



# Sustainable and innovative Procurement under Directives 2014/24 and 2014/25

## ERF/GSV Seminar on Public Procurement

*An Baeyens  
DG for Internal Market, Industry,  
Entrepreneurship and SME's  
Unit G4*

# I. INTRODUCTION

- **Research and innovation, including eco-innovation and social innovation: the main drivers of future growth at the centre of the Europe 2020 strategy for smart, sustainable and inclusive growth**
- **Public procurement: strategic tool for public authorities to spur innovation while addressing major societal challenges**

# I. INTRODUCTION

- **Key policy objective: Europe 2020 Strategy**
- **Driving innovation through PP → best value for money + promoting sustainable growth**
- **Horizon 2020: Commission support for joint pre-commercial procurement**
- **Choice of instruments left to contracting authorities**
  - **Separate procedures**
  - **New combined procedure**

# II. INNOVATIVE TOOLS UNDER DIR. 2004/17 & 2004/18

## Technical Specifications

- Detailed prescription
- Functional requirements
- Variants

## Award criteria

- MEAT
- Lowest price

## Procedures

- Competitive dialogue
- Pre-commercial procurement

# II. INNOVATIVE TOOLS UNDER DIR. 2014/24 & 2014/25

## Technical Specifications

- Detailed prescription
- Functional requirements
- Variants

## Award criteria

- MEAT
  - Price
  - Cost
  - Best Price Quality Ratio

## Procedures

- Competitive dialogue
- Innovation Partnership
- Pre-commercial procurement

## II. INNOVATIVE TOOLS

### under new Dir : one award criterion 'MEAT'

- **Most Economically Advantageous Tender (MEAT) shall be identified on the basis of**
  - **a) price, or**
  - **b) cost**, using a cost-effectiveness approach such as life-cycle costing, **or**
  - **c) the best price-quality ratio (BPQR)** to be assessed on the basis of award criteria linked to the subject-matter of the contract
- i.e., whichever criterion is used, always economic element

## II. INNOVATIVE TOOLS under new Dir : one award criterion 'MEAT'

### a) Price

- **change of name ("lowest price only" => "price") - change of substance?**
- **Price : amount stipulated directly in contract (i.e. amount paid exclusively for acquisition, not use, ownership etc.)**

## II. INNOVATIVE TOOLS

### under new Dir : one award criterion 'MEAT'

**b) Cost**, using a cost-effectiveness approach such as life-cycle costing

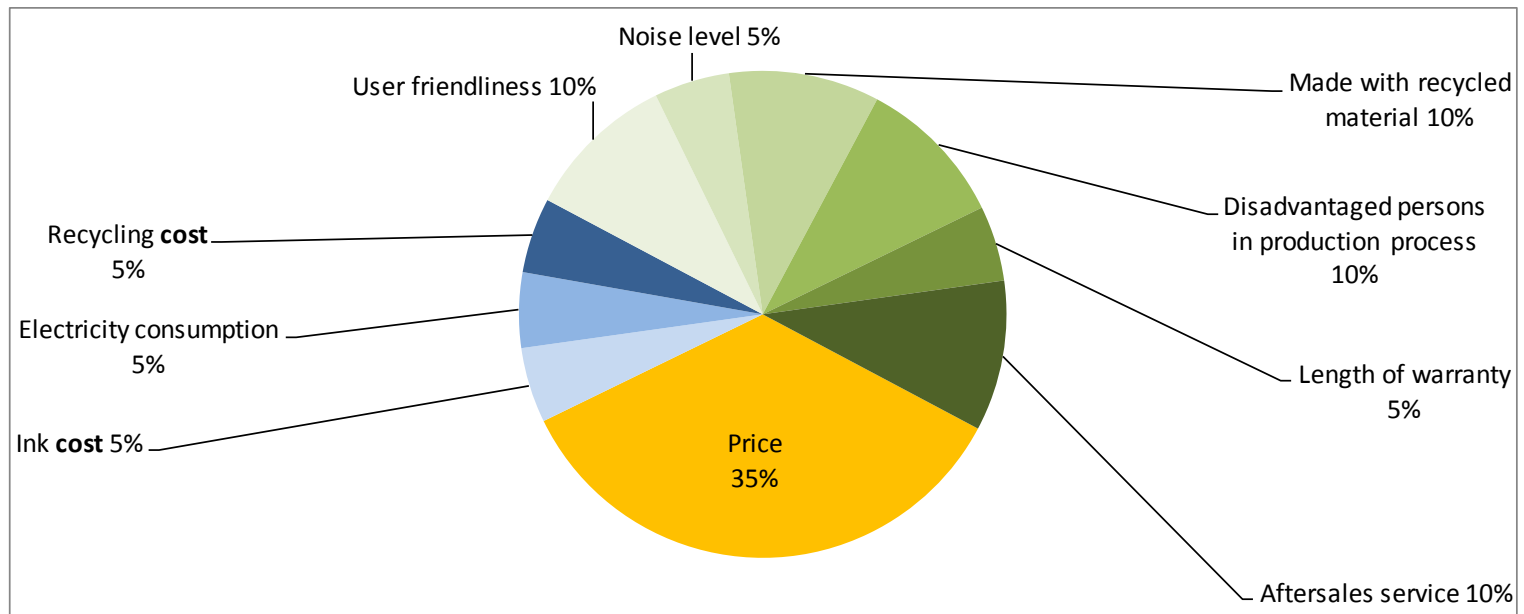
- Price **plus** other economic costs connected to the purchase and ownership (the normal provisions on weighting apply, cf. Art. 67(5))
- **e. g. printers:**
  - 55% acquisition price
  - 15% cost of consumables (ink)
  - 25% electricity consumption
  - 5% cost connected to dismantling and recycling



## II. INNOVATIVE TOOLS under new Dir : one award criterion 'MEAT'

c) **Best price-quality ratio** (BPQR) to be assessed on the basis of award criteria linked to the subject-matter of the contract.

- **Price** and/or **cost**
- **other criteria**, (including **qualitative, environmental and/or social aspects**, linked to the subject matter of the public contract in question).



## II. INNOVATIVE TOOLS under new Dir : one award criterion 'MEAT'

### ADDITIONAL SPECIFICATIONS ON COST, LIFE CYCLE COST

#### COST

- **price or cost** always included
- possibility to use a **fixed price or cost**: competition only on quality possible
- **cost** can be set by "*cost effectiveness approach, such as **life cycle costing** in accordance with Article 68 ...*"
- MS **can exclude or restrict** (to certain categories of contracting authorities or certain types of contracts) **the use of price or cost only** as sole criterion!

## II. INNOVATIVE TOOLS

### under new Dir : one award criterion 'MEAT'

#### ADDITIONAL SPECIFICATIONS ON COST, LIFE CYCLE COST

**LIFE CYCLE** defined in Art. 2(20):

- Also can include "research and development to be carried out": i.e. only includes the R&D that still needs to be carried out as part of the procurement concerned in order to further optimise/refine
- "Trading and its conditions" = "fair-trade"; based on C-368/10 ("Max Havelaar")

## II. INNOVATIVE TOOLS

### under new Dir : one award criterion 'MEAT'

**The best price-quality ratio** shall be assessed on the basis of criteria, including qualitative, environmental and/or social aspects, **linked to the subject matter**:

List of possible criteria is not exhaustive

- Quality, technical merits, aesthetic and functional characteristics, accessibility, design for all
- Organisation, qualification and experience of staff assigned
- After-sales services and technical assistance

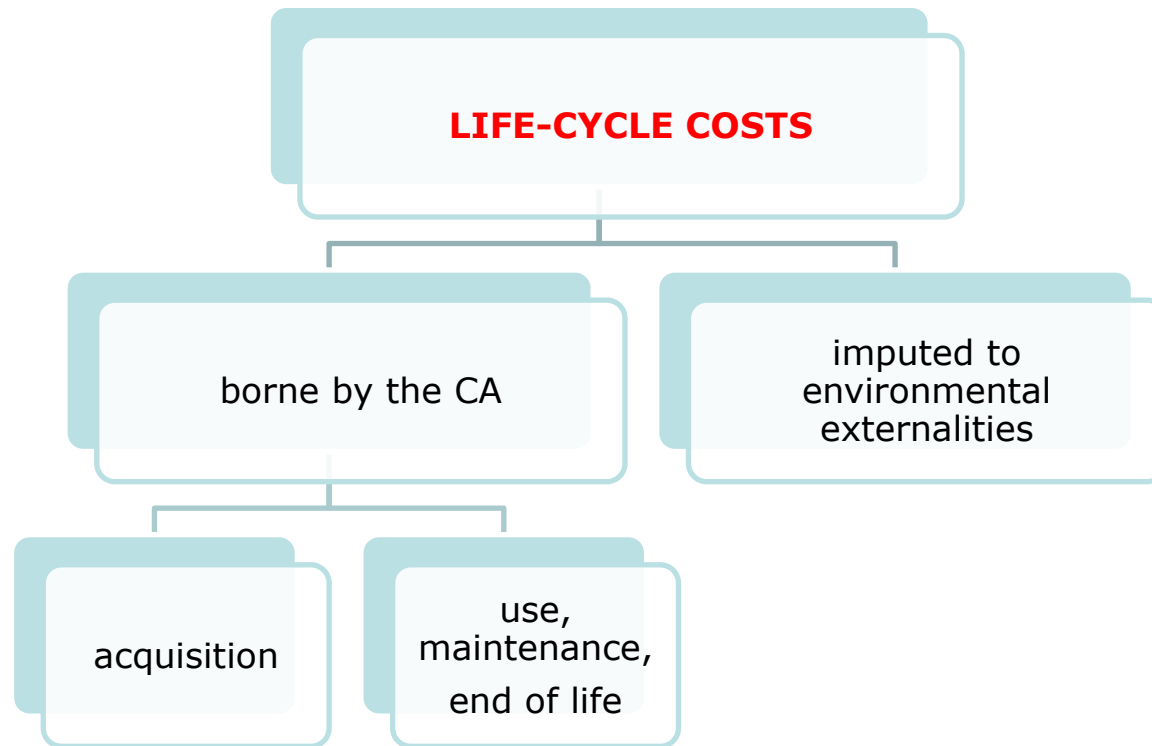
## II. INNOVATIVE TOOLS

### under new Dir : one award criterion 'MEAT'

Criteria must be linked with the works/supplies/services to be provided

- in any respect and at any stage of their life cycle, including:
  - the **specific process of production, provision or trading** of those works, supplies or services; or
  - a specific process for another stage of their life cycle.
- even where such factors do not form part of their material substance
  - Green: manufacturing of the purchased products did not involve toxic chemicals, or that the purchased services are provided using energy efficient machines
  - Social: social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract

## II. INNOVATIVE TOOLS under new Dir : life-cycle costs



## II. INNOVATIVE TOOLS under new Dir : life-cycle costs

*In order to assess costs using life-cycle costing approach the method used must*

- Be based on **objectively verifiable and non-discriminatory criteria** (no disadvantage to certain operators)
- Be **accessible** to all interested parties
- **Data required can be provided with reasonable effort by normally diligent economic operators**, including economic operators from third countries party to the GPA or other international agreements by which the Union is bound.

*If common methodology then obligatory (Clean Vehicles Directive)*

- E.g.: Operational lifetime cost CO2 emission of passenger car (Alfa Romeo 147 – CO2 emission 155g/km):  
 $200\,000\text{ km} \times 0,155\text{ kg/km} \times 0,04\text{ Eur/kg} = \mathbf{31\,000,04\text{ €}}$  imputed operational lifetime cost for CO2

## II. INNOVATIVE TOOLS

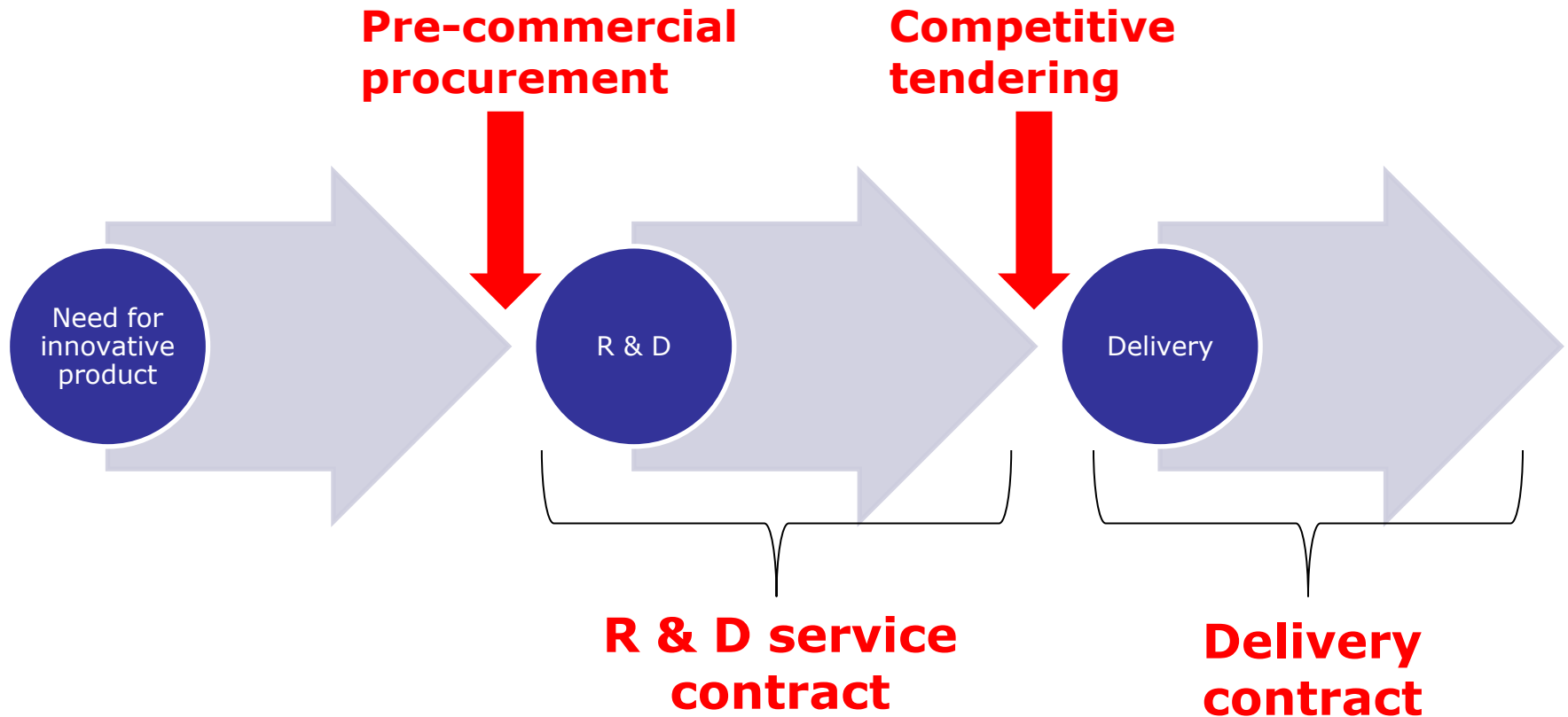
### Technical specifications and labels

- **Technical specifications:** clarified (OK for production process or other stage of life cycle if linked)
- **Labels**
  - ok, if defined in transparent and objective manner **and** all its requirements are linked to the subject-matter and appropriate
  - recognition of equivalent labels and other means of proof where no access
  - where **all** requirements are **not** suitable: as now, i.e. underlying requirements
- **Third party certification**
  - may be required (tech. spec, award criteria, contract perf.)
  - mutual recognition re equivalent certificates
  - Other means where no access



## II. INNOVATION TOOLS

### Pre-commercial and public procurement



## II. INNOVATION TOOLS

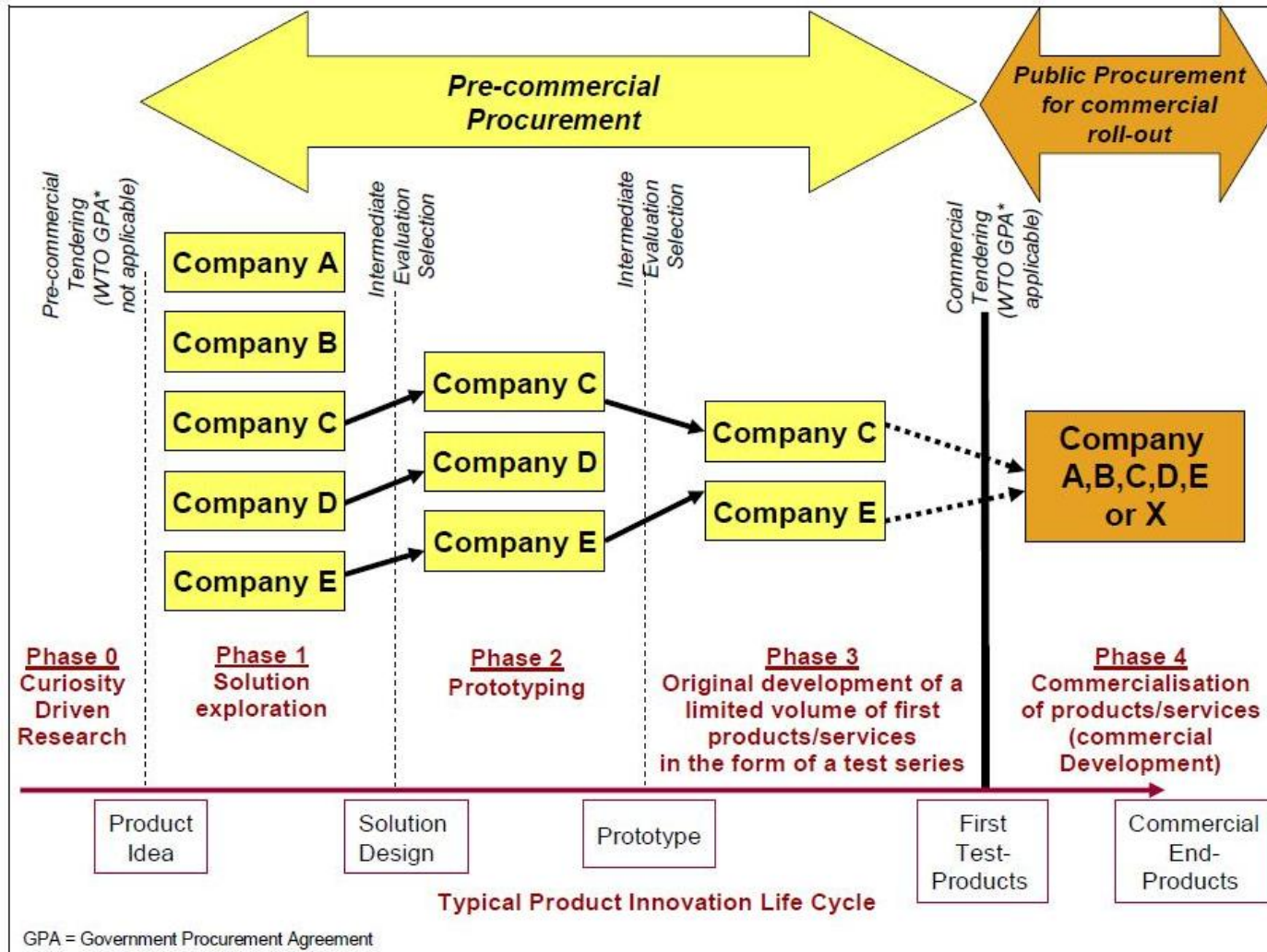
### Pre-commercial procurement

#### *FEATURES of pre-commercial R & D contract*

- *Competitive development in phases*
  - several companies develop alternative solutions
  - intermediate evaluations → reduction of solutions
- *Risk-benefit sharing according to market conditions*
  - appropriate risk-sharing creates incentives
  - assignment of IPR ownership rights
  - compensation at market prices
- *Strictly limited to R & D phase*



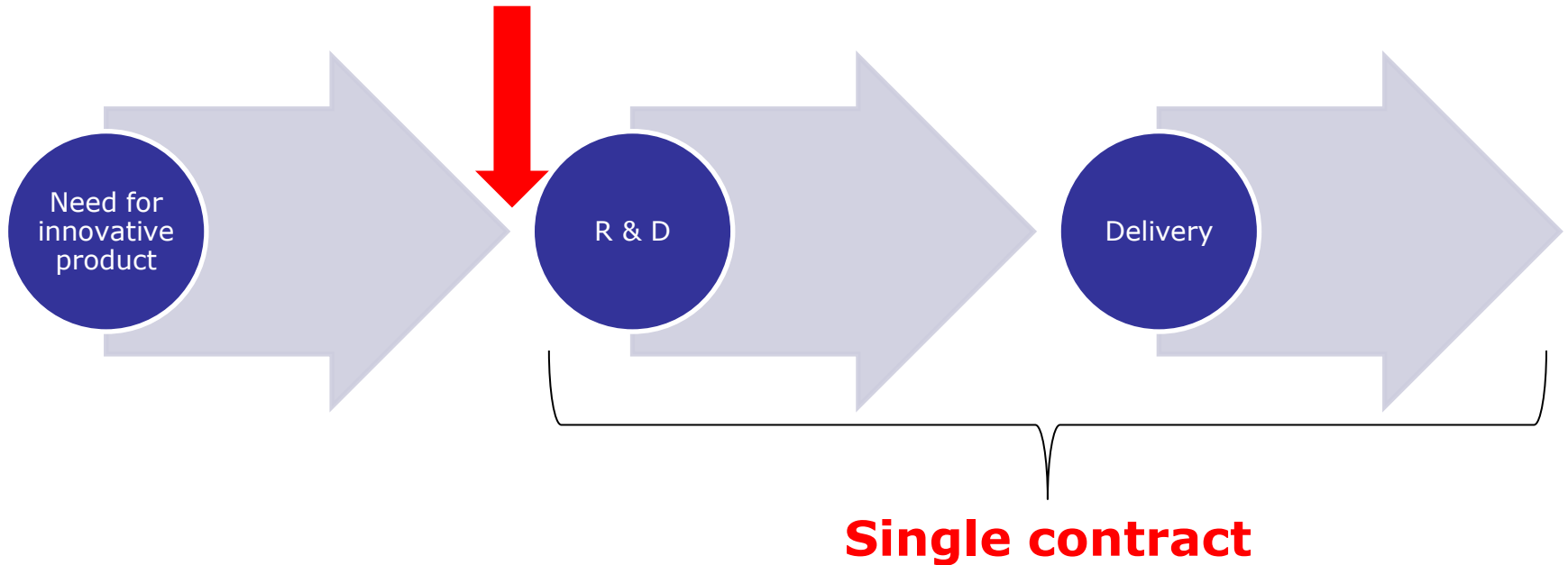
European Commission



## II. INNOVATION TOOLS

### Innovation Partnership

**Competitive  
tendering**



## II. INNOVATION TOOLS

### Innovation Partnership

R&D  
Phase

- Structured in successive phases following the sequence of steps in the R&D process
- Intermediate targets
- Option to finish after each phase
- Remuneration to be paid in appropriate instalments
- In the case of multiple partners:  
Competitive development with reduction of number of solutions

## II. INNOVATION TOOLS

### Innovation Partnership

Delivery  
Phase

- No new competition
- Condition: R&D results meet agreed performance levels and costs
- **In the case of multiple partners:**  
Final assessment and identification of the solution that meets best the relevant parameters (rules have to be fixed in the contract)

## **II. INNOVATION TOOLS**

### **pre-commercial procurement or innovation partnership?**

Key criteria for choice by contracting authorities

- Size of the market
- Number of possible R&D service providers/solutions
- Degree of innovation
- Investment required/risk
- Characteristics of the required product/solution
  - unique/specialised or widely marketable
- Value of IP rights

*Thank you for your attention!*

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