



EUROPEAN COMMISSION  
DIRECTORATE GENERAL FOR INDUSTRY AND ENTREPRENEURSHIP

“Promoting Innovation Through Public Procurement:  
Best Practice & Networking”

Brussels, 23-24 March 2010

MAIN OUTCOMES

This conference brought more than 200 European practitioners and experts on innovative public procurements. It has been a large success confirmed by various media coverage's.

Below are detailed recommendations from slot sessions on specific issues related to innovative public procurements representing the ideas of the participants, plus speeches of Françoise Le Bail (Deputy Director General DG Enterprise & Industry), Malcolm Harbour (MEP - President of IMCO committee) and Heide Rühle (MEP - Member of IMCO committee).

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“How to bridge the gap between public procurers and innovative SMEs?”

Chair: Simeon Chenev (DG ENTR) & discussants: Emmanuel Leprince (Comité Richelieu, FR), Collan Murray (Transport for London, Senior Procurer, SCI-NETWORK project, UK)

Two difficulties and two ideas emerged for an action at EU level.

- Ø Proposal 1 action at EU level: Open up subcontracting opportunities for SMEs. - One could think of further developing the functionalities of the TED database, so that it could be used (as an obligation or as an option?) by large prime contractors to publish their subcontracting opportunities. One could also consider a legislative amendment that would introduce a clause (“flow-down clause”) that incorporates by reference the terms of the prime contract into the subcontract.
  
- Ø Proposal 2 action at EU level: Innovative SMEs face problems with funding prototypes and test phases of their innovation. - One could think of a scheme at EU level following the example of the US SBIR programme.

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“Setting up cross border PCP projects: experiences from areas such as ICT for transport, healthcare and energy”: Chair: Lieve Bos (DG INFSO) & discussant: Suvi Kempainen (Culminatum, FI)

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The discussion in the parallel session on PCP showed that there was significant interest in setting up cross border PCP pilots. The new type of EC support for these type of joint cross-border PCP procurements in the upcoming FP7 ICT work programme 2011-2012 was really welcomed in this respect. One difficulty identified was that there are still considerable differences in the level of experience with PCP across Member States. Where some Member States already have started preparing for pilot projects or already have PCP projects ongoing (Netherlands, UK, Belgium, Hungary, Finland), other Member States are still in the early stages of discovering the PCP concept. The main proposals for policy action at EU level arising from the discussion were

- Ø Proposal 1: the need to further raise top level political awareness and mindshare on PCP to provide stronger backing for the public procurers that are currently preparing PCP pilots,
- Ø Proposal 2: the need to make available more EU good practices on PCP by encouraging more PCP pilot projects (e.g. through EU funding for PCP pilots) and collecting/promoting such EU-law conform good PCP practices through a handbook.

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### ["Towards a Life Cycle Costing approach in public procurement"](#)

Chair : [Antonio Paparella \(European Commission – DG ENTR\)](#)

Discussant: [John Connaughton \(DAVIS LANGDON LLP, Head of Management Consulting, UK\)](#)

The discussion focused on "sustainable construction" and was introduced by John Connaughton who suggested some discussion points based on the activities already undertaken by the European Commission in the area of Life Cycle Costing (LCC).

LCC is still at an early stage of development and the experience so far has been only partly successful in some Member States. There is still much efforts to be made to build trust about the relevance and the use of Life Cycle Costing.

Two main issues arose from the discussion:

First: The great uncertainties about the outcome of LCC: it is often difficult for the potential users to compare the economic value of various options as they are often evaluated according to different assumptions and reference models.

- Ø Proposal 1: existing guidance is not enough to build confidence. There is a need for more clear guidance for particular circumstances, outlining in a transparent way why differences exist and how they should be interpreted in the decision making. Some aspects of this more specific guidance could be supported by standardisation work at EU level.



Second: How should a long term view be encouraged, especially in PPPs? Capital and financial costs are still dominant in LCC and the time horizon of the economic appraisal is often confined to the contractual period in PPPs.

Ø Proposal 2: it might be worth developing some contractual forms to engage the liabilities of the contracting parties on the long term performances of certain construction elements or facilities. This could be eventually complemented by some type of guarantee included in contract.

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“Organising effective dialogue between the private and public sector”: Chair: Simon Clement (ICLEI, SCI-NETWORK project, GE) & a discussants: Kate Shaw (Group Buyer - Strategic Procurement & Commissioning, UK) & Isa-Maria Bergman (Motiva, FI)

1) Difficulty: Remaining legal uncertainty of the legal limits to consultation and dialogue with the market outside (or within) a tendering process, with a certain reluctance or nervousness to be observed on the part of procurers, especially given the increasing number of legal challenges

Proposal for action at EU level: Clear guidance on these legal boundaries - with the focus as much on examples of what you CAN do, as what you can't do

2) Difficulty: Lack of skills in effectively organising dialogue with the market to maximise the positive results. This can be tricky, particularly given issues such as IPR/confidentiality, ensuring SME participation etc.

Ø Proposal 1 at EU level: Many good examples of market engagement do exist, and indeed in certain places market engagement is embedded in standard procurement processes. Therefore encouraging the effective sharing and analysis of such approaches at the EU level would be valuable.

Ø Proposal 2 and general comment: Need to always keep a clear focus on the "Why" from the point of view of the procuring organisation. Although wider policy goals may be attained, it will be difficult to promote such concepts unless there is clear communication and attention paid to the benefits for the organisation itself.

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“Best practice of Forward commitment procurement methodologies”: Chair: Fergus Harradence (Department of Business Innovation and Skills, UK) & discussant: Gaynor Whyles (Department of Business Innovation and Skills, LCB-HEALTHCARE project, UK)



FCP is proving to be an effective and practical tool in the UK, providing a procedure for public procurers to follow. A portfolio of case studies are in progress supporting by a know how and coaching programme to enable policy and procurement professionals to identify unmet needs and address them through specific innovative procurement projects. The aim is to scale up and replicate the FCP approach to become accepted 'best practice' among public procurers.

Three issues that we have commonly encountered:

- Ø Lack of capability and capacity in innovative procurement techniques and project management. Also, innovative procurement concepts and techniques are rarely if ever provided in professional training.
- Ø A disconnect between those responsible for delivering policies and targets and those procuring goods and services or managing delivery
- Ø Lack of financial support for innovative procurement projects

We can identify some solutions:

- Ø Proposal 1: Providing more practical support to innovative procurers
- Ø Proposal 2: Expanding the know-how and skills of policy, operational and procurement professionals in innovative procurement
- Ø Proposal 3: Information, case examples, guidelines, trainings
- Ø Proposal 4: Establishing networks for exchange of best practice, particularly at level of local authorities
- Ø Proposal 5: Availability of 'pump priming' / 'gap close' funding to enable take up of innovative solutions.

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"How much public procurement of innovation is there? Can we measure it & establish targets?": Chair: Keith Sequeira (DG ENTR) & discussant: Marieke van Putten (PIANOo, SCI-NETWORK project, NL)

- Ø Measuring levels of innovative procurement is a significant challenge, with no readily available statistics.
- Ø We do not have common shared standards for what is innovative procurement.
- Ø Ideas for further progress included taking a sectoral approach and introducing a clear definition (or "label") for innovative procurements or innovative procurers (which could be signalled in the TED database).

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"Risk management in procurement of innovation", Chair: Patrick McCutcheon (DG RTD) & discussant: Max Rolfstam (University of Southern Denmark, DK)

- Ø All types of risks are managed explicitly/implicitly.



- Ø Need for a change of mind set in the top level governments as regarding risk taking in public procurement. Procurers need a strong political push to be innovative.
- Ø A cross government sector grant should be adapted.
- Ø Continue the networking among procurers.
- Ø FP7, CIP, structural funds should be used for supporting innovative procurements.

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“Opportunities in transport for joint public procurement”: Chair: Sylvain Haon (Polis, BE), & discussants: Rasmus Lindholm (Project Manager for GSC and ERTICO, BL) and Kenneth McLeod (TIE, UK)

2 difficulties to be overcome

- Ø Pre-commercial procurement is still not known well enough by a large number of transport professionals which may otherwise be interested. This is a barrier to innovation in transport. More generally, there is not enough knowledge about how to best invest public money to stimulate innovation in a sector where the public authorities are one of the main actor. They for instance manage the infrastructure, and support several services.
- Ø Joint public procurement between several public authorities faces several legal barriers.

2 proposals for policy action at EU level to support the issue:

- Ø Proposal 1: Provide an overview and comparative analysis of the various possible tools for the procurement of innovation in the transport sector (specifically Intelligent Transport Systems)
- Ø Proposal 2: Fund pre-commercial procurement trial scheme in the transport sector.

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Opening speech, Françoise LE BAIL: “Promoting Innovation through Public Procurement: Best Practice & Networking” - 23/03/2010

Ladies and gentlemen,

I am pleased to welcome you in Brussels for these two days co-organized by DG ENTR and DG INFSO.

This conference is dedicated to one of the core EU flagship actions identified by the Europe 2020 strategy: the “Innovation Union”. A flagship action that will be implemented by the Research and Innovation plan the Commission intend to adopt



after the summer. As José Manuel Barroso stated, "It is time to harness the power of government procurement to promote innovation". A core element of this plan will therefore be to develop more demand-side innovation policies, particularly in combination with funding policies.

During these two days, we will talk, act and plan for fostering innovation policy by developing the uptake of new approaches in purchasing goods and services. In other words, we will examine "how" we buy, and the end result of it, "what" we buy. And we will look into how these two phases can empower innovation.

So, these are our objectives for this conference, but what is the rationale for our policy action? Why are we linking public procurement and innovation?

There is a need for public intervention. As economists put it, there is a "market failure". On the one hand, the demand is not able to encourage the market to answer to its needs: it is not giving the right signals. On the other hand, the offer is not known. Moreover, in a time of severe economical, social and environmental crisis, entrepreneurs, investors, businesses are more than before exposed to risk taking. This makes it even harder to develop new markets and to support innovation transfers. That is where the power of public purchasing has to play a role.

Public procurement is indeed a powerful tool. Each year in Europe, 17% of GDP, meaning 2000 billion Euros, is spent through public procurement.

Quite clearly, the societal challenges we are facing – such as climate change, energy efficiency, aging population -, won't be overcome without innovation. Public services therefore have to be drivers for innovation. We even need to go one step further and make our public services more innovative. People and businesses are expecting public services to take the lead. That is the core of our rationale for policy action.

To sum up my first message: better public services, new solutions for public enterprises and authorities, innovation support to businesses, all these won't be successful without the full involvement of public procurers. We need a full engagement of the powerful lever of public purchasing.

Yet, the challenge for the public sector is impressive. It faces severe expenditures restrictions while the demand for social, environmental and economical delivery is increasing. Pressure on public procurer's shoulders is very high. There is a long set of rules to respect, which are crucial for transparent markets.

Is innovation adding to the pressure? Our hypothesis is that innovation can provide solutions and will help public authorities address the societal challenges ahead. How can we reach this goal?

The analysis that procurement needs to be geared towards innovation is not brand new but until now, outcomes have not met the high expectations. In practice, measures to foster innovation through procurement turn out to be more difficult than originally thought. Therefore, Public procurers need support in order to drive innovation.

There are different forms of support and I think all are needed.





First, they need guidance on how to apply the rules. Colleagues from DG Environment or DG Employment have developed a methodology on green and social-responsible procurement, and in DG Enterprise, we published in 2007 a guide book on dealing with innovative solutions in public procurement. But guiding is often not enough. Procurers need to be helped in their understanding on to which extent the procurement legislation could be used to empower innovation. The common rules for procurement are to be assessed by DG MARKT. It should be done in the perspective of the European “research & innovation single market” that Commissioners Geoghegan-Quinn, Tajani and Barnier have decided to establish.

Secondly, targets can help to trigger action and reach better and smarter purchasing. China is working on 40% target for procurement dedicated to innovation. The US, with their SBIR programme – Small Business Innovation Research –, are dedicating 15% of US Departments procurement to innovation per year.

On our side, the Business Panel we launched in 2009 called for a target of 1% procurement budget dedicated to innovation that would mean 20 billion euro per year. The Advisory body for the European Research Area set a more ambitious target of 2%. The conference will envisage that issue.

Thirdly - and I think, this is a crucial issue - procurers need support through networking and knowledge sharing. It helps procurers to face the risks they might take by procuring innovatively. We need public procurers that get to know better what is available on the market. We need public procurers that are recognized as important actors within their organization. We need to give more value to their job: very much like the private sector which has recognized in the last decades the importance and the power of the “purchasing act”. The public sector needs to acknowledge that.

DG ENTR has supported this process with 3 Public Procurement Networks initiated by my services in 2009, within the framework of the Lead Market Initiative:

- the ENPROTEX project dedicated to protective textile (i.e. firemen);
- the SCI-NETWORK dedicated to sustainable construction for local and regional authorities (i.e. cities and transport networks);
- and the LCB-HEALTHCARE project dedicated to low carbon building in the health sector (i.e. hospitals)

The Enterprise Europe Network also started to dedicate specific actions to innovative procurement and SMEs access to it.

As these projects intend to do, we need networking among public procurers; we need to see public procurers organizing themselves at a European level.



This conference, where 300 people wanted to attend, is one of the first results of our Public Procurement Networks. It shows that the European Community of public procurers is building up.

I see this conference as an important tool to facilitate this networking, by giving an overview of what is feasible at European, national, regional and local levels to support innovation through public procurements. And by providing space for networking. For instance, I counted representatives of 15 projects here today. That means around 100 partners that will have the chance to get to know each other during these two days.

But in addition to all that, I believe we also need to think about financial incentives for procurers who want to drive innovation. Pre-commercial procurement, as launched notably by my colleagues from DG Information Society, is a good example. In that trend, I am also very interested in the SBIR type programmes some member States – UK, Netherlands -, or even region – Flanders -, have launched as pilots projects. The Commission will reflect upon this issue to determine whether a European SBIR type programme would have a value added.

But let me come to our conference agenda. Today, we will have 3 plenary sessions dedicated to: Procurement and strategies for encouraging markets for new solutions; Pre-commercial Public Procurement; and to tools to support innovative procurement. In the afternoon, you will have the possibility to attend to specific breakout sessions, which have been set-up by you, the participants.

At the end of today, I will have the pleasure to welcome two leading Members of the European Parliament on public procurement, Heide Rühle & Malcolm Harbour, for a concluding session.

Tomorrow, we would like to provide space and time for networking among existing and future projects. I wish all of us very fruitful discussions, exchanges and plans for action.

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Intervention of Malcolm Harbour (Member of the European Parliament - President of the Committee on the Internal Market and Consumer Protection) during the concluding session

Public Procurement is one of the crucial instruments at our disposal to achieve our policy goals, particularly in the promotion of innovation, research and development. Innovative public procurement will help us address the societal challenges we face, such as climate change, mobility, and aging population, as well as being an important tool in helping us meet our existing commitments, for example, to low carbon.





As Chairman of the Internal Market and Consumer Protection Committee, Malcolm Harbour underlined the importance of the Parliament and the committee in promoting public procurement in general, and pre-commercial procurement in particular. They are responsible for examining not only the initiatives coming out of DG Markt but for promoting policies in the field of public procurement including green, innovative and fair trade initiatives.

In the past we've seen a lack of joined up thinking across the various DG's of the European Commission but this conference, organised jointly by DG INFSO and DG ENTR, with the support of DG MARKT, is the first of it's kind in this policy area and one which is very much supported. Harbour welcomed the Commission's new horizontal strategy in the area. Procurement initiatives should be complimentary, rather than mutually exclusive.

The need for a horizontal approach is a pre-requisite for successful innovative procurement given the many inputs required to make it work, including legal certainty, financial support, incentives, networking, knowledge sharing and best practises.

Public procurement has to play a strategic role in meeting today's and tomorrow's challenges. In this regard, Heide Ruhle's report on "new developments in public procurement" addresses the legal uncertainty and practical problems public procurers face currently.

This is why it is so important that the use of public procurement to stimulate innovation and creating an "Innovative Union" is one of the flagship initiatives under EU2020. However, it is disappointing that the value and importance of using innovative procurement to create the Commission's flagship "Innovation Union" has been somewhat understated. The EU spends €1800 billion on public procurement each year. This is 16% of the EU's total GDP. If we don't leverage these resources, will be not be making the most out of one of the most important tools at our disposal to improve public services and encourage R&D.

Mr Harbour's Committee will continue to engage in such initiatives and look forward to continued work with the Commission.

In conclusion, he urged participants to consult some of the recommendations made in his report on Pre-commercial procurement, adopted in the last legislature by the European Parliament

(<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2009-0018&language=EN>). Networking, developing best practises and training for public authorities, are all essential if authorities are to have the required expertise and fill the knowledge gap on the benefits of innovative procurement. He



highlighted a recommendation in the report that the Commission develop a best practise guide for pre-commercial procurement, including a handbook of practical examples of how innovative procurement can be done under procurement rules, to help the smaller local and regional authorities to understand the process and see how it can benefit them.

However, these soft proposals must be complimented by real financial incentives and opportunities if public procurement is going to have a tangible impact on driving innovation. The Commission must re-asses and think more creatively about how to leverage pre-commercial procurement in this way and how to best use Community funding.

SMEs must be put at the heart of the project too. Small companies can often be best placed to offer innovative services and goods but often lack the resources to see their ventures through. Pre-commercial procurement represents an important opportunity for SMEs, since it is less prescriptive than mainstream procurement since there should be fewer pre-qualification criteria (e.g. health and safety). It also greatly reduces the investment risk at the crucial stage of a new product development plan, when heavy costs are incurred with no income flows.

Member States also have a role to play. Governments must ensure that public authorities maintain dialogue with suppliers to ensure the right bidders come forward and should work to change the innovation culture in public authorities so they view innovation as one of the ways to deliver high quality public services, not a barrier to it.

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Intervention of Heide Rühle (Member of the European Parliament) during the concluding session

After illustrating her report on "new developments in public procurement", Ms Rühle affirmed that innovation can only occur if procurers take responsibilities.

One of the biggest problems is the context of legal uncertainty. In this regard, we should work to make it easier and to improve the framework in which companies operate.

Ms Rühle underlined that all DGs have to speak the same language.

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If you have any question or information, do not hesitate to contact us:  
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