



# Development of the SOLUTIONS Phase of the Civil UAVs Initiative

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## Framework of the "Solutions" Phase B of the Civil UAVs Initiative Promotion of a research and aerospace technology hub

- **“Civil UAVs Initiative”**: Use of UAVs in the civil field and especially in **improving public services**.
- The Autonomous Community of Galicia aims to promote a **Research and Aerospace Technology Development Hub**, based on the open innovation concept, through various actions, including:
  - Creation and development of an **Aerospace Technology Park** around Rozas aerodrome.
  - Search for **innovative technological solutions** through procedures for association for pre-commercial development, pre-commercial public procurement, innovation association and public procurement of innovative technology.

## Global Structure of the Initiative

- **Public-private collaboration** with strategic technological and industrial partners (through a partnership agreement for pre-commercial development) selected in Phase I (RFP-A).
- **Processes for public procurement of innovation** for specific solutions to be selected in Phase II (RFP-B): Solutions Phase: Procurement of innovation solutions.
  - Prior step to the Start of the Solutions Phase: **Preliminary Market Consultation Process (RFI-B), open in September 2015**
  - Prior step to the definition of the innovation public procurement models be developed in the Solutions Phase:
    - Open call for proposals for innovative solutions.
    - Medium to identify technologies and solutions of interest for the technological challenges proposed.



## Solutions Phase: Milestones

- Prior step to the Start of the Solutions Phase: **Preliminary Market Consultation Process, open in September 2015**
- **Study of the proposals submitted**
- **Publication of project progress sheets and early demand map: Public submission of the results: Workshop January 2017**
- **Definition of technical or functional specifications of projects**
- **Definition of innovation public procurement models to be used**
- **Call for tenders**
- **Procurement of innovative solutions**



## Preliminary market consultations

- **Before commencing a procurement procedure: Purpose: Prepare the procurement and inform economic operators** about procurement plans and requirements (Article 40 of the European Parliament and Council Directive 2014/24/EU of 26th February 2014 on public procurement):
  - In this framework, the contracting authorities may:
    - **Technical dialogue: Request or accept the advice of experts or independent authorities or participants in the market**
    - This advice may be used in the planning and development of the procurement procedure.
  - The principles of free competition, non-discrimination and transparency must be respected.



## Market consultation in the Community Guide to Good Practices in Public Procurement of Innovative Solutions

- Decide whether to buy and what to buy: The technical dialogue should allow us to identify what is available on the market to meet the administration's needs: Can potential bidders make innovative proposals?
- The dialogue must determine whether the needs and requirements of the administration can be met by potential bidders.
- It gives the market the opportunity to understand the problem to be solved and offer optimal solutions.

## Call for preliminary consultations

- **Principle of transparency: Open public call**

- The purpose of the call is to promote the participation of **any individual** or legal, **public or private** person for the **identification of innovative proposals** that will contribute to the process of development and execution of the projects included in the "Civil UAVs Initiative", listed in Annex I of the call.

- Channel for **participation and collaboration** with the Galician Innovation Agency for the development of these projects, both in their **definition and scope** and in **development and technological innovation** in the field of civil UAVs.

- Commitment of the Administration: To give participants **equal and non-discriminatory treatment**, and respect the principle of transparency.

## Application of the principles of contract law in preliminary consultations

- Participation or non-participation in the call, dialogue or contacts held with the participants or exchanges of information **shall not lead to infringements of the Community principles of non-discrimination and transparency** and have the effect of **restricting or limiting competition or granting unfair advantages or exclusive rights** in procurement procedures that may subsequently be called.
- **Equality in the information that the administration gives to all participants:** The other participants, candidates or tenderers shall be informed of any **relevant information exchanged** within the framework of this call or as a result of it.
- It will be ensured that the **technical or functional specifications** of future contracts are defined in compliance with the provisions of public sector contract law.



## Procedure for preliminary consultations

- **Project Sheets:** The **functional requirements and specifications** related to Civil UAVs Initiative projects will be available and accessible through the website [www.civiluavsinitiative.com](http://www.civiluavsinitiative.com)
- Individuals, whether public or private, interested in participating, must submit their proposals in Galician or Spanish according to the information sheets available on the website [www.civiluavsinitiative.com](http://www.civiluavsinitiative.com)
- Optionally, it will be possible to accompany the sheets with the complementary documentation considered relevant where the proposal is developed in more detail.
- Proposals may be **submitted jointly by a group of persons or entities:** The person who represents them must be identified, for the purpose of dialogue with the Administration.
- Proposals may be submitted **at any time from September 2015 until the closing of the call. The call is still open.**

## Study of proposals

- The Galician Innovation Agency **will study the proposals** submitted and **can use them in the process of development and implementation of the projects** included in the Civil UAVs Initiative, **in both its definition and its scope**.
- If it is considered of interest, individual participants may be called individually to make a more detailed submission or to expand information on their proposal, product or service.
  - If the submission is public, the other participants will be informed of this via the website enabled for this purpose.
- Aim: The exchange of information may be used, where appropriate, **to define detailed functional or technical specifications that may be used in procurement procedures** for goods or services that may subsequently be called.

## Participation of users and other agents

- **Participation of the user in defining the specifications:** Before the definition of the technical or functional specifications by the Administration, the **participation of the staff of the Autonomic Administration that is likely to be the user of the provision in question will be requested** for its evaluation.
- As many agents and resources as the Galician innovation agency considers appropriate can also participate in the evaluation.
- User participation in the award: Likewise, in the procurement procedures, the technical solutions and technological developments offered by tenderers may be evaluated from the perspective of the indicated staff on request of the appropriate reports.

## Transparency and confidentiality

- The Administration may disseminate the participants' participation in the procedure.
- In order to ensure the transparency of the process, the availability of the best possible information and the effective exchange of experiences and opinions, participants will expressly state their willingness to allow the Galician Innovation Agency to keep **the necessary information, whether total or partial, on the proposals submitted, accessible and up to date.**
- The Administration may disseminate the solutions submitted and use this information to define the projects' specifications, always respecting the information defined as confidential.



## Confidentiality

- The Administration **may not disseminate the technical or commercial information that, where appropriate, has been provided by the participants** and they have defined as confidential
- Participants must identify the **documentation or technical or commercial information that they consider to be confidential**, where it is not permissible for them to make a generic declaration or to declare that all documents or all information are confidential.
- Participants may define some of the **documents provided in their application** as confidential. This must be clearly reflected (in any way or in the margin) in the document itself defined as such.







## Public submission of the proposals: III Workshop

• **Public submissions** may be made of all or part of the information contained in the proposals submitted (without prejudice to the information identified as confidential), as well as those that are taken into account in the process of development and implementation of the projects.



## Purpose of keeping the preliminary market consultations open

- Preliminary market consultations remain open.
- New projects and innovative ideas can emerge in constantly changing material.
- The call for the corresponding projects will close once the necessary degree of definition is achieved, via an announcement on the website [www.civiluavsinitiative.com](http://www.civiluavsinitiative.com)

## Project progress sheets and early demand map: Submission in III Workshop

- The Galician Innovation Agency, in order to **guarantee transparency and equal opportunities** among participants of possible procurement procedures that may be called, will publicise the **information on progress in the definition of each project** (Project progress sheets).
- They will publish an **early demand map of future procurements that will be called for the purpose of informing the market with sufficient notice so they can prepare the appropriate offers and thus allow better planning.**

## Progressive definition of the project progress sheets and early demand map

- The project progress sheets can evolve: Each project must be progressively defined: Successive progress sheets will be published.
- **The map for early demand of future procurements to be called may also evolve and adaptations will be published.**
- The aforementioned documents are published so that ideas and contributions can be submitted.
- Open, transparent and evolutionary process.
- The final configuration of the projects and tenders will take into account the contributions made.
- The process allows participants to submit proposals on their products and services and for these to be taken into account in the definition of tenders and their specifications in material under constant change.

## Definition of technical and functional specifications for the purposes of the tender and purchase of innovative solutions

- **The use of the contents** of the technical solutions and specifications submitted with the proposals will be limited exclusively to the **project definition process in order to, where appropriate, decide on their tender and procurement.**
- Thus, the specifications of the different procurement procedures that are processed within the framework of the CIVIL UAVs INITATIVE under the formula of public procurement of innovation, will be based on the aforementioned work on project definition and will specify the applicable technical specifications.
- The technical specifications must be defined according to the requirements of contract law:
  - Thus, in the absence of applicable regulations, it must be carried out **in terms of performance or functional requirements: Purpose: Equality of tenderers and free competition.**
- For that reason, **they may not mention a particular manufacture or provenance or specific procedure, or refer to a particular brand, patent or type, origin or production.**



## Level of definition of technical and functional specifications

- The level of definition required of the projects must be sufficient for the purposes of their tender.
- A complete or thorough definition of the technical and functional specifications is not necessary.
- The complete definition of the specifications can be achieved during the tendering procedure using the public procurement of innovation formulas: Competitive dialogue within tender procedures.

## Tender for the projects

- Once the **technical or functional specifications of the projects have been defined** with the **necessary degree of precision**, the Galician Innovation Agency may initiate the corresponding procurement procedures as established in Royal Legislative Decree 3/2011 of 14th November, which establishes the consolidated text of the Law on public sector contracts, always taking into account the **assessment of innovation and the incorporation of high technology as positive aspects**.
- For this, it will be able to use, according to the circumstances and particularities of each case, **procurement procedures for innovation**, be it pre-commercial public procurement, public procurement of innovative technology or an innovation association.

## Definition of the legal framework for tenders and methods of procurement

- The Legal Department of the Xunta de Galicia, in collaboration with GAIN and the different regional ministries interested, will proceed to define the innovation public procurement models to be used.
- This definition of the legal framework and procurement modalities will be made in view of the nature and characteristics of each purchase project, the level of definition achieved, the benefits sought and the state of the market in this area.
- The early demand map indicates the procurement modality considered at this time for each project.

## Procurement modalities: The innovation association

- Case of use: Where **solutions already available on the market cannot meet a need in relation to the development of innovative products, services or works and the subsequent acquisition of the resulting supplies and services or works.**
- It is a specific procurement procedure which allows contracting authorities to establish a long-term innovation association for the **development and subsequent acquisition of new innovative products, services or works**, provided that they conform to an agreed level of features and costs, without the need to turn to an independent procurement procedure for the acquisition.

## Regulation of the innovation association in the public sector contracts draft bill

- Characterisation of the procedure: Purpose: **The development** of innovative products, services or works and the **subsequent purchase** of the resulting supplies, services or works, provided that they correspond to the **levels of performance and the maximum costs agreed** between the contracting bodies and the participants.
- Specifications of particular administrative clauses: They will determine the **need** for an innovative product, service or work that **cannot be satisfied by purchasing products, services or works already available on the market.**
- The information provided will be sufficiently precise so that business owners can **identify the nature and scope of the required solution** and decide whether to request to participate in the procedure.



## Requests for participation and invitations to submit projects

- Call for the tender.
- Submission of requests to participate.
- Selection of candidates to invite: In particular, they will apply objective solvency criteria relating to the applicants' capacity in the fields of research and development, as well as the development and application of innovative solutions.
- Invitation to selected candidates to submit research and innovation projects.
- The number of suitable candidates to be invited to participate may be limited, with three being the minimum number of business owners invited to negotiate.

## Negotiation and award of the association

- The contracting bodies may **negotiate with the successful candidates** the initial offers and any subsequent offers submitted by them, except for the final offer, in order to improve their content.
- The negotiations can be carried out in **successive phases**, in order to reduce the number of offers to be negotiated.
- The contracts will be awarded only on the basis of the **best value for money**.
- The contracting body may decide to set up the innovation association with **one or more partners** carrying out research and development activities separately.
- The **award will specify and set the final terms of the contract**.



## Structure of the association

- The innovation association will be structured in successive phases following the **sequence of the stages of the research and innovation process**, which may include the manufacture of products, provision of services or completion of the works.
- The innovation association will set **intermediate objectives to be met by the partners** and will provide for the payment of the remuneration at suitable periods.
- On the basis of these objectives, **the contracting body may decide, at the end of each phase, to dissolve the innovation association** or, in the case of an innovation association with several partners, to reduce the number of partners by terminating Individual contracts.



## Acquisitions arising from the innovation association procedure

- Once the **research and development** phases have been completed, the contracting body **will analyse whether their results reach the agreed levels of performance and costs** and will resolve what is required for the acquisition of the resulting works, services or supplies.
- Acquisitions arising from innovation associations will be carried out in the terms set out in the particular administrative clauses sheet.
- In the event that the acquisition of works, services or supplies entails **successive provisions, it can only be carried out for a maximum period of four years** from the receipt of the decision on the acquisition of works, services or supplies.

## Procurement modalities: Pre-commercial public procurement

- Competitive procedure for the **acquisition of research and development ("R&D") services** that enables public buyers to:
  - **Share with the suppliers the risks and benefits** derived from designing, developing prototypes and testing new products and services.
  - Creating optimum conditions for large-scale marketing and for the implementation of R&D results.
  - Promoting innovation by giving an opportunity for the **development of different ideas in parallel, which can eventually be acquired through common commercial public procurement.**



## Characteristics of pre-commercial public procurement

- Pre-commercial public procurement is excluded from Directive 2014/24 / EU and the scope of the TRLCSP provided that:
  - The award is for **R&D services**.
  - **The risks and benefits are shared** between the public purchaser and the R&D service provider and **the resulting intellectual property rights are shared**.
  - Procurement through a **competitive procedure** designed to **exclude possible situations of public aid**, which requires that R&D services be remunerated at market price.

## Procurement modalities: Public purchase of innovative technology

- It consists of the public purchase of a good or service that does not exist at the time of purchase but **can be developed in a reasonable period of time**. This purchase **requires the development of new or improved technology** to be able to meet the requirements demanded by the buyer.
- R&D is only a part or phase of the procurement but never the sole purpose of the contract (unlike pre-commercial public procurement).
- It is **fully subject to the corresponding public procurement regulations** depending on its purpose (works, services or supplies).
- Acquiring something "innovative" is the only difference: Peculiarities in the definition of the purpose and assessment criteria.
- It can resort to **competitive dialogue as an award procedure**.

## Competitive dialogue in the public purchase of innovative technology

- In competitive dialogue, the contracting body conducts a dialogue with the selected candidates in order to **develop one or more solutions that can meet their needs and will serve as a basis for the successful candidates to submit an offer.**
- Starting point: It is used in the **procurement of innovative solutions when the contracting body cannot define the technical means to meet their needs or objectives.**
- The clauses are replaced by a "**descriptive document**", which will disclose their needs and requirements.
- It is not necessary to follow the general legal rules for the definition of the technical requirements of the contract.

## Development of competitive dialogue

- During this dialogue, **all aspects of the contract** can be discussed with the selected candidates.
- The procedure may be organised in **successive stages in order to progressively reduce the number of solutions to be examined** during the dialogue phase.
- The contracting body **shall continue the dialogue until it is in a position to determine the solutions that may meet its needs, after comparing them if necessary.**
- After declaring the dialogue closed and informing all participants, the contracting body will **invite them to present their final bid**, based on the solution or solutions submitted and specified during the dialogue phase.

## Public procurement of the innovative technology in the public sector contracts draft bill

- Public sector entities will **assess innovation and the incorporation of high technology as positive aspects** in public procurement procedures.
- Award criteria: The **innovative features** of the products or services offered can be assessed.
- Cases for the application of the **tender procedure with negotiation**: Contracting bodies may award contracts using the tendering procedure with negotiation in the contracts for works, supplies, services, works concessions and service concessions where the service in the contract includes an innovative project or solutions.
- **Competitive dialogue** can also be used in these cases.



## Public procurement of innovative technology in the draft autonomous law on fiscal and administrative measures

- Regulation of innovation public procurement
- In order to promote the improvement of public services through the incorporation of innovative goods and services as well as the promotion of business innovation, the contracting bodies of the General Administration of the Autonomous Community of Galicia and its public sector will **encourage, as far as possible, the submission of innovative solutions in the tenders they promote.**
- For this purpose, they will consider the use of award criteria and technical requirements in favour of the submission of innovative solutions when drawing up specifications and other contractual documents.
- **Market consultations** are regulated.
- The **use of the innovation association** is planned.

## Industrial and intellectual property in future tenders

- The following aspects will be taken into account:
  - a) In contracts for the development and provision of **products protected by an intellectual or industrial property right** and in order to maintain the market expectations of innovative enterprises, it may be established that the **successful tenderer retains the ownership** :
    - As a minimum, they will include the **transfer of use to the Contracting Administration and the possibility of modifying the technologies provided for its needs**. Likewise, a review of the conditions of use and modification may also be envisaged if in the future other customers obtain better conditions until these are equalled.



b) In order to facilitate the cost-effective development of innovative solutions for public services, **research and development services contracts** will provide for market-based mechanisms to **share with the contracted company the risks and benefits of scientific and technical research** in proportion to the contribution made by the Administration.





**For more information:**  
[www.civiluavsinitiative.com](http://www.civiluavsinitiative.com)

**Thank you very much for your time**

