

Minutes of the 2nd annual Concertation meeting of all on-going FP7 PCP projects in the ICT domain

5 March 2015, Brussels

On 5 March 2015 took place in Brussels the 2nd annual concertation meeting of all on-going PCP projects. The meeting was attended by 40 representatives of FP7 funded PCP projects as well as EU Commission Project Officers that manage those projects.

The meeting started with a welcome speech performed by Mr. Viorel Peca Head of the Innovation Unit in DG CNECT who highlighted the importance of the PCP pilot projects for the modernisation of the public sector in Europe and for the support to the European economy by providing opportunities to bring products to the market for the participating companies, that include many SMEs.

INTRODUCTION

Moreover Ms Lieve Bos presented some first findings from the on-going EU funded PCPs. Important to note that in total 45 contracts were awarded in 7 EU funded PCPs. Very high also is the success rate of SMEs in these PCPs – 75% of the winning contracts went to SMEs. University participation in the consortia is also significant – 34% of these consortia have a university partner. Cost savings by leaving the generated through PCP IPR ownership with the vendors are up to 50% on the total R&D price whereas in almost all cases – except one – all R&D is done in Europe.

Finally Ms Lieve Bos presented the 5 new CSA projects that resulted from the first Horizon 2020 calls in 2014, which most of them started in the beginning of the current year.

In response to a question, Ms Bos explained to the participants that model tender docs annexed to the H2020 Grant Agreement will facilitate the work of the projects that will receive co-financing from H2020 to implement their Innovation Procurements.

Ms Lieve Bos in her presentation pointed also to two contracts that are currently run by the EC on Innovation Procurement. The first study is about quantifying the impact of the PCP in Europe; the first findings show positive evidence on the SMEs participation in PCPs as well as on the avoidance of vendor lock-in. The second contract is about promoting the impacts of PCP/PPI in Europe. Ms Lieve Bos also explained that a second contractor has just started that will focus on promotion, training and providing local assistance to public procurers across the EU that are interested to implement a concrete innovation procurement (PCP or PPI) for ICT based solutions in the coming 3 years.

Session 1: HOW TO DO AN OPEN MARKET CONSULTATION

Mr. Christophe Veys from Smart@fire PCP project introduced the first topic on the agenda of the second annual concertation meeting by presenting the SMART@FIRE experience of organising an extensive open market consultation. In SMART@FIRE there were three stages of the open market

consultation; preparation, informing the market and the realization of the open market consultation sessions (SMART@FIRE organised several sessions on technical subtopics in different countries + one wrap-up session + individual company interviews + webinars etc). The preparation of this extensive SMART@FIRE open market consultation took place in several steps:

- Needs assessment
- Update on State of the Art analysis
- Identification of link with standardization
- Clarification/definition of the legal Framework
- Risk Assessment

In the presentation it was pointed out that information of the market e.g communication channels through sectorial organizations is essential. Important is also to early detect the potential suppliers and interact with them through questionnaires, interviews etc.

In the discussion that followed Mr. Veys highlighted that it is not efficient at all to rely only on the PIN publication on the TED. According to him only 5% of the suppliers were informed through the PIN notice and the rest received the information for the open market consultation through other channels of communication.

Mr. Veys explained to the participants that in addition to the open market consultation meetings, dedicated interviews with market players also helped the consortium increase the knowledge about the market offer. The significance of the interviews with the market while preparing the open market consultation was pointed out also by other projects like Charm.

Important is also to verify the current state of the art regarding the challenge of the PCP: in the case of the Smart@fire PCP a university helped the procurers acquire this knowledge before the open market consultation.

To the questions about the time that was needed to complete the open market consultation part of the PCP Mr. Veys replied that they needed in total 8 months to prepare the open market consultation and 1 month to realize open market consultation sessions. Preparation is important because you have to communicate to the market a clear need. Other projects like Thalea reported that they had needed less time (1 month) needed to prepare for the THALEA open market consultation. Mr Veys highlighting the fact that for national Belgian projects – not cross-border- projects his agency requires only 4 to 5 months to complete the open market consultation part of the project. The cross-border element increased in the SMART@FIRE case (with multiple market consultation meetings in multiple participating countries) the preparation time needed.

Decipher PCP mentioned that on the one hand procurers should communicate clear ideas to the market in the consultations but the procurers on the other hand should also be ready to change their ideas according to the feedback received. In that case the EC pointed out that in case of significant changes it may be good to have a second open market consultation session in order for the new/revised challenge to be verified again against the market. Decipher also reported that they had found it very useful to promote the call and their open market consultations in sectorial events

(international healthcare sector events in the case of Decipher) where the relevant market players were present.

Participants expressed the view that guidelines are necessary on how to do correctly do open market consultation of the PCPs and the EC replied that this will be included in the toolkit that is currently drafted and will be published in the beginning of the second semester of 2015.

Ms Lieve Bos finally presented some lessons learnt on the topic of organising open market consultations from the point of view of the EC which can be summarized as follows:

- Key contract conditions should be also presented to - verified with - the market along with the challenge at the open market consultation
- Important is to promote widely and well in advance the open market consultations
- Different forms of open market consultations are possible
- Several projects found it useful to offer an online platform (via their project website) for companies interested in their call for tender to network

Session 2: HOW TO PREPARE TENDER SPECIFICATIONS

Mr. Ruben Prins from Charm PCP project introduced the second topic of the agenda by sharing with the participants the experience of the project on how to prepare tender specifications. Focus was placed in the presentation of Mr.Prins on the drafting of the Challenge Brief. The Charm Challenge Brief was structured as following:

- State of the art
- Problem
- Challenge (including minimum requirements)
- Expected effects

Ms Lieve Bos presented some lessons learnt from the EC point of view highlighting among others the fact that the tender documents should be compliant with the requirements of the relevant Work Programme on PCP.

In the discussion that followed Mr. Prins pointed out the importance of the Challenge Brief which should not be too specific, but still should be clear and challenging enough to get innovative offers that address the real procurement needs of the procurers.

Nympha MD asked how it can be achieved to set minimum requirements for high technological challenges avoiding at the same time of being too specific. Charm replied that it is important not to be too specific leaving thus the market the room to provide a solution and Ms Lieve Bos mentioned that was interesting in CHARM is that the challenge brief included an overview of the state of the art with info on also what's already deployed by the procurers to show to the market what already exists, a description of the problem highlighting those aspects on which innovative approaches were sought for with minimum requirements to be met by bidders, as well as business and functional specifications of

the systems at the procurers' premises with which the new PCP innovation solutions would need to be compatible.

Other projects like Silver and PRACE3IP used the possibility to set quantitative targets – i.e 30% expected energy efficiency improvement – in the tender documents.

Many projects highlighted the importance of the review meetings before the launching of the call for tenders. There was a discussion about whether two instead of one review meetings might be needed before the publication of the call or whether an early meeting with the EC in the phase of preparing the tender docs to clear out questions would be better. CHARM commented that the second approach was used and found very useful by them. In any case, a complete version of the tender documents should be always subject to the project reviews as half-ready deliverables only result in project delays because of the need for additional reviews. Interactive discussions with the reviewers at the review meetings are felt important and necessary in order for both sides to understand the arguments and the comments included in the review reports. Ms Lieve Bos highlighted that in many reviews the reviewers spend a lot of effort pointing out inconsistencies, omissions and errors in the tender docs that are common contractual issues which are not specific to PCP.

Smart@fire proposed to continue exchange of experiences and discussions about reducing the complexity of the PCP tender documents to facilitate the work for start ups to go through these documents.

Ms Lieve Bos replied that figures from the on-going PCP EU funded projects show very high participation of the SMEs and start-ups in the PCPs and that every "serious" company reads all tender documents. Decipher mentioned that in Catalonia the innovation agency provides training to SMEs on how to prepare a bid for a call for tender. Ms Lieve Bos mentioned that it is the plan to offer coaching to SMEs that participate in the Horizon 2020 SME instrument on how to bid for public procurements.

Charm added that it could be investigated whether legal clauses can be included in an appendix reducing thus the complexity of the rest of the tender documents. Decipher pointed out that PCP is a procurement and the legal aspect is an important part of the tender documents which cannot be neglected. Moreover it highlighted some barriers that delay the procedure as

- The fact that law departments of procurers need time to get familiar with PCPs and cross-border procurements
- The language barrier (legal department of the lead procurer not always proficient in writing / translating tender documents in English)
- The bidders from other MS or AC are not familiar with the procurement procedures of the country of the Lead Procurer. Companies need to be requested sometimes for additional info on the administrative documents that need to be included in their tenders.

Session 3: LINK BETWEEN PCP AND OTHER INNOVATION POLICY INSTRUMENTS

LINK BETWEEN PCP AND ACCESS TO FINANCE

Mr. Pierre Marro Policy Officer on entrepreneurship in the Innovation Unit of DG CNECT presented the link between PCP and access to finance. In his presentation he highlighted the support for the

procurers through loans from the EIB – as well as the EIB/EIF access to finance support opportunities for the SMEs that participate in the EU funded PCPs. . Mr Marro explained that for large loans (above 7,5 Mio EURO) the EIB itself is responsible, but for smaller loans to procurers or companies the national local banks and not the EIB are responsible. Therefore the possibility to receive loans depends on the policies of these local banks. For equity support the EIF works in any case with external intermediaries (national VC organisations). SMEs in PCPs can attract the interest of Venture Capitalists, Business Angels, local Bankers etc as these SMEs are already working with potential customers and thus represent a concrete market opportunity that might be interesting for these financial investors. By providing the information about EIB/EIF access to finance support for SMEs to the SMEs that participate in their PCPs, the procurers of the EU funded projects can help ensure that these SMEs can grow their business throughout the PCP procedure to become financially stronger companies to be ultimately buy commercial volumes of end-products from after the PCP.

Link to the EU access to finance portal that lists per country the financial investors (VCs, banks etc) that have signed agreements with the EIB/EIF to provide different types of access to finance support (equity, loans etc) to innovative companies in different stage of the typical company growth cycle:

<http://europa.eu/youreurope/business/funding-grants/access-to-finance/>

Decipher commented that these tools are powerful for the participant companies and it is useful for a PCP project itself to involve from the beginning expert consultants that used to work for banks or VCs as evaluators in the evaluation committees for the PCP phases. Decipher also asked about the compatibility of the EIB loans with structural funds. Mr. Marro and Ms Bos explained that are fully compatible and there is a special Programme called Jasper that facilitates the use of the EIB loans in the framework of the structural funds.

OPEN STANDARDS FOR PUBLIC PROCUREMENT AVOIDING LOCK-IN

Mr. Reibe Thomas Policy Officer for standardisation in the Innovation Unit of DG CNECT presented the ICT Multi stakeholders platform (MSP). Moreover he presented the identification process of ICT technical specifications that facilitate the work for public procurers to refer to officially EU wide identified and recognised technical specifications in public procurement tender specifications. He showed some examples of already identified tender specifications like the Internet Protocol version 6 ('IPv6') and some technical specifications that are in the pipeline of identification.

In the second part of his presentation he presented a study contracted by the EC about the avoidance of vendors lock- in public procurement through the use of standardization in the context of Action 23 of the DAE.

Smart@fire raised the issue of how to encourage as public procurers a new standardization and certification procedure when the solution is not pure ICT related. For example in the ICT solution for fight fighters there is an ICT part and a textiles part in the ICT solution should be embedded that is not certified yet, but this is needed for the final product to be bought by the procurers.

Projects commented the fact that from PCPs very good solutions may come out but commercialization may be hampered when no new standards are created for new solutions.

It was pointed out by the EC that standardization is usually an industry driven process but in the case of PCPs procurers can encourage standardization by encouraging vendors (even contractually via the

tender docs) to standardise newly developed solutions, and by contributing themselves as procurers their solution requirements to the standardization and/or certification process. Mr Lieve Bos pointed to the example of the Norwegian Statoil PCP where the procurer itself kickstarted a new certification process alongside its PCP. Smart@fire commented that many PCP projects have not foreseen sufficient resources to contribute themselves sufficiently to standardisation and/or certification.

Session 4: TRANSITION BETWEEN PCP PHASES AND TRANSITION FROM PCP TO PPI

TRANSITION BETWEEN PCP PHASES

Ms Carla Dekker from the Silver PCP Project presented the experiences of the project with regard to the transition between PCP Phases. In her presentation she mentioned that the prototypes of Phase 2 will be tested in controlled living lab conditions whereas during phase 3 the pre-commercial small scale product will be tested in a real-life situation in elderly homes in all countries of the procurers. The importance to consider carefully how to set the maximum price and the way of its weighting for phase 3 was raised in the presentation and the assessment process for phases 2 and 3 was presented.

Ms Lieve Bos presented some lessons learnt on transition between PCP phases that can be summarized as follows:

- concretize approaches for phase 2 and 3: start as early as possible with ensuring that the key elements are foreseen (need for ethical reviews?, test persons/material booked?) and identify those key aspects already to vendors in the call for tender documents
- not only the end-of phase evaluation but also monitoring of vendors during a phase is key
- clear criteria/mechanisms needed for assessing the satisfactory/successful completion of a phase
- explain clearly in the tender documents how the bidding for the next phase will take place

The issue of testing of the solutions was raised by the participants. Smart@fire asked how confidentiality issues were ensured while testing. Silver replied that in phase 2 it was ensured that testing took place on different days for every vendor (so different vendors can't see each other's solutions) and confidentiality agreement with the end-users involved in testing was ensured.

Smart@fire asked if the award criteria for phase 2 differ from the initial award criteria for phase 1. Silver explained that they are not different but specified in more detail for the purpose of phase 2.

Discussion started on how the decision at the evaluation committee level for evaluating bids for each phase should be taken. Silver adopted unanimity over consensus whereas the latter was adopted by other projects like Preforma, Smart@fire etc.

TRANSITION FROM PCP TO PPI

Ms Lieve Bos presented some points regarding the transition to PPI. If the projects are interested for a PPI it is important to start preparations during PCP. In that sense it is possible to send out PIN announcing timeframe for PPI as well as the open market consultation. Procurers can use already in the PCP a preferred partner clause to enable other procurers to follow the PCP and enlarge the buyers

group in a future PPI. It is important to apply the lessons learnt in PCP also for the PPI tender documents –i.e selection criteria, functional specifications- and prepare publication of key end-results of the PCP before launching the PPI.

To the question who is preparing himself for a PPI, Silver reported that the consortium is not sure if there will be a PPI for all countries (in some countries the elderly care system is changing and robotics may be bought by the end-users themselves not the procurers), Charm is more confident about a future PPI and this will be clearer once the solutions will be tested. Preforma and Thalea consider implementing a following up PPI.

The question was asked by Preforma whether open source solutions conflict with doing a PPI. PCP that ends with an open source solution doesn't mean that this solution is for free. The procurer will still need to upgrade its existing systems with the new solutions which may involve the need to procure/deploy new solutions. As long as the new solutions to be procured are innovative (early adoption), open source or not, they can still be bought through a PPI.

A question was also asked whether the buyers group for a PPI needs to be the same as for the PCP. The EC replied that It is not required that the same consortium of an EU funded PCP to apply for an EU funded PPI. It is possible for the consortium to be changed, enlarged with new procurers etc.

Projects asked how to get EU funding for a PPI after a PCP. Decipher reported that reflections about a future PPI will more easy to be done once the project has entered Phase 2. Ms Bos replied that most ongoing PCP projects finish in 2016-2017 timeframe and could move to PPI in 2017-2018 timeframe which fits the WP2016-2017 planning. WP 2016-2017 is currently being drafted, it will be finalised in April-June so that it can be adopted by the EC in July. So, now is the time to liaise with the relevant EC POs/units that co-finance your PCP to indicate the projects' interest to go for PPI after their PCP in order for PPI calls in that topic domain to be included in the WP 2016-2017 text.

Session 5: INTELLECTUAL PROPERTY RIGHTS

The final topic on the agenda was introduced by Mr. Dirk Pleiter from the Human Brain Project. In his presentation Mr. Pleiter highlighted the role of IPRs in PCPs and the way to avoid vendor lock – in, as the procurer has the right to require PCP vendors to provide licenses to foreground IPRs to other suppliers on the market. Mr. Pleiter differentiated the foreground from the background IPRs and pointed out that it's important also to clarify the provisions related to background IPR in the tender documents especially in sectors like supercomputing where the PCP is only one small R&D project in this domain and large amount of background IPRs are generated also in other projects / procurements. Mr. Pleiter mentioned that it is key to discuss which IPR clauses will be used with vendors during the open market consultation phase in order not to be surprised that key vendors are not able/not interested to bid for the PCP once the call for tender is launched. Human Brain Project came to the conclusion that a fair way of handling this is to only ask "full" license free rights to use on results that are created during the project/paid by the procurement (so on the design specifications/documentation produced by vendors during the PCP) and to ask "limited" license free rights to use on the design implementation (the actual prototypes produced) namely usage rights to use these prototypes non-commercially for internal use by the procurers. Key is according to the presentation of Human Brain Project is that licensing rights obtained by procurers should not extend to the commercial exploitation of the generated through the PCP IPRs by the procurers.

Ms Lieve Bos shared some lessons learnt with regard to the IPR topic.

- IPR division should be published upfront in tender docs
- Important is to clarify who has which rights on background IPRs without setting too high claims on them (lessons learnt EC are in line with the lessons learnt by the HBP project)
- The time period for the call back clause should be reasonable – not right after the end of the PCP
- Procurers should be reasonable also with additional IPR/data access/confidentiality/publication rights requirements.

Smart@fire asked the question whether it is possible to ask already in the offer for the PCP vendors to declare the price they would charge for the use of background IPRs at the PPI stage. HBP answered that it is very difficult to request an estimation of the value of the background IPRs by the suppliers at the time of submission of the offers for phase 1. It is almost not possible to indicate how much the background IPRs will cost in 4-5 years period of time (technologies may supersede others during the PCP changing the value of background IPRs). The EC clarified that the procurers can ask bidders in their offer for the PCP to indicate ex ante which background IPRs the supplier will use in order for the procurers to know the dependency of the solution on background IPRs. Procurers can also request contractors to notify vendors during the PCP every time they generate new IPRs (background and foreground ones).

Smart@fire asked whether it's possible to estimate from the virtual price that companies quote at the start of the PCP the value of the background IPRs. It was discussed that in virtual price doesn't provide an indication of the value of the background IPRs but of the foreground IPRs, because this price doesn't include the price for the final PPI – it is an estimation of the price for doing the R&D if the foreground IPR generated through the PCP were kept by the procurer.

Smart@fire commented that if at a certain time the supplier increases the value of the background IPRs drastically the solution might not be attractive anymore for the procurer. The EC clarified that procurers can in their tender documents put a clause that requires vendors to provide procurers access to background IPRs under fair and reasonable market conditions. Smart@fire indicated in the tender documents a ceiling for the final price the procurers are willing to pay for the end-product according. Lieve Bos commented that the suppliers may take advantage of this indication of the procurers' willingness to pay and suppliers may not submit lower price offers for the PPI even if there might be a room to do that.

It was agreed among the participants that the best guarantee for the procurers to get ultimately the best value for money is for the procurers to work with multiple companies in the PCP (also keeping enough companies in phase 3) to have many competitive solutions available that can bid for the PPI afterwards. Through competition suppliers will be forced to be reasonable with their pricing for the PPI, including the pricing of access to background IPRs.