

The PCP Principles

Open Market Consultation 17th of March

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Procurement Service

All information contained herein are for discussion purposes only and shall not be considered a commitment on the part of CERN or the Buyers group

1. Objective & Definition

2. Differences PCP/Traditional Procurement

3. PCP Method

4. PCP Legal Principles

1. PCP Objective

stimulate innovation

main driver for growth



Supply side instruments

subsidies,
R&D support

Results

Heavily supported by EU-MS
Did not bring innovation performance and productivity to desired levels
New instruments needed

the policy mix



Demand side instruments

regulation, tax measures, standards,
Public Procurement

- * Innovation Procurement
- * Innov
- * PCP a

Expectation

Rather unexplored

Tremendous purchasing power

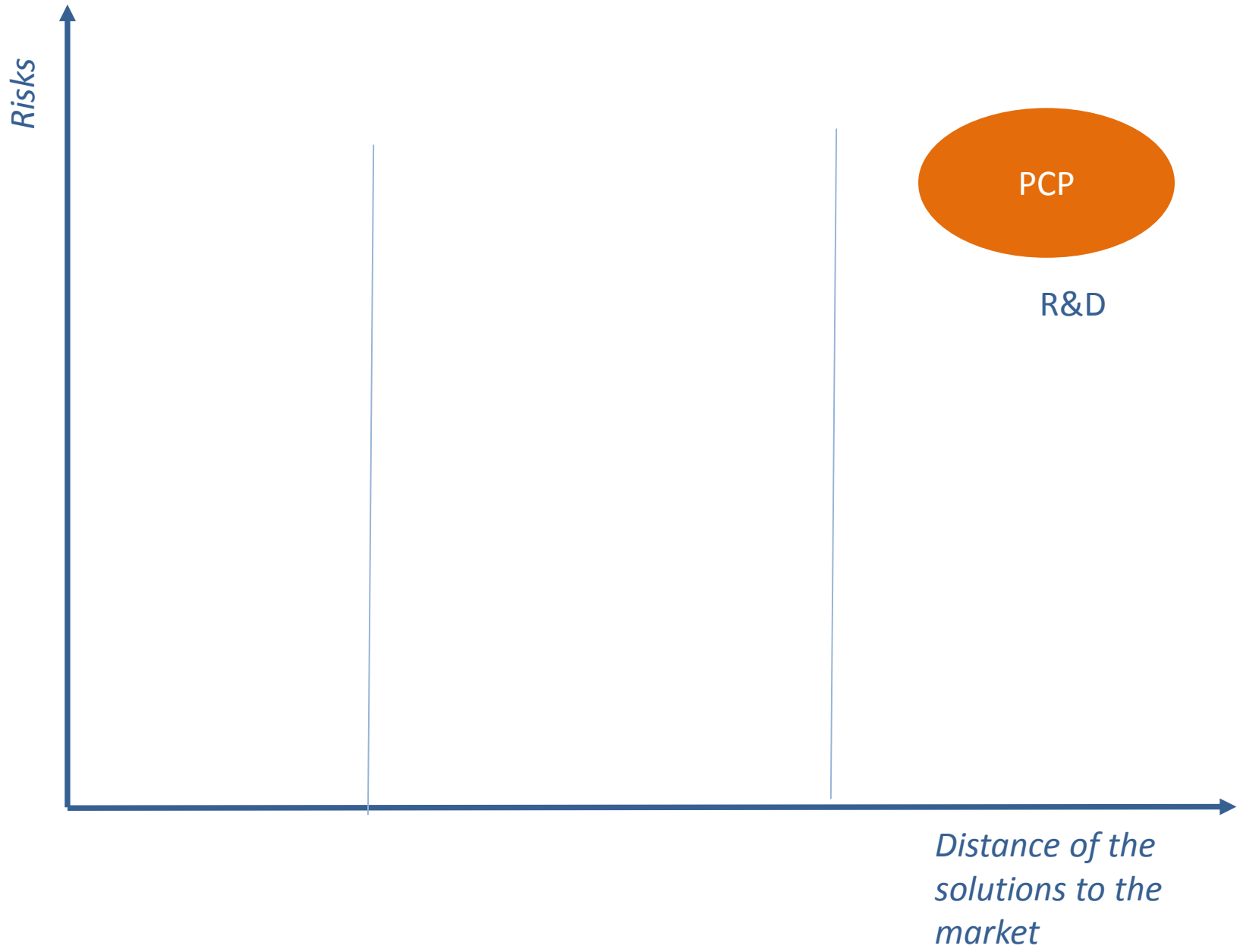
- * pull the demand
- * launching customer= diffusion of innovation

Definition Pre-commercial procurement

is a phased approach of purchasing R&D services by procurers for the development of innovative products, services or processes (not yet available on the market) by enterprises/ research centers with the goal of:

- Solving socio-economic challenges
- Improving the performance, functionality of public services

'pre-commercial procurement' means the purchase of research services where the contracting authority or contracting entity does not take all the risks, results and benefits for use in the conduct of its own affairs, but shares them with the providers under market conditions. The contract, the object of which falls within one or several categories of research and development defined in this framework, is of limited duration. With the exception of prototypes or a limited set of first test items, the purchase of products or services developed under a pre-commercial procurement contract must not be an object of that same contract;



2. Differences PCP & Procurement

Traditional Procurement

- 'Tendering procedures' = National/CERN Procurement Rules apply
- Legal framework
- Contractor's obligation to produce results
- Degree of innovativeness is low/medium
- Solutions to be developed are close to the market (engineering)

Pre-commercial Procurement

- Exemption for R&D services = under EU Directive
- Specific legal framework (H2020)
- Contractor's obligation to use "its best efforts"
- High degree of innovativeness
R&D-efforts required
- High R&D-efforts required (fill the gap STOA vs. innovation needs)

Traditional Procurement

- Technical specification
- Short-term needs
- Market sounding
- Risks are low/medium
- One supplier, 1 contract awarded to 1 company
- Development in 1 phase
- IPR generated (e.g. shall be vested in CERN (General Conditions ART. 14))

Pre-commercial Procurement

- Functional specification
- Long-term needs
- Market consultation with engagement
- Risks are high = risks assessment
- Competitive development, several contracts to several suppliers
- Development in different phases (de-risking)
- IPRs - business case - Risk-benefit sharing

3. Method

the PCP-concept

4 phases

Phase 0: Preparation Phase



Phase 1: Market consultation



Phase 2: Pre-commercial Procurement



Phase 3: Commercial Tender



Phase 0: The Preparation phase

Phase 0: Preparation Phase



LIST OF ACTIVITIES

A. Needs assessment

What is the **innovation potential** from an end-user perspective?
Added-value for the end-user ? Which needs are being answered ?

B. State-of-the-art

Ensure the envisaged solution goes beyond the state-of-the-art

C. Standardisation

Can the innovation expectation be developed within the boundaries of known harmonized standards and directives?

D. Risk assessment

F. Validation of the legal framework

Phase 1: The Open Market Consultation (OMC)



Phase 0:
Preparation phase

Phase 1:
Market
consultation

Phase 2:
Pre-commercial
Procurement

Phase 3:
Commercial
Tender



OMC Goals



Phase 1:
Market
consultation



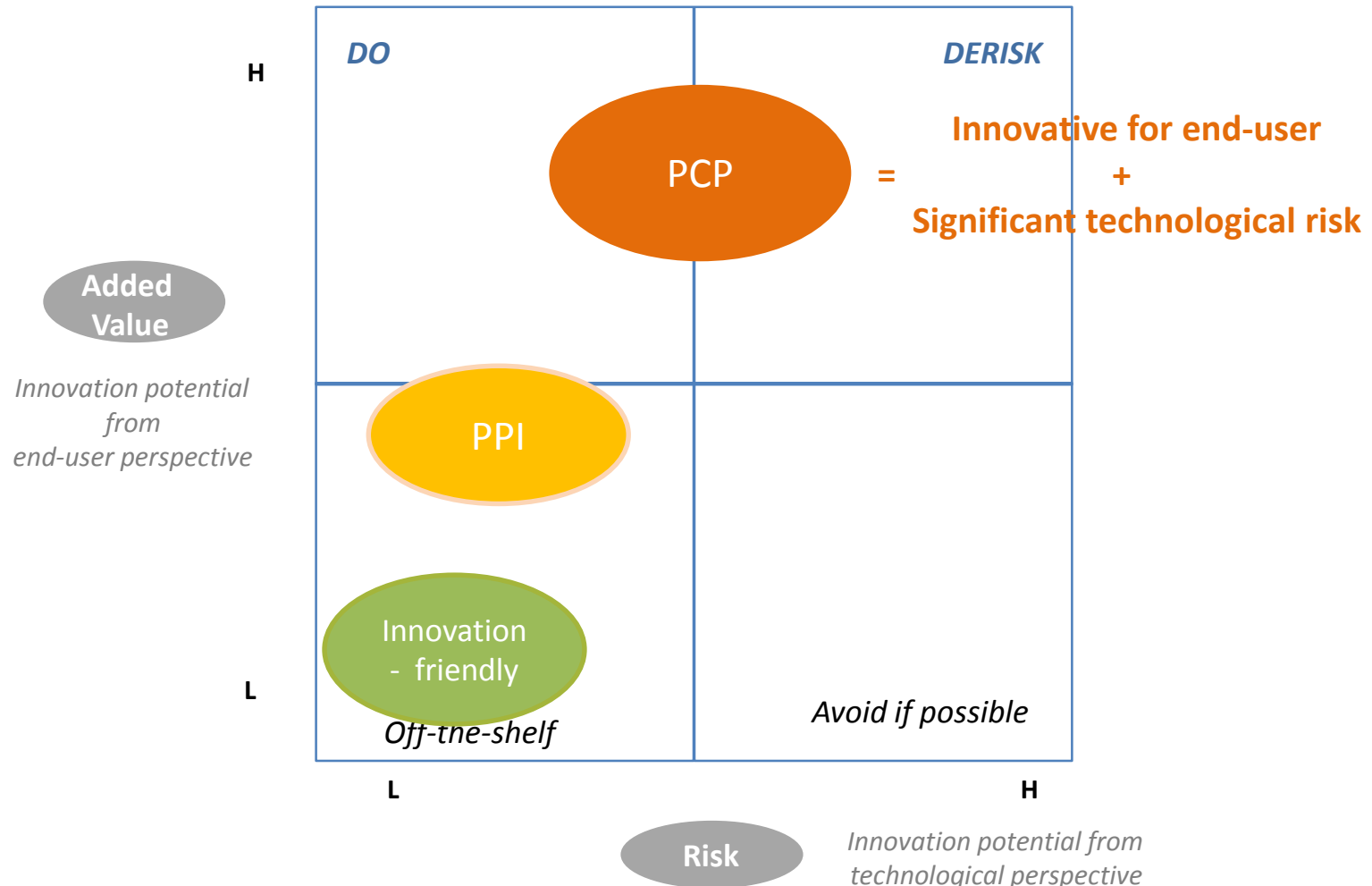
1. Bridging the demand and supply side
2. State-of-the-art → double check the findings with the market + inform the market about the innovation step you want to realize within the PCP
3. Attract the suitable stakeholders
4. Identification of the innovation potential
 - Technological point of view
5. Feasibility-check = capacity & capability to supply the innovation
6. Technological risks assessment
7. Forum for the supply side to meet each other (consortia)
8. Inform potential tenderers about the PCP – legal framework and particularities

Results

- Final report
- Preparation of the PCP tender documents

Results

Prototype Scope: value vs. risk



Phase 2: Pre-commercial Procurement



Phase 0: Preliminary stages

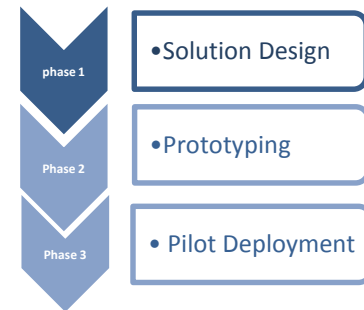
Stage 1: Preparation of
the Market Consultation

Stage 2: Informing the
Market

Phase 1: Market consultation



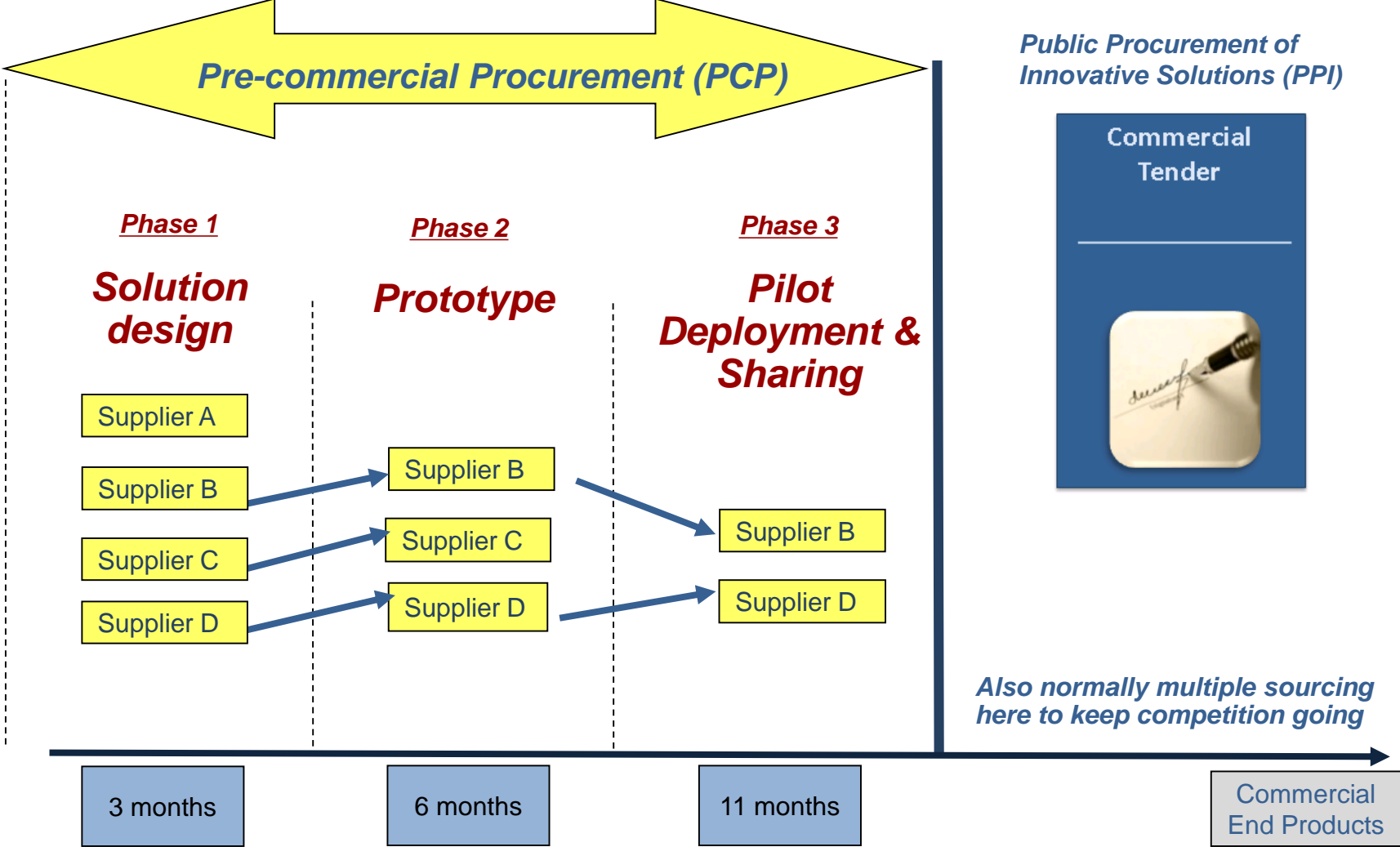
Phase 2: Pre-commercial Procurement



Phase 3: Commercial Tender



Competitive Deployment in 3 Phases



4. PCP Legal Principles

- ✓ Exemption on the Use of the EC Procurement Directive
- ✓ Own procedure
 - ⊙ Directive 2004/17/EU and 2004/18/EU: Art. 16f and Art. 14 Directive 2014/24/EU
 - ⊙ COM(2007)799: Communication of the EC: Driving innovation to ensure sustainable high quality public services in Europe
 - ⊙ SEC(1688) 2007: EC staff working document
- ✓ Conditions:
 - General Principles of Law
 - ⊙ Transparency and openness
 - ⊙ Equal treatment (no preferential treatment for the final purchase of products/services)
 - ⊙ Competition
 - ⊙ Best Value for Money



➤ Specific PCP Principles



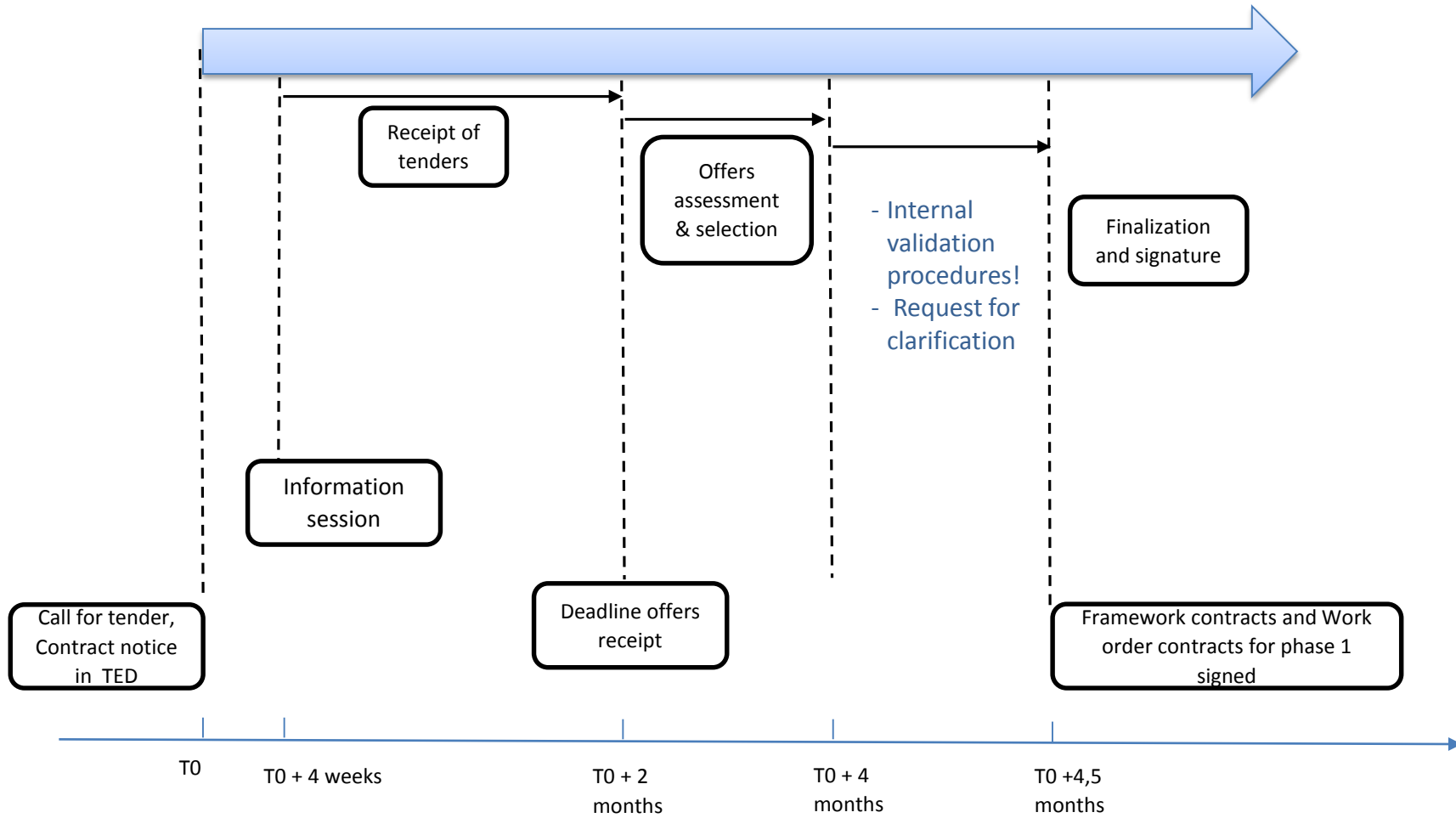
- ◎ Risk-benefit sharing principle
- ◎ IPR retained as much as possible by contractors
- ◎ No exclusive development (for 1 procurer) reflected in price reduction for government = competitive development
- ◎ No Commercial development activities = clearly separation R&D and final product
- ◎ Subsequent phases: three phases
- ◎ Price paid at market condition (not the R&D costs) The price reduction should reflect the market value (commercialisation) of the benefits received and risks assumed by the procurer. In the offer two prices will have to be submitted! (IPR-IN and IPR-OUT)
- ◎ R&D Services > must account for at least 50% of R&D-services of the total value of the contract
- ◎ Place of performance in EU Member States and associated countries to H2020 (vs. country of origin of bidders)
- ◎ Standards and certification
- ◎ Single Framework Agreement
- ◎ No illegal State-Aid

➤ Tendering Approach

Two stages: Tendering and Execution Stage

Tendering Stage	Execution Stage
• Similar to an open procedure (no pre-qualification)	• 3 Phases
• Exclusion Criteria: submission of a set of administrative documents	• Fixed term for each phase (3-6-5 months)
• Selection Criteria e.g. ability to perform R&D	• Max. budget available for each phase (carry-over budget to next phase)
• Compliance Criteria: R&D services, place of performance, compliance with standards , ...	• Work Order awarded for each phase
• Award Criteria: announced at the launch of the Tender (weighting can vary for each phase)	• End of phase report
• Evaluation	• Payment based on satisfactory completion of milestones/deliverables
	• Eligibility for the next phase based on successful completion of a phase

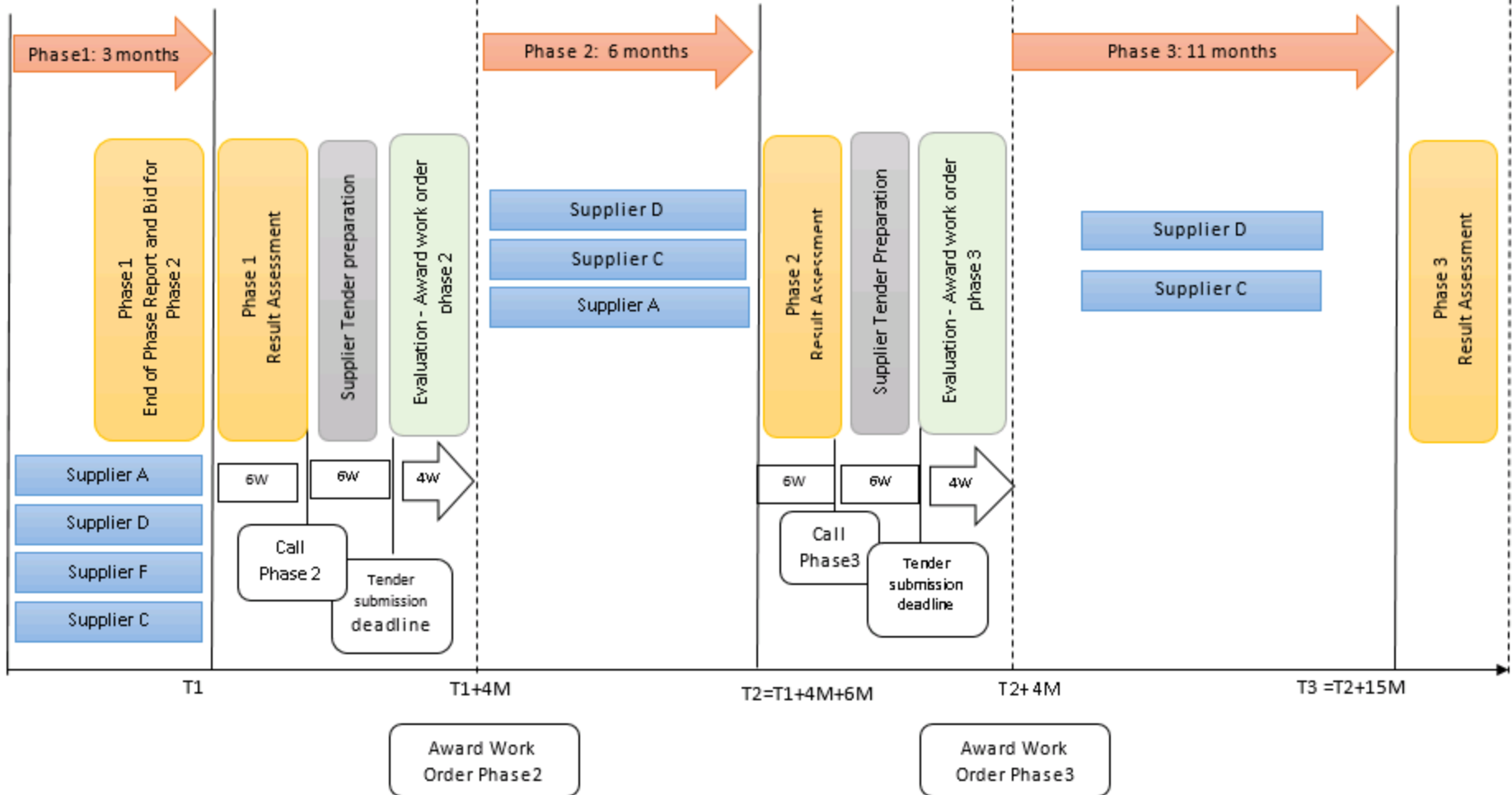
TENDERING STAGE: Phase 1: Solution design



Phase 1: Solution Design

Phase 2: Prototyping

Phase 3: Pilot Deployment and Sharing



Phase 3: Commercial tender



Phase 0: Preliminary stages

Stage 1: Preparation of
the Market Consultation

Stage 2: Informing the
Market

Phase 1: Market consultation



Phase 2: Pre-commercial Procurement



Phase 3: Commercial Tender



up to 2,5 years

QUESTIONS?

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