



PROTOCOL

For the communication and interactions between the demand
and the supply side

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List of abbreviations

Abbreviation	Meaning
CET	Central European Time
CoP	Community of Practice
COTS	Commercial Off-The-Shelf
EAFIP	European Assistance for Innovation Procurement
EO	Earth Observation
EU	European Union
GPA	Government Procurement Agreement
IPRs	Intellectual Property Rights
OMC	Open Market Consultation
PIN	Prior Information Notice
R&D	Research and Development
Rfi	Request for Information
TED	Tenders Electronic Daily
TFEU	Treaty of Functioning of the European Union
WTO	World Trade Organisation





1. Introduction

The present document constitutes the ***PROTOCOL: For the communication and interactions between the demand and the supply side***, with a particular focus on the Open Market Consultation (OMC) phase of the project.

The PROTOCOL describes the different communication channels and tools utilised in the context of the PCP WISE project. It also presents the compliance requirements that need to be taken into consideration whenever the public buyers interact with the suppliers and vice versa underlining the significance of the overarching EU principles of the Treaty of Functioning of the European Union (TFEU) of transparency, proportionality, equal treatment, non-discrimination, and fair competition. Finally, it delves deeper into the DOs and DON'Ts of public buyers and suppliers, showcasing from a practical perspective the permitted and prohibited information-sharing and communication actions for the OMC to achieve its main objectives without any administrative, legal or compliance hindrances.

In this respect, **special attention is given and measures put in place to ensure that all the information provided during the OMC is available to any interested party** in a manner that there is a **level playing field during the subsequent procurement**, thus avoiding any potential distortion of competition.

2. Communication channels

In the context of the PCP WISE project, there are several communication channels and tools that allow a certain degree of interaction between the demand and the supply side. Please find below the most notable ones, especially but not limited to the duration of the OMC.

The Community Platform

The PCP WISE Community of Practice (CoP) is a collaborative platform bringing together diverse stakeholders from the quadruple helix to advance water-crisis risk management innovations tailored to public sector needs. This inclusive community welcomes public buyers at national, regional, and local levels, climate services providers, Earth Observation (EO) data experts, sustainability and climate adaptation professionals, innovation procurement practitioners, sustainable community networks, and other EU-funded projects working on climate adaptation through EO data. Moreover, through this platform, the PCP WISE project Consortium offers a networking opportunity to organisations interested in participating in the upcoming Call for Tenders to set up consortia between multiple organisations. Any supplier can find organisations interested in matchmaking on the PCP WISE Community Platform.



E-procurement Platform

The E-procurement Platform is a public procurement management software. Specifically, the PCP-module of the platform allow the PCP WISE project Consortium to fully carry out the preliminary market consultation of PCP WISE project and the future follow-up tender in compliance with the applicable European legislation. All the questions regarding the OMC should be asked by the interested parties through the PCP WISE OMC-Module on this particular platform. The responses to the aforementioned questions will also be provided by the PCP WISE project Consortium in the same digital environment. The Q&A will also be made available in the E-Procurement Platform and the OMC Report. The OMC Report will be widely disseminated to ensure that also those economic operators who did not join the OMC are duly informed about its findings.

Miscellaneous

There are other ways by which suppliers may contact public buyers in the context of the PCP WISE project. For example, the email of the Lead Procurer has been published along with the Prior Information Notice (PIN) on the Tenders Electronic Daily (TED) Portal for interactions related to technical issues. There are also a number of other email addresses from the PCP WISE project Consortium (e.g. linked with the Request for Information (RfI) questionnaire or with the project coordination which can be found in the EU Survey platform and the official project's website respectively). Additionally, interactions between the public buyers and the suppliers may take place during events and activities of the PCP WISE project either online or in person. Nonetheless, despite the form of communication, the same rules described in detail below must be followed in order to ensure regulatory compliance throughout the PCP WISE life cycle.

3. Agenda for demand-supply interaction

During the market engagement stage, informative interactions through the PCP WISE Community of Practice (CoP) between public buyers and suppliers can take place to trigger interest and finetune the feedback from the market received through the Request for Information (RFI) EU Survey questionnaire. The submission of the RFI questionnaire is a prerequisite for having a one-on-one meeting with the public buyers.

For bilateral interaction, a standard agenda will be in place.

Each interaction may have a maximum of 45 minutes and will be structured as follows:



Time	Action	Participant
2 min	Round table	<i>All participants</i>
8 min	Presentation from suppliers on their company and solution (based on the RFI answers)	<i>Suppliers</i>
15 min	Questions from public buyers to suppliers	<i>All participants</i>
20 min	Questions from suppliers to public buyers	<i>All participants</i>

When conducting interactions with the market, some DOs and DON'Ts shall be duly considered both by public buyers and suppliers.

4. Public Buyers

4.1. DOs

The permitted and/or suggested actions in the context of the PCP WISE OMC regarding the communication and interactions between the public buyers and suppliers are the following:

A) **Communicate openly, clearly and proactively the identified needs** of the public buyers to all the interested bidders, by means of performance/output-based specifications.

B) **Use only publicly available material** from the OMC document, the Webstivals and the OMC event presentations. **It is key that all the economic operators stand on an equal level playing field when submitting their tenders** and this is not possible if some information is shared with only some of the providers participating in these sessions.

C) **Acquire feedback** on the market readiness and capability to tackle the PCP WISE challenge of the upcoming call for tender.

D) **Cross-check the Consortium's analysis of the prior art/IPRs and standardisation/regulatory environment** which confirms the subsequent choice of the procurement approach/strategy (PCP or PPI).

E) **Clarify assumptions** (maximum costs, expected benefits, possible risks, time-to-market), determining the success of the project, taken by the procurers in the design and development of the business case.



F) **Cross-check the feasibility and market acceptance of key contractual conditions** it is envisaging to use during the procurement (e.g. the IPR conditions) and verify with the market whether it is a good idea to split the contract into lots or not and what are the possibility interdependencies between lots.

G) **Provide the suppliers with sufficient time to ask questions and communicate their views** on the progress of ongoing product development and the feasibility of the proposed procurement approach.

4.2. DON'Ts

Considering the aforementioned DOs or permitted actions as well as the compliance with the overarching principles of the TFEU, special attention should be paid to the DON'Ts.

The prohibited actions in the context of the PCP WISE OMC regarding the communication and interactions between the public buyers and suppliers are the following:

A) Abide with the principles of **equal treatment** and **non-discrimination** of economic operators, no action that would give an undue advantage to one or more suppliers is permitted.

Examples:

- **Privileged access to information** to one or more suppliers is **strictly prohibited**.
- **“Pre-selection”** in any form during the OMC activities for a subsequent contract in the PCP is **strictly prohibited**.
- **“Tailoring”** or drafting **the requirements** for the upcoming tender based on a specific supplier or solution is **strictly prohibited**.

B) Abide with the principle of **transparency**, no action that would result in asymmetric information delivery to suppliers is permitted.

Examples:

- Breaching transparency obligations by not making available **Q&A documents** either from the one-on-one meetings or from other public sources (e.g. E-procurement platform) and an **OMC Report** documenting the results of the activities conducted is **strictly prohibited**.
- **Closed-door practices** where information not provided to all potential suppliers are **strictly prohibited**.



-**Presenting or discussing unpublished documents** and/or internal material with certain suppliers is **strictly prohibited**.

C) The OMC is a step in the preparatory phase aimed to engage with the market to obtain valuable feedback to finetune a future procurement. However, **participation in this OMC is not a condition for submitting a tender in the subsequent procurement, does not lead to any rights or privileges for the participants**, and is not part of any pre-qualification or selection process. The provided input in this OMC will not be used to evaluate future proposals.

5. Suppliers

5.1. DOs

The permitted and/or suggested actions in the context of the PCP WISE OMC regarding the communication and interactions between the public buyers and suppliers are the following:

- **Be Transparent:** Provide honest and clear information about your solutions, capabilities, and market maturity.
- **Focus on the Needs:** Frame your input around the unmet needs, challenges, and objectives presented by the procurers, avoiding any attempt to influence specifications toward your particular solution.
- **Respect Confidentiality:** Share only non-confidential or publishable information during open consultations, unless otherwise agreed in writing.
- **Ask for Clarification:** Feel free to ask for further details on the needs and challenges described. An anonymised Q&A will be published and made available to inform all potential interested parties.
- **Document your Contributions:** Submit your input through the RfI questionnaire. This will be a pre-requisite for having a one-to-one meeting with the organisers.
- **Acknowledge Public Summaries:** Understand that a non-confidential, anonymised summary of the market consultation conclusions (and of the one-on-one sessions) will be published, reflecting market feedback.
- **Select a Relevant Team:** Bring a maximum of **five (5) participants** to the one-to-one meetings, selecting team members who are relevant to the subject matter, such as technical experts.
- **Prepare for the session:** Share your questions, 3 days in advance to your one-to-one meeting, with the organisers (pcpwise@hetwaterschapshuis.nl).



5.2. DON'Ts

Considering all the aforementioned DOs or permitted actions as well as the compliance with the overarching principles of the TFEU, special attention should be paid to the DON'Ts.

The prohibited actions in the context of the PCP WISE OMC, in the context of communication and interactions with the public buyers, are the following:

- **Do Not Expect Preferential Treatment:** Avoid any attempt to secure advantages.
- **Do Not Share Confidential Information Without a Notification and/or Agreement:** Avoid disclosing sensitive or proprietary information without prior confidentiality notice¹.
- **Do Not Expect Pre-Qualification:** Understand that participation in the OMC does not constitute pre-qualification or a competitive advantage in any future procurement.
- **Do Not Expect Individual Price Negotiations during the OMC:** Your input shall be provided through the RFI questionnaire or during the OMC events (if there is a respective Q&A session), but it will take place within the different price ranges already defined by the PCP WISE project Consortium.

6. Conclusion

All in all, a successful OMC requires efficient time planning, effective resource allocation and sound engagement with market players. In a nutshell, it entails:

- The preparation of several documents aimed at informing the market about the public buyers' needs and procurement plans. A Prior Information Notice (PIN), an Open Market Consultation (OMC) document explaining the rules and objectives of the consultation, and a Request for Information (RFI) questionnaire have been made available to all interested parties.
- Identifying the right market segments and ensuring the EU wide promotion of the OMC to foster participation in the different activities.

¹ **DISCLAIMER:** All information provided by suppliers to the buyers in the context of the PCP WISE project—whether through the Request for Information (RFI) questionnaire, during one-on-one meetings, or via any other communication channel—will be anonymised, summarised, and published in English on the project's website. If any of the information shared is confidential, suppliers must clearly indicate this at the time of submission (orally or in writing). Such information will be treated accordingly and will not be disclosed publicly.



- Involving experts who can lead the discussions and subsequently interpret the results of the market consultation ensuring a proper technical approach in the future PCP tender.
- Selecting the dialogue method and conducting activities that best suits the objectives of the public procurer in compliance with the requirements of transparency and equal treatment established by the TFEU.

7. Annexes

Annex 1: Overarching principles (TFEU)

It is critical to underline the exemption of PCP procurements, such as the PCP WISE project, from EU Public Procurement Directives, World Trade Organisation (WTO) Government Procurement Agreement (GPA)² and EU state aid rules. More in detail, PCP procurements are exempted from the EU Public Procurement Directives because the public buyers do not retain all the benefits of the Research and Development (R&D) [the Intellectual Property Rights (IPRs) ownership stays with the contractors]. They are also exempted from the WTO GPA because this Agreement does not cover R&D services³ [the PCP being limited to such services and any subsequent Public Procurement of Innovative solutions (PPI) procurements relating to commercial-scale supply of such solutions not being part of the PCP procurement].

PCP procurements do not constitute state aid under the EU state aid rules⁴ if they are implemented as defined in the PCP communication⁵, namely by following an open, transparent, competitive procedure with risk- and benefit-sharing at market price. The division of all rights and obligations (including IPRs) and the selection and award criteria for all phases must be published at the outset; the PCP must be limited to R&D services and clearly separated from any potential follow-up PPI procurements; PCP contractors may not be given any preferential treatment in a subsequent procurement for provision of the final products or services on a commercial scale.

Nonetheless, the overarching principles of the TFEU must be complied with, as in all procurement procedures. This means that the principles of transparency, proportionality, equal treatment, non-discrimination as well as the practice of preserving and promoting fair

² See also Article XV(1)(e) WTO GPA 1994 and the Article XIII(1)(f) of the revised WTO GPA 2014.

³ See the EU's Annex IV of Appendix I to the WTO GPA.

⁴ See Point 33 of the Commission Communication on a framework for state aid for research and development and innovation (C(2014) 3282).

⁵ Commission Communication: Pre-Commercial Procurement: driving innovation to ensure sustainable, high quality public services (COM(2007) 799) and PCP staff working document (SEC(2007)1668).



competition in the EU should be respected in all aspects of the PCP WISE project by all the involved parties throughout their activities.

More in detail, the principles of EU public procurement are foundational guidelines designed to ensure that procurement processes conducted by public authorities across EU Member States are fair, transparent, and open to competition (equitable and non-discriminatory).

These principles derive from the Treaty on the Functioning of the European Union (TFEU) and from the relevant EU Procurement Directives and govern how public authorities across the EU purchase goods, services, and works, ensuring that all potential suppliers are treated fairly and equally.

As the European Court of Justice (ECJ) has stated on several occasions “Although certain contracts are excluded from the scope of the Community directives in the field of public procurement, the contracting authorities which conclude them are nevertheless bound to comply with the fundamental rules of the Treaty”.

The essence of the aforementioned principles can be summarised as follows:

Transparency: The principle of transparency ensures that procurement procedures are **open**, **traceable**, and **fair**, enabling potential tenderers to access relevant information and allowing scrutiny of how decisions are made.

Proportionality⁶: The principle of proportionality requires that all requirements, procedures, and decisions in a procurement process must be **suitable** to achieve the procurement’s objectives, **necessary**, avoiding any excessive demands, and **balanced**, not placing an unjustified burden on suppliers.

Equal treatment: The principle of equal treatment requires that all participants in a procurement process are **treated impartially and without discrimination**. Identical situations must be treated equally, and different situations must be treated differently where justified.

Non-discrimination: The principle of non-discrimination prohibits treating economic operators differently based on nationality, location, or other unjustified criteria. All suppliers (whether domestic or from other EU Member States) must have equal access to participate in procurement procedures. **Direct or indirect bias** towards specific suppliers **is strictly prohibited**.

⁶ [Principle of proportionality - EUR-Lex](#)



Free and fair competition⁷: The European Commission monitors and investigates anti-competition practices, mergers and state aid to ensure a level playing field for EU businesses, while guaranteeing choice and fair pricing for consumers. Overall, the EU's rules on competition are designed to preserve and promote fair competition practice by **ensuring equal market conditions for all economic operators**.

⁷ [Promoting fair competition – EU action | European Union](#)

