

Pre-commercial procurement: driving innovation to ensure sustainable high quality public services in Europe

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The Committee on Internal Market and Consumer Protection adopted the report by Malcolm **HARBOUR** (EPP-ED, UK), welcoming the Commission communication and supporting the proposed risk/benefit sharing pre-commercial procurement model as one of the drivers of innovation.

MEPs note the attention already given to pre-commercial procurement, in particular in the USA, China and Japan, who are actively exploiting the potential through a range of public policy instruments. They consider that, in the EU, pre-commercial procurement constitutes an **under-exploited driver** of innovation-led growth, which has significant potential to achieve high-quality and readily accessible public services, as well as to address the social challenges of climate change, sustainable energy and an ageing population.

The committee notes that strengthening pre-commercial procurement remains one way among many for Member States to **raise their game** in innovation and research. It calls therefore on Member States to promote innovation by engaging all stakeholders, including universities, research institutes and other bodies involved in the promotion of economic development, so as to better engage public authorities with innovative enterprise. MEPs stress that this engagement should be included in a consistent strategy for research, innovation and development.

MEPs note that pre-commercial procurement can be deployed within the **existing legal framework** of Directives 2004/17/EC and 2004/18/EC, which exempt research and development services from their scope unless the services procured are fully paid for by, and the benefits accrue solely to, the contracting authority. In this context, MEPs urge Member States to screen national legislation to ensure that public authorities are not limited in pre-commercial procurement through inexistent, incorrect, or unnecessarily complex transposition of the relevant exemptions and unnecessarily elaborate national tendering requirements and procurement models.

As far as **local and regional authorities** are concerned, MEPs note that there is still not enough information about the continuing obstacles preventing them from implementing pre-commercial procurement. They therefore urge the Commission and the Member States to provide local and regional contracting authorities with training guidelines and tools showing how pre-commercial procurement might be used in research and development.

MEPs call on the competent Commission Directorates-General to cooperate with each other in producing a **comprehensive, easy-to-understand but legally watertight handbook** in all the official languages with practical examples of risk-benefit sharing according to market conditions. This handbook should be designed for use by **small and medium-sized enterprises (SMEs)** and contracting authorities.

In order to encourage public authorities to tap into research and development markets and suppliers to become involved in government projects, MEPs propose that, within the scope of Community programs to stimulate innovation, **financial incentives** should encourage public authorities across the EU to jointly undertake pre-commercial procurement of innovative technology in lead markets and other areas of common European interest.

Moreover, the report stresses the need for a **European pilot project** in the context of pre-commercial procurement in order to show by example an implementation approach that ensures maximum legal certainty and protection for businesses, in particular for SMEs, which, by definition, are the weaker parties compared with contracting authorities and the large undertakings generally involved in public procurement.

With the aim of encouraging competition, MEPs recommend to the Commission and the Member States that the **use of electronic procurement systems** and dynamic procedures be promoted in order to facilitate the process of pre-commercial procurement.