



EUROPEAN COMMISSION

ASSESSMENT REPORT

**on the performance
of the EC funded Innovation Procurement projects
in the security field according to
the EC Guidance Notice on Innovation Procurement**

An assessment report prepared
for the European Commission,
DG for Migration and Home Affairs (DG HOME) by
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ABSTRACT

The 2014 EU Public Procurement Directives call on public buyers to spur innovation in Europe through the strategic use of their significant purchasing power. To that end, the EC issued in 2018 a Guidance Notice that underlines some key factors that facilitate the attraction in tenders of innovators as suppliers and innovative solutions as offers.

This assessment looks into the procurement approaches and practices of the EC funded Innovation Procurements in the security field in the light of the points referred in the EC Guidance Notice. The results of this assessment highlight the impact of these projects in the EU market and economy, especially in terms of enabling access to their procurements to smaller innovators (such as SMEs) and of contributing to the unlocking the European Single Market in security. By stressing the obstacles and hurdles in the implementation of the projects/procurements, indicated by the projects themselves, recommendations are also suggested for the optimization of the EC funding instruments in the next Multi-annual Financial Framework (MFF).

A. INTRODUCTION

The public sector in Europe holds significant purchasing power. It spends around 2 trillion Euros on a yearly basis through public procurement.¹ By using this budget in a strategic way through Innovation Procurement, the public sector could achieve the modernization of its services with breakthrough solutions in a cost-effective manner. It could also offer market opportunities to innovative businesses fostering thus the creation of growth and jobs in Europe and boosting the EU economy.

Innovation Procurement as an instrument to support R&D&I is used by the European Commission (EC) since FP7². The EC, since then, has reinforced significantly (especially in the H2020 context) the support offered to these projects. The key role of Innovation Procurement in the designing of demand-side innovation policies was also acknowledged by the H2020 interim evaluation report³. According to this report, Innovation Procurement can help reduce market uncertainty for the developed innovative solutions, shape and create new markets and open scale up opportunities for European companies. It is therefore expected that Horizon Europe will increase the support to Innovation Procurement projects, capitalizing at the same time the lessons learned in the previous Framework Programs.

The importance of demand-side innovation in the civil security field was acknowledged very early by the EC. Therefore, it supported Innovation Procurements in FP7 through the Pre-Operational Validation (POV)pilot scheme. In H2020, though, it has started supporting Innovation Procurements in the security domain mainly through the form of Pre-Commercial Procurements (PCP). The accumulated experience acquired from the implementation and management of POVs and PCPs provides valuable feedback that could help optimize the EC support, for the benefit of both the public procurers as well as the suppliers in procurements. In view of the new MFF and with the aim to increase (even more) the impact of these projects, DG HOME took the initiative to make use of the experience acquired through the implementation and management of Innovation Procurements in the security area, mainly by collecting and analyzing the feedback and the lessons learned of the on-going PCPs and completed POV projects.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Europe's next leaders: the Start-up and Scale-up Initiative, COM/2016/0733 final, p. 6-7

² The first FP7 calls on Innovation Procurement projects (Pre – Commercial Procurements) were published in 2011

³ Interim Evaluation Report, Commission Staff working document, EU 2017, <https://op.europa.eu/en/publication-detail/-/publication/fad8c173-7e42-11e7-b5c6-01aa75ed71a1/language-en/format-PDF/source-77918455>

B. BACKGROUND TO THE STUDY

This section outlines the main provisions of the 2014 EU Procurement Directives (Directives 2014/24 and 2015/25) and the Directive 2009/81 in the defense and security domains that are related to Innovation Procurement. These Directives along with the EC Guidance Notice on Innovation Procurement (C2018/3051) are the main EU legal and policy documents that are setting the ground for the implementation of Innovation Procurements in Europe.

As mentioned in the introduction, support to demand-side innovation through Innovation Procurement is provided by the EC since 2011. The EC piloted POV projects in FP7. In H2020 though it offered support to Innovation Procurements in security mainly through PCPs. This section outlines also the conditions, particularities and requirements of each instrument (POV and PCP) in order to understand their role in the implementation of these projects.

1. EU Public Procurement Directives

Directive 2014/24 as well as the Utilities Directive 2014/25 highlight the importance of innovation in public procurement. They encourage public authorities and entities in Europe to make strategic use of public procurement in a way that supports innovation⁴. Moreover, an important novelty of these Directives is the following: they contain a clear definition of the term innovation in public procurements⁵. Unlike the repealed Directives 2004/18 and 2004/17 respectively, the 2014 Directives contain a clear reference to PCPs highlighting that the latter remain outside the scope of the Directives. The legal ground for the exemption of PCPs (and POVs) from the scope of the EU Procurement Directives is article 14 that stipulates that the 2014/14 Directive is not applicable in procurements of R&D services where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and the service provided is wholly remunerated by the contracting authority⁶. This provision existed also in the repealed EU procurement Directives of the year 2004. However, the explicit reference to PCPs in the 2014 Directives explained in a clearer way the legal status of PCPs in Europe.

What is more, the 2014 Public Procurement Directives underlined the necessity to facilitate access of SMEs to procurement markets⁷. For that reason, they introduced several provisions

⁴Directive 2014/24 on public procurement and repealing Directive 2004/18/EC, recital 47 and Directive 2014/25 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, recital 57

⁵Directive 2014/24, article 2 par. 22 and Directive 2014/25, article 2 par.18

⁶In the Utilities Directive 2014/25 this provision is included in the article 32.

⁷Directive 2014/24, recital 2 and Directive 2014/25, recital 4

that aim at removing barriers that hamper the participation of SMEs in public procurements in Europe (e.g the introduction of the ESPD document⁸)

For the implementation, though, of public procurements in the security domain crucial role plays also the Directive 2009/81 in the defense and security fields. PCPs (and POVs) are exempted too from the scope of this Directive, due to the provisions of article 13j that reiterates the provisions of the above-mentioned article 14 of Directive 2014/24. This Directive lacks a clear definition of the term innovation in public procurement as well as a clear reference to PCPs. It contains, however, an important (especially for PCPs and POVs) definition of the Research and Development approach in public procurements that is missing in the 2014 EU Public Procurement Directives. To that end, Directive 2009/81 sets the boundaries for R&D services in public procurements in Europe that cover fundamental research, applied research and experimental development⁹.

2. EC Guidance Notice on Innovation Procurement

The 2014 EU Public Procurement Directives created a more favorable legal environment to Innovation Procurements in Europe. Pursuing innovation potential in public procurements remained, however, underexploited. It was thus necessary to be provided to the European public procurers, guidance on how to procure innovation. The EC, therefore, published in 2018 a Guidance Notice on Innovation Procurement¹⁰ that provides clarifications, hands-on information on Innovation Procurement as well as case – examples of projects across Europe that tackled concrete societal challenges through public (Innovation) procurement.

The 2014 EU Public Procurement Directives do not include definition of Innovation Procurement. The EC Guidance Notice clarifies the uncertainties about the boundaries of Innovation Procurement by stipulating in a clear fashion that by the term Innovation Procurement is considered both the buying of the process of innovation – with (partial) outcomes and/or the buying of the outcomes of innovation created by others (not the public procurers themselves). This clarification is very important because it allows R&D services procurements, funded by the EC in the form of POVs or PCPs, to be classified (without any doubt any more) as Innovation Procurements.

⁸For that point in the context of the EC funded Innovation Procurement projects see below p.19

⁹Directive 2009/81 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defense and security, and amending Directives 2004/17/EC and 2004/18/EC, recital 13.

¹⁰Commission Notice, Guidance on Innovation Procurement, C(2018) 3051 final

Apart from this very important adoption of the definition of Innovation Procurement, the EC Guidance Notice refers also to the main driving force of Innovation Procurement, namely the public need. In addition, it places the modernization of the public sector services on an optimal budget at the core of each relevant procurement process. At the same time, it stresses the importance of Innovation Procurement for the European market and especially for innovative SMEs and start-ups that it helps them launch and scale-up. Emphasis is placed also, in the context of this EC Guidance Notice, on the policy framework at Organizational level (e.g policy mandate) that enables the implementation of good quality Innovation Procurements to tackle public challenges in the responsibility domain of each particular Organization.

A very important aspect in Innovation Procurements is related to the attracting of innovators in the tender. For that reason, the EC Guidance Notice sheds light on this issue by providing hands-on information and case examples on how public procurers could use in an optimal way the relevant provisions of the EU Procurement Directives to facilitate the access of start-ups and innovative SMEs to public procurement markets. By focusing on the designing and implementation of the procurement procedure itself as well as on the engagement of external factors (e.g innovation brokers), this section of the EC Guidance Notice explains how to attract innovators as suppliers/potential suppliers in the tender. This plays a crucial role in this report and therefore it will be analyzed in more detail in the relevant chapter on the assessment.

The EC Guidance Notice provides also useful information, explanations and case-examples on how the public procurers could design their procurement procedures to attract offers that may contain the development and/or the purchase of innovative solutions in regards to the specific, each time, public need. In line with the favorable to Innovation Procurement provisions of the 2014 EU Public Procurement Directives, the EC Guidance Notice illustrates how these provisions can be translated into concrete actions by the procurers (e.g explanation and case – examples on market consultations) in order to facilitate the buying of innovation. This point (along with the point about the attracting of innovators) will also be analyzed in more detail in the chapter on the results of the tender. It should be noted also that this Guidance Notice contains detailed descriptions of the R&D services procurement procedures (including PCPs) as well as other procurement procedures to develop and/or purchase innovative solutions (including procedures that combine both the purchase of R&D services and commercial volumes of the developed innovative solutions, such as Innovation Partnerships). This enables public procurers to acquire a clearer overview of the interrelations, differences and similarities between all these types of Innovation Procurement procedures (e.g differences between PCPs and Innovation Partnerships on issues related to state aid).

3. Pre-Operational Validation projects (POVs)

Pre-Operational Validation projects (POVs) is a pilot funding instrument that was used by the EC in the security part of FP7. It combines in one Grant Agreement two different funding schemes, namely the Coordination and Support Actions (CSAs) and the Collaborative projects (CP). In a nutshell, POV projects are structured around 3 phases: the initial Definition phase (CSA) where the outcomes are inter alia a Needs Analysis Document and a Validation Strategy, the preparatory work and execution phase (CP) where the actual tender preparation (call for tenders) and the procurement implementation take place and the final ex- post assessment phase (CSA), where activities such as the overall validation and the performance assessment of the solutions are taking place¹¹.

The Work Program (WP)/call texts as well as the Guide to CP-CSA projects define the specific requirements for the implementation of POV projects. The above-mentioned documents foresee, among others, that the procurements, executed in phase 2 of the project, should be R&D services procurements using functional specifications to describe the public need aimed to be tackled. In addition, they mention that the contracts should be awarded according to the best value for money criterion. Moreover, there are provisions that explain how the foreground Intellectual Property Rights¹² (IPRs) should be allocated in these procurements, especially in a way that there is sharing, between the public procurers and the suppliers, of the R&D risks and benefits as well as provisions that define how to calculate the compensation to public procurers due to the fact that IPR ownership is left with the suppliers (in case these IPRs are generated by them).

What is important to note, especially in the light of this study, is that according to the specific requirements for procurements in the POV projects, beneficiaries/procurers are free to design their procurement procedure, provided that the practical set-up for procurements in POVs is announced in the Contract Notice. In addition, the tender documents should at least foresee the option to select multiple companies to start the pre-operational validation in parallel. Moreover, contract implementation should be divided into different phases that follow the development through R&D of the innovative solution. The procurers in POVs are, in other

¹¹EU contribution had the form of a combined reimbursement. 100% of the total eligible costs for activities linked to the preparation, definition, management and coordination of the POV call for tender (CSA phase 1). Maximum 50% of the total POV procurement (subcontracting) costs or 75% in case of market failure and of accelerated equipment development (CP phase 2 and 100% of the total eligible costs for activities related to the final validation of the outcome of the execution phase (CSA phase 3). The reimbursement of the indirect costs for CPs in phase 1 and phase 3 respectively could reach a maximum of 7% of the direct eligible cost

¹²Foreground IPRs in procurements are those that are generated by the contractor/s or the procurer/s through the contract implementation.

words, free to define the number and the design of the phases in their procurement procedures as well as to decide about the expected duration of each phase. Feedback from POV projects, though, showed that procurers in those two projects followed the same structure in their procurements by splitting the procedure in 3 phases/stages: stage 1 was about Design and Development of the solution, stage 2 was about Testing and Integration and stage 3 was about Demonstration and Evaluation.

Finally, by referring to the Treaty principles, the EC specific provisions for procurements in POV projects foresaw that beneficiaries/procurers should carry out an EU wide publication of the call for tenders in at least in English. In line with the equal treatment principle, procurers are also obliged to evaluate the offers according to the same objective criteria, regardless of the geographic location of the economic operator's head offices, the size of the tenderer or its governance structure. However, there is no explicit reference (neither in phase 1 nor in phase 2 of the project) to a potential market consultation (with minimum actions regarding its implementation) for awareness raising of the market stakeholders about the upcoming POV procurement. Nevertheless, as it will be shown later in this study¹³, almost all POV projects carried out market consultations, yet not all activities of these market consultations took place prior to the launching of the call for tenders.¹⁴

4. Pre-Commercial Procurement projects (PCPs)

PCP projects are supported by the EC since FP7 (not in security but in other domains). PCPs are presented in detail in the Commission Communication COM (2007) 799¹⁵ as well as in the associated Commission Staff Working Document SEC (2007) 1668¹⁶. The main features of PCPs are the following: they are R&D services procurements, there is sharing between public authorities/entities and contractors of the procurement risks and benefits¹⁷ and they follow a competitive approach in the contract execution stage (there is competition not only for the

¹³For this point see below p.26

¹⁴For example, EUCISE2020 project published the Contract Notice for its tender on 23.3.2016 whereas according to the information published on the project's website an info day for this procurement took place in Rome on 13.4.2016. <http://www.eucise2020.eu/procurement>

¹⁵Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Pre-commercial Procurement: Driving innovation to ensure sustainable high-quality public services in Europe, COM (2007) 799 final

¹⁶Staff Working Document accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions : Pre-commercial Procurement: Driving innovation to ensure sustainable high quality public services in Europe, Example of a possible approach for procuring R&D services applying risk-benefit sharing at market conditions, i.e. pre-commercial procurement, SEC(2007) 1668

¹⁷Under the term benefits all results are considered including IPRs.

award of the contracts but also during the contract implementation because the number of suppliers is reduced after evaluation when there is transition from one PCP phase to the next).

FP7 and H2020 rely on the provisions of the above-mentioned EU Communication/Staff Working Document to design the EC funded PCP instrument. However, they insert some extra specific requirements for the EC funded PCPs that are very interesting, especially in the light of this study. The specific requirements however for H2020 and FP7 PCPs are not identical. Based on the lessons learned from FP7 PCPs, novelties were introduced in H2020 aiming, inter alia, at encouraging wider communication of PCP procurements to potential tenderers. The Security Research Work Program did not support PCPs in FP7 as it focused mainly on the POV scheme that was outlined in the previous chapter. For that reason, the specific requirements of the EU funded PCPs that will be illustrated in this study refer to H2020 funded PCPs.

H2020 General Annexes D and E to WPs are setting the ground for the implementation, management and funding of the EC supported PCPs. There are 2 stages in the implementation of these projects. The preparation stage, where the call for tenders is being drafted and the upcoming procurement is being promoted and the execution stage that refers to the actual implementation of the PCP procurement. In the preparation stage it is expected by the beneficiaries to carry out a needs-analysis, a prior-art analysis as well as an open market consultation. H2020 General Annex E contains specific information on the minimum activities that have to be performed in the context of the open market consultations. For example, there is a need to publish a Prior Information Notice (PIN)¹⁸ to announce the open market consultation in English at least two months before the launching of the call of tenders¹⁹. This timeframe is crucial because it allows all economic operators (especially, though, the smaller companies and start-ups) to be informed well in advance about the upcoming procurement in order to prepare on time their offer. In addition, calls for tenders must be open at least 60 days for the submission of offers etc.

Annex E contains also detailed information on PCP procurement execution. Contract implementation is divided in at least 3 phases²⁰: solution design, prototype development and

¹⁸PINs are published on the TED (Tender Electronic Daily) database

<https://ted.europa.eu/TED/main/HomePage.do>

¹⁹This 2-month period before the launching of the call for tenders derives from the H2020 Grant Agreement. See article 13 of the H2020 Annotated Model Grant Agreement, p. 689 (version June 2019)

²⁰H2020 General Annex E stipulates that the EC funded PCPs may split in more than 3 phases but in not less than 3. Commission Communication COM(2007) 799 final on PCP does not refer explicitly to the number of PCP phases meaning that non H2020 funded PCPs may be divided in less than 3 phases
https://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf

original development including testing of a limited volume of test series products/services. There are also requirements concerning the facilitation of access of all types of economic operators to the tender. For example, Annex E stipulates that procurers should avoid the use of selection criteria based on disproportionate qualification and financial guarantee requirements (e.g. with regards to prior customer references and minimum turnover). In addition, it is also foreseen – as in POV procurements - that the EC funded PCPs should be based on functional specifications. PCPs and POV procurements adopt more or less²¹ the same approach towards the foreground IPRs as well as the evaluation of the offers (best value for money criterion).

Finally, it has to be noted that the specific requirements for the EC funded PCPs highlight the importance of the keeping of competition also during the contract implementation stage. Procurers should indicate in the Contract Notice the intended number of tenderers that will sign the PCP Phase 1 contract (at least 3) as well as the expected number of PCP phases and the allocated budget per PCP phase etc.

A great novelty, introduced in 2016, is the EC guidance documents on the different steps of EC funded PCPs implementation. This guidance contains inter-alia hands-on information on how to complete the PIN for the open market consultation, the Contract Notice and the Contract Award Notice. The EC also used the experience and the lessons learned from the first PCPs (especially in FP7 environment that had in the meantime been completed) and drafted a guidance document on how to prepare the PCP call for tenders for EC funded PCP procurements²²incorporating in this document the general provisions of all PCP procurements as well as the specific requirements derived from H2020 (mainly Annexes D and E). Furthermore, this guidance includes information and explanations on how to prepare the model framework agreement and the model PCP phase contracts. These guidance documents offered great help to procurers and paved the way for better PCPs, lifting also some of the

²¹To ensure the commercialization of the generated through PCP IPRs or to avoid their misuse, the EC specific rules introduce the concept of the call back provision that safeguards that if an R&D provider fails to commercially exploit the results within a given period after the PCP as identified in the contract or uses the results to the detriment of the public interest, including security interests, it must transfer any ownership of results to the procurers. This provision does not exist in POVs

²²The initial guidance on how to complete the Simap forms, available on the TED database, for PCPs (in particular the PIN for the open market consultation, the Contract Notice and the Contract Award Notice) as well as the model request for PCP tenders with annotations was published in 2016. Updates took place in 2017 and 2020.

<https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5ad75d04b&appId=PPGMS>

administrative burden that is related to the preparation of the EC funded PCP tender documents.

5. Main similarities and differences between PCP and POV projects.

PCP and POV procurements have many common features. To start with, they are both procurements of R&D services where there is sharing of risks and benefits between procurers and contractors. Both procurements fall out the scope of the EU Procurement Directives. It has to be highlighted also that in both procurements the EU Treaty principles such as transparency, equal treatment etc. are applicable. Contract implementation in these procurements is divided into different phases that are following the development, through R&D, of innovative solutions. IPRs are also treated (at a large, at least, scale) in PCP and POV projects in the same way.

EC funded PCPs and POVs share the same goal: to support demand side innovation, to address public needs with breakthrough solutions, contributing thus to the modernization of the public sector and to offer market opportunities to innovative businesses in Europe. Moreover, both instruments are funding cross-border procurements with the aim to create economies of scale (demand side) and to encourage cross-border company growth (supply side). The support, however, that is offered through these two funding schemes to beneficiaries/procurers in Europe is different in many aspects. This is impacting the implementation of not only the projects themselves but also the related procurements (e.g. in terms of attracting innovators, innovations etc.). This is important to be stressed because as it will be shown later in this study, the specific requirements for each EC funded instrument play crucial role in the preparation of the call for tenders, the communication of the upcoming procurement, the designing of the procedure etc.

With regards to the preparatory phase of the procurement, it has to be noted that unlike POV projects where there is no clear reference to open market consultations, in (H2020) PCP projects there is a structured approach to consult the market that entails some minimum eligible activities in order to ensure timely information dissemination and awareness raising of the potential interested market stakeholders. Nevertheless, as mentioned earlier in this study, all POV projects carried out market consultation/engagement activities. The specific requirements for POV projects, however, lacked clear explanations and definitions of the activities, timeframes etc. that hampered the adoption of a harmonized approach.

As far as the contract implementation stage is considered, PCP and POV procurements have also many differences. For example, in POVs procurers are free to define themselves the procurement phases (the number of the phases as well as their content) provided that the set-up of the procedure is announced in the call for tenders, whereas in EU funded PCPs there are provisions that determine the number of the procurement phases, the contract implementation structure that ensures competition also during this stage, the obligation to facilitate access to all market players by avoiding the adoption of disproportional evaluation criteria etc. Moreover, in PCP projects both the PIN for the open market consultation and the tender documents (Contract Notice) are deliverables that are reviewed by the EC and/or reviewers. This helps fine-tune these important project documents before their publication for the benefit of both the procurers and the potential tenderers.

Finally, as of 2016 the EC funded PCPs are provided with concrete EC guidance on how to prepare/implement the different steps of the project/procurement. Taking into account that this guidance did not exist for the POV projects, it is reasonable to consider that this H2020 novelty led to an even more mainstreamed approach regarding the implementation of PCP projects and procurements.

C. METHOD AND LIMITATIONS

1. Scope of the study

The security part of the EU-funded R&I Framework Program has a long history in supporting demand – side innovation in the security domain mainly through the form of POV and PCP projects as well as CSAs that prepare the ground for future PCPs. The scope of this study as it is illustrated in the Terms of Reference (ToR), is to analyze the feedback of completed and on-going Innovation Procurement projects in the security area aiming at capitalizing on the lessons learned.

This study aims at assessing the practices followed by the EC funded projects to attract innovation and innovators, to analyze the results of the adopted tendering process in relation to these practices and analyze and highlight the obstacles and hurdles for their implementation.

Finally, in order optimize the related funding instruments for the benefit of the EU project officers, project beneficiaries, public procurers and economic operators that participate as

suppliers in the procurements, this study will propose some recommendations based on the evidence from the feedback provided by the ongoing and completed PCPs and POVs

2. Methodological approach

In spring 2020 the EC (DG HOME) sent to the on-going and completed Innovation Procurement projects in the field of security (POVs and PCPs) a set of questions aiming at receiving feedback from these projects with regards to the different aspects of project/procurement implementation²³. This set of questions was inspired by the EC Guidance Notice on Innovation Procurement that was published in 2018. To that end, the first section of this questionnaire follows the structure of the above-mentioned Guidance Notice by including questions related to the actions of the beneficiaries/public procurers that could potentially help attract innovators as well as innovations/innovative offers in these EC funded R&D services procurements. Both parts of the first section of the questionnaire, namely the attracting innovators and attracting innovation parts, contain questions that are mentioned by the EC Guidance Notice as ways to increase the participation of innovators as tenderers in the procurements as well as to attract the submission of more innovative offers. The other two parts of this questionnaire are referring to the results of the tender as well as the obstacles and hurdles for the implementation of the project.

The Innovation Procurement projects in the security area that received this questionnaire are:

1. **CLOSEYE**: The main aim of this project was to pursue the validation of innovative services applicable to the surveillance of the EU Maritime Borders in real operational environment. More information can be found on the following web-page <http://www.closeye.eu/>
2. **EWISA**: The project aimed at providing assessment of the management of illegal migration flows in the land border, through the increase of knowledge degree of operational situation and the enhancement of reaction capacity of the participating authorities responsible for land border security. More information can be found on the following web-page: <http://www.ewisa-project.eu/>
3. **EUCISE2020**: The project aimed at achieving the pre-operational information sharing on sea-basins between the maritime authorities of the involved European States. More information can be found on the following web-page: <http://www.eucise2020.eu/>

²³A template of this questionnaire is included in Annex I

4. **BROADWAY:** The project aims at enabling a pan-European broadband mobile system for PPDR, validated by sustainable test and evaluation capabilities. More information can be found on the following web-page: <https://www.broadway-info.eu/>
5. **SHUTTLE:** The project aims at developing a toolkit which will facilitate the analysis of microtraces collected in crime scenes. More information can be found on the following web-page: <https://www.shuttle-pcp.eu/>

CLOSEY, EWISA and EUCISE 2020 were POV projects, supported by FP7 that have already been completed. BROADWAY and SHUTTLE are on-going H2020 PCP projects that have completed PCP Phase 1 contract execution and they are currently implementing phase 2 PCP contracts.

As noted above, the questionnaire, sent to these EC funded Innovation Procurement projects, was mainly inspired by the 2018 EC Guidance Notice on Innovation Procurement. It was thus very important to set the scene by mentioning, in the section on the background to the study, the main provisions of the EU Procurement Directives that are related to the implementation of Innovation Procurements in Europe as well as to outline the structure and the key points of the above-mentioned Guidance Notice. To acquire a better overview of the instruments used by the EC to support Innovation Procurement, it was also necessary to present, in the context of this study, the main features of PCP and POV projects and procurements and in particular the EC specific requirements that are applicable in their implementation. The highlighting of the similarities and differences between those two EC funding instruments is very important from a methodological point of view because it allows to explain better the results of the findings from the feedback of the above-mentioned group of projects that contains both PCPs and POVs.

Feedback acquired through the EC questionnaire is complemented with information collected through desk research. It has to be noted that emphasis has been given to the tender documents of these projects that are available on the web that provide information on the adopted procurement processes.

In order to acquire better understanding of the responses of the projects to the EC questionnaire as well as to clarify some points stressed by the beneficiaries a complementary note/questionnaire²⁴ was sent to these projects. This note contained questions related to the market consultation process/results, the contract implementation as well as clarifications on some hurdles in the project/procurement implementation noted by the beneficiaries (e.g

²⁴A template of this questionnaire is included in Annex II

clarification of the point on financial issues that was mentioned by all projects - that sent replies - as one of the main obstacles in the implementation).

Finally, it has to be highlighted that in order to respect confidentiality clauses as well as the relevant provisions on personal data, all results and any other information that is based on findings from the replies of the EC funded projects in the security field to the EC questionnaire as well as the complementary note will be presented in an aggregated manner. When this assessment tackles points raised by the projects in the provided feedback, there will be no specific reference to the project that raised this point. Specific references to projects will take place only in cases where the related information is available on the Internet.

3. Limitations

In the previous chapter it was highlighted that the (initial) EC questionnaire was inspired by the 2018 EC Guidance Notice on Innovation Procurement. In the relevant sections of this Notice and in particular in the sections related to the attracting of innovators and innovative solutions there are points that are serving a certain purpose which in the EC funded procurements is ensured through other ways. For example, the EC Guidance Notice refers to lots as a means to attract in the tender start-ups and innovative SMEs (smaller sized lots instead of a single contract are more attractive to smaller innovators). In PCPs this purpose remains, it is achieved however not through the division into lots but through the multiple sourced approach (procurers start their PCPs with at least 3 suppliers). This – whenever it is possible - will be stressed in order to better explain the results from the feedback of the projects to the EC questionnaire.

As indicated in previous chapters, the group of the EC funded Innovation Procurement projects did not carry out the same types of R&D services procurements. POVs and PCPs have many similarities as well as many and significant differences, especially in terms of the EC specific requirements for their implementation. In that sense, there will be an effort to explain the results taking though into account the specific requirements for each funding instrument. Moreover, the security part of the EU-funded R&I Framework Program has provided support to PCPs only in the H2020 context. It has to be noted though that in the design of the specific funding programs for these H2020 projects, consideration had been taken of the lessons learned in FP7 projects (POVs). To mitigate thus the risk of indicating obstacles or hurdles that hampered the implementation of POVs in FP7 that do not exist or they don't have the same gravity anymore in H2020 PCPs, a targeted interview for this purpose took place with a

beneficiary - KEMEA - that acted as lead procurer in both POV and PCP procurements in order to analyze in a comparative way its experience in these two successive EC funding schemes.

Finally, as noted above, the main source of information for this assessment is the feedback of the EC funded projects to the initial questionnaire sent by the EC (DG HOME) as well as to the complementary note (with additional questions/clarifications) sent to the same projects by the conductor of this assessment. Four out of five EC funded Innovation Procurements in the security area replied providing feedback to both questionnaires. In particular, CLOSEYE, EWISA, BROADWAY and SHUTTLE projects replied on time to both questionnaires. EUCLISE2020, however, did not participate in this survey (although it received both questionnaires). For that reason, data related to EUCLISE2020 project will be taken into account only in cases where that is possible and in particular when there is reliable information publicly available on the web.

D. ASSESSMENT

Based on the new landscape that has been created by the 2014 EU Public Procurement Directives regarding the facilitation of the access to start-ups and innovative SMEs to the procurement markets and the key factors that enable this according to 2018 EC Guidance Notice, this section aims at assessing how the EC funded projects prepared, designed and implemented their procurement in order to attract in their tender innovators as well as the submission of innovative offers.

1. Attracting Innovators

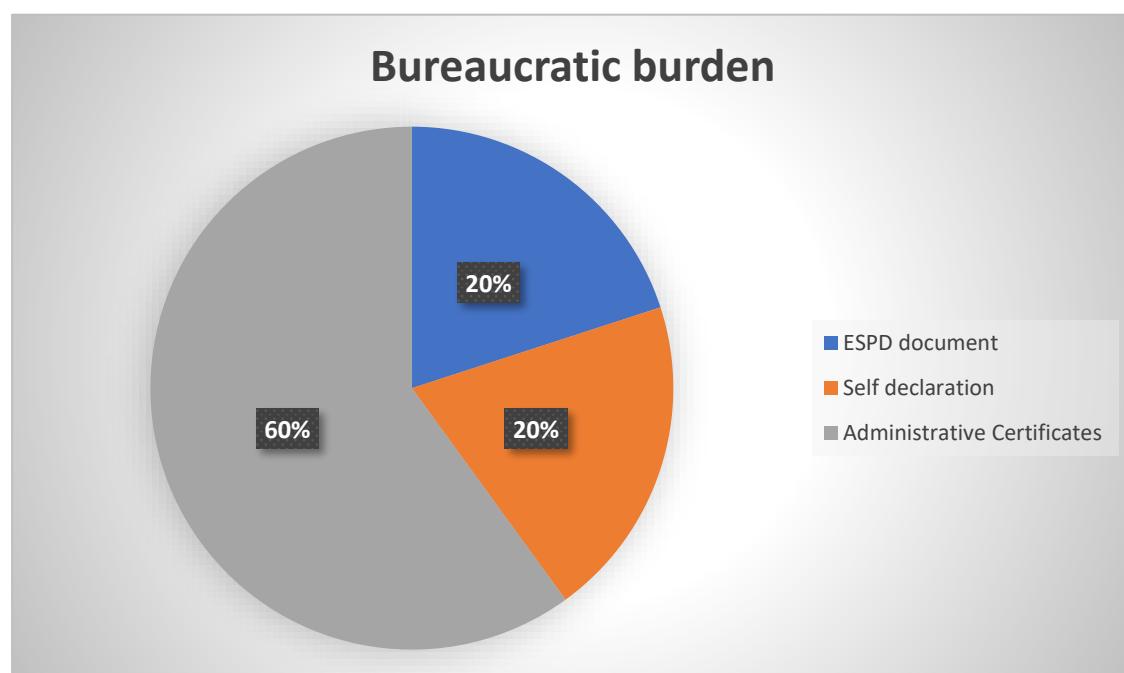
The following points are identified by the EC Guidance Notice as potential bottlenecks that hamper the access of start-ups and innovative SMEs to tenders which offer important business opportunities opening new markets and enabling them to scale-up and grow faster.

1.1 Bureaucratic burden for tenderers

A more simplified approach that reduces the bureaucratic burden/red tape for potential tenderers is considered to favor the attraction of innovators in the procurement. To that end, the H2020 projects followed more simplified approaches enabling thus the participation in the tender without requesting the submission of administrative certificates. In particular, SHUTTLE PCP requested only the submission of a self-declaration regarding the fulfillment of

all administrative prerequisites whereas BROADWAY PCP requested for this purpose the submission of the European Single Procurement Document (ESPD). On this point it is worth to be mentioned that this ESPD Document has been introduced by the 2014 EC Public Procurement Directives in order to lift the administrative burden associated with the participation in calls for tenders as well as the submission of offers. It has to be noted that both approaches, namely the request to submit a self-declaration and the ESPD document are considered as possible ways to reduce the bureaucratic burden in tenders facilitating thus the participation in the procurement of smaller innovators as potential suppliers

On the other side, the FP7 POV projects, namely CLOSEYE, EWISA and EUCISE2020 requested that the bidders should submit administrative certificates evidencing their legal standing, and their economic and/or legal capacity to participate in the tender. It has to be highlighted though that these POV procurements followed restricted procedures with 2 steps of evaluations, where in the first step the eligibility (and sometimes the capability) of the tenderer to participate in the tender was evaluated. The second step was restricted only to those that were successfully evaluated in the previous step. To resume on this point, 60% of the EC funded Innovation Procurements in the security area requested the submission of administrative certificates in order to allow participation in the tender, 20% requested only a self-declaration and 20% the submission of the ESPD document²⁵.

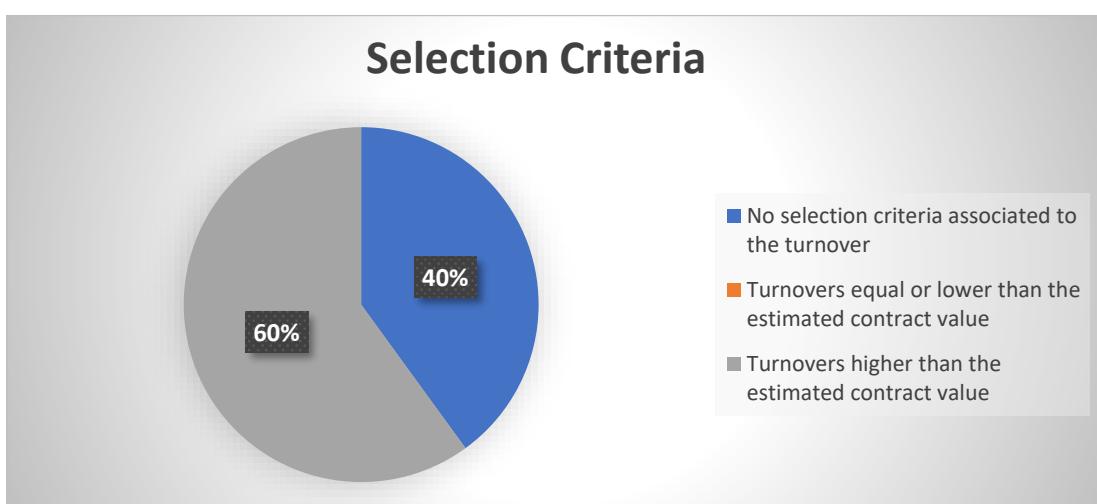


²⁵The tables in this chapter of the report present the options in the following order: in blue the best option, in orange the second-best option and in grey the least good option.

1.2 Selection criteria in the R&D services procurements

Selection criteria in public procurements play key role in the evaluation of tenders. Disproportional criteria, such as high (annual) turnovers in the years prior to the call for tenders, are impeding by default the participation of smaller innovators in procurements (e.g start-ups and small SMEs). This point refers to the approach followed by the EC funded Innovation Procurements for the selection of the PCP and POV procurement contractors, focusing mainly on the high annual turnovers. The 2014/24 EU Public Procurement Directive mentions that public buyers are not allowed to require as selection criterion turnovers higher than two times the estimated contract value, unless this is duly justified by specific circumstances²⁶. Important here is to remind that both PCP and POV procurements fall outside the scope of the EU Public Procurement Directives. The specific requirements of the EC funded PCPs, however, are stipulating in an explicit way that the beneficiaries in these projects should avoid the setting of disproportional to the tender selection criteria.

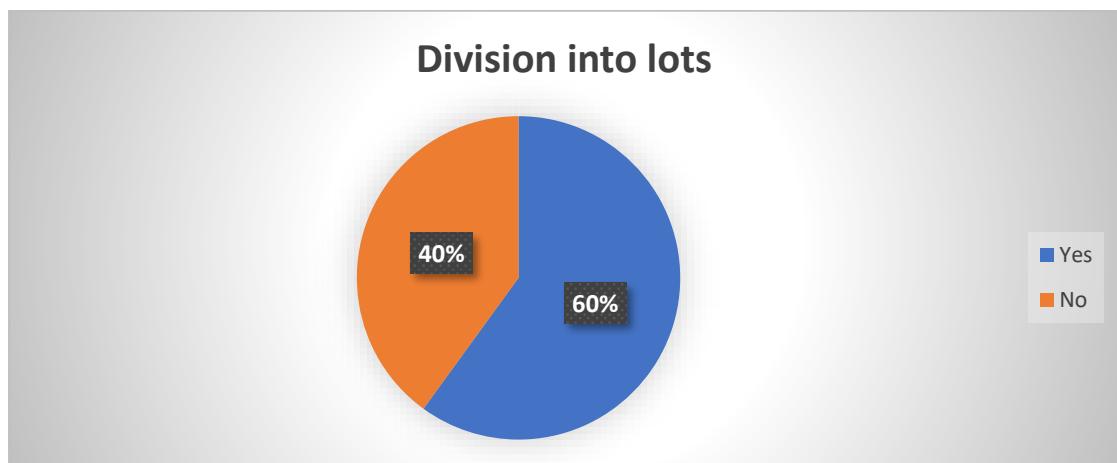
In the light of the above, the EC funded POV projects in the security area, namely CLOSEYE, EWISA and EUCISE2020 requested as selection criterion turnovers at least equal or higher than two times the contract value (of the lot that they submitted an offer). On the other side, EC funded PCPs in the security area, namely BROADWAY and SHUTTLE, following the specific requirements of the H2020 General Annex E, did not request any selection criterion related to the turnover of the potential interested bidders. In other words, 60% of the EC funded Innovation Procurement projects requested as selection criterion turnovers at least equal or higher than two times the contract value and 40% did not request any selection criterion related to the turnover of the potential contractors.



²⁶Article 58 par.3 of Directive 2014/24

1.3 Division into lots

Division into lots supports the attraction of innovators because according to the 2018 EC Guidance Notice the size of each lot may be more appropriate to the operational capacities of start-ups and innovative SMEs. This helps also reduce the supplier lock-in, even in cases with predominantly large suppliers. This division with the aim to attract innovators has a meaning, though, only in the light of single sourced procurements. PCPs are by definition multiple sourced procurements. EC funded PCPs cannot award less than 3 Phase 1 contracts to vendors that are sharing the total contract budget allocated in this Phase. There is also competition during the contract implementation meaning that there is budget sharing among the successful contractors also in the rest PCP Phases. Taking into account the above, it has to be noted that all three EC funded POV projects in the security area used lots in their procurement process. On the other hand, although it is possible also for the EC funded PCPs to use lots²⁷, the two EC funded PCPs in the security area did not use lots in their procurement procedure. 60% of the EC funded Innovation Procurement projects in the security area used lots and in 40% projects there was no division into lots.

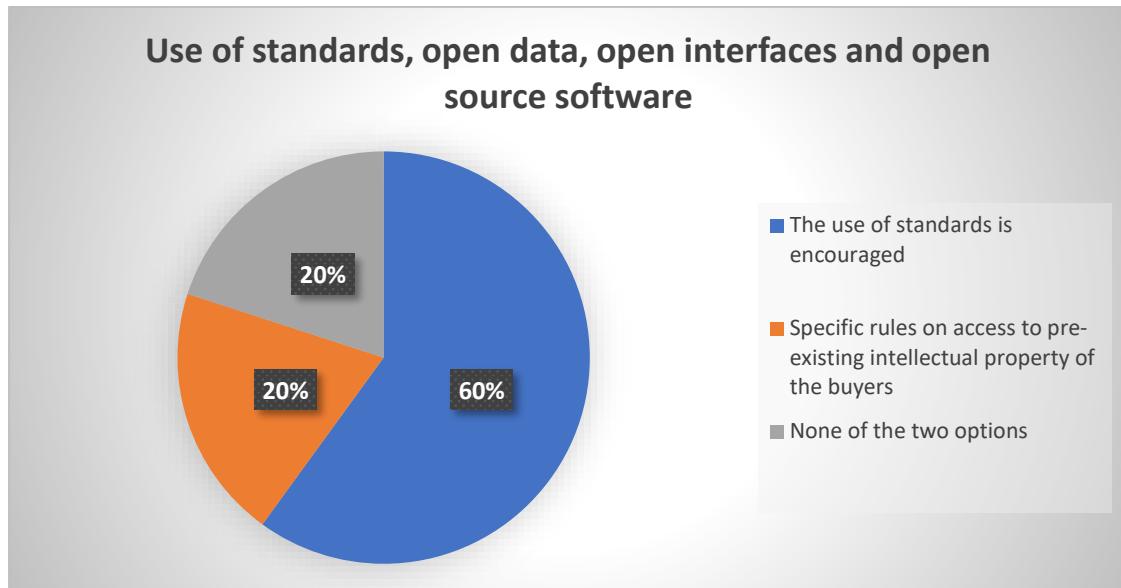


1.4 Use of standards, open data, open interfaces and open source software

The 2018 EC Guidance Notice highlights the importance of the use of standards, open data, open interfaces and open source software in tenders in order to attract offers from smaller innovators. Three out of five EC funded Innovation Procurements in the security area encouraged the use of standards (60%), one project (20%) did not explicitly encourage the use of standards and open data but it set out specific rules on access to pre-existing intellectual

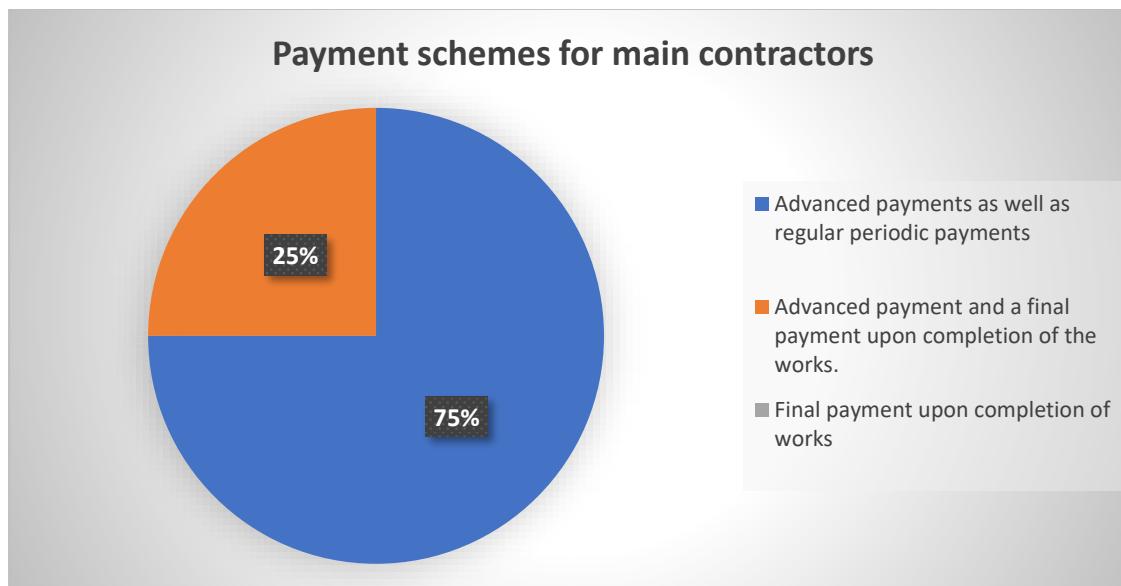
²⁷There are EU funded PCPs in other domains (e.g CHARM PCP on traffic management) that used lots due to reasons related to the achievement of specific to the project goals. The use of lots was not associated with the aim of attracting innovators because this can be achieved through the multiple sourced procurement process.

property of the buyers and one project (20%) replied that it did not consider any of the above two options.



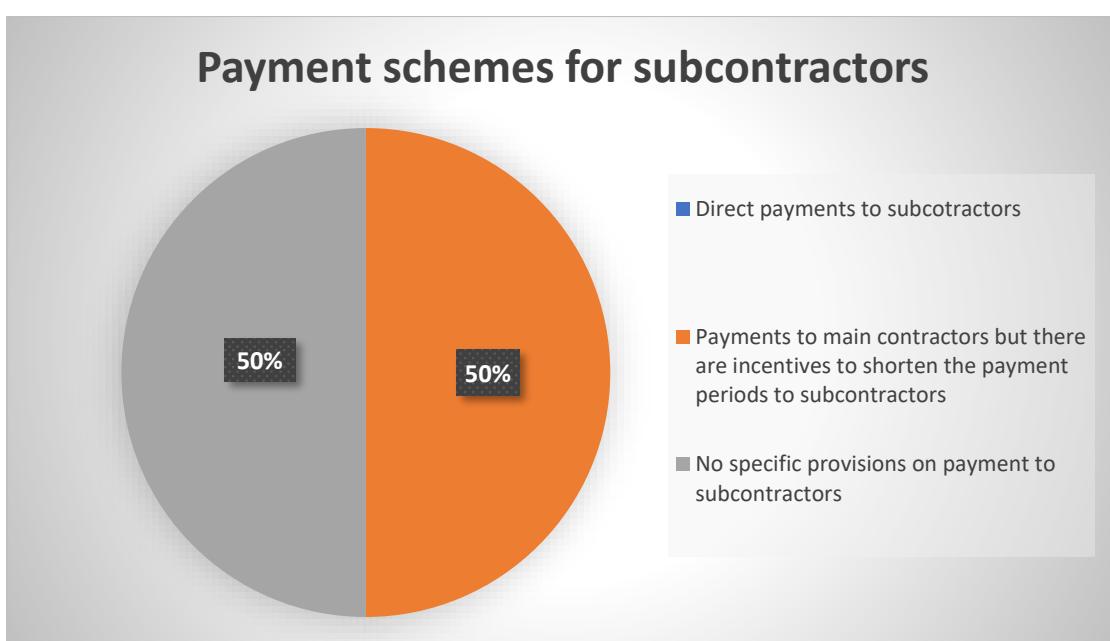
1.5 Payment schemes for main contractors

Advanced payments are considered as an important facilitator for the attraction of smaller sized innovators to the tender that in most cases lack a buffer that enables them to allocate budget that is necessary to launch the contract activities. In that line, three out of four EC funded Innovation Procurement projects in the security area that replied to the EC questionnaire (75%) foresaw advanced payments as well as regular periodic payments and one project (25%) allowed for an advance payment and a final payment upon completion of works.



1.6 Payment schemes for subcontractors

With regards to the participation of innovative SMEs as subcontractors in the tender, the 2018 EC Guidance Notice encourage direct payments to subcontractors mitigating thus the risk of late payments by the main contractor. Alternatively, the EC Guidance Notice calls on the public procurers to incentivize the main contractors to foresee short payment periods for the subcontractors. In that line, two out of four EC funded Innovation Procurement projects in the security area that replied to the EC questionnaire (50%) designed their procurement process in a way that payments are done only directly to the main contractors but there are incentives to shorten the payment periods to subcontractors²⁸. Two projects (50%) did not foresee any specific provisions on payment to subcontractors



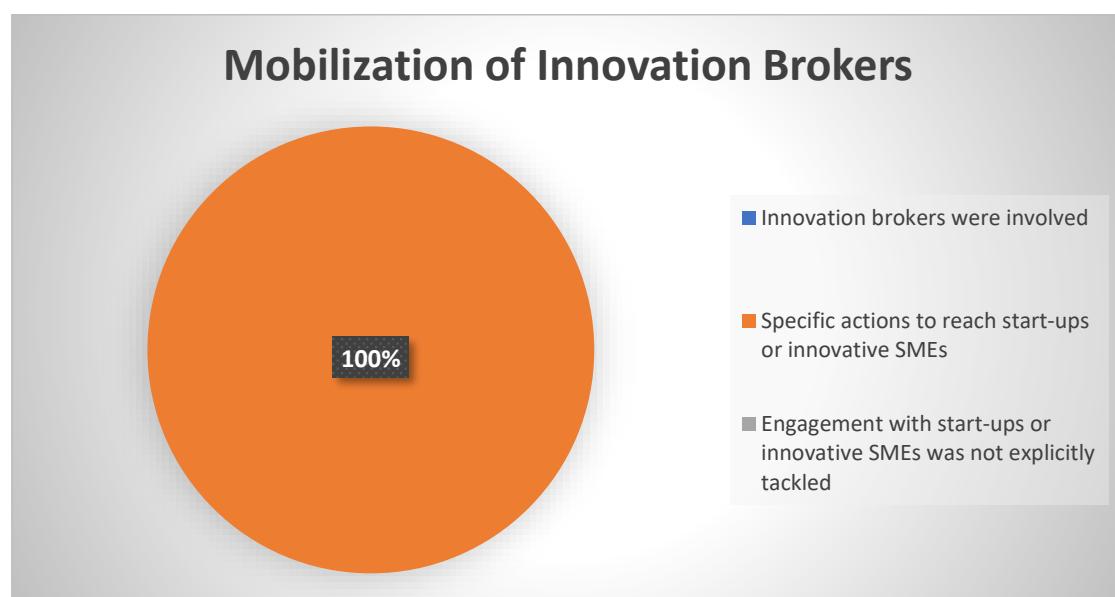
1.7 Mobilization of innovation brokers

According to the EC Guidance Notice on Innovation Procurement, innovation brokers can play an important role in the attraction of innovators as tenderers in a procurement. Public buyers, in most of the times, do not have the capacity to consult the market before the purchasing of a solution to tackle their public need. Innovation brokers are public or private entities that help address the gap in the relationship between public buyers interested in purchasing innovative solutions and innovative small and medium-sized enterprises, especially start-ups.

²⁸As an example it could be mentioned the following provision that is included in the SHUTTLE PCP call for tenders documents, namely the Framework Agreement: *Where the Contractor enters into a Sub-Contract with a supplier or contractor for the purpose of performing the Agreement, it shall cause a term to be included in such a Sub-Contract that requires payment to be made of undisputed sums by the Contractor to the Sub- Contractor within a specified period not exceeding 30 (thirty) calendar days from the receipt of a valid invoice.*

Although their role is associated mainly with Public Procurement of Innovative solutions (PPIs) - e.g to identify existing innovative solutions that may tackle needs of the public buyers - they may have a role also in R&D services procurements. For example, they could help public buyers consult the market and communicate to innovators their upcoming tender.

All four EC funded Innovation Procurement projects in the security area that filled in the EC questionnaire (100%) indicated that carried out specific actions to reach start-ups or innovative SMEs prior to the tendering process. This means that according to their replies these projects did not involve innovation brokers in the implementation of the project to help them build or strengthen the links with start-ups or innovative SMEs prior to the launching of the call for tenders. Important is however to remind that for the EC funded PCPs there were specific requirements and description of the minimum activities and timeframes²⁹ regarding the implementation of an open market consultation prior to the tender process. POV projects, on the other hand, lacked requirements with specific description of at least the minimum activities, needed to be performed on this aspect³⁰. Nevertheless, the two POV projects that replied to the EC questionnaire carried out market consultation activities (e.g info days with market players) before the launching of the call of tenders.



2. Attracting Innovation

The 2018 EC Guidance Notice contains a section with information and case – examples on how public procurers can prepare, design and implement their procurement process in a way that enables the submission of innovative offers to the tender. Following the structure of this

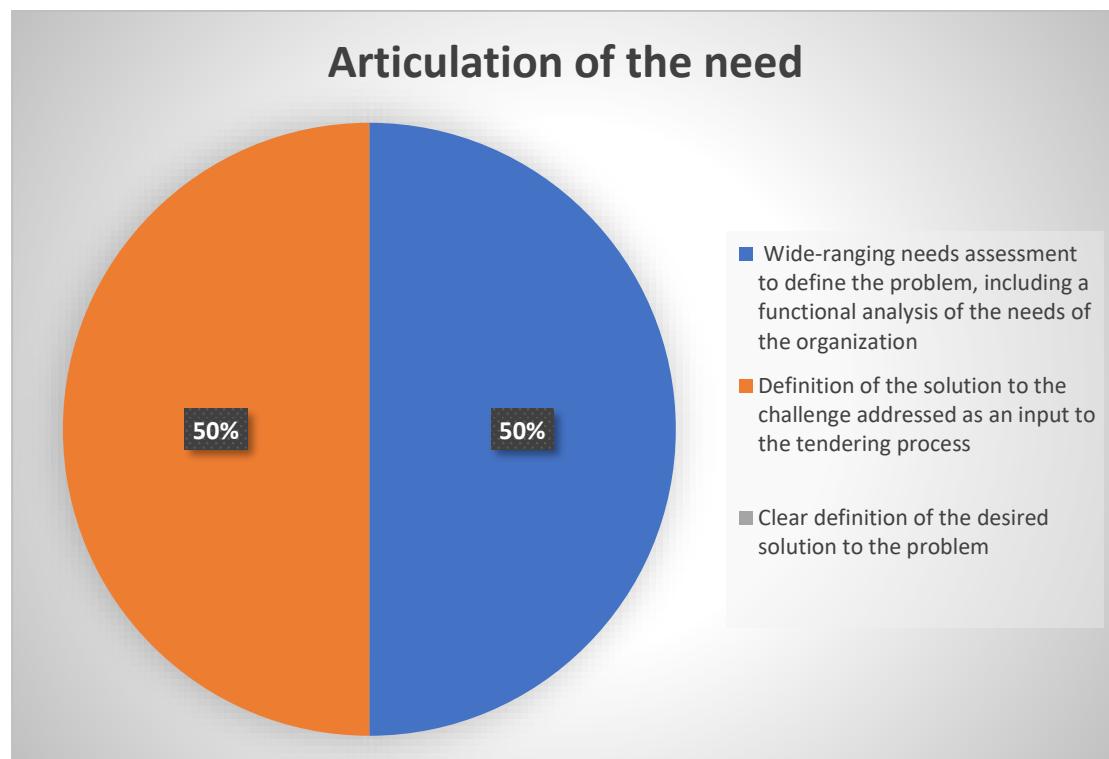
²⁹For that point see above in the background of the study p. 11

³⁰For that point see the comparative analysis between PCPs and POVs in the background of the study p.13-14

section of the Guidance Notice, the EC questionnaire aimed at collecting feedback from the EC funded Innovation Procurement projects in the security area on the points indicated by the Notice that encourage the attraction of innovation

2.1 Articulation of the need

Needs assessment is an important step in the procurement designing process that paves the way for the adoption of a process that encourages the attraction of innovative offers in the tender. According to the EC Guidance Notice, the needs assessment exercise at organizational level enables public buyers to reveal their real needs as well as the (desired) improvements leading thus to the designing and preparation of procurement processes that are encouraging the development and/or the purchase of innovative solutions to tackle this specific need, instead of buying off the shelf. The replies to the questionnaire of the four EC funded Innovation Procurement projects in the security area in regard to this point are the following: two out of four (50%) indicated that they had performed a wide-ranging needs assessment to define the problem, including a functional analysis of the needs of the organization and an identification of the areas for improvement and two projects (50%) indicated that defined the solution to the challenge addressed as an input to the tendering³¹.

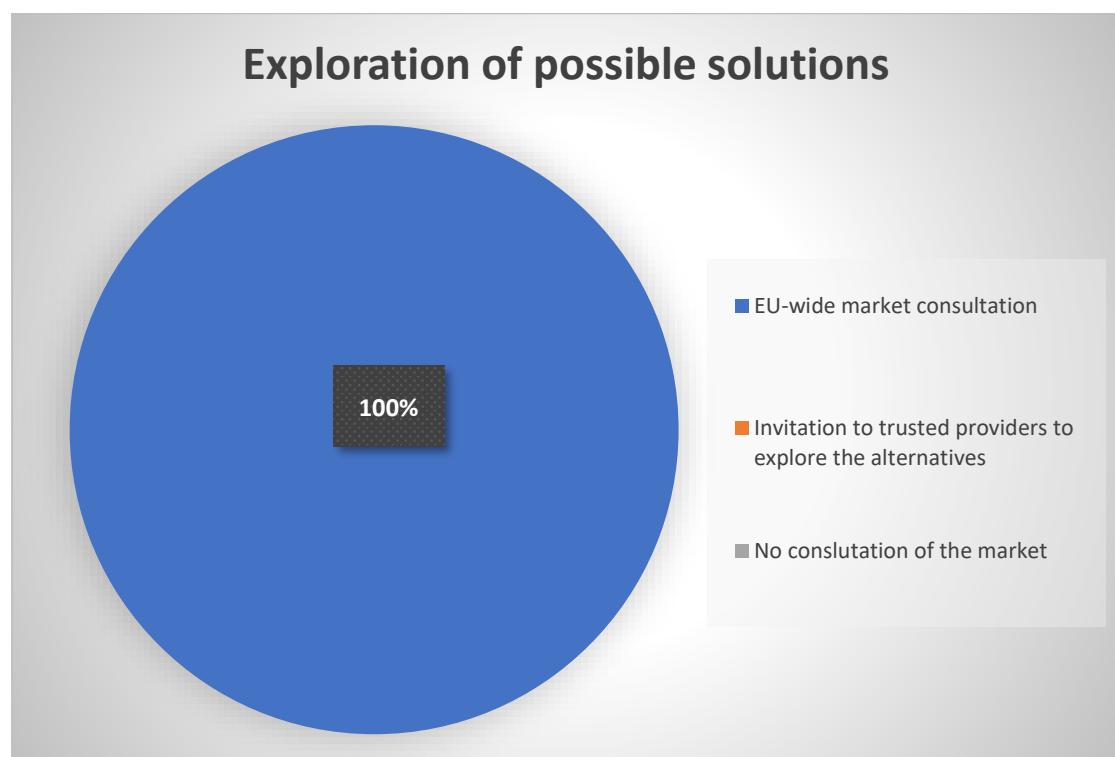


³¹EUCISE2020 did not participate in the survey. It seems however, as it can be derived from the published tender documents, that it adopted the first approach.

2.2 Exploration of possible solutions to the problem

Exploration of the state of the art with regards to the public challenge plays a crucial role in the designing and implementation of a process that facilitates the attraction of innovative offers in the tender. For that reason, the 2014 EU Procurement Directives introduced for the first time the option on preliminary market consultations that may have a dual role: to communicate to the market the upcoming procurement but also to screen the market for existing or close to the market solutions that may address the public need. In R&D procurements the latter is key because it does not make sense to reinvent the wheel by developing through R&D new solutions if the market is ready to offer solutions that tackle the public challenge in an acceptable budget. Important is to note that the EC funded Innovation Procurement projects piloted the implementation of EU-wide market consultations prior to the launching of the call for tenders before the adoption of the 2014 EU Procurement Directives influencing in that way the inclusion of specific provisions on that issue in these Directives.

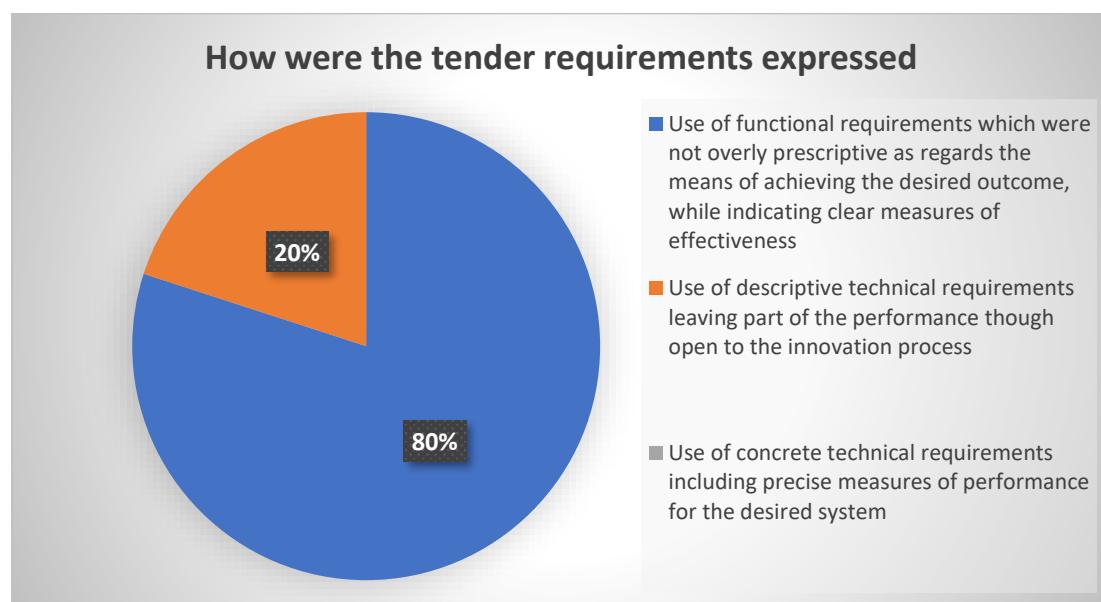
All four EC funded Innovation Procurement projects in the security area indicated in their reply to the EC questionnaire (100%) that they performed an EU-wide preliminary market consultation in order to check the state of the art before drafting the technical specifications for their tender.



2.3 How were the tender requirements expressed.

The EC Guidance Notice on Innovation Procurement highlights that the articulation of the technical specifications in the tender is key for the attraction of innovative offers in the procurement. Descriptive requirements that pre-define the solution to the public need may attract innovative solutions, however this becomes easier to be achieved through the use of functional requirements that focus only on the description of the need, leaving the market free to come up, through competition, with solutions fit for the challenge in question. In other words, the Guidance Notice confirms that the use of functional requirements could be more favorable to the attraction to the tender of innovations.

The use of functional requirements was requested by the special requirements of both the EC funded POVs and PCPs. In that context, three out of four EC funded Innovation Procurements in the security area replied that they used functional requirements which were not overly prescriptive as regards the means of achieving the desired outcome, while indicating clear measures of effectiveness. As it derives from the published Contract Notice, EUCLISE2020 adopted also the same option. That means that this approach was followed by 80% of all five EC funded Innovation Procurement projects in the security area. One project though (20%) indicated in its reply that it used descriptive technical requirements leaving part of the performance though open to the innovation process.

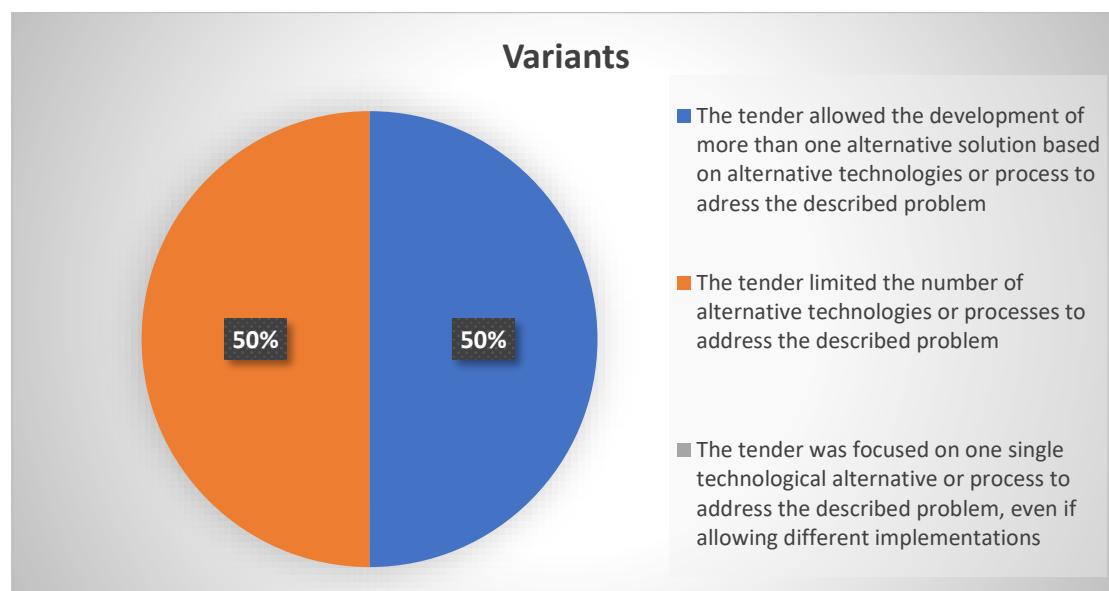


2.4 Variants

The EC Guidance Notice on Innovation Procurement identifies variants as a factor that may attract innovative offers in public procurements. Indeed, variants according to the EU Public

Procurement Directives³² refer to the option of one or more alternative solutions usually based on alternative technologies or processes that may accompany an offer that follows closely the technical specifications. It has to be clarified though that by the term variants is considered the alternative solutions proposed by the same tenderer in the same offer. Variants thus are not the same with the multiple sourced procurement approach where different suppliers are awarded separate contracts to develop an innovative solution for the same public need in the context of the same procurement procedure (as it happens in PCPs). In R&D services procurements, procurers aim at developing through R&D an innovative solution that tackles their public need. In that sense, variants do not play crucial role in the attracting of innovation especially in R&D services procurements. This point refers mainly to traditional public procurements that they could become eventually PPIs by purchasing, through variants, an innovative solution instead of buying off the shelf.

With regards though to the EC questionnaire, two out of four EC funded innovation Procurement projects (50%) replied that they used more than one alternative solution based on alternative technologies or processes to address the described problem. Two projects, on the other side, (50%) replied that the tender limited the number of alternative technologies or processes to address the described problem.

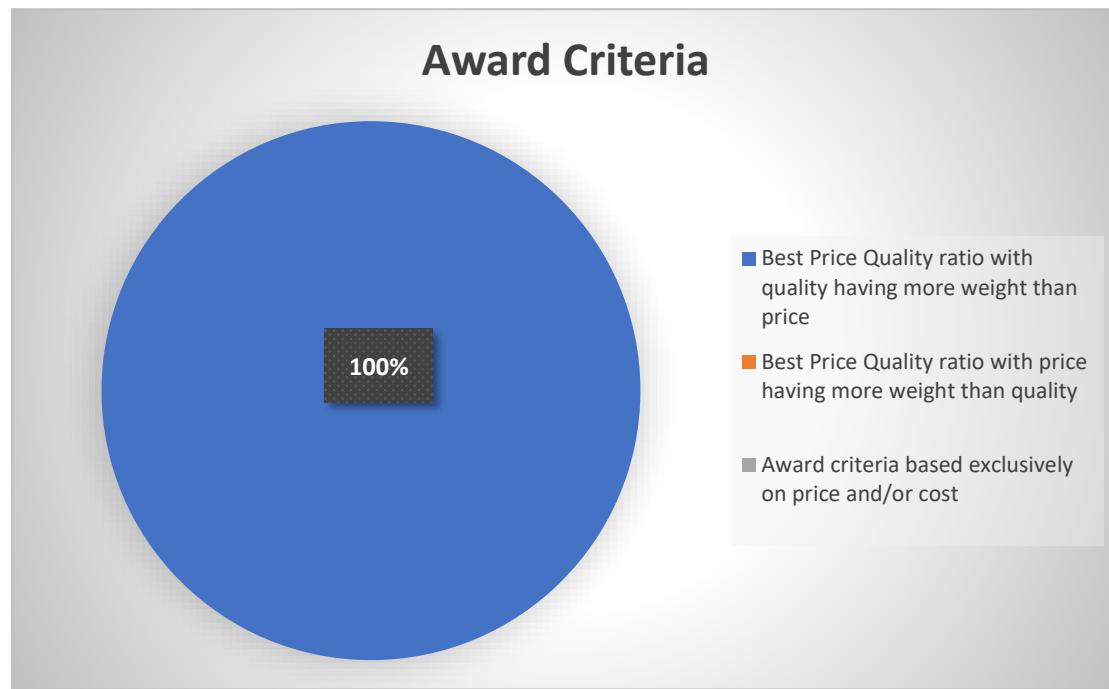


2.5 Award criteria

The setting of award criteria that are based on the ratio between price and quality is somehow a prerequisite in the effort to attract innovation in public procurements. Economically most

³²Article 45 of the Directive 2014/24, article 64 of the Directive 2014/25

advantageous tender (MEAT) is after all the only award criterion mentioned in the 2014 EU Public Procurement Directives. It is also referred as specific requirement for the EC funded PCPs and POVs. It has to be stressed that in R&D procurements although the price/cost of the offer should not be disregarded, quality plays key role. For that reason, it came as no surprise the fact that all EC funded Innovation Procurement projects in the security area (100%) set award criteria based on the Best Price Quality Ratio, with quality having more weight than price.

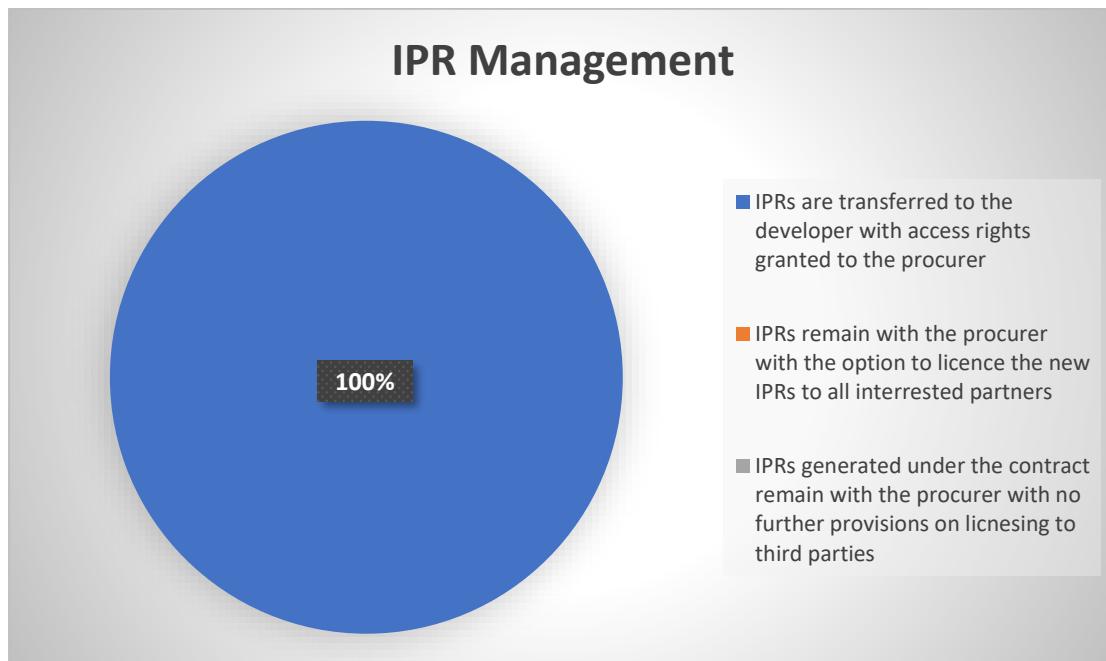


2.6 IPR management

The EC Guidance Notice underlines the importance of IPR management in public procurements as a crucial factor that could help attract innovative offers in the tender. The first significant step is to define clearly upfront in the tender documents the allocation of IPRs that are generated through the contract (foreground IPRs). The EU Public Procurement Directives and the State aid rules³³ leave public procurers free to decide how to treat IPRs linked with the contract. The EC Guidance Notice however is strongly encouraging public procurers to leave ownership of the generated through the contract IPRs to suppliers because this approach boosts the commercialization of the developed innovative solutions, reducing at the same time the procurement cost for the public buyers.

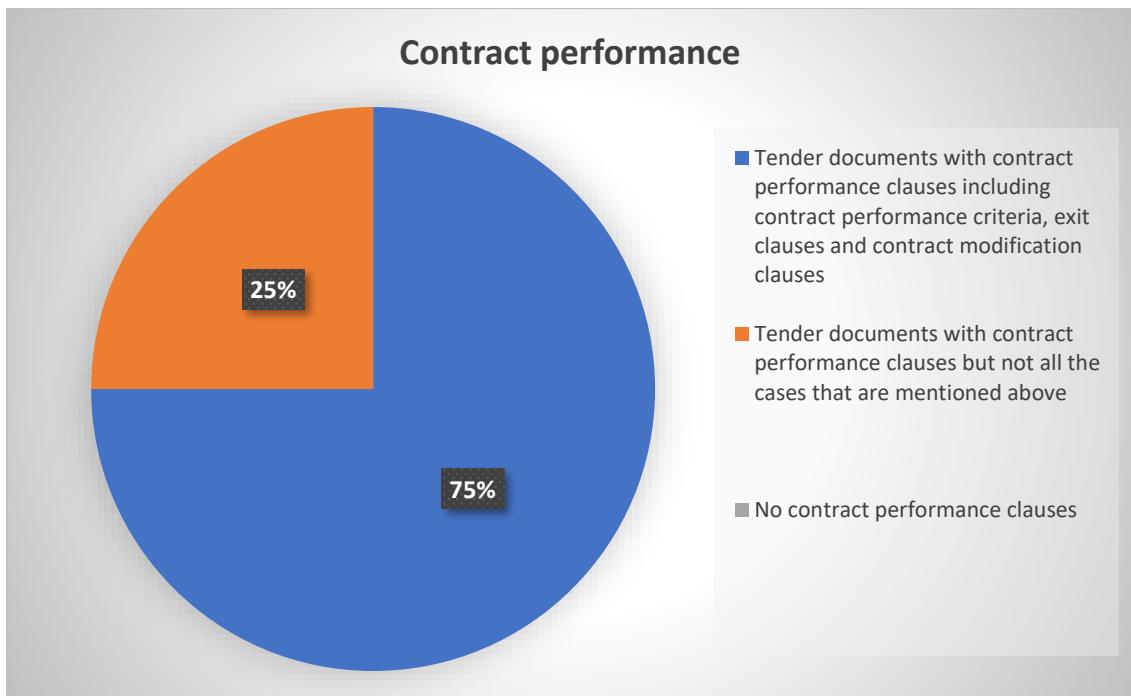
³³ Communication from the Commission, Framework for State aid for research and development and innovation, (2014/C 198/01) [https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:52014XC0627\(01\)](https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:52014XC0627(01))

In line with the above, it has to be highlighted that FP7 and H2020 specific requirements for EC funded Innovation Procurement projects in the security area obliged the beneficiaries to set in their R&D procurements provisions that foresee that the ownership of the IPRs generated in the procurement is left with the suppliers that generated them. The procurers are granted access rights on a royalty free basis. This IPR management approach was adopted eventually by all five EC funded Innovation Procurements (100%) in the security area.



2.7 Contract performance

This point does not refer to the attraction of innovation in the tender per se but it is focused on the way to ensure that the public buyers will develop and/or deploy eventually an optimal innovative solution that is tackling their need. Contract performance clauses can help procurers steer innovation towards their desired and pre-described in the tender direction, avoid the acquisition of an innovative solution that does not meet the tender requirements (e.g exit clauses due to underperformance of the contractor) etc. According to the replies of the EC funded Innovation Procurement projects in the security area to the EC questionnaire three out of four projects (75%) inserted in the tender documents contract performance clauses including contract performance criteria, exit clauses in case of underperformance and contract modification clauses due to volatility and high potential of further innovation ascertained during the contract performance. One project (25%) included contract performance clauses but not all the cases that are mentioned above.



E. RESULTS OF THE PROCUREMENT APPROACH

It is clear from the above assessment that the EC funded Innovation Procurement projects in the security area adopted practices that are mentioned in the EC Guidance Notice on Innovation Procurement, to attract in the tender innovation and innovators (at least in the crucial points, such as the award criteria – 100% the best option, IPR Management – 100% the best option, functional requirements – 80% the best option, selection criteria – 100% the best option for PCPs, bureaucratic burden, where PCPs adopted the best two options etc).

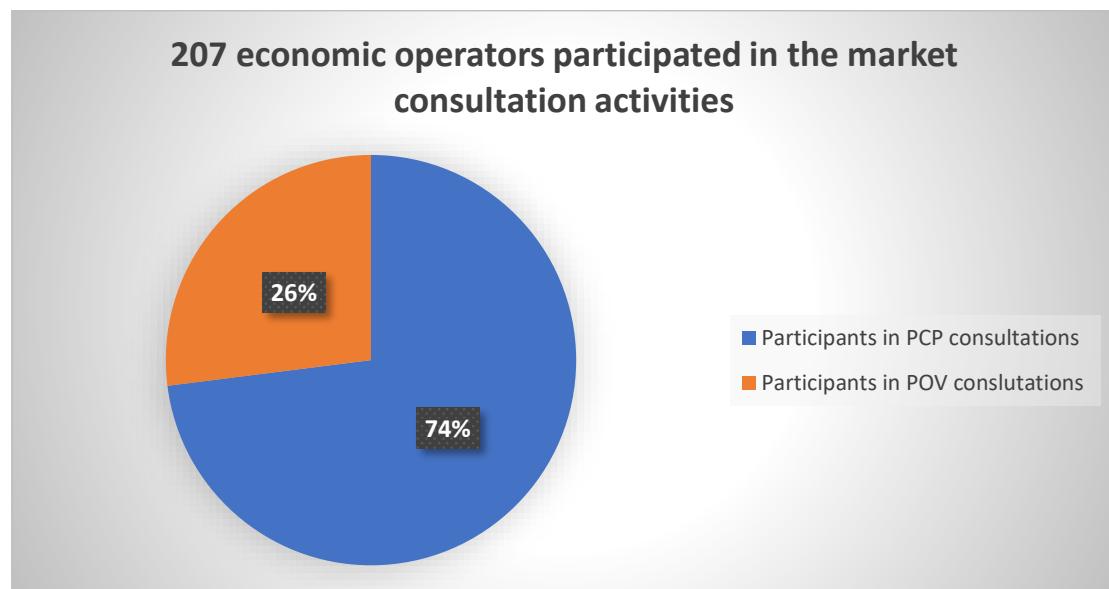
Important however is to highlight that the **specific requirements for the EC funded Innovation Procurements projects played significant role by steering the related procurement procedures towards this direction.** EC specific requirements for both POV and PCP projects contained provisions that obliged beneficiaries to adopt in their tenders some of the points mentioned in the 2018 EC Guidance Notice (e.g the fact that the ownership of IPRs generated by the suppliers during the contact implementation remains with them and the public buyers are granted access right on a royalty-free basis). As highlighted though in the background to the study section, the EC specific requirements for PCPs were more detailed focusing more on the attraction of innovators and innovation in the tenders. For example, EC specific requirements for PCPs foresee that procurers should avoid the use of selection criteria based on disproportionate qualification and financial guarantee requirements, including selection criteria that are related with the minimum turnover. For POV projects there was no such

provision in the EC specific requirements for this funding scheme. For that reason, 100% of the PCP projects did not foresee selection criterion associated to the turnover of the economic operators and 100% of the POV projects foresaw selection criterion that was equal or higher than two times the estimated contract value.

1. Open Market Consultation

All four EC funded Innovation Procurement projects in the security area that replied to the EC questionnaire³⁴ as well as the complementary note indicated that they carried out market consultation activities prior to the launching of call for tenders. Below some interesting findings from their replies:

In total 207 economic operators from different European countries showed an interest to participate in the market consultation activities performed by the above mentioned four EC funded Innovation Procurement projects. The majority of them (circa 74%) participated in the **open market consultation activities of the PCPs** in the security area showing that a more explicit description of the market consultation activities (including minimum eligible activities) leads to the adoption of approaches that attract more the interest of market stakeholders.



At least 72 SMEs (34,7%) participated in the market consultation activities of these 4 EC funded Innovation Procurement projects in the security area.

³⁴ As mentioned above EUCISE2020 did not participate in the survey. For that reason and unlike the previous section where some information could be found available publicly on the web, there are no data for EUCISE2020 for the points in this section Therefore EUCISE2020 will not be taken into account in all findings of this chapter.

The market consultation activities of all projects were not limited to the security area but they were addressed to all economic operators irrespective their field or activity. There was dissemination of information through general channels of communication for public tenders (e.g publication of a PIN for the market consultation activities on the TED platform and/or on other platforms) but there were no dedicated activities (at least at large scale) to attract the interest of economic operators outside the security area that may be interested to seek also business opportunities in the security area.

2. Tender execution and Contract implementation

2.1 Submission of tenders

This chapter aims at presenting the results of the practices followed by the EC-funded Innovation Procurement projects in the security area (that provided feedback to the EC questionnaire and the complementary note) with regards to the submission of offers in their tender procedures.

In total 21 offers were submitted to the tenders of these four EC funded Innovation Procurements. In some projects, though, offers were submitted by large consortia comprised by up to 10 partners.

Important however is to explore the participation rate and the role of SMEs in these offers. In that view, it can be stressed that in eight offers, SMEs (38%) acted alone or participated as lead bidders. Moreover, 15 SMEs participated as partners in consortia with other companies and 17 SMEs participated as subcontractors in the offers submitted in the tenders implemented in the context of the four EC funded Innovation Procurement projects in the security area.

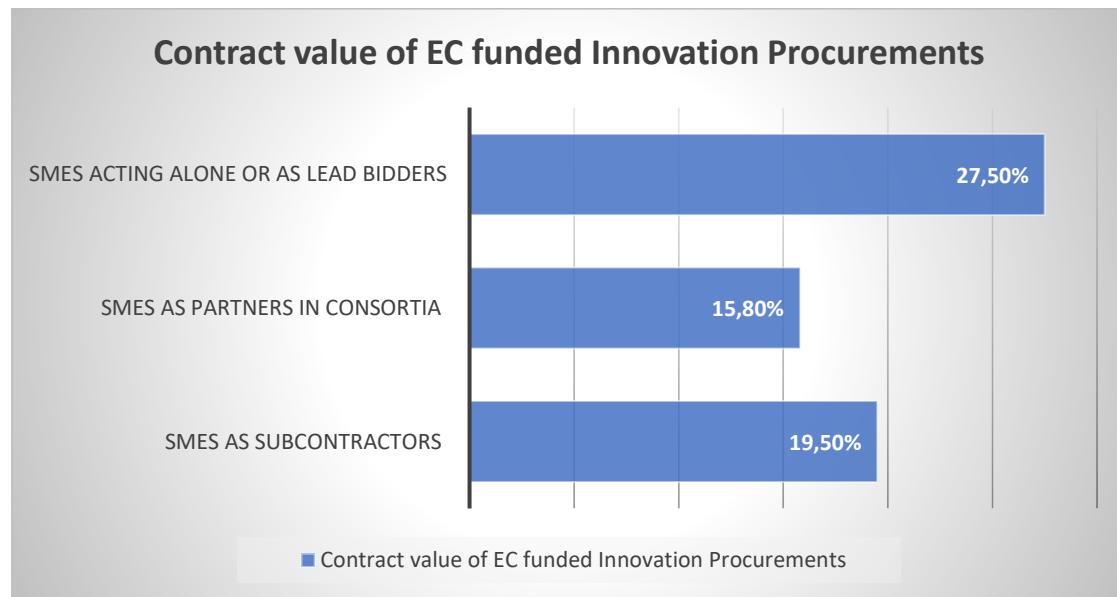
2.2 Contract award

It has been highlighted that Innovation Procurement is an instrument that offers business opportunities to market players in Europe. Based on the replies to the EC questionnaire, this section aims at illustrating some results with regards to the awarding of contacts in the tender procedures of those projects.

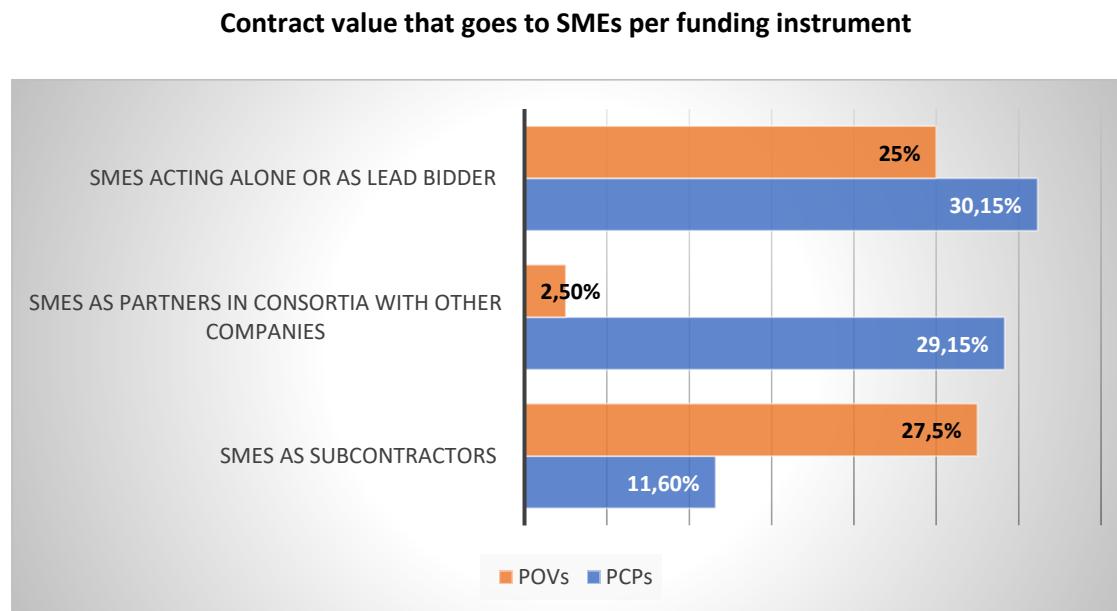
On average 27,5% of the contract value³⁵ of the procurements of these EC funded Innovation Procurements went to SMEs acting alone or as lead bidder. 15,8% (on average) of the total

³⁵The average percentage of the contract value that went to SMEs acting alone or as lead bidders was estimated taking into account the fact that in one project (as it was clearly explained in the feedback provided by this project) a large company was replaced (during the contract implantation) by an SME as a result of a takeover.

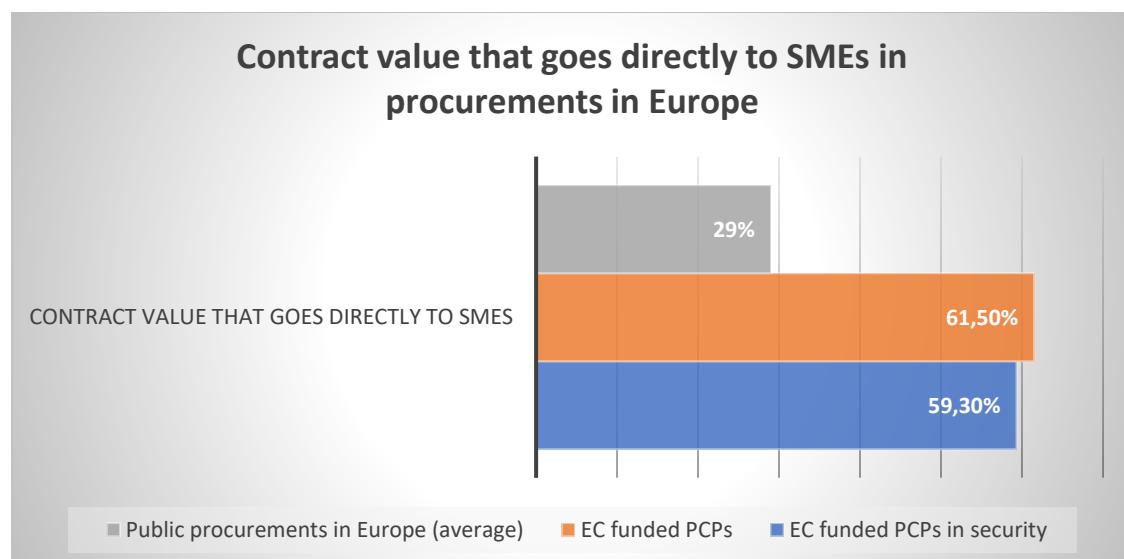
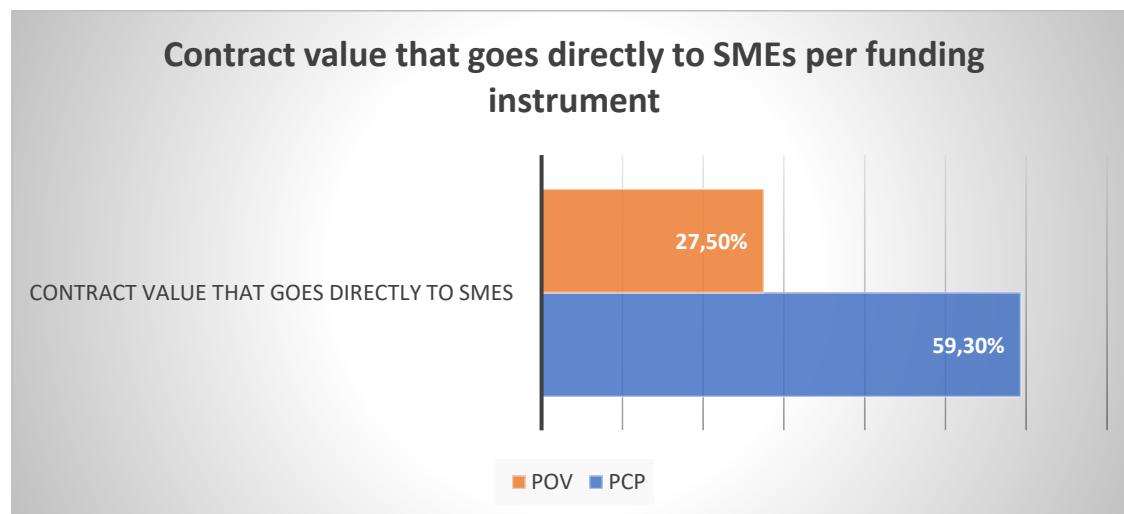
value of the contract in these procurements went to SMEs participating in consortia with other companies. Moreover, 19,5% (on average) of the total contract value went to SMEs participating as subcontractors in those tenders.



However, if we look into the findings per funding instrument (PCPs and POVs) then the results are not the same. 25% (on average) of the total contract value in POV projects went to SMEs acting alone or as lead bidder whereas this percentage on average in PCPs is 30,15%. In POV projects the average percentage of the total contract value that went to SMEs participating in consortia with other companies is 2,5% whereas in PCPs this accounts for 29,15%. Finally, the average percentage of the total contract value that went to SMEs participating as subcontractors in POV projects is 27,5% and in PCP projects this figure is 11,6%



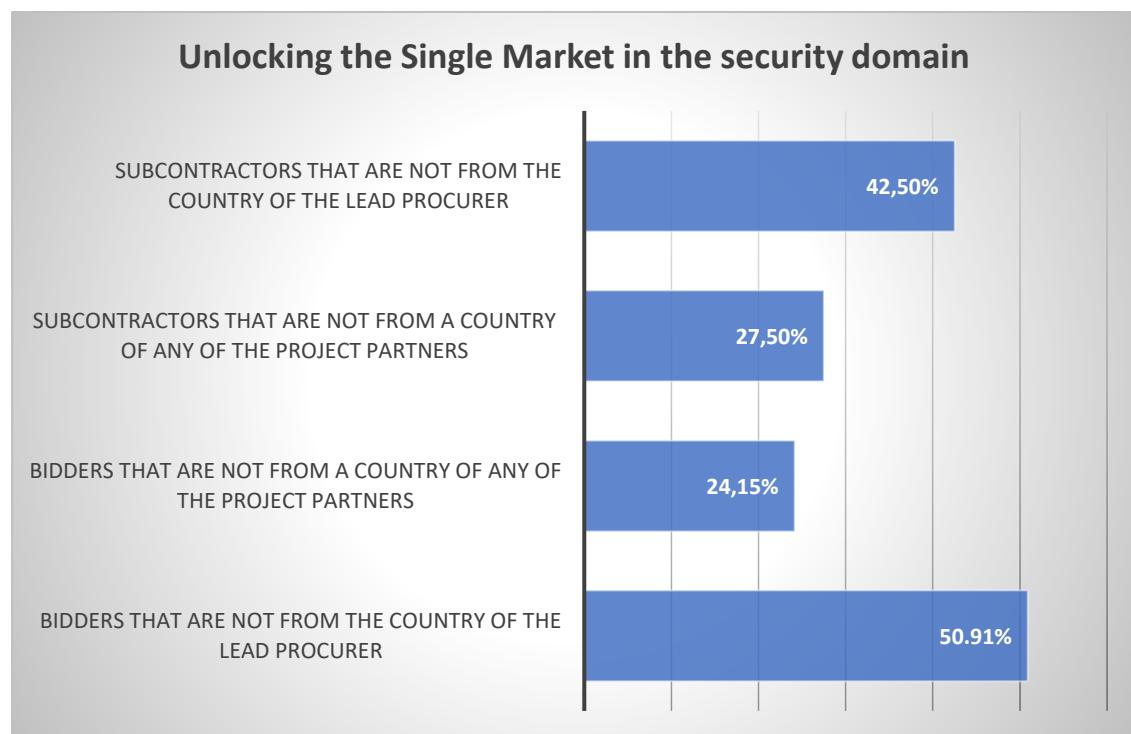
The estimated average contract value (based on the indicated by the projects percentages) that goes directly to SMEs (either as lead bidders or acting alone or as partners in consortia) in these four EC funded Innovation Procurements in the security area is 43,4%. If we look into this per funding instrument, in POVs this figure accounts for 27,5% and for EC funded PCPs in the security area this figure is 59,3%. It is therefore very close to 61,5% that according to DG CNECT analysis this is the total value of all EC funded PCP contracts that goes directly to SMEs and much higher compared to 29% average in public procurements across Europe³⁶.



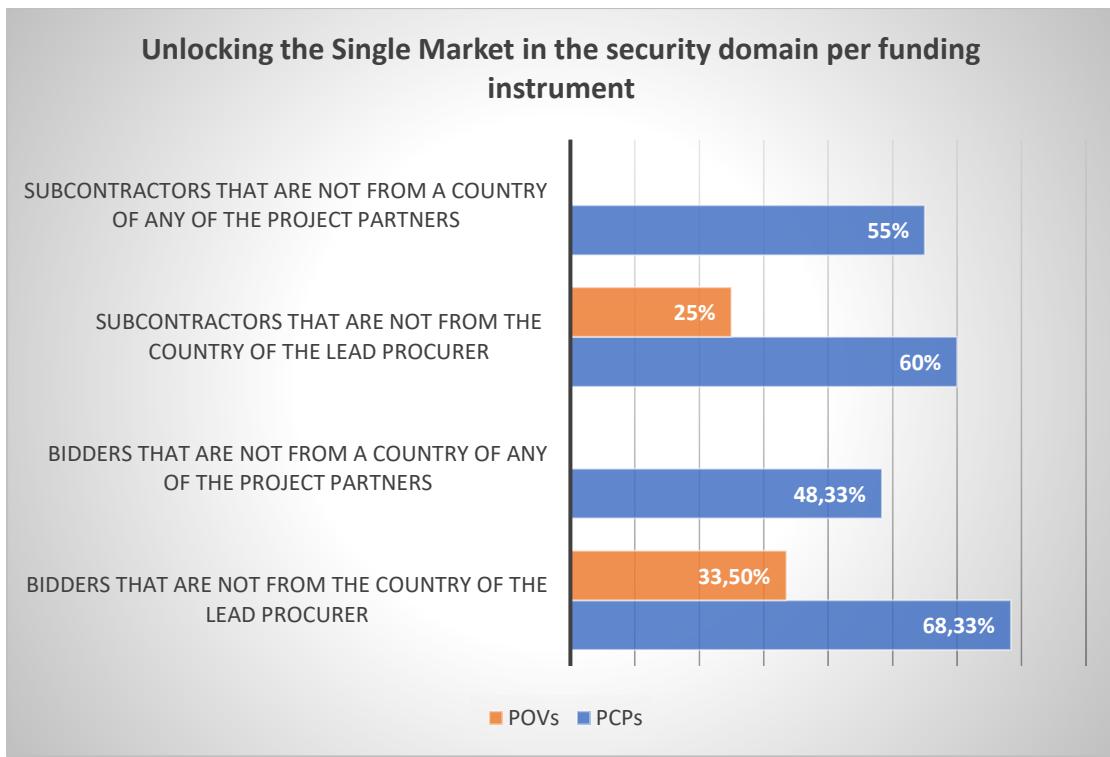
With regards to the unlocking of the Single Market in the security area in Europe there are also very interesting results. 50,91% on average of the total value of the contracts in the four EC funded Innovation Procurement projects in the security area that participated in the survey, went to bidders that are not from the country of the lead procurer. Moreover 24,15%

³⁶DG CNECT analysis on the impact of EU funded Pre-Commercial Procurements, August 2020, <https://ec.europa.eu/digital-single-market/en/news/impacts-eu-funded-pre-commercial-procurements>

on average of the total contract value of the above-mentioned projects went to bidders that are not from a country of any of the project partners. With regards to the average percentage of the total value of the contract that went to subcontractors that are not from the country of the lead procurer this accounts for 42,5%. Finally, the average percentage of total value of the contract in these procurements that went to subcontractors that are not from a country of any of the project partners is 27,5%. All these figures show how important these projects are in terms of stimulating cross-border company growth especially if we take into account that according to the DG CNECT analysis that was mentioned above this figure (on average) for public procurements in Europe accounts for 1,7%.



If we look into the findings of the assessment per funding instrument then again, the results are not the same. 33,5% on average is the total value of contracts in POV projects in the security area that participated in the survey that went to bidders that are not from the country of the lead procurer. This figure for PCPs accounts for 68,33%. With regards to the average percentage of the total contract value that went to bidders that are not from a country of any of the project partners, this figure for PCPs is 48,33%. In POV projects the average percentage of the total value of the contract that was awarded to subcontractors that are not from the country of the lead procurer is 25%. In PCPs this figure accounts for 60%. Finally, in PCPs the total average percentage value of the contract value that went to subcontractors that are not from a country of any of the project partners, is 55%.



3. Conclusion

Taking into account the results of the findings from the feedback of the EC funded Innovation Procurements in security that participated in the survey, it could be stressed that the key points referred in the 2018 EC Guidance Notice on Innovation Procurement as practices to attract innovation and innovators have been taken (at large scale and in the crucial points) into consideration by the procurers/beneficiaries. For example, in three out of 14 points referred in the assessment chapter of this report, the best possible option was adopted at 100%. In seven points the best possible option was followed at a rate between 50% and 80%. The second-best option was followed at 100% in one point and at 50% in three points. The least good option though appears only in four out of 14 points and in two points out of these four points it was adopted at 60% (mainly due to the POV projects and the restricted procedure that they followed). Moreover, as mentioned above, in the crucial points indicated in the assessment chapter of this report such as the award criteria, the IPR management, the selection criteria (for PCPs) the adoption rate of the best possible procurement approach was very high, namely 100%. All this is reflected in the results concerning different stages of implementation of the projects and/or the procurements (market consultation, tender submission and contract award).

According to the figures presented above, these EC funded Innovation Procurement projects achieved to mobilize market players towards their public needs, to attract submission of

tenders by SMEs and most importantly to enable access to smaller economic operators (SMEs) to their tenders offering them concrete business opportunities. For example, crucial factors such as the carrying out of an (open) market consultation prior to the launching of calls for tenders, the use of evaluation criteria that encourage the participation of innovators in the tender, the adoption of IPR strategies and approaches that are supporting the commercialization of the developed innovative solutions etc. have resulted to the figures mentioned in the previous chapter that show that in these projects (especially in PCPs) a great share of the contract value goes to SMEs in Europe. However, it is worth to be noted that the number of SMEs that were attracted in market consultations activities of the projects is not so encouraging. Some reasons for this may be following: the restricted procurement approach that was adopted by some projects , especially POVs, the fact that none of the EC funded projects that replied to the EC questionnaire and the complementary note did not perform dedicated activities (at least at large scale) to attract the interest of economic operators outside the security area that would be interested to seek also business opportunities in the security area, the narrow scope of some tenders that by default are not attractive to market players and in particular the smaller ones etc. As it will be stressed later in this report, one of the main hurdles indicated by the projects themselves is to attract in the tender potential bidders and this, in fact, is reflected in the results regarding the attraction of SMEs in the market consultation activities.

It has also been proven that these projects contribute to the unlocking of the Single Market in Europe in the security area due to the fact that a great share of the total contract value of these procurements went to bidders or sub-contractors that are not from the country of the lead procurer or the countries of the project partners.

Another point that has to be underlined is that the results are not the same for the POV and the PCP projects. To be fair, though, POV projects preceded the EC funded PCPs in security that built upon the lessons learned as well as their experience. In particular, POV projects attempted to simulate PCP environment in FP7, in the security domain. POVs enabled the public buyers in security to gain insights on the opportunities and benefits of Innovation Procurement, mature, build and enhance their innovation capacity, acquire experience in the implementation of cross-border procurements etc. Their underperformance compared to PCPs in some approaches to attract innovation and innovators and in some results of their tenders could be better explained under the light of the specific provisions for this particular instrument. Nevertheless, one of their most important achievement is that they paved the way for the adoption by the security Work Program of the PCP instrument in H2020.

The specific requirements for the EC funded PCPs set the ground for a more structured approach on several aspects of the project/procurement implementation (open market consultation, evaluation criteria, contract implementation etc). In addition, the EC provided to H2020 procurers guidance that contains hands-on information and templates regarding the project/procurement implementation.

Nevertheless, there is always room for improvement even for the EC funded PCPs in security in the next MFF³⁷, especially in terms of attracting more (innovative) economic operators to the market consultations/ tenders that may lead to the awarding of more contracts and even larger contact values to SMEs and start-ups.

F. OBSTACLES AND HURDLES FOR THE IMPLEMENTATION

The last section of the EC questionnaire, sent to the EC funded Innovation Procurements in security, contained multiple choice questions on the obstacles and hurdles that are hampering the implementation of the projects. The projects had the option to tick more than one of the points listed in the questionnaire as well as to provide any comment related to the implementation of the project/procurement.

The point on financial issues was the only point that was indicated by all four EC funded Innovation Procurements that replied to the questionnaire (100%). For that reason, through the complementary note, the projects were requested to provide some clarifications on that issue. Taking the above into account, one POV project explained that under the term financial issues it meant the VAT that in FP7 it was not an eligible cost. This created financial constraints to public buyers with regards to their participation in Innovation Procurement projects. Although VAT has become an eligible cost in H2020, there are still issues on VAT exemption, this time though from the suppliers point of view. According to a PCP project, inequalities on the suppliers VAT exemption in cross-border R&D procurements may put barriers in the access to procurement. Another important point stressed by the same project is related to the procurement budget. Budgets up to 6 Million Euros for example may not be attractive to economic operators, active in fields other than security. In the same line also it can be noted

³⁷PCPs and PPIs are included in the article 22 of the proposal for a Regulation for establishing Horizon Europe – the Framework Program for Research and Innovation, laying down its rules for participation and dissemination, COM (2018) 435 final.

that another project indicated that one of the most difficult tasks in Innovation Procurement projects is to find experienced contractors.

Very interesting also is the clarification of a project that explained that under the term financial issues it considers the lack of knowledge/experience of procurement officers in the finance departments of an organization, especially in issues related to Innovation Procurement preparation and implementation. In the same context, an important point is raised also by another project that relates the term financial issues with the lack of funds at EU level to support a cross-border deployment through PPI of the developed innovative solutions in the security field. Public buyers should be incentivized to undertake actions that lead to the defragmentation of the European market; cross-border EC funded R&D procurements is the first step towards this direction. In some cases, though, it is necessary for the EC to support the second and very significant step that is related to a cross-border deployment. Indeed, this is a crucial issue and it should be part of a holistic EC strategy for the deployment and market uptake across Europe of the developed, through EC funded R&D procurements, innovative solutions.

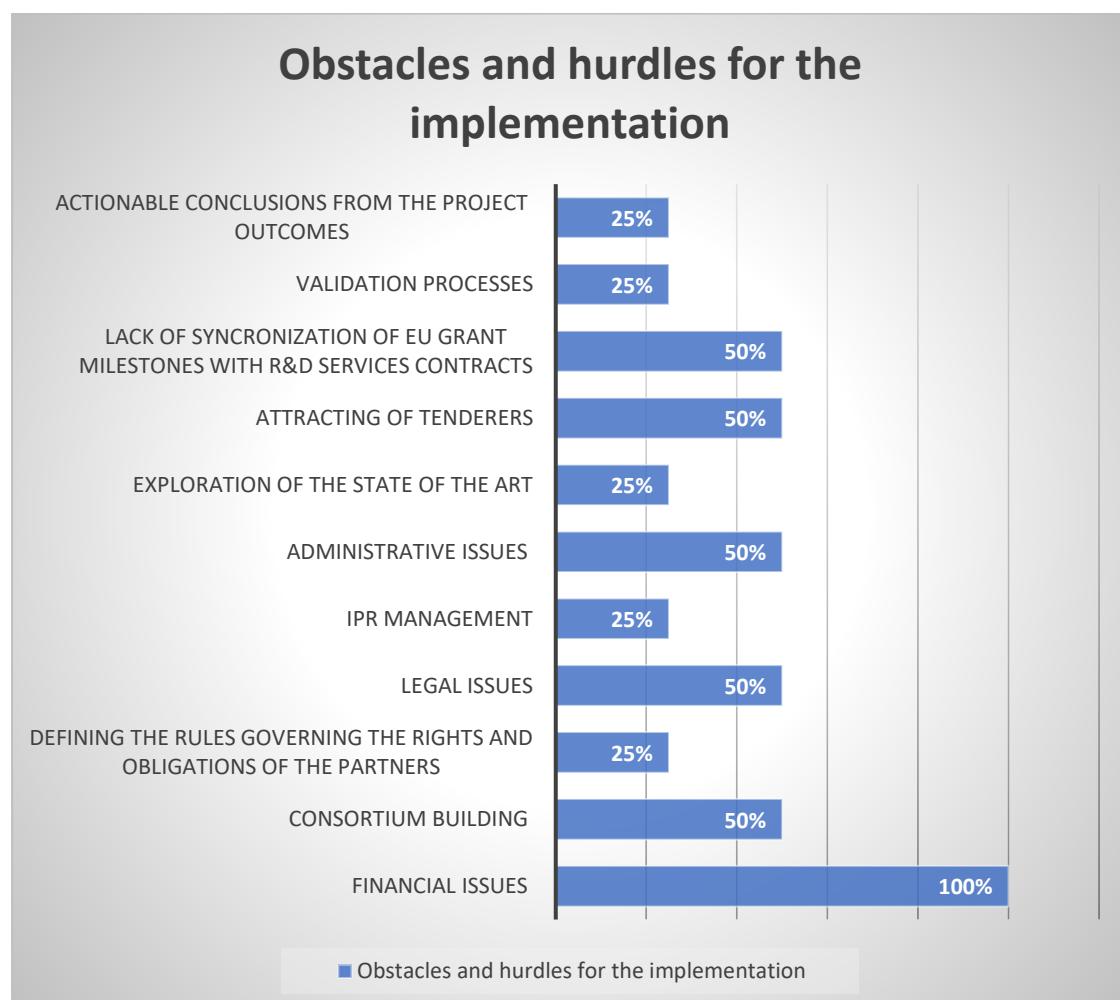
50% of the projects indicated consortium building as an obstacle for the implementation of Innovation Procurement projects and 25% of the projects mentioned the point on defining the rules governing the rights and obligations of the partners. For POV projects that piloted this kind of EC funded projects, was indeed harder to find partners, build consortium and define the rights and obligations between partners. Difficulties certainly exist also in H2020; however, awareness-raising on the benefits of the instrument for both the procurers and the market players, the creation of platforms among the procurers³⁸, the gradually increased experience from the implementation of these projects etc. facilitated the execution of these tasks. That may be a reason why this point was not raised by PCP projects.

The point on legal issues was indicated by 50% of the projects as a hurdle for the implementation of Innovation Procurements in the security area. 25% of the projects raised the point on IPR management that is associated with the point on legal issues. Moreover, 50% of the projects mentioned the point on administrative tasks related to contract implementation.

³⁸For example, the network of Practitioners on Public Procurement called iProcureNet <https://www.iprocurenet.eu/>, the Innovation Procurement platform (PPI platform) <https://procurement-forum.eu/> or the platform in the health sector - Innovation Procurement Platform, of the European Innovation Partnership on Active and Healthy Ageing https://ec.europa.eu/eip/ageing/public-procurement-platform_en.

50% of the projects pointed as an obstacle the difficulties related to the identification of common needs of users/buyers, although the indication of the common need is a prerequisite for the EC funded PCPs.

As presented above, market consultation activities have a dual role; to check the state of the art regarding the public challenge and to raise awareness about the upcoming procurement. 25% of the projects indicated hurdles concerning the exploration of the state of the art of potential solutions as well as the liaising with economic operators (including SMEs and start-ups). In addition, 50% of the projects mentioned hurdles related to the attracting of tenderers. 50% of the projects indicated that the lack of synchronization of EU Grant milestones with R&D services contract milestones could be a hurdle for the implementation of the project. Finally, 25% of the projects raised points related to the defining and implementing solid validation processes and the elaboration of actionable conclusions from the project outcomes



G. RECOMMENDATIONS

EC funded Innovation Procurement projects in the security area (as well EC funded PCPs in all sectors) contribute to the scaling -up of European SMEs by offering them concrete business opportunities through their tenders. Moreover, they contribute to the unlocking of the Single Market in the security domain by stimulating cross-border company growth.

Furthermore, EC funded Innovation Procurement projects bring benefits to public buyers in the security area. According to some projects, POVs and PCPs are very attractive to procurers because they offer them the possibility for long-term field testing that enables the monitoring of the developed innovative solutions in real-life conditions. Demonstrations are taking place in Innovation Actions (IAs) too but in those projects the developed Innovation is not demand – driven and these demonstrations do not last (very often) for a long period. In addition, unlike IAs, Innovation Procurement projects (in particular PCPs) allow procurers to buy within the same procedure the prototype that has been developed through the R&D procurement and to acquire free access to the foreground IPRs. This is an important benefit for public buyers that brings great added value to their participation in the EU funded projects.

As it was explained above, the regulatory framework for R&D services procurements has been improved significantly for the H2020 PCPs compared to the FP7 POVs. EC specific requirements have become much clearer. Moreover, there are guidance documents with annotations and hands-on information that lifted at a great extent the administrative burden, associated with the implementation of Innovation Procurement projects.

Despite the above and regardless of the novelties that have been introduced for the H2020 funded PCPs there is still room for improvement with regards to this funding instrument in the next MFF. Taking into account the results of the findings and the feedback provided by the EC funded Innovation Procurements in security, provided through the questionnaire, the complementary note and the interview, below there are some recommendations for the optimization of the EC funding schemes that support Innovation Procurements projects³⁹.

³⁹ Some of these recommendations are general and thus applicable in EC funded Innovation Procurement projects in all domains. Some of them are also included in the EC (DG CNECT) study SMART 2014/0009 on Quantifying the impact PCP in Europe. <https://ec.europa.eu/digital-single-market/en/news/quantifying-impact-pcp-europe-study-smart2014-0009>

1. Increase the EU funding support to PCPs in the security domain.

As explained above, PCPs put procurers in the driving seat of the innovation creation process. Unlike in other schemes, in PCPs innovative solutions are developed through R&D to tackle public needs enabling their long-term monitoring in real – life conditions by the real end- users (the procurers) that represent an important share in the market as consumers/customers regarding the commercialization and deployment of these innovative solutions. The budget, however, allocated by the EC to fund PCPs in the security area is limited compared to other funding instruments such as Research and Innovation Actions (RIAS), IAs etc. It is therefore recommended to use more this instrument by increasing the allocated budget. This will enable the implementation of more PCPs in the security area in Europe in the next MFF. This will help also gradually grow the network of potential public buyers in security that are interested in implementing Innovation Procurements contributing at the same time to the enhancement of the administrative capacity of public procurers in security and to the mainstreaming of this instrument in the security domain in Europe.

2. Follow a structural approach for the preparation of the Security Work Program and the management of the PCP/PPI projects

2.a Ensure regular consultation of public buyers in the security area for the preparation of the Security Work Program

Public challenges of procurers play significant role in Innovation Procurement projects. It is one of the main factors for the participation of public buyers in these projects. It is therefore important to ensure, through regular consultation with public procurers before the preparation of the respective WPs in the security domain that EU support through PCP/PPI is focused on sectors that match with the priorities/needs of public buyers in the security area.

2.b Create a dedicated structure in the EC/Agencies tasked with the management of PCP/PPI projects

Management of EU funded Innovation Procurement projects is different than the management of other EU funding instruments. For example, there are milestones that follow the procurement implementation course, reviews and deliverables that are associated with the procurement and the contract implementation during the project etc. It requires thus some special know-how and skills in order for the EU project officers to be able to follow and monitor PCP/ PPI projects. It would be win-win for both the EC/Agencies and the projects beneficiaries if a dedicated structure (Team, Sector or even Unit depending on the number of

the PCPs/PPIs) was created within the EC/Agencies tasked mainly with the management and monitoring of Innovation Procurement projects in the security domain. This would ensure that knowledge in PCP/PPI management and implementation remains always within this dedicated EC/Agencies structure and there is transferring of knowledge to every new member that joins this team.

3. Offer increased support to CSAs that prepare the ground for future PCPs and PPIs.

As highlighted by some projects the building of the consortium and the identification of the common need are some of the barriers that hamper the implementation of cross-border Innovation Procurements. CSAs can play a pivotal role in this. They can help bring together public buyers in the security area from different EU MS to discuss and identify common needs that could be tackled through PCPs or PPIs. Moreover, through targeted CSAs a sustainable Innovation Procurement platform in the security area in the form of one stop shop for all procurers (such as the PPI platform) could be supported. This will enable better and targeted dissemination of the relevant information and it will facilitate the building of consortia for EC funded projects, the exchange of views, the sharing of experiences on PCP/PPI implementation, the enlargement of the network etc. In association with the above-mentioned point (2) this platform could be used by the EC to consult procurers before the preparation of the relevant WPs.

4. Ensure key role for public buyers in CSAs, PCPs and PPIs

Public buyers must hold the protagonist role in projects such as PCPs and PPIs (and relevant CSAs). It is thus crucial that PCPs or PPIs tackle real needs of procurers and the latter are participating very actively in all stages of the project implementation, ensuring that the know-how of the Innovation Procurement implementation remains with them. In that context, evaluation criteria of the proposals, related for example to the greater involvement of procurers in the implementation and/or leading of tasks or criteria that show the procurers intention to deploy the developed innovative solutions (e.g potential PPI plans of the procurers), would be very positive. To that end also, (as it was indicated by one project) the possibility to require PCP/PPI project coordination by the PCP/PPI lead procurer could be considered.

5. Support more open PCP/PPI calls in the security area– Increase the allocated budget per project in the calls for proposals.

Narrow scoped calls for proposals are less attractive to public buyers that may have needs/priorities other than those described in the call text. More open calls for proposals may target wider group of public buyers in the security area. Moreover, this will allow procurers to design their procurement process in a way that enables the launching of more open calls for tenders that are by default more attractive to innovators that are active in other than the security domain. In addition, as it was highlighted by an EC funded project, an increased budget per project in the calls for proposals will increase the budget procured by each project, making thus the call for tenders more attractive to innovators outside the security field.

6. Foresee a more simplified approach for PCPs.

Administrative issues were stressed by some projects as hurdles for the implementation of Innovation Procurement issues. Indeed, a more simplified approach would facilitate the project implementation by lifting some of the administrative burden. As mentioned in previous sections, EC funded PCPs are split into (at least) 3 phases because this is required by the EC specific requirements (and not per se by the PCP Communication). The possibility to implement at least 2 phased EC funded PCPs by merging, for example, into one phase the designing and prototype building phases would mean less administrative burden for the procurers (and the suppliers) and longer periods for the actual implementation by the suppliers of the relevant R&D activities.

7. Offer support to PPIs in security and ensure synchronization between PCP/PPI calls

PPI projects create an economy of scale of interested buyers that contribute to the commercialization of innovative solutions. Moreover, EC funded PPIs ensure the creation of a cross-border market that leads to a more reinforced and defragmented uptake of the developed innovative solutions. It is therefore important to foresee targeted support to PPIs in the security area, especially in fields that the procurers would like to purchase jointly (at European level) and deploy innovative solutions to tackle their public needs or the EC aims at supporting the deployment in Europe of more interoperable (including at cross border level) solutions. It is also important that there is synchronization between the PCP projects and the

PPI calls for proposals⁴⁰ in the same field in order to allow (at least) PCP procurers to use EC support to purchase at commercial volumes the developed innovative solutions.

8. Provide more guidance for the promotion of the market consultation and the call for tenders

Attracting of innovators and in particular innovators that are active outside the security area is a hurdle that has been indicated by the EC funded Innovation Procurements in the security area. Guidance with hands-on information, annotations and case examples on how to achieve an EU-wide and cross-sectorial dissemination of information in the form of the guidance that was provided by the EC on the Simap (TED) templates and the request to tender⁴¹ would be very useful. In the next MFF it is also important that DG HOME (and other DGs that support Innovation Procurements) works closely with the European Innovation Council (EIC) in order to ensure awareness raising of the business opportunities opened by the EC funded procurements in the security area to the EIC innovators ecosystem.

9. Provide guidance on legal issues related to contract implementation / organize concertation meetings of EC funded security Innovation Procurement projects.

EC Guidance for H2020 PCPs has improved significantly the situation and clarified many points related to PCP contract implementation. However, there are still issues where clarification and guidance are needed (for example to highlight that in PCPs it is also possible to buy the developed prototype and explain better how this can be done in the context of a cross-border procurement). Experience sharing could be also very useful towards this direction, especially for the newcomers in the Innovation Procurement family. To that end, the organization of concertation meetings of the EC funded Innovation Procurement projects in the security area (on annual or once per two years basis) would facilitate the exchange of views, ensure the know-how dissemination and enable the discussion and highlighting of legal and administrative issues faced by the procurers. Points where the EC guidance is missing and the latter is necessary for the contract implementation as well as views on the synchronization of the R&D stages procurement with the project milestones could also be discussed during these concertation meetings. Issues (including legal issues) discussed and analyzed in these

⁴⁰PPI calls may also be foreseen after CSAs in areas where there is interest by the procurers to buy innovative solutions to tackle their needs and the market is ready (or close to be ready) to offer solutions concerning these needs.

⁴¹For the EC guidance see p. 12-13

meetings could feed a Q&A web-page on Innovation Procurement in the security domain animated by the EC and updated on a regular basis.

10. Facilitate more the access of economic operators in the tender

10.a Clarify more the role of companies as project beneficiaries in the tender/contract implementation

According to the current EC specific requirements for the EC funded Innovation Procurements projects, participation of companies as beneficiaries in the project is possible, provided that there are not cases of conflict of interest. In line with the feedback provided by the EC funded Innovation Procurement projects in the security area, a clearer description in the EC specific requirements of the role of the companies as beneficiaries in the project and the potential limitations concerning their participation in the tender preparation/execution and the contract implementation would provide a clearer view on their actual role in the project. By setting concrete and clearly explained limitations regarding the participation of companies (potential suppliers) as beneficiaries in the project, other interested market players/innovators in the same or other fields could be more encouraged to submit a tender.

10.b Ensure harmonized approach on the VAT regime for suppliers.

As it was indicated in previous sections, issues concerning VAT for public procurers in FP7 were solved by considering, in H2020, VAT as an eligible cost. Regarding, though, VAT of suppliers many EU MS foresee VAT exemptions only for intra-community transactions. In-cases, where suppliers are based in the country of the lead procurer, the respective transactions are not considered intra-community and thus no VAT exemption is foreseen. To tackle these inequalities for suppliers, a global VAT exemption in Europe for (cross-border) R&D services procurements may be considered.

11. Set-up/encourage collaboration with the European network of National Competence Centers on Innovation Procurement

Administrative issues as well as issues related to the lack of knowledge/experience of procurement officers on the implementation of Innovation Procurements were pointed by the EC funded projects as bottlenecks for the execution of such projects. To that end, it has to be noted that the EC is supporting a H2020 CSA strategic project called Procure2Innovate⁴² that aims at creating a European network of Innovation Procurement Competence Centers. With

⁴²For more information on the Procure2Innovate strategic project see the following web-page:
<https://procure2innovate.eu/home/>

the goal to contribute to the mainstreaming of Innovation Procurement at national and European levels, this network is composed, for the time being, by 10 different national competence centers in 10 EU MS - aiming at expanding itself to more EU MS in the near future. DG HOME could set up collaboration and/or encourage procurers in the security field to liaise with this network in order the Competence Centers to offer to procurement officers in the EU MS assistance (e.g guidance, training etc.) on Innovation Procurement implementation, including assistance and information according to their national law (and in their language).

12. Ensure continuous/regular assessment of the security PCP/PPI projects results

This assessment has showed very interesting findings regarding the performance and the impact of the EC funded Innovation Procurements. However, this should not be a one-off exercise. A sustainable mechanism should be developed in order to collect data on a systematic basis from procurers and suppliers in the EC funded Innovation Procurement projects in the security area. To that end, a questionnaire addressed by the EU Project Officer to the beneficiaries and a questionnaire addressed by the procurers to the PCP/PPI contractors could help collect the necessary info for this assessment. Projects beneficiaries could be provided by the EC with templates of the questionnaires and they will be requested to submit the filled in questionnaires before each project review as well as to present them during this review. The templates that should be tailored according to each stage of project implementation (e.g different templates for PCP phase 1 compared to phase 2 etc.) may request information (from procurers) on the public need, the results of the tender in terms of submission, SMEs participation, market consultation etc. as well as info (from the suppliers) on the commercialization plans of the innovative solution/s, IPR protection process, impact (e.g if they scaled-up due to PCP), other business opportunities (e.g if they managed to find other buyers due to the PCP) etc. including views, suggestions of the procurers and the suppliers for the optimization of the project/procurement. The assessment can be performed as a separate exercise and/or an overall assessment may be requested by the reviewers in each project review. The EC initiative called Innovation Radar⁴³can offer inspiration/good practices regarding this exercise, especially taking into account that Innovation Radar will be used even more as tool for the EC funded projects in Horizon Europe.

⁴³More information on Innovation Radar can be found on the following web-page: <https://ec.europa.eu/digital-single-market/en/innovation-radar>

H. CONCLUSION

This assessment highlights that the EC funded Innovation Procurement projects in the security field achieved, at a large scale, to enable the participation in their tenders of smaller innovators (SMEs). Moreover, an important share of their EC funded procurements/contracts was awarded to SMEs and to economic operators that are not from any of the countries of the lead procurer and/or the project partners. This shows the power of the demand-side innovation that helps modernize the public sector and open up new business opportunities to market players in Europe. This competitive advantage of the smart use, through procurement, of the public sector budget has been stressed also by the H2020 interim evaluation report.

As mentioned above, the security part of the EU-funded R&I framework Program has one of longest history in supporting demand-side innovation through Innovation Procurement. By building upon the lessons learned and by enhancing the offered support through the setting of a context that encourages the participation of more public buyers in the projects and more economic operators in the supported tenders, it could achieve (in the next Programming Period and through regular monitoring and reviewing of the projects progress) even better results in terms of modernizing the public sector services in the security domain and reinforcing the Single Market in security that opens up business opportunities to all relevant economic operators, including the smaller ones (SMEs and start-ups).

ANNEX I

EC QUESTIONNAIRE

GUIDANCE ON INNOVATION PROCUREMENT

(Template)

Guidance on innovation procurement

Fields marked with * are mandatory.

INTRODUCTION

Innovation procurement can be a catalyst for the market uptake of the outcomes of security research. However, the Innovation Procurement instruments made available by the EU Directives are relatively new, and the security stakeholders are slowly learning what are the challenges and opportunities brought by these instruments.

We are also learning about the best practices to follow for the implementation of Innovative Procurement actions, and the impact they have on the success of the projects. In this sense, the experience of the Innovation Procurement projects launched under the EU Funded Security Research Work Programmes is highly valuable.

If you would like to support us in this effort to optimise the use of PCP and PPI actions, please take a few minutes to answer to the questions below.

The Questionnaire

This questionnaire aims at assessing concrete aspects of the performance of the Innovative Procurement actions launched under the EU funded security research work programmes. In particular, the questionnaire will allow a first insight on the measures put in place by the beneficiaries of EU grants to attract innovators and innovation to the tendering process.

The questions are inspired on the good practices recommended in the [Commission Notice on Guidance on Innovation Procurement, C\(2018\) 3051 final](#).

Please note that this questionnaire is not an evaluation of your project, but an informal initiative to learn about the best practices to guarantee the success of future Innovation Procurement actions.

The results of the survey will be shared also with you, hoping that they will also provide you useful information.

Before answering the questions, please indicate the acronym of the project that you represent: *Text of 1 to 150 characters will be accepted*

1. Attracting innovators

The objective of this section is to measure how the tender for R&D services launched by your project opened the door to small innovators, in particular high-tech start-ups and innovative SME's (regardless if these were finally awarded with a contract).

Please select the option that is closer to the approach followed by your project for each of the questions and add clarification when needed.

*** 1.1 About the bureaucratic burden for tenderers**

- a. The tenderers needed to provide administrative certificates evidencing their legal standing, economic and/or financial capacity along with their offer for verifying the exclusion and selection criteria
- b. The tenderers could send a self-declaration indicating whether they fulfilled all administrative prerequisites along with their proposal.
- c. The tenderers could provide an electronic version of a self-declaration indicating whether they fulfilled all administrative prerequisites using the European Single Procurement Document (ESPD).

Clarify your reply if needed:

500 character(s) maximum

*** 1.2 About the selection criteria of your R&D services tender:**

- a. The requested turnover for the economic operators had to be higher than two times the estimated contract value.
- b. The requested turnover for the economic operators had to be equal or lower than the estimated contract value.
- c. There was no selection criteria associated to the turnover of the economic operators.

Clarify your reply if needed:

500 character(s) maximum

*** 1.3 About the division into lots:**

- a. The contract was divided into 2 or more lots.
- b. The contract was not divided into lots.

Clarify your reply if needed:

500 character(s) maximum

*** 1.4 About the use of standards, open data, open interfaces and open source software:**

- a. The tender explicitly encouraged the use of standards, open data, open interfaces and open source software.
- b. The tender did not explicitly encourage the use of standards and open data, but set out specific rules on access to pre-existing intellectual property of the buyers necessary to complete the innovation process.
- c. The tender did not consider any of the above.

Clarify your reply if needed:

500 character(s) maximum

*** 1.5 About the payment schemes for main contractors:**

- a. The contract allowed for advanced payments and regular periodic payments.
- b. The contract allowed for an advanced payment and a final payment upon completion of the works.
- c. The contract allowed only for a final payment upon completion of the works.

Clarify your reply if needed:

500 character(s) maximum

*** 1.6 About the payment schemes for subcontractors:**

- a. The buyers made/will make direct payments also to subcontractors.
- b. The buyers paid/will pay only the main contractors, but incentivise them to shorten the payment periods to subcontractors.
- c. The contract did/does not have specific provisions on payment to subcontractors.

Clarify your reply if needed:

500 character(s) maximum

*** 1.7 About the mobilisation of innovation brokers:**

- a. The buyers counted with the support of innovation brokers with the capacity and purpose to build or strengthen the links between start-ups or innovative SMEs and public buyers prior to the tendering process.
- b. The buyers carried out specific actions to reach start-ups or innovative SMEs prior to the tendering process.
- c. Engagement with start-ups or innovative SMEs was not explicitly tackled prior to the tendering process.

Clarify your reply if needed:

500 character(s) maximum

2. Attracting innovation

The objective of this section is to measure how the buyers attracted innovation within the procurement procedure by using innovation friendly tools and procedures.

Please select the option that is closer to the approach followed by your project for each of the questions and add clarification when needed.

*** 2.1 How was the need expressed?**

- a. Our project carried out a wide-ranging needs assessment to define the problem to solve, including a functional analysis of the needs of the organisation and an identification of the areas of improvement. b. Our project partners defined the solution to the challenge addressed as an input to the tendering process.
- c. Our project was conceived with a clear definition of the desired solution to the problem as a starting point.

Clarify your reply if needed:

500 character(s) maximum

501

*** 2.2 How were the possible solutions to the problem explored?**

- a. Our project carried out an open and EU-wide preliminary market consultation in order to check the state of the art before drafting the technical specification.
- b. Our project invited a number of trusted providers in order to explore the alternatives to address the problem described.
- c. Our project did not consult the market on the possible solutions before drafting the tender specification.

Clarify your reply if needed:

500 character(s) maximum

501

*** 2.3 How were the tender requirements expressed?**

- a. The terms of reference used functional requirements which were not overly prescriptive as regards the means of achieving the desired outcome, while indicating clear measures of effectiveness.
- b. The terms of reference used descriptive technical requirements, leaving part of the performance open to the innovation process.
- c. The technical specification used concrete technical requirements including precise measures of performance for the desired system.

Clarify your reply if needed:

500 character(s) maximum

*** 2.4 Did the tender allow variants?**

- a. The tender allowed the development of more than one alternative solution based on alternative technologies or processes to address the described problem.
- b. The tender limited the number of alternative technologies or processes to address the described problem.
- c. The tender was focused on one single technological alternative or process to address the described problem, even if allowing different implementations.

Clarify your reply if needed:

500 character(s) maximum

*** 2.5 What was the award criteria?**

- a. The award criteria was based on the Best Price Quality Ratio, with quality having more weight than price.
- b. The award criteria was based on the Best Price Quality Ratio, with price having more weight than quality.
- c. The award criteria was based exclusively on price and/or cost.

Clarify your reply if needed:

500 character(s) maximum

*** 2.6 How were IPR managed?**

- a. The IPR generated under the R&D service contract are transferred to the developer, with access rights granted to the procurer.
- b. The IPR generated under the contract remain with the procurer, with the option to license the new IPR to all interested parties.
- c. The IPR generated under the contract remain with the procurer with no further provisions on licensing to third parties.

Clarify your reply if needed:

500 character(s) maximum

*** 2.7 How was contract performance managed?**

- a. The contract included contract performance clauses including contract performance criteria, exit clauses in case of underperformance and contract modification clauses due to volatility and high potential of further innovation ascertained during the contract performance.
- b. The contract included a limited number of contract performance clauses from the list described in option a).
- c. The contract did not include contract performance clauses.

Clarify your reply if needed:

500 character(s) maximum

3. Results of the tender

Measuring the success of SME's and the cross-border reach of the tendering process.

* What percentage of the total value of the contract went to SMEs acting alone or as lead bidder? *Only values between 0 and 100 are allowed*

* What percentage of the total value of the contract went to SMEs participating in consortia with large companies?

Only values between 0 and 100 are allowed

* What percentage of the total value of the contract went to SMEs participating as subcontractors? *Only values between 0 and 100 are allowed*

* What percentage of the total value of the contract went to bidders that are not from the country of the lead procurer?

Only values between 0 and 100 are allowed

* What percentage of the total value of the contract went to bidders that are not from a country of any of the project partners?

Only values between 0 and 100 are allowed

* What percentage of the total value of the contract went to subcontractors that are not from the country of the lead procurer?

Only values between 0 and 100 are allowed

* What percentage of the total value of the contract went to subcontractors that are not from a country of any of the project partners?

Only values between 0 and 100 are allowed

4. Obstacles and hurdles for the implementation of the project

The objective of this section is to have a bird-eye view on the main difficulties found by the project beneficiaries for the implementation of the PCP contract. These shall allow to identify support measures or actions required to increase the capacity of the security stakeholders to conduct more efficient and effective innovative procurement actions.

Please select as many options as needed.

NB: this is not an exhaustive list. If you want to highlight any other obstacle, please do so by selecting the "other" option.

Multiple Choice Question

- Building project consortium
- Defining the rules governing the rights and obligations of the partners
- Financial issues
- Legal issues
- Intellectual Property Rights management
- Identifying common needs of users/buyers
- Exploring the state of the art of potential solutions
- Liaising with solution providers (including SME's and start-ups)
- Conducting the tendering process in line with the principles of transparency, equal treatment and nondiscrimination
- Contract evaluation and awarding process
- Administrative tasks associated to contract implementation
- Synchronisation of EU Grant milestones with R&D service contract milestones
- Attracting tenderers
- Defining and implementing a solid validation process
- Elaborate actionable conclusions from the
- project outcomes Other

* If you flagged "Other", please detail your reply.

Up to 500 Characters

5. Other comments

If you have any other comments associated to the implementation of your PCP project,
please elaborate in the box below

Up to 500 characters

ANNEX II

COMPLEMENTARY NOTE/QUESTIONNAIRE

GUIDANCE ON INNOVATION PROCUREMENT

(Template)

NOTE

Guidance on Innovation Procurement

INTRODUCTION

Public procurement expenditure in Europe accounts for almost 2000 €Bn/year. Due to its huge economic impact, public procurement that supports innovation can help modernize the public sector with the development and/or purchase of breakthrough solutions offering at the same time market opportunities to innovative businesses contributing thus to the increase of growth and jobs in the EU.

The new Public Procurement Directives (2014/24 and 2014/25) call on (for the first time) the public authorities/entities to make strategic use of public procurement to spur innovation in Europe. They acknowledge also, the importance of SMEs for the EU economy encouraging the procurers to facilitate the access of these economic operators in the procurement markets. In the same line, the EU Guidance Notice on Innovation Procurement (C (2018) 3051 final) aims at setting a clear context mainly by outlining the boundaries of Innovation Procurement, proving concrete case examples and explaining how innovation goals through public procurement can be achieved in a way that procurement markets can become attractive to innovators.

The security part of the EU-funded R&I framework Program has started supporting Innovation Procurement related instruments since FP7. This has been continued and reinforced in H2020. Through these projects, security procurers are supported to develop innovative solutions that are tackling existing public needs, triggering at the same time the uptake of the outcomes of research in the field.

The EC has been supporting Innovation Procurement projects before the adoption of the above-mentioned Directives. It is therefore important to note that as pioneers on Innovation Procurement your projects have inspired the above-mentioned Directives (e.g on issues related to cross-border procurements that did not exist in the Public Procurement Directives prior to 2014) and provided valuable feedback for the drafting of the EC Guidance on Innovation Procurement.

In view of the next MFF, DG HOME has taken an informal initiative to look-into the procurement practices of your projects in order to valorize your valuable experience in the Innovation Procurement projects/actions of the future, optimizing thus the implementation of the EU funded PCPs and PPIs for the benefit of both the procurers and the potential suppliers/economic operators.

The Questionnaire

Few months ago, you have received and replied to a questionnaire of DG HOME that aimed at looking into the performance of concrete Innovation Procurement actions supported by the EU funded security research Work Programs. As you already know, this DG HOME informal initiative is not an evaluation. It will only offer useful information that will optimize/enhance the support offered to Innovation Procurement related projects. As highlighted in the

previous questionnaire, the requested feedback is inspired by the good practices/guidance mentioned in the EC Guidance Note on Innovation Procurement.

We would like to thank you that you have participated in this exercise providing the EC with valuable views on several aspects of Innovation Procurement preparation and implementation.

In line with the above and in order to acquire a more holistic view, we would like to ask you some additional questions related mainly to the market consultations and the initial call for tenders of your projects. Moreover, we would like to ask some clarifications regarding the feedback you have already provided to the EC.

Please note that as was stressed out in the previous questionnaire the results of the survey will be shared with you.

Before replying to the questions, please indicate the acronym of the project that you are representing in the table below

A. QUESTIONS :

1. MARKET CONSULTATION

1.1 What was the total number of economic operators that participated in the market consultation activities?

Please provide your reply below (500 characters maximum)

1.2 What is the percentage of SMEs that participated in the market consultation activities?

Please provide your reply below (500 characters maximum)

1.3 Have you performed any activities to attract to the market consultations innovators outside the security field? (e.g economic operators that are dealing with ICT but not with security per se)

Please provide your reply below (500 characters maximum)

2. INNOVATION PROCUREMENT IMPLEMENTATION

2.1 What is the number of economic operators that submitted an offer in the initial call for tenders.

Please provide your reply below (500 characters maximum)

2.2 What is the percentage of SMEs acting alone or as lead bidder that submitted an offer in the initial call for tenders.

Please provide your reply below (500 characters maximum)

2.3 What is the percentage of SMEs participating in consortia with large companies that submitted an offer in the initial call for tenders.

Please provide your reply below (500 characters maximum)

2.4 What is the percentage of SMEs participating as subcontractors in the economic operators that submitted an offer in the initial call for tenders.

Please provide your reply below (500 characters maximum)

B. CLARIFICATION:

In the previous questionnaire in the section on obstacles and hurdles for the implementation of the project there were multiple choice questions. We would like to kindly ask you to clarify/elaborate on some points that you have noted in that questionnaire

1. Please indicate why do you consider financial issues as an obstacle and hurdle for the implementation of your project

Please provide your reply below

ANNEX III

ASSESSMENT REPORT PRESENTATION

ASSESSMENT REPORT

on the performance
of the EC funded Innovation Procurement projects
in the security field according to
the EC Guidance Notice on Innovation Procurement

AN ASSESSMENT REPORT PREPARED FOR THE EUROPEAN COMMISSION,
DG FOR MIGRATION AND HOME AFFAIRS (DG HOME) BY
VASILEIOS TSANIDIS DR.JUR

BACKGROUND TO THE ASSESSMENT REPORT

EU Public Procurement Directives

Directive 2014/24 and 2014/25

- They encourage public authorities and entities in Europe to make strategic use of public procurement in a way that supports innovation
- They contain a clear definition of the term innovation in public procurements
- They reiterate that these Directives are not applicable in procurements of R&D services where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and the service provided is wholly remunerated by the contracting authority
- Clear reference to PCPs highlighting that they remain outside their scope

Directive 2009/81 in the defense and security fields

- Definition of R&D in public procurements. Sets the boundaries for R&D services in public procurements in Europe that cover fundamental research, applied research and experimental development
- It states that this Directive is not applicable in procurements of R&D services where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and the service provided is wholly remunerated by the contracting authority

EC Guidance Notice on Innovation Procurement (2018)

- ▶ Definition of Innovation Procurement. By the term Innovation Procurement is considered both the buying of the process of innovation – with (partial) outcomes and/or the buying of the outcomes of innovation created by others (not the public procurers themselves)
- ▶ Attracting of innovators in the tender
- ▶ Attracting innovative offers in the tender
- ▶ Description of the different types of Innovation Procurement (including R&D services procurements)

Pre-Operational Validation projects (POVs)

- ▶ Pilot funding instrument that was used by the EC in the security part of FP7
- ▶ It combines in one Grant Agreement two different funding schemes, namely the Coordination and Support Actions (CSAs) and the Collaborative projects (CP)
- ▶ Obligation for a market consultation but no minimum activities described
- ▶ In the context of the CP part of the project execution of an R&D services procurement

PRE-COMMERCIAL PROCUREMENT (PCP)

- ▶ PCP actions is a funding instrument that is used by the EC in the security part of H2020
- ▶ PCP procurements = R&D Services procurements
- ▶ Competition during the contract implementation stage (through a phased approach)
- ▶ IPR ownership remains with the party that generated them in the contract.

Main similarities and differences between PCP and POV EC funded projects

- ▶ Both are supporting R&D services procurements
- ▶ IPR approach is more or less similar
- ▶ Functional requirements in both instruments
- ▶ Open Market consultations are foreseen in both instruments but in PCPs they are described more extensively
- ▶ The R&D services procurement is described in more detail in PCP action projects
- ▶ EC guidance documents on PCP
- ▶ Reviews are taking place before the publishing of the calls for tenders (PCPs)

METHODOLOGICAL APPROACH

Scope of the report

It aims at :

- ▶ assessing the practices followed by the EC funded Innovation Procurement projects in security to attract innovation and innovators
- ▶ analyzing the results of the adopted tendering process in relation to these practices
- ▶ analyzing and highlighting the obstacles and hurdles for their implementation
- ▶ proposing some recommendations based on the evidence from the feedback provided by the ongoing and completed PCPs and POVs

EC funded Innovation Procurements in the security area

1. **CLOSEYE:** validation of innovative services applicable to the surveillance of the EU Maritime Borders in real operational environment.
2. **EWISA:** assessment of the management of illegal migration flows in the land border, through the increase of knowledge degree of operational situation and the enhancement of reaction capacity of the participating authorities responsible for land border security.
3. **EUCISE2020:** achieving the pre-operational information sharing on sea-basins between the maritime authorities of the involved European States.
4. **BROADWAY:** enabling a pan-European broadband mobile system for Public Protection and Disaster Relief, validated by sustainable test and evaluation capabilities.
5. **SHUTTLE:** developing a toolkit which will facilitate the analysis of microtraces collected in crime scenes.

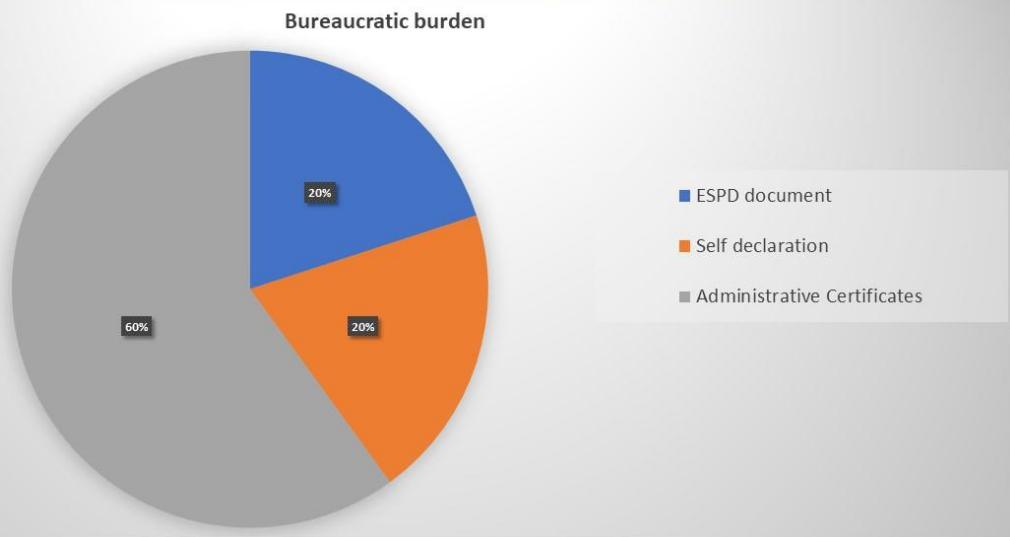
METHODOLOGY

- ▶ Questionnaire to the EC funded Innovation Procurement projects (ongoing and completed). Questions according to the points indicated by the EC Guidance Notice on Innovation Procurement for the attraction of innovators and/or innovative offers in the tender. Info on the awarding of contracts and on the hurdles that hamper the implementation of Innovation Procurements
- ▶ Complementary questionnaire. Info on the results of the market consultation and the submission of offers – clarifications on the replies indicated in the initial Questionnaire
- ▶ Different results of PCP and POV projects
- ▶ Targeted interview with a beneficiary (KEMEA) that has acted as a lead procurer in both PCP and POV projects
- ▶ Internet research focused on the published Tender Documents of the EC funded Innovation Procurements in security

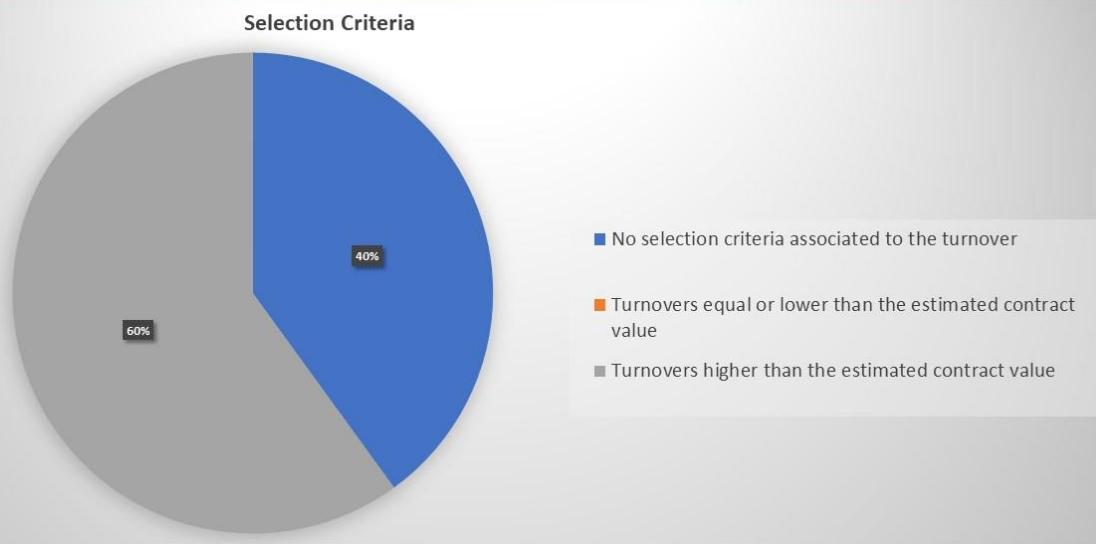
ASSESSMENT – PART.1

ATTRACTING INNOVATORS

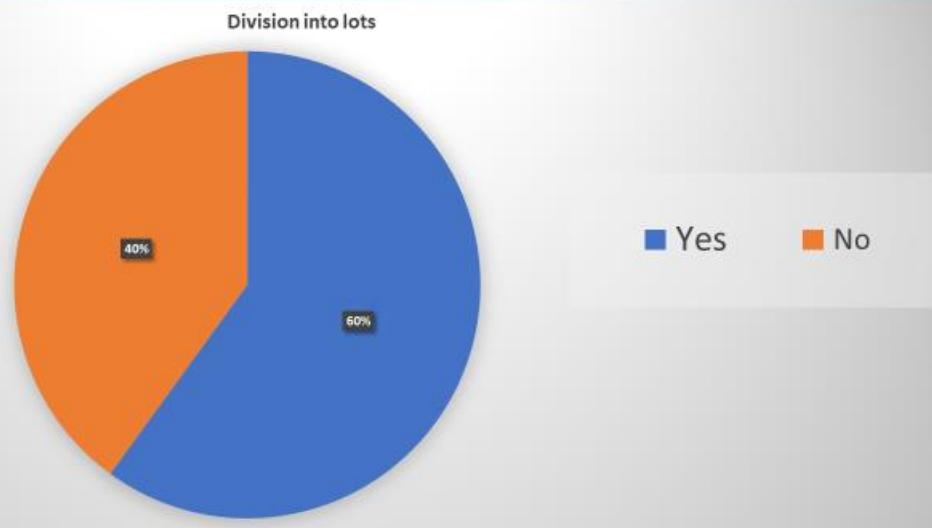
1. Bureaucratic burden for tenderers



2. SELECTION CRITERIA

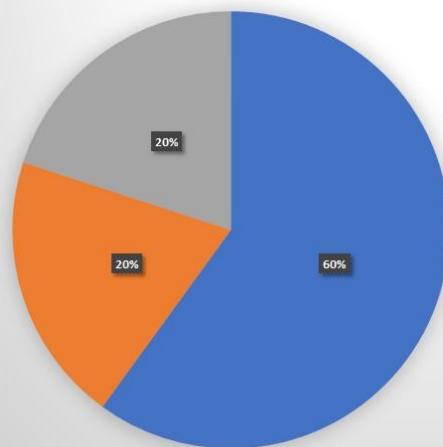


3. Division into lots



4. Use of standards, open data interfaces and open resource software

Use of standards, open data, open interfaces and open source software



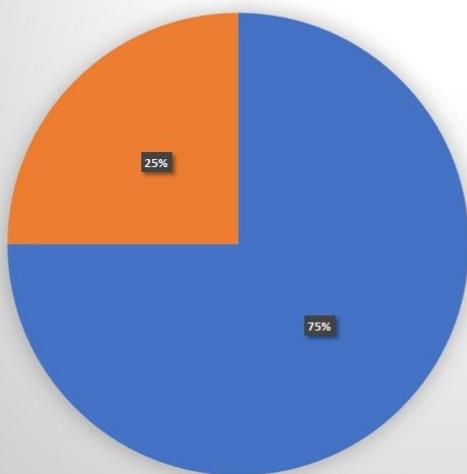
■ The use of standards is encouraged

■ Specific rules on access to pre-existing intellectual property of the buyers

■ None of the two options

5. Payment schemes for main contractors

Payment schemes for main contractors

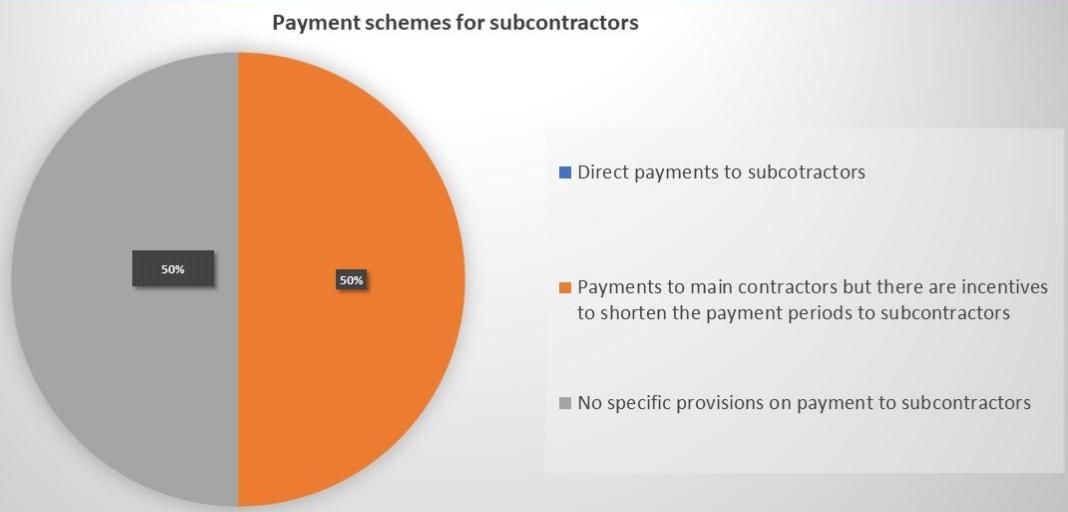


■ Advanced payments as well as regular periodic payments

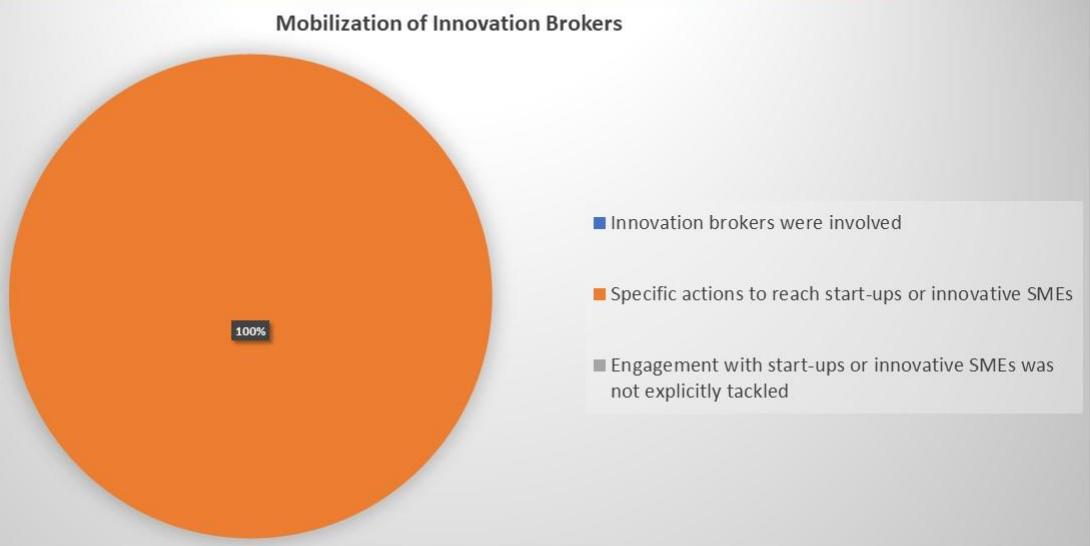
■ Advanced payment and a final payment upon completion of the works.

■ Final payment upon completion of works

6. Payment schemes for subcontractors



7. Mobilization of Innovation Brokers

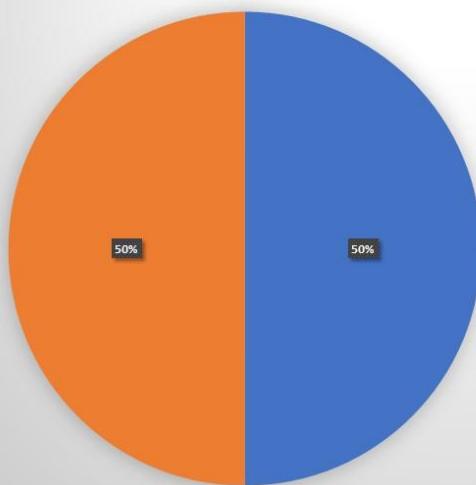


ASSESSMENT – PART.2

ATTRACTING INNOVATIVE SOLUTIONS

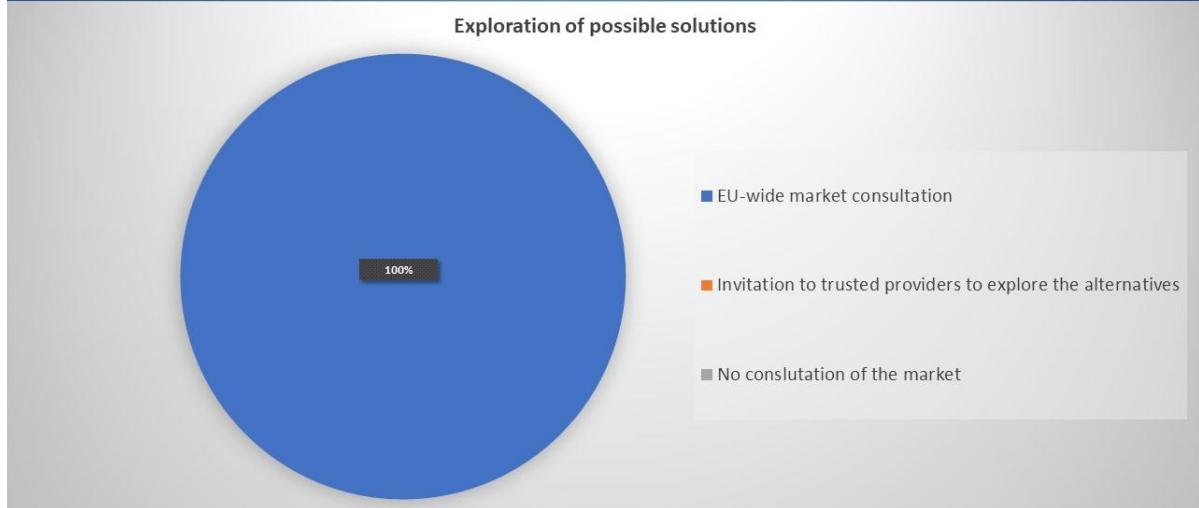
1. Articulation of the need

Articulation of the need

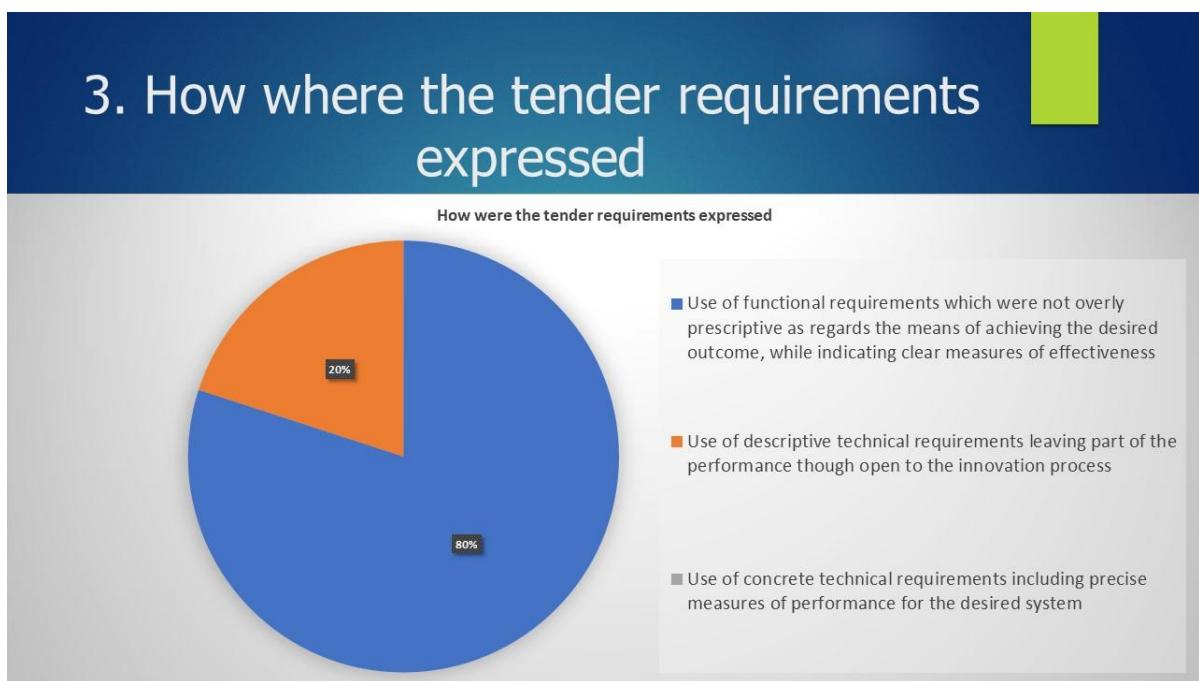


- Wide-ranging needs assessment to define the problem, including a functional analysis of the needs of the organization
- Definition of the solution to the challenge addressed as an input to the tendering process
- Clear definition of the desired solution to the problem

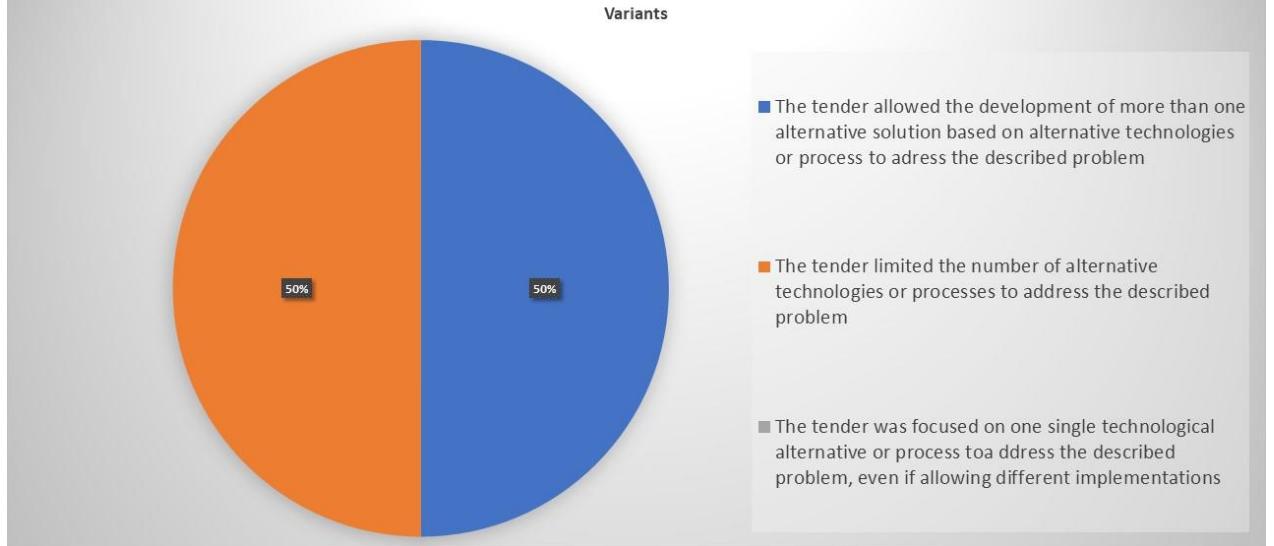
2. Exploration of possible solutions



3. How where the tender requirements expressed



4. Variants

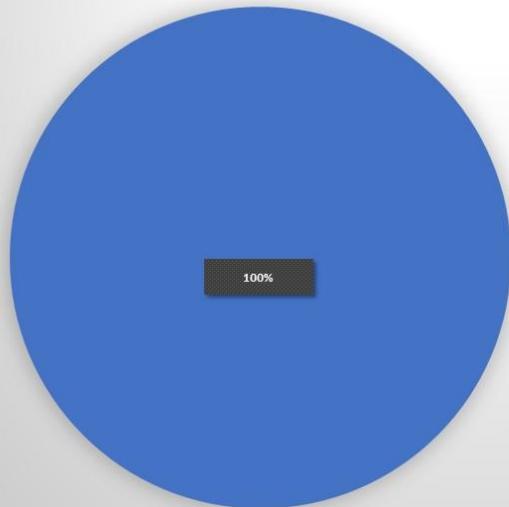


5. Award criteria



6. IPR Management

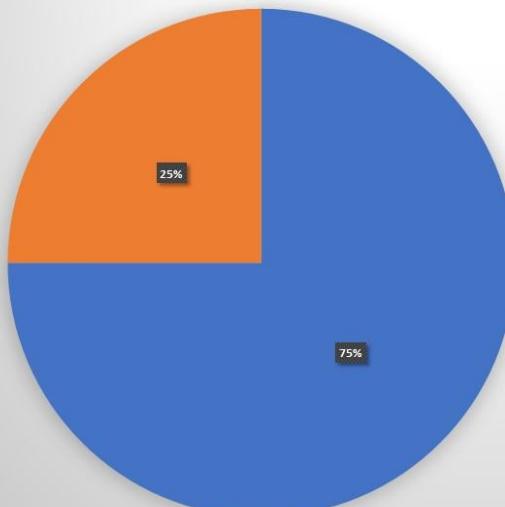
IPR Management



- IPRs are transferred to the developer with access rights granted to the procurer
- IPRs remain with the procurer with the option to licence the new IPRs to all interested partners
- IPRs generated under the contract remain with the procurer with no further provisions on licensing to third parties

7. Contract performance

Contract performance



- Tender documents with contract performance clauses including contract performance criteria, exit clauses and contract modification clauses
- Tender documents with contract performance clauses but not all the cases that are mentioned above
- No contract performance clauses

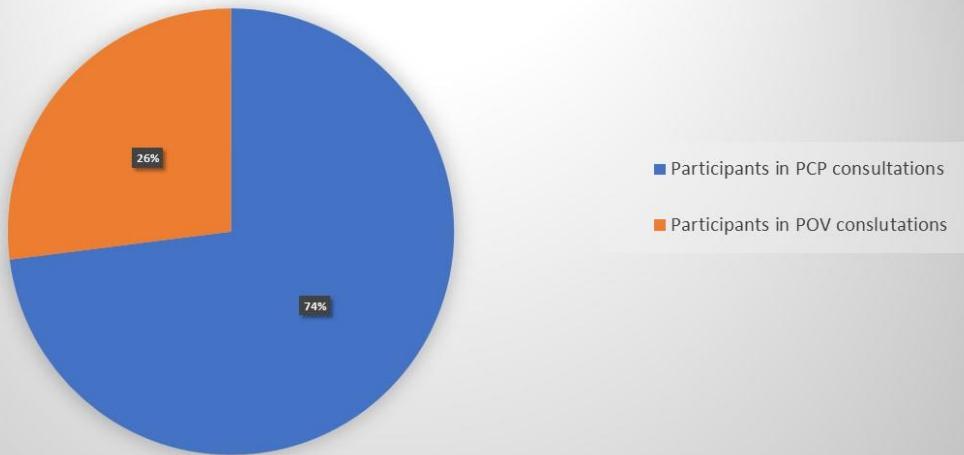
HIGHLIGHTS

- ▶ In 3 out of 14 points the best possible option was adopted at 100%.
- ▶ In 7 points the best possible option was followed at a rate between 50% and 80%.
- ▶ The second-best option was followed at 100% in 1 point and at 50% in 3 points.
- ▶ The least good option though appears only in 4 out of 14 points and in 2 points out of these 4 points it was adopted at 60% (mainly due to the POV projects and the restricted procedure that they followed).
- ▶ In the crucial points such as the award criteria, the IPR management, the selection criteria (for PCPs), the adoption rate of the best possible procurement approach was very high, namely 100%

RESULTS OF THE PROCUREMENT APPROACH

1. OPEN MARKET CONSULTATION

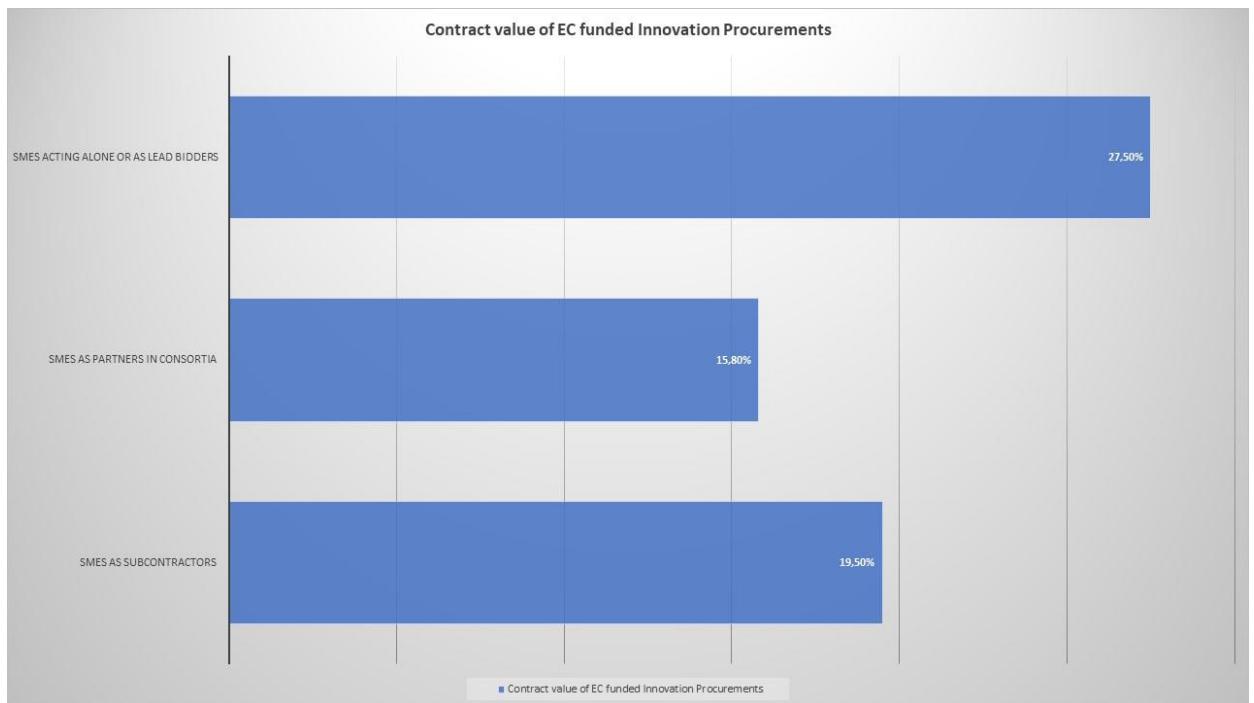
207 economic operators participated in the market consultation activities



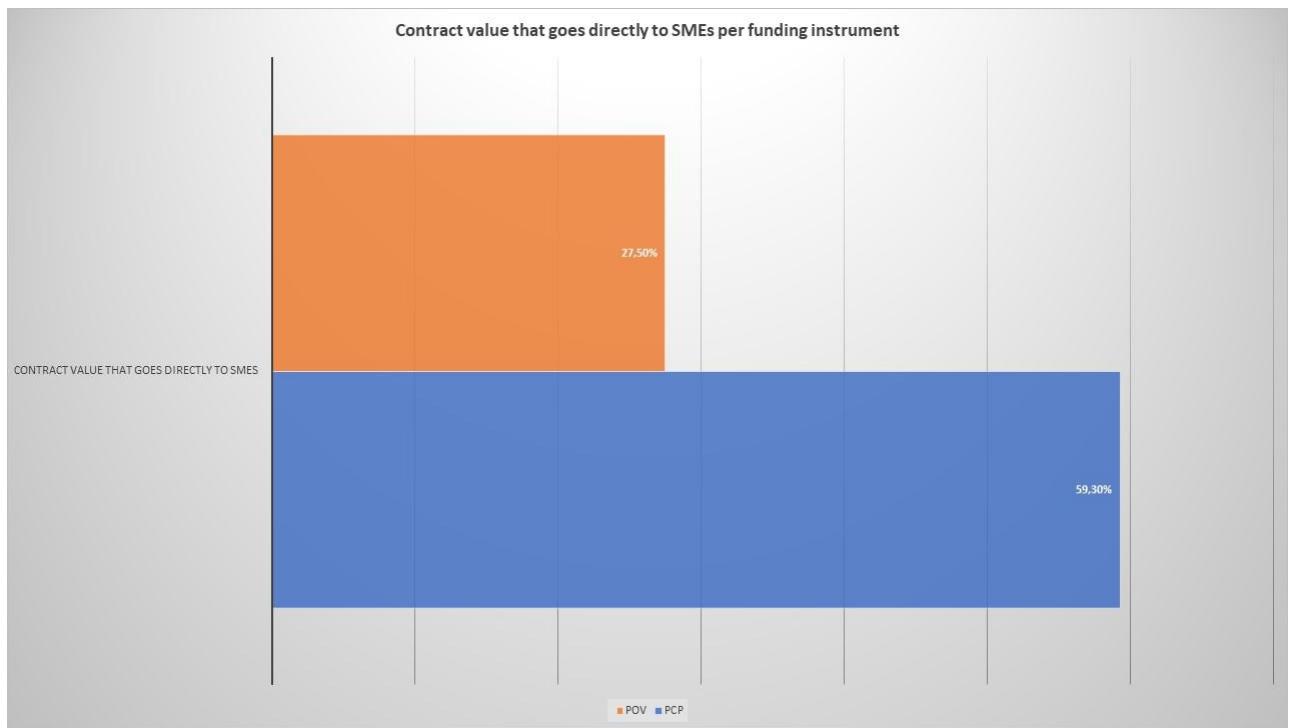
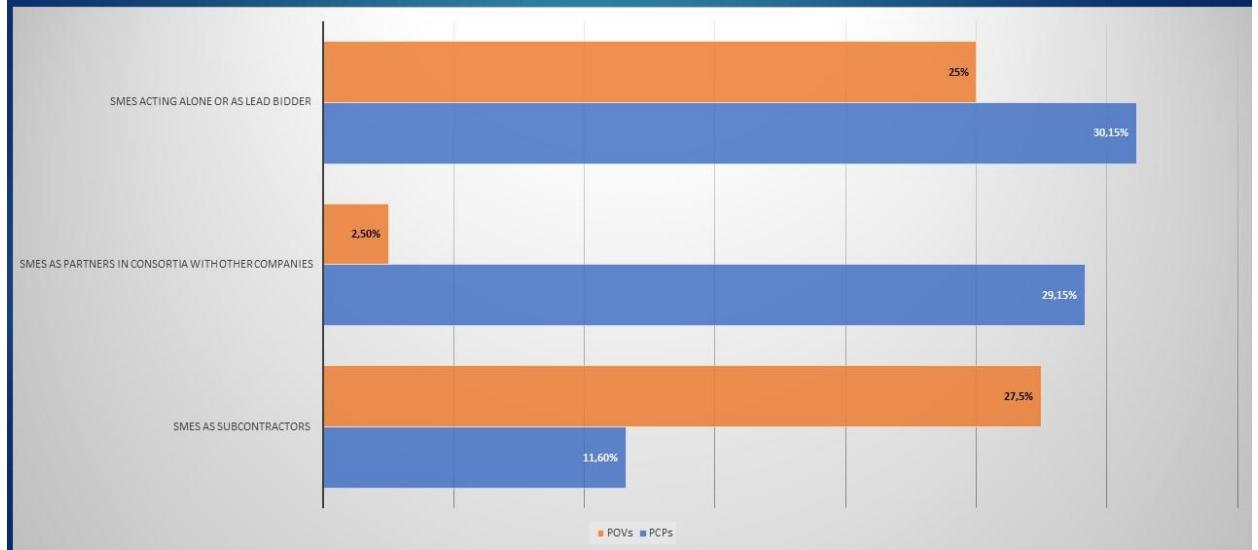
2. Tender submission

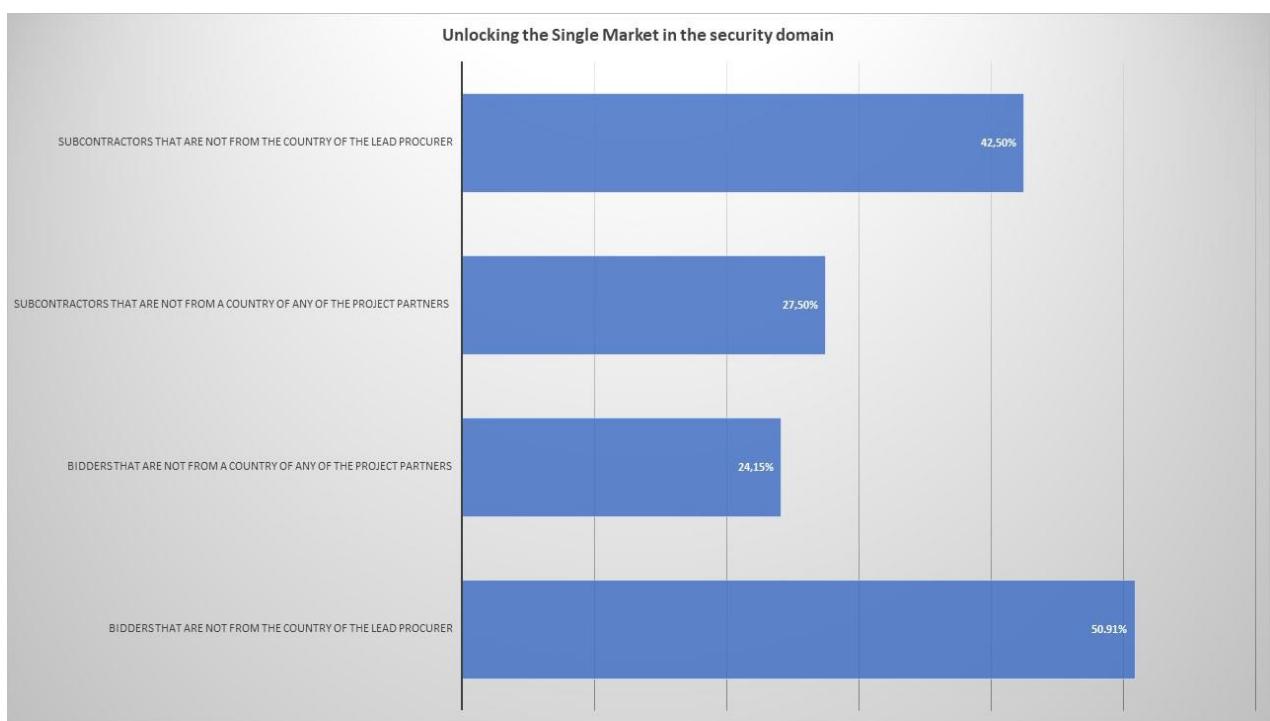
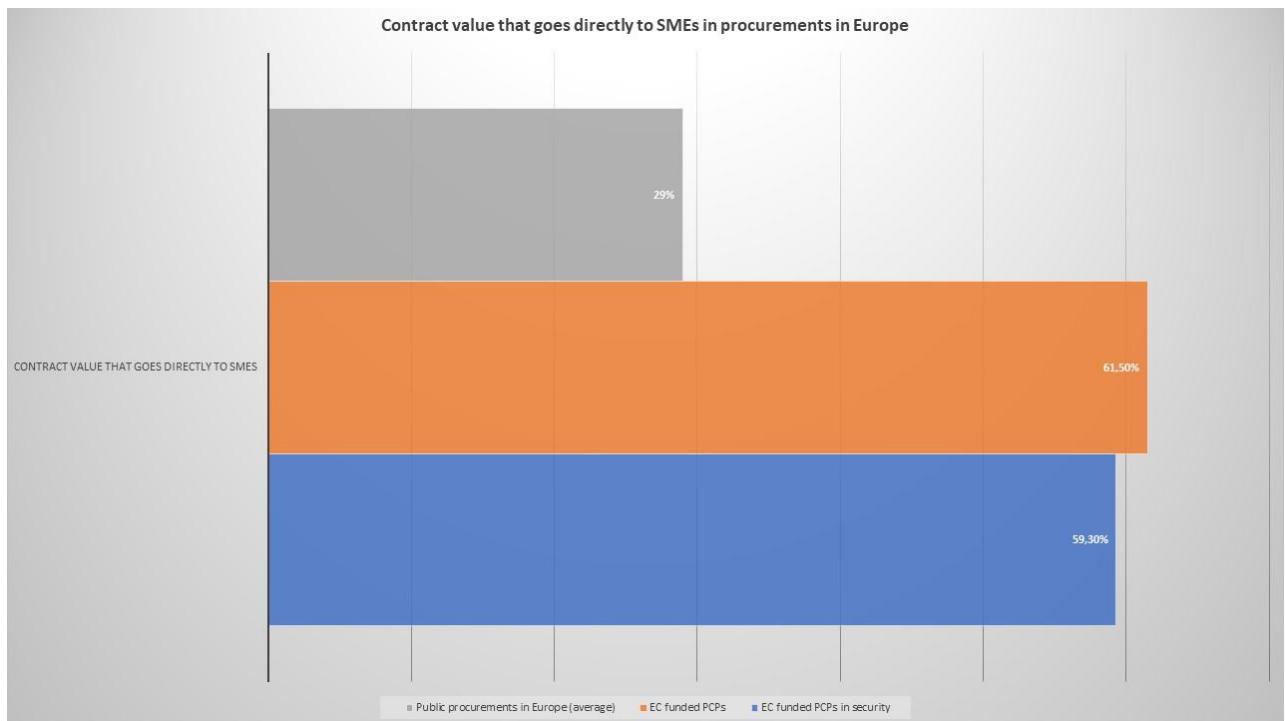
- ▶ In total 21 offers were submitted to the tenders of the 4 EC funded Innovation Procurements
- ▶ In some projects, though, offers were submitted by large consortia comprised by up to 10 partners.
- ▶ In 8 offers, SMEs acted alone or participated as lead bidders.
- ▶ 15 SMEs participated as partners in consortia with other companies
- ▶ 17 SMEs participated as subcontractors

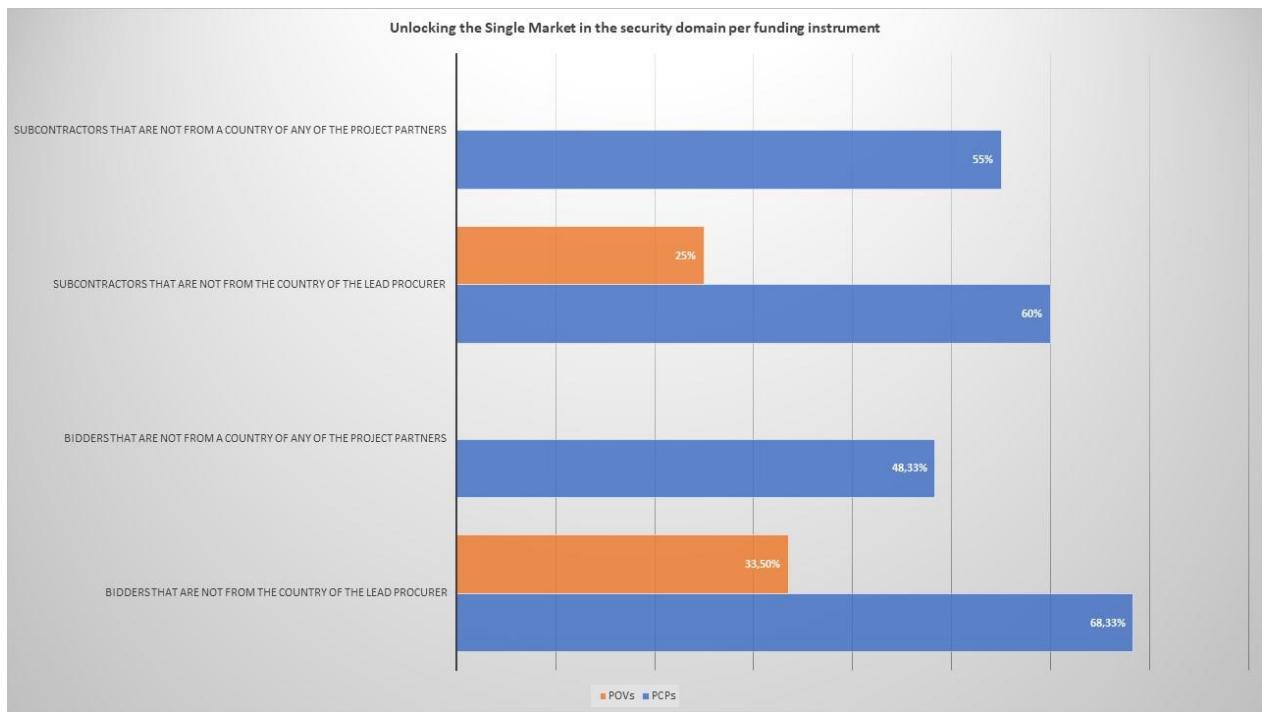
CONTRACT AWARD



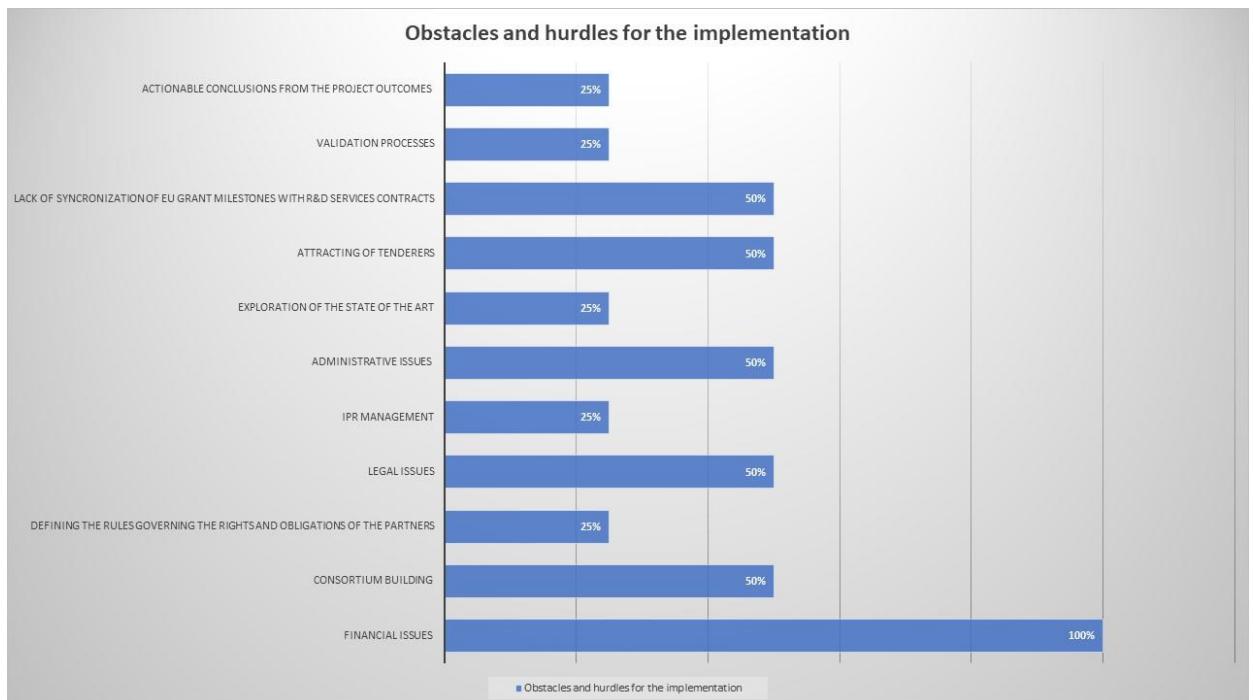
CONTRACT VALUE THAT GOES TO SMES PER FUNDING INSTRUMENT







OBSTACLES AND HURDLES FOR THE IMPLEMENTATION OF INNOVATION PROCUREMENT PROJECTS



RECOMMENDATIONS

RECOMMENDATIONS

1. Increase the EU funding support to PCPs in the security domain.
2. Structural approach for the preparation of the Security WP and the management of the PCP/PPI projects
 - a. Ensure regular consultation of procurers in the security area for the preparation of the Security WP
 - b. Create a dedicated structure in the EC/Agencies tasked with the management of PCP/PPI projects
3. Offer increased support to CSAs that prepare the ground for future PCPs and PPIs.
4. Ensure key role for public buyers in CSAs, PCPs and PPIs
5. Support more open PCP/PPI calls in security – Increase the budget per project in the calls for proposals
6. Foresee a more simplified approach for PCPs.

RECOMMENDATIONS

7. Offer support to PPIs in security and ensure synchronization between PCP/PPI calls
8. Provide more guidance for the promotion of the market consultation and the call for tenders
9. Provide guidance on legal issues related to contract implementation / organize concertation meetings of EC funded security Innovation Procurement projects.
10. Facilitate more the access of economic operators in the tender
 - a. Clarify more the role of companies as project beneficiaries in the tender/contract implementation
 - b. Ensure harmonized approach on the VAT regime for suppliers.
11. Set-up/encourage collaboration with the European network of National Competence Centers on Innovation Procurement
12. Ensure continuous/regular assessment of the security PCP/PPI projects results

THANK YOU VERY MUCH FOR YOUR ATTENTION

QUESTIONS?

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