Pre-Commercial Procurement actors in ITS: feedback and guidance

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ITS EUROPE

The Public-Private Partnership of ITS stakeholders in Europe

- 106 Partners
- 8 Different Sectors
- 850 members i-Mobility Network
- 30 projects across 4 continents
- 2 deployment platforms (TISA, ADASIS)
- 25 national ITS associations
- 27 European & World ITS Congresses
- Workshops & Fora

We facilitate effective development & deployment of ITS

Quickly…

- Sébastien Mure
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- Deputy project manager of P3ITS: Pre-Commercial Procurement for ITS

- Background
  - Engineer => no legal expert!
  - Young => so is PCP in Europe.
    - No prejudice, high enthusiasm!

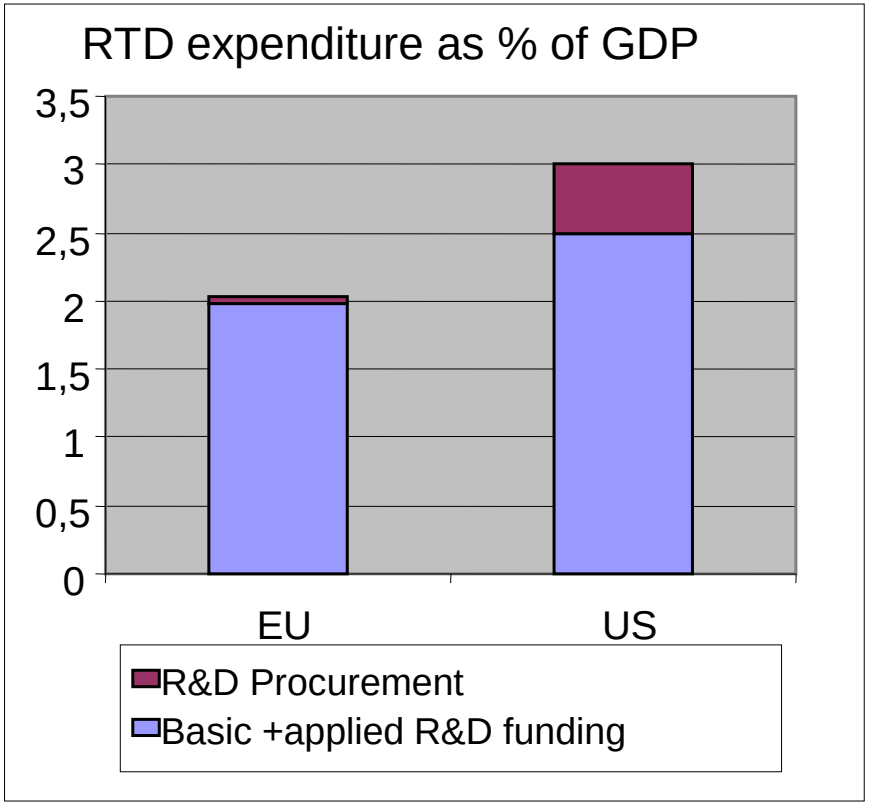
Outline

- General introduction on PCP
- The P3ITS project
  - Analysis of models and mechanisms
  - The P3ITS Handbook
- Other examples of PCP methods

PCP: the idea

- Find new solutions to specific societal challenges
- Allow Public Authorities to finance innovation through public procurement
- Improve the market conditions for the deployment of ITS

Comparison with the US



Source: EC

Thanks to the SBIR programme?

Usual practice in procurement

- Tailor-made, locked-in solutions
  - High-development costs in exchange of all R&D benefits
- Market fragmentation
  - Little incentives for procurers to share the IPR with other procurers
  - Suppliers not allowed to exploit innovations to other customers

What is Pre-Commercial procurement?

- A method for public (or assimilated) purchasers
  → they have a problem, they need a solution
- It is about financing the development of an innovative (ground-breaking) product/service
  → the solution doesn't exist
- It happens before an official public procurement
  → it is a flexible method
- It involves several suppliers
  → It is a competition with several phases

An innovative instrument to procure R&D services

Benefits?

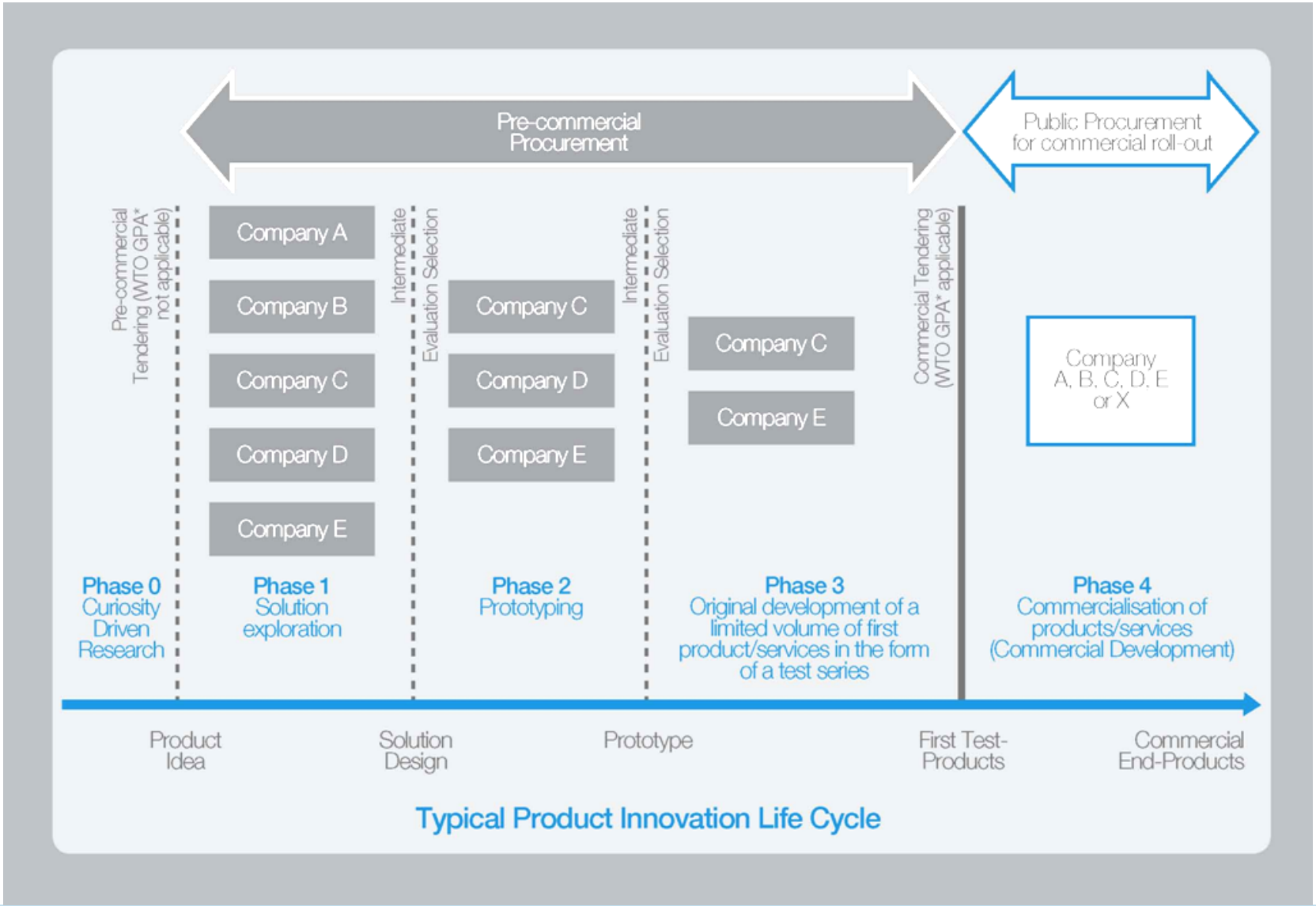
- Avoid locking into proprietary solutions
- Reduce market fragmentation
- Minimise financial barriers for alternative competing developments
- Keep the R&D benefits and value as much as possible in the private sector domain, where it provides the basis for competitiveness, continued innovation and deployment

Conditions for PCP

- R&D service
- Intellectual Property Rights sharing
- Risk sharing
- Non-discrimination
- Market terms

PCP is based on art. 16f of EC the public procurement Directive for public authorities (2004/18/EC)

An example of PCP process



P3ITS - Objectives

How can PCP be used in the EU to support the market take-up of ITS innovations?

Objectives:

- Increase awareness and understanding of the potential value of Public Pre-commercial Procurement (PCP) for innovation and deployment of ITS
- Investigate Public Procurement mechanisms and tools
- Formulate practical requirements and guidelines for PCP in Intelligent Transport Systems

P3ITS Project

- **Programme**

  Coordination action funded by the DG INFSO under EC FP7 ICT call 4 Objective 9.3 General accompanying measures

- **EU funding**

  398 000€

- **Starting date**

  01/01/2010

- **Duration**

  21 Months

SEVENTH FRAMEWORK PROGRAMME

ERTICO ITS EUROPE

1st step: ITS, an opportunity and a challenge for procurers

- Needs and requirements for the innovation and deployment conditions of ITS in Europe

2nd Step: PCP Models and mechanisms

- Analysis of the current models and mechanisms:
- Investigation of the legal framework and conclusions

3rd step: Consolidation and recommendation

- The P3ITS Handbook: Pre-Commercial Procurement for Intelligent Transport Systems

PCP models and mechanisms

- Analysis of different programmes
  - European Commission ICT Work Programme
  - In NL: Small Business Innovation Research Programme
  - In UK: Small Business Research Initiative
  - In BE: Procurement of Innovation Programme
- Comparison between them and the European Commission PCP

Some conclusions

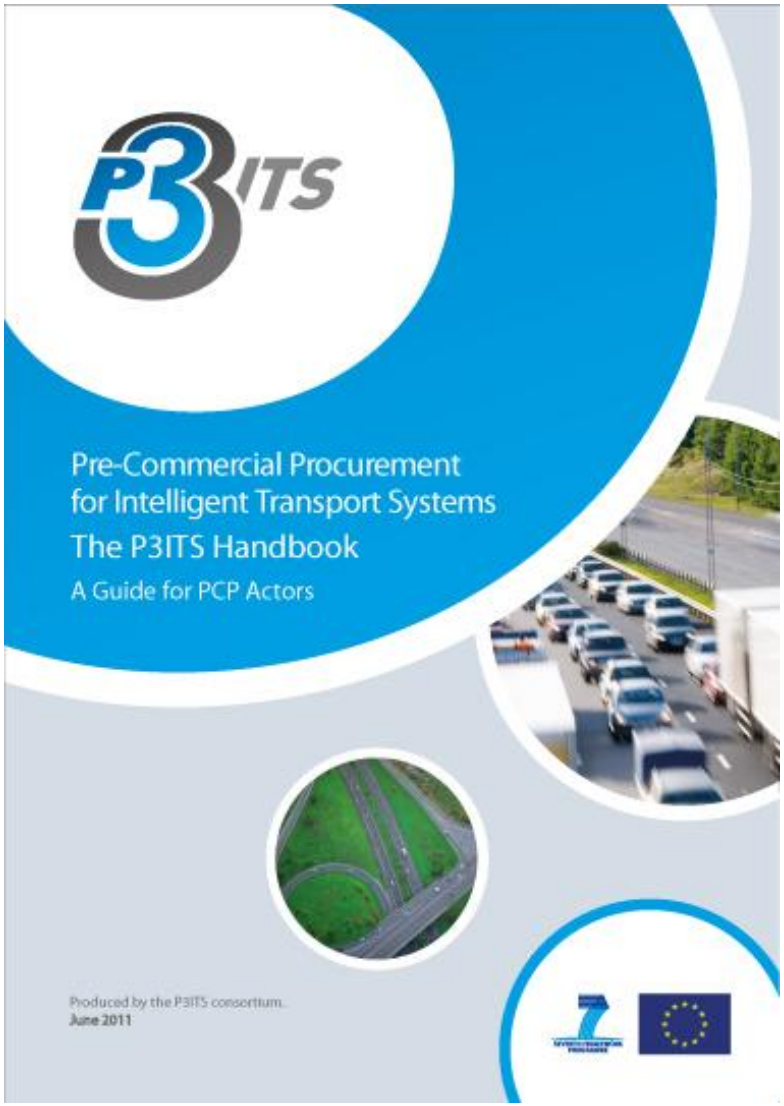
- Follow the exemption to the public procurement directives: *the contracting authority does not obtain exclusive rights to the development*
- Process must be open, transparent and non-discriminatory
- Some programmes do not require EU publication of the calls
- Question of the remuneration of the public authority for renouncing to all IPR
- Importance of the preparatory phase

Identified legal ~~issues~~ points

- The tendering process: EU tender or not?
- Mixed contracts: combination of goods and services
- Subsequent commercial tender
- Risk of supplier exclusion
- Risk of illegal state aid

Need for more guidance

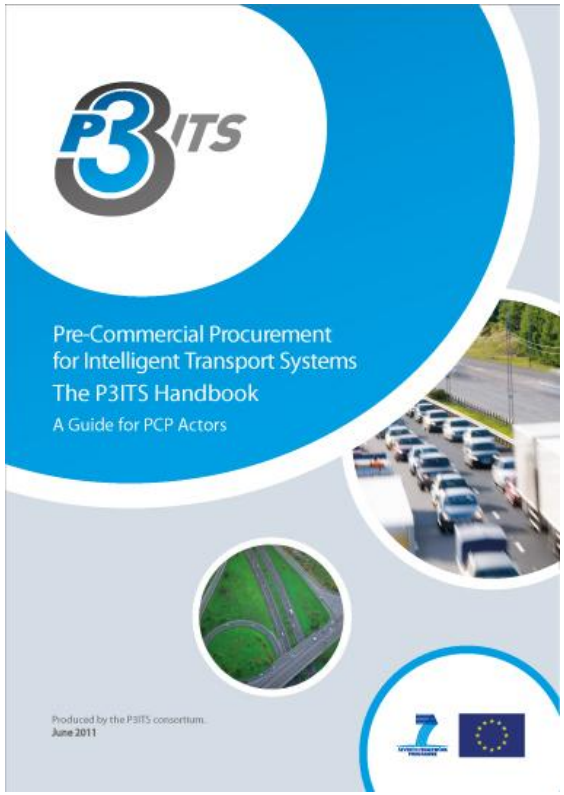
» Public procurers prefer being on the safe side



The P3ITS Handbook

PCP case studies

Recommendations from P3ITS



Needs for more detailed Guidelines regarding PCP

Specific ITS needs and requirements

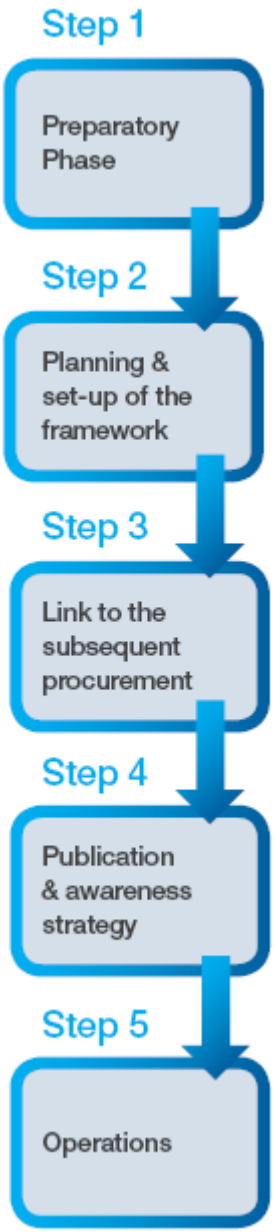
Analysis of current PCP models and mechanisms

Role of different PCP actors

The 5 steps

Structure of each step:

- » Summary
- » Sub-step
- » Suggested method
- » Role of the actors
- » Documentation required
- » Risks
- » Case study



The actors

The public side: one party but different functional departments

Step 1: preparatory phase

1. Identify the socio-economic needs and challenges
2. Identify the goals from the public demand side
3. Identify the innovation levels
4. Identify the missing links or gaps in ITS systems
5. Analysis of the limits of available solutions and opportunities for innovations through a PCP

Step 2: Planning and set-up of the framework

1. Specify the general requirements
2. Design the competition phases
3. Define the evaluation and award criteria
4. Define the time plan and the detailed budget
5. Decide on the contract details

Step 3: Link to the subsequent procurement

1. Establish your strategy for the subsequent tender
2. Ensure that you avoid discrimination
3. Ensure that you avoid supplier exclusion

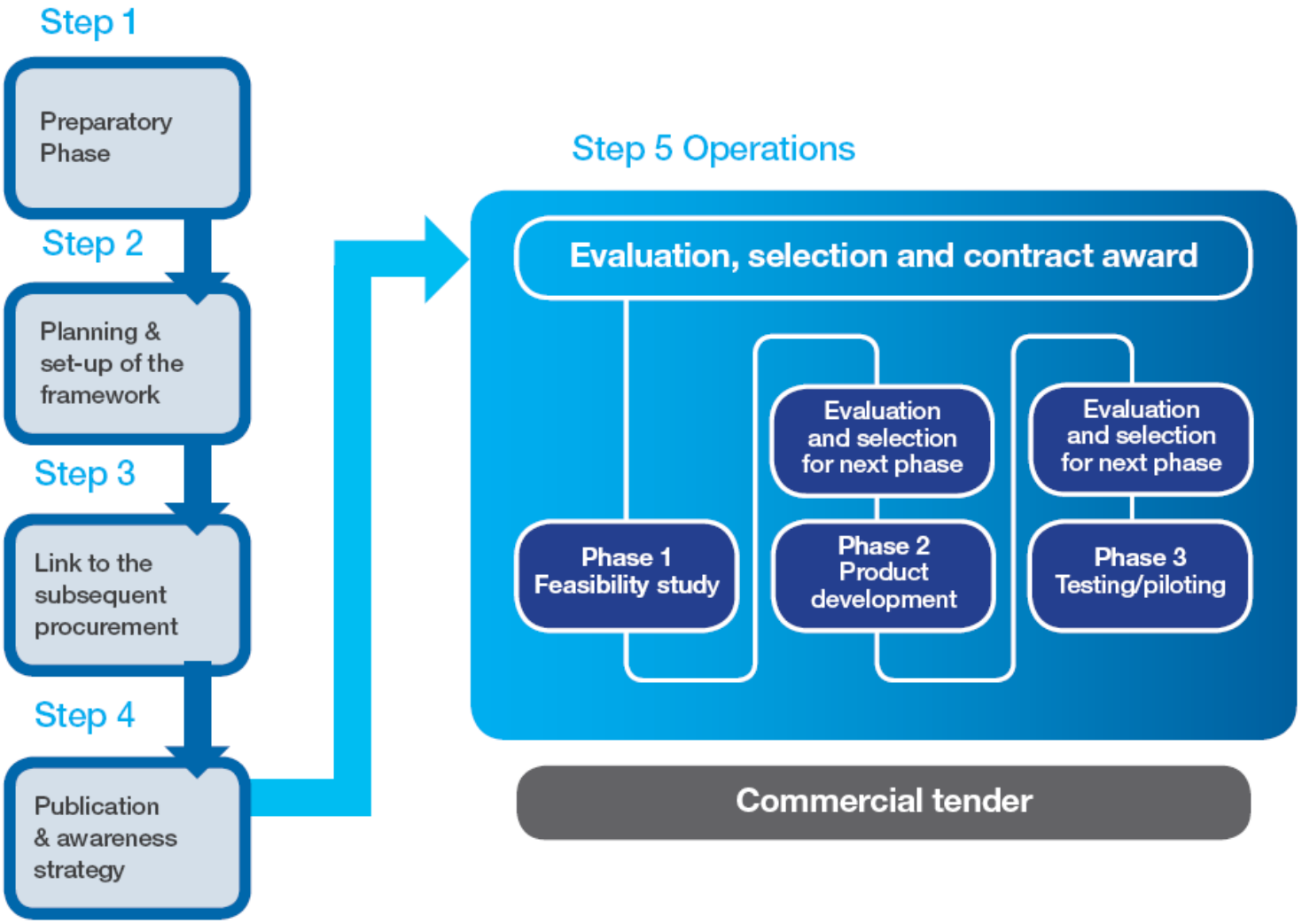
Step 4: Publication and awareness strategy

1. Consider making a business case for potential suppliers
2. Describe your support means for product take up
3. Publish your tender
4. Advertise your tender

Step 5: PCP operations

1. Prepare for the arrival of the applications
2. Organise the evaluation
3. Award the contract
4. Manage your phases
5. Train your staff on the product/service

Chronological process



PCP through a national/regional programme

- Only used method so far
- Tend to be safer and more efficient

Cross-border PCP

- One procuring authority or a consortium?
  - Need mutual agreements on the needs, on what is « the best solution »
  - Need to agree on an applicable law
- Adapted to the current economic
- situation for the public authorities

Examples: CHARM

- Common Highways Agency and Rijkswaterstaat Model
  - Development of the next generation traffic management in NL and UK
  - Status: large market consultations
  - Developed a set of business specifications, functional and non-functional specifications
  - Will use both COTS (Commercial off the shelf) and PCP depending on the aspects of the programme

Austria

- Austrian PCP pilot on Traffic Infrastructure R&D: Mobile Traffic Management System
  - Financed by the Fed. Min. for Transport, Innovation and Technology and ASFINAG
  - Status: first phase with 5 competitors

New EC ICT Work Programme

- Appendix 6 to the 2013 ICT Work Programme
  - Treaty principles
  - R&D service contract
  - Functional specifications
  - Best value for money
  - EU wide publication of the call
  - Ownership rights of IPR remain with the private supplier
    - But the public authorities get a free licence to use the R&D results for internal use
    - And should require the license for third partiers under fair conditions
    - Call back solution in case of failure
  - Upfront publications of rights and obligations
  - One framework contract

Future

Share feedback from your project!

- ERTICO Public Authority platform
- iMobility Support project
- ITS European Congress in Dublin: June 2013!

THANK YOU FOR YOUR ATTENTION!

CONTACT FOR FURTHER DISCUSSION:
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References:

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