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# Introduction

This paper serves as background information to the Public Feedback on the draft action plan developed by the Partnership on Innovative and Responsible Public Procurement. Stakeholder feedback will be considered by the Partnership for the development of the final Action Plan which will be published on Futurium in <June 2018>.

During the Dutch Presidency of the EU in the first half of 2016 the ‘Pact of Amsterdam’ was adopted by the European ministers of the Interior. Cities are drivers of innovation and the European economy, but also the battleground for many of the societal struggles of the 21st century. The Pact of Amsterdam has established the Urban Agenda for the EU; a new working method of thematic partnerships seeking to optimise utilisation of the growth potential of cities and to address social challenges. Following 12 priority themes essential to the development of urban areas, 12 thematic partnerships have been established. Each theme has a Partnership, which brings together cities, Member States and European institutions. Together they aim to implement the Urban Agenda by finding workable ideas focused on the topics of EU legislation, funding and knowledge sharing.

The Partnership on Innovative and Responsible Public Procurement is one of these Partnerships. The relevance of this involvement is highlighted when considering that every year, over 250 000 public authorities in the EU spend around 14% of GDP on the purchase of services, works and supplies and cities are important public procurers.

The Partnership is coordinated by the city of Haarlem. Members of the Partnership are Vantaa, Preston, Nantes, Gabrovo, Munich, Turin, Larvik and the Member State Italy. Stakeholders are Centre Européen de l’Enterprise Publique (CEEP) and ICLEI-Local Governments for Sustainability. Observers and associations are Council of European Municipalities and Regions (CEMR), Eurocities, Urban Innovative Actions (UIA) and the European exchange and learning programme on sustainable urban development URBACT. The European Commission is represented by three Directorates-General: Regional and Urban Policy (DG Regio), Internal Market, Industry, Entrepreneurship and SMEs (DG Grow) and Communication Networks, Content and Technology (DG CNECT).

## Focus areas and activities

To frame its work, the Partnership has identified three thematic areas:

* building procurement strategy and managing strategic procurement;
* developing relationships with economic operators; utilising the market potential and bringing it closer to the purchasers;
* providing guidance on legal tools and improving competence on innovative and sustainable procurement.

For each of the above-mentioned themes, the Partnership identified bottlenecks and potentials. This is why the Partnership developed seven actions which are reflected in the Public Feedback Paper and are open to stakeholder feedback. The seven actions are represented in the next section. Each chapter is accompanied by a diagram that indicatesthe interrelations between the separate actions.

# Theme 2.1: Building procurement strategy and managing strategic procurement

## Draft Action No. 2.1.1

Guidance on building city strategic procurement and how to manage strategic procurement

**Bottleneck**

The partnership aims to raise awareness for the fact that public procurement can function as a strategic management tool for governance to reach social, environmental and economic goals of the city. In order to make full use of this potential, cities need to develop a procurement strategy that is based upon a city’s own development goals, policies and challenges. Moreover, this procurement strategy should be an important part of the overall public management and governance strategy in which it should be connected to the aforementioned wider policies and goals of the city.

Before public procurement can be part of the overall governance strategy, elected representatives need to acknowledge this strategic role public procurement can play on the economic, social and environmental development of their city. Some cities experience difficulties because amongst politicians, there is still a lack of awareness of the impact public procurement can have.

Furthermore, although the partnership argues that different cities have individual needs, goals and challenges, and therefore experience the need to develop their own procurement strategy, a wide variety of procurement strategies within one region requires great effort from the market. Companies might face extra difficulties in accessing public procurement and in turn, this might have a negative impact on the procurement process.

**Objective**

The partnership aims to aid politicians and technicians to build their own public procurement strategy that allows the implementation of the overall public management and governance strategy of the city. The main objective is to increase the awareness of the importance of developing a procurement strategy in order to meet the city’s economic, environmental and social goals.

**Output**

The output will be a guidance toolkit for cities on the process of building a procurement strategy, the effects such a strategy has within the organization and on how to implement the strategy. The toolkit will help cities to build a procurement strategy that works as a lever to reach wider policy goals in the field such as: climate change, innovation, circular economy and social cohesion.

Additionally, the action finds common ground with the other actions of the partnership (this is visualized by the picture below). The final toolkit may include and/or be accompanied by: clarification of some essential legal issues, guidance on measuring spend, exchange of good practices, an explanation of the role of market actors, an educational package and training sessions. Furthermore, the possibility of building partnerships between local authorities and research what role the market actors could have will be explored.

## Draft Action No. 2.1.2

Measuring spend and wider impact in European Cities

**Bottleneck**

Public procurement of municipalities adds up to 14% of GDP across Europe. Cities have indicated they want to better understand where this money goes geographically, sectorally and in business type terms and what impact this spending has on economic, environmental and social development. The partnership has also identified the need for sharing data between contracting authorities in order to improve their procurement strategy. In short, cities need objective data feedback loops, preferably based on European wide standards.

This action links to the action concerning building a procurement strategy: In order to help raise awareness of the need for a good procurement strategy, it is helpful to be aware of where the money spend is going geographically and per sector, which is also knowledge necessary for building a procurement strategy. Next, by analysing spend, cities can, if need be, adjust their procurement strategy accordingly.

**Objective**

The goals is to develop a common cross-Europe methodology for municipalities and other institutions to measure directly where their procurement spend goes and what impact it has. Research will be done into existing data standards and methodologies for measuring spend and wider impact, after which a common framework will be developed in which municipalities can pinpoint where there money is spent geographically, sectorally and per business type. Furthermore, a common set of indicators will be designed for measuring wide economic, environmental and social impact, which will be organized within the framework in order to enable analysis of this data.

**Output**

The partnership will develop a transferrable methodology that is easy to use and can be used across Europe. Training will be provided to help municipalities in using the tool. The methodology will then be tested in pilot cities. The partnership also considers to undertake study visits to cities which currently analyse their spend and/or measure wider economic, environmental and social impact. Finally, this action will be linked to the action concerning building a procurement strategy, as research will be done into how spend and wider impact analysis can be used to frame procurement strategies.

## Draft Action No. 2.1.3

Recommendation(s) for future EU funding for joint cross-border procurement, procurement of innovation, strategic procurement in particular social procurement and circular procurement

**Bottleneck**

As mentioned before, public procurement can function as a strategic tool to help cities implement their environmental, social en economic policies. In order to make full use of this function of public procurement, municipalities need to be innovative in their procurement process. Examples of innovative procurement are: cross-border procurement, procurement of innovation and circular procurement. Innovative procurement can be more expensive than traditional procurement, for instance when the market fails to deliver. Hence, the risks need to be reduced in order to enable municipalities to keep innovating the procurement process. As has already been argued under the action concerning building a procurement strategy, to be able to make full use of the force of public procurement, it is essential to have a solid procurement strategy. Likewise, in order to make full use of the aforementioned examples of innovative procurement, it is necessary that these methods of procurement are incorporated into the procurement strategy and processes. To be able to do this, cities need financial support.

**Objective**

The objective of this action is to develop a rationale to explain why cities need financial support in order to develop innovative procurement projects and to write recommendations on what kind of financial support this should be. This action is linked to several other action of the partnership. As mentioned above, there is a connection with building a procurement strategy. However, it is also interrelated to the action local competence centre, as one possible solution to the risk aversion cities may have towards innovative procurement is to reduce the financial risk by building a contingency which would function as a guarantee. This could be built up within a regional competence centre. The action also links to circular procurement.

**Output**

First, the partnership will carry out research into the existing funding for innovative and responsible procurement and how and where cities finds this information. Secondly, a rationale will be developed to explain why cities need financial support. Finally, there will be recommendations on the kind of financial support municipalities need. Another possible activity is to set up a workshop.

The EU has recently (May 2018) announced its new budget plans for the period 2020-2026. This will be discussed in the European Council and the European Parliament. Therefore, the partnership aims to have its recommendations finalized by the end of 2018.

# Theme 2.2: Developing relationships with economic operators; utilizing the market potential and bringing it closer to the purchasers

## Draft Action No. 2.2.1

*Innovation procurement broker*

**Bottleneck**

Early interaction between the contracting authority and the market, as well as communication of a clear demand for innovation are known as success factors for innovative public procurement. In a tender situation, suppliers are often left without enough time to react, particularly if contracting authorities ask for innovative products that are not yet available (on a large scale). Another problem arises when, as is usually the case, there is limited to no interaction between innovative start-ups/SME’s and public procurers. When municipalities ask for highly innovative solutions that are not yet available on the market, where contracting authorities are not (yet) able to give precise specifications, dialogue between innovative start-ups/SME’s and public procurers is fundamental for making the procurement successful. Competitive dialogue allows procurers to negotiate proposed solutions with bidders. The introduction of Innovation procurement brokers and/or an innovation partnership could offer a solution to this problem.

**Objective**

Innovation procurement brokerage will expectedly help to better match public procurers and suppliers. Cities will be able to better use procurement as a strategic tool to reach policy goals when being better able to enter into a dialogue with the market. Innovation brokerage can boost the innovation process. The partnership will investigate how municipalities can get into dialogue with the market, specifically through innovation procurement brokerage. Moreover, the partnership will explore the possibility for municipalities to set up an “Innovation partnership”. This specific procedure allows contracting authorities to establish a long-term innovation partnership for the development and subsequent purchase of a new, innovative product or service. Finally, the partnership will identify ways, procedures and policies to enable the involvement of civil society and local communities in the co-creation of innovative solutions for urban challenges.

**Output**

The end product will be a guideline for both the implementation and management of the innovation procurement broker, conceived at a regional, national and EU level, with the close involvement of EU cities. To develop this guideline, research will be done into already existing or completed initiatives with procurement brokerage in which public authorities have been involved, as well as into EU legislation surrounding this theme. The output of this activity will be the conceptual design and guideline of functionalities, tools and knowledge bases that will support innovation procurement brokerage and is compliant with the EU principles on procurement procedures. The research will be done for the urban/local level, but the partnership will also look into the possibility of positioning the function of innovation brokerage at a larger institutional network with a central node at the regional, national and/or EU level.

# Theme 2.3: Providing guidance on legal tools and improving competence on innovative and sustainable procurement

## Draft Action No. 2.3.1

*Legal handbook innovative public procurement*

**Bottleneck**

A quick analysis of the needs of the cities within the partnership has

shown us that municipalities show risk aversion in the process

of public procurement, and in innovative procurement especially. Cities in general have a desire to address wider challenges through tendering contracts for public services, yet see the procurement-process as uncertain, complex and thus risky. Legal and other types of risk aversion within contracting authorities obstruct the procurement of innovation. However, the difficulties do not arise from the actual EU law on procurement, but instead cities lack awareness of how to apply the directives that are transposed in national laws. The European Directives seem to provide the right balance between compulsory minimum requirements, and opportunities for flexibility and collaboration with economic operators. There are legal instruments and tools for public procurement of innovation and for meeting social and environmental challenges. The uncertainty and risk aversion might thus be deducted by providing the right tools for applying the EU law in innovative procurement and to use procurement as the strategic tool it can be for tackling economic, social and environmental challenges.

**Objective**

The goal of this action is to provide municipalities with (practical) knowledge regarding the procurement law in order to reduce the feelings of uncertainty, the perception of complexity and therefore the risk aversion of the people who are responsible for the procurement of innovation.

The partnership will first analyse the existing European procurement law (and possibly relevant national procurement legislation) and the possibilities it provides for innovative procurement. The next step is to create guidance, which will be tested with experts and practitioners to optimize its relevance and usefulness.

**Output**

The output will be a legal handbook on innovative public procurement, that will serve as a practical guideline. Possible areas that the book will cover are:

* Legal interpretation of the leeway local authorities may use on specific issues like the “link of the awarding criteria with the subject matter”.
* Legal aspects of market consultations, dialogue stages of the “competitive dialogue and the innovation partnership. This is clearly interconnected with the action innovation procurement brokerage. Having a legal guideline on how to start such a dialogue or innovation partnership, might take away the risk aversion in this particular area of work and might consequently be an incentive for cities to start engaging more with the economic operators.

Other legal interpretations as well as the analysis of other legal aspects (antitrust, IP etc.) can follow, if necessary.

## 

## Draft Action No. 2.3.2

*Develop a flexible and customisable concept for Local Competence Centres for innovative and sustainable procurement*

**Bottleneck**

Based on experience, the organisations responsible for planning and conducting public procurement at local level vary considerably in size and form, and many of the smaller municipalities and municipal bodies and companies do not have expert procurement officers. The competence of local procurement officers on the details of applicable law and on the processes and general know-how of innovative procurement varies from little to sufficient - but their competence on what the municipalities actually need to buy is high.

To strengthen local ownership of the procurement and minimising the risk of yielding inflexible and ineffective solutions, it is useful to expand local capabilities in innovative or sustainable public procurement, rather than relying on the expert knowledge and skills of centralised procurement bodies at national level. Therefore, the partnership will develop a concept for a Local Competence Centre (LCC).

**Objective**

LCC’s can cover any number of municipalities that share a natural connection, based on, for instance, geography, procurement needs or their level of development. By sharing knowledge and by working together, local procurers can be encouraged to engage in innovative and sustainable public procurement, and can have access to very practical knowledge. The LCC’s could also be partners for (Regional and) National Competence Centres, especially by being an intermediary that can communicate the more specialist competence of these Competence Centres to the municipalities and other local contracting bodies. The LCC’s can help convert theory into practice. Meeting the projected goals of innovative and sustainable procurement the LCC’s need a broad scope: not only legal competence, but a specialised expertise and collaboration in a wide range of fields is needed. Effective contract management, post tendering, is also fundamental to ensure that the objectives of the procurement are met during the contract phase.

**Output**

The partnership proposes a flexible concept – adaptable to the local situation – for Local Competence Centres for innovative and sustainable procurement. The LCC can be a formal or informal organization or network whose activities might (but do not necessarily) include: collecting experience and evidence, knowledge sharing, helpdesk services, training courses and joint procurement. The different possible models of such an organization or network will be explored. In describing the various options, we will examine their plusses and minuses, for example risks/practical problems a model may lead to (such as costs, lack of time, of ownership etc.). The benefits of interaction of these LCCs with public-procurement-focussed competence centres organised at higher levels (for example national competence centres) will be discussed, and also the building of formal and informal relations with other competence centres across Europe. This action has much common ground with many of the other actions of the partnership. For example, the legal handbook and the toolkit for setting up a procurement strategy will be useful for the LCC’s.

## Draft Action No. 2.3.3

*Competence building in circular procurement*

**Bottleneck**

Circular economy is an important theme across Europe. The Urban Agenda partnership on Circular Economy has recently published its draft action plan in which they have already identified the large role cities have in the development of a circular economy. As mentioned before, public procurement can be used as a strategic tool to reach a city’s policy goals. Hence, circular procurement can speed up the progress towards a circular economy.

The bottlenecks for circular procurement are similar, but not identical, to those identified above for the general public procurement of innovation. Procurement procedures for circular procurement are unknown, possibilities given by the new directives/regulations are not spread and available circular solutions (products/services) are not known. The differences between general public procurements and circular procurement are to many procurers and their clients, managers, policy advisors and budget holders not clear, there is a need for cultural changes as central procurement departments are not always keen to promote circular/green procurements, existing good practices are not being sufficiently promoted and there is a lack of available training and education on circular procurement for decision makers, professionals and students.

**Objective**

The objective of this action is to share experience, knowledge and insights on circular procurement with public procurers and their clients, managers, policy advisors and budget holders. Knowledge and shared good practices build confidence and promote opportunities that are often needed for procurers and their managers to have the courage to use procurements as a strategic tool for circularity.

**Output**

The knowledge will be shared via trainings and workshops and will be practical and directly transferrable to the work of public procurers. The aim is to provide managers, politicians and procurement practitioners who want to use circular procurement as a strategic tool with an easily accessible and ready-to-use training solution. The main output is that public procurement officers in local and regional authorities (cities, municipalities, counties/departments, regions) across the EU are offered workshops and trainings that support them to conduct circular procurement. The partnership will also create a knowledge package/curriculum for European cities for a Circular Procurement Academy. This will be based on the experience and materials from the Dutch ‘Circular Procurement Academy’.