

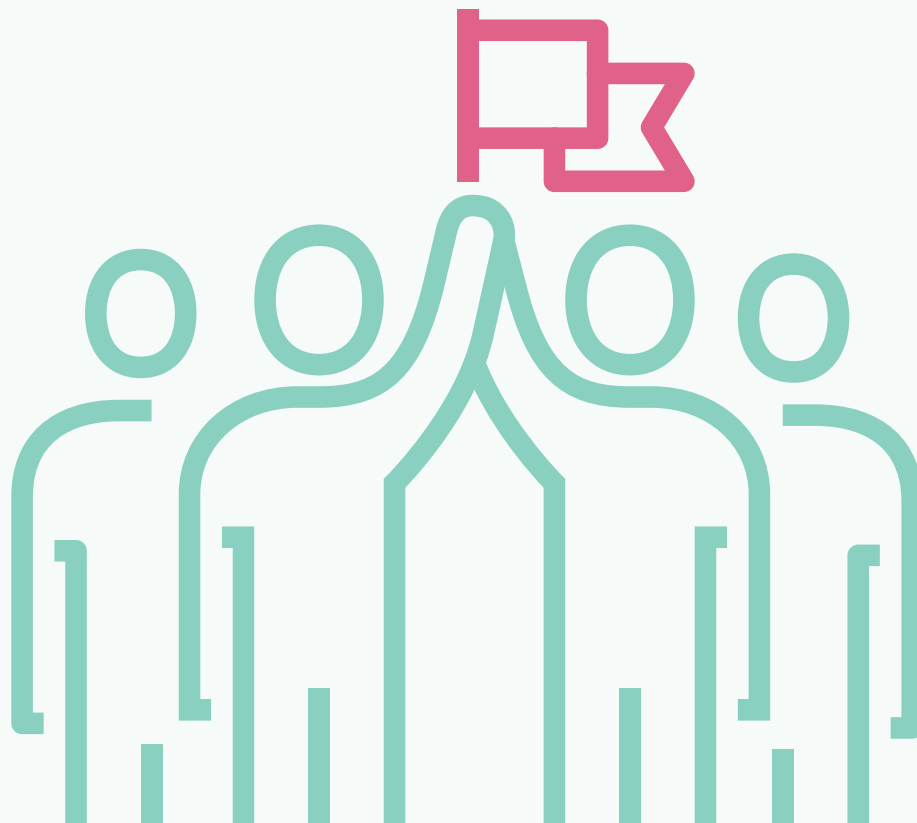
INNOVATION PARTNERSHIP

QUICK GUIDE FROM PRACTITIONERS

[#Euinnovation](#)

Luxembourg: Publications Office
of the European Union, 2021
© European Union, 2021
Icons © Adobe stock

PDF ISBN 978-92-76-38009-2
DOI : 10.2873/78891
CATALOGUE NUMBER : ET-09-21-168-EN-N

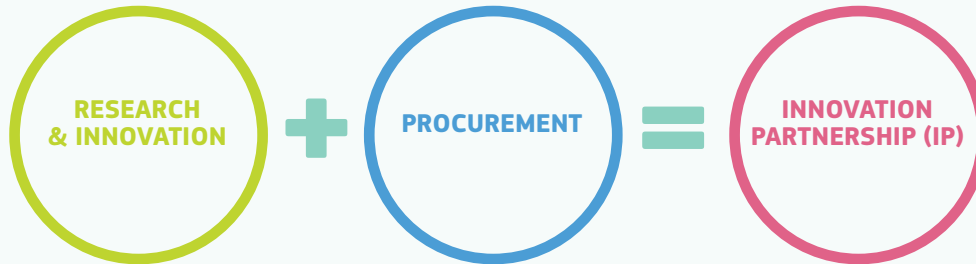


WHAT IS INNOVATION PARTNERSHIP?

The innovation partnership is a procedure that allows for the combination of research, innovation and procurement.¹ The process should be conducted in three phases. The tendering phase takes place at the very beginning of the procedure, when the most suitable partner(s) are selected on the basis of their abilities and capacity to execute the contract and on the basis of their tenders.

The contracts establishing the innovation partnership are awarded using the criteria of the best price-quality ratio proposed.

In the next phase, the partner(s) will develop the new solution in collaboration with the contracting authority. This innovation process phase can be divided into several stages during which the number of partners may be gradually reduced, depending on whether they meet predetermined targets. In the final, commercial phase, the partner(s) will provide the results.



1. This process should only be used in limited circumstances where: the goods, works and services that are sought are innovative, and there is an intention to include both the development and purchase elements in the procedure, provided they correspond to agreed performance levels and maximum costs.

GETTING STARTED WITH THE INNOVATION PARTNERSHIP PROCESS

Planning and preparation are imperative to the innovation partnership process; this includes having an idea of the type of team the buyer would like to work with and what supports will be needed. It is therefore important to know what supports are available. Questions that can be taken into consideration when planning for an innovation partnership are:

HOW WELL HAVE WE IDENTIFIED THE SCOPE OF THE PROBLEM WE WANT TO SOLVE? FURTHERMORE, DO WE HAVE THE COMPETENCE TO IDENTIFY IT OURSELVES?

- **Do we have access to legal and/or technical expertise?**
- **Do we need external help?**
- **Do we need help communicating the project?**
- **Does the approach of an innovation partnership have the backing of senior management?**

When doing an innovation partnership it is crucial to be prepared. Especially if it is the first time using the procedure. Make sure to take into account extra time and possible shifts of the schedule. Be ready for push-back from people who may not understand or appreciate the value of the process – find an ally in the senior management team, and ensure the proposal has few weaknesses.

It is recommended to form a project team and identify a person in charge who will be the contact person for the partners. It may also be useful, especially in complex projects and if the buyer is not used to be involved in innovation projects, to involve/hire a company specialized in the management of innovation process/projects.

The innovation partnership fosters the co-creation and co-development of new solutions between the public buyer and the supplier. To make this possible, it is necessary to organise a real collaboration between the different actors of the project, both on the supplier's side and on the public buyer's side.

HOW TO CARRY OUT A MARKET CONSULTATION

Before the innovation partnership process starts, market consultation is absolutely essential, for two reasons:

- **to determine that nothing on the market exists and so the process can be used; and**
- **to prepare the market for a new type of procurement.**

By carrying out a careful market consultation, the buyer can also prepare the market to understand what is asked from a potential supplier. The market consultation is also a perfect opportunity to make the project known and attract the best partners. This can also help the buyers to narrow down the scope of the solutions they look for.

Regarding the practical approach, it is often recommended to use a combination of meetings, information sessions and surveys to gather information and to communicate about the project in advance. It is also wise to consider if an open information session would help to share information, or if one-to-one meetings with companies would be more fruitful for the specific case.

During the market consultation it is important to have a broad idea of what the buyer hopes the process will deliver. It is also important to put in place a basic framework for how to approach Intellectual Property Rights (IPRs) and the use of Data Management.

The buyer should keep in mind that an innovation partnership can be of interest to all kinds of suppliers, including start-ups, national and international companies. Therefore, it is a good idea to “cast your net as wide as possible” and incorporate small, medium, large, more established and start-up companies. Recommendations for consideration:

LOOK BEYOND YOUR BORDERS

- **Consider universities, particularly those with enterprise or innovation hubs**
- **Keep a track of everything and use the information to inform procurement documents.**

HOW TO GET THE MOST OUT OF THE PREPARATION PHASE

Based on their needs the buyers should decide upon what criteria to use for the analysis of the candidates (could be technical, R&D competency, financial capacity).

Make use of any technical and legal advice available – whether this is from internal or external advisors. In order to identify and define the decision points, take some time to work out how the buyer will follow the process through, and build in some flexibility where legally possible. The buyer should be clear to potential tenderers or partners what the stages or phases are, and what will happen along the way; consider holding an information session with companies to answer any questions.

SELECTION AND AWARD CRITERIA

Set the selection and award criteria according to what you as the contracting authority are looking for in a partner organisation; this may be broader than financial acumen or innovation alone, including a transparent approach to the partnership or extensive experience in working in collaboration with others.

PRICE

The price should cover all the research and development activities to take place during all stages of the partnership as well as price of the supplies, services or works to be developed and procured at the end of the partnership.

A contracting authority should decide upfront on what is to be paid for and at what stage. Remuneration should be associated to the objectives of each phase conducted, e.g. by setting a ceiling amount for developing for example a prototype. Consider having different contracts for the different phases of the process, e.g. a contract for a design phase, with another for the prototype phase.

Remember that the decision on whether to share or not the intellectual property rights can have an impact on the price. To have an insight on how the price should be set, use the market consultation phase.

It is possible to use price review clauses to adjust remuneration in certain phases in line with the directives provisions on modifying contracts². Bear in mind that the price adjustment mechanism should be set in advance and be part of the procurement documents.

² Article 72 of the Directive 2014/24/EU.

INTELLECTUAL PROPERTY RIGHTS

It is important to start thinking early on of how to handle the intellectual property rights. In some cases, this can affect the pricing and some industries are more reluctant to share or transfer rights. It is also important to check the legal requirements for intellectual property rights in your country and work within the legal boundaries. Keeping the full IPR may result in higher costs, and suppliers may not be overly happy, so it is worth including this in any cost-benefit analysis. Have in mind to make the decision based on the long-term needs of the contracting authority and collaboration with the chosen partner (for example, if there is a design element and the authority wishes to use the designs in the future, the retention of the IPR would be logical).

QUESTIONS TO ASK:

- **Is it a necessity for us as a contracting authority to obtain the rights?**
- **Consider if the IPR can be split, depending on the nature of the procurement outcome, with some resting with the contracting authority and some with the supplier.**

DATA MANAGEMENT

Another part to plan for early in the process is to start thinking of a strategy for how to manage data if this is relevant for the project. Furthermore, this is especially relevant if the innovation partnership involves personal data.

CONSIDERATIONS TO BE MADE:

- **Link the approach to Data Management to the approach on how to handle the Intellectual Property Rights – if you retain the latter, ensure to retain the rights to the former**
- **For software-based innovations, consider if you need to keep the data in-house**

Check the legal requirements for data in your country, in particular sensitive data, and consider all the risks.

HOW TO GET THE MOST OUT OF THE NEGOTIATION PHASE

Make sure the procurement documents spell out how the negotiations will run, but also build in flexibility – you may need to end a negotiation or decide not to negotiate on certain aspects where it is not necessary. It is important to plan and prepare this exchange with the candidates by defining in advance the scope of the negotiation. It is also important to keep in mind that the negotiation duration and form can be variable and mainly related to the project. Do not forget to treat all the potential partners equally! In order to maintain trust, it is also important not to share information given by the different partners.

IN PREPARATIONS OF THE NEGOTIATION(S) THINK OF:

- **Which elements of the project should be negotiated?**
- **Plan each round of the negotiations and identify the key elements (technology, IPR, data management) to prepare the negotiations.**

HOW TO GET THE MOST OUT OF THE IMPLEMENTATION PHASE

During the execution phase of the partnership, it is possible to consider dividing the implementation into different phases. One method is to take a “go/no-go” approach to the implementation phase, to allow the partnership to proceed with feasible solutions only.

During this stage of the innovation partnership, it is also possible to use a multi-phase approach that incorporates design and prototype phases. This allows the contracting authority to take the time to see if a supplier is able to fulfil their promises. It can also, depending on the type of project, be a good idea to use a “proof of concept” in order to measure the development.

KEY CHARACTERISTICS OF A SUCCESSFUL PARTNERSHIP

The key to a successful innovation partnership is good communication. As this is a partnership, and not a straight-forward purchase, practitioners in the art of this procedure highlight the need to communicate regularly and routinely – between the internal project team, with any advisors, with your supplier partners. Do not forget to involve and communicate with the end-user of the project.

By keeping the channels of communication and cooperation open, trust can be built between all the partners during the process. It is also wise to present all expectations in a clear way, this can provide the basis of a good cooperation.

Prepare each step carefully, this also means preparing and training your team. Choose a quality team of personnel for your project team, and make sure they are trained and can keep an open approach. The process can be long and may be brand new to those participating, it will need time and resources.

Have an open mind. Whether it is to help understand the market, to be flexible during the negotiation, or to build trust between all partners – **keeping an open mind is key.**

Transparency and fairness are cornerstones to all procurement processes, but it is not just important for the contracting authority, it is also important for suppliers to approach the partnership with the same perspective.

TIMELINE – INNOVATION PARTNERSHIP



GETTING IN TOUCH WITH THE EU

IN PERSON

All over the European Union there are hundreds of Europe Direct information centres. You can find the address of the centre nearest you at:

https://europa.eu/european-union/contact_en

ON THE PHONE OR BY EMAIL

Europe Direct is a service that answers your questions about the European Union. You can contact this service:

– by freephone: 00 800 6 7 8 9 10 11 (certain operators may charge for these calls),

– at the following standard number: +32 22999696 or

– by email via: https://europa.eu/european-union/contact_en

FINDING INFORMATION ABOUT THE EU

Online

Information about the European Union in all the official languages of the EU is available on the Europa website at: https://europa.eu/european-union/index_en

EU publications

You can download or order free and priced EU publications at: <https://publications.europa.eu/en/publications>. Multiple copies of free publications may be obtained by contacting Europe Direct or your local information centre (see https://europa.eu/european-union/contact_en).

EU law and related documents

For access to legal information from the EU, including all EU law since 1952 in all the official language versions, go to EUR-Lex at: <http://eur-lex.europa.eu>

Open data from the EU

The EU Open Data Portal (<http://data.europa.eu/euodp/en>) provides access to datasets from the EU. Data can be downloaded and reused for free, for both commercial and non-commercial purposes.

