D via procurement/PCP (e.g. via grants, own company resources) can still bid for deployment contracts/PPIs
- Facilitates access to procurement market for SMEs
 - Gradually increasing contract sizes, tasks, required manpower
 - Stringent financial guarantee/qualification requirements:'no' in PCP,'ltd' in PPI

... above not the case if R&D is procured as part of/inside large deployment contract

When use PCP-PPI vs innovation partnership procedure?



Majority of situations (H2020)

Separate PCP – PPI proc

- Non-unique solution
- Procurer not only potential buyer/ IPR ownership with providers makes sense
- Many potential suppliers, also non-established and smaller providers
- Other private/public R&D investments planned/ongoing
- Need proc approach that can deal also with radical innovation (R&D)
- Interest in removing supplier lock-in, more open/standardised solutions
- Want to de-risk future PPI with PCP (prevent risk of failure of PPI)
- Interest in encouraging growth and jobs 'in Europe' a/o facilitating access for new/smaller players to proc market

Exceptional cases

Innovation Partnership proc

- Unique solution
- Procurer only potential buyer/keeps IPR (has no mkt value to suppliers)
- Ltd nr of potential suppliers (known): well-established (larger) providers
- No other private/public R&D investments planned/ongoing
- Incremental innovation (real R&D?)
- No way to avoid supplier lock-in
- Risk acceptable to deploy wrong thing (fixing solution requirements/limiting choice of vendors before R&D/testing)
- No interest in encouraging growth and jobs 'in Europe' a/o facilitating access for new/smaller players to proc market

Barriers – why underutilisation of PCP/PPI in Europe



- Lack of understanding about legal framework
 - > *Some countries didn't allow the purchasing of R&D, didn't realise IPRs can be left with suppliers, etc*
- Lack of incentives
 - > *Long duration (budget overrun/not reaching objectives), expensive (all IPR with procurer), single supplier contracts (lock-in)*
 - > *Risk averseness public sector*
- Fragmentation of demand
 - > *Single procurers often lacking purchasing power (size) and/or budget to encourage suppliers to radically change/innovate*
 - > *Cooperation among procurers/demand side needed to bring about change in areas where high investment, defragmentation mkt, interoperability etc. is needed*

Policy actions to address the barriers



- Lack of understanding about legal framework
 - > *PCP com (COM/2007/799) & staff working doc (SEC/1668/2007), 2014 EU public procurement and State aid legal FW updated*
 - > *eaqip, networking national competence centers on innov proc*
- Lack of incentives
 - > *Use procurement approach (PCP+PPI) that maximizes incentives for procurers and suppliers to engage in innovation procurement*
 - > *Financial incentives for procurers to start innovation procurements, innovation procurement prizes, action plans/targets*
- Fragmentation of demand
 - > *Joint procurement at national or transnational level*