

PROCURING INNOVATION PLAYBOOK

How to unlock
innovation in your public
procurement process

PUBLIC PROCUREMENT MYTHS



I must **never** talk to bidders on a one-to-one basis!



I mustn't take any procurement risks at all, **ever!**



I can't buy something unless I have drafted a full specification



I'd love to run a pilot, but sadly the procurement rules just don't allow it



"Value" just means "price"



I must always buy the cheapest solution!



I always have to pay for pilots



I can't think about new innovations if I'm already in contract




I can't push my supplier to innovate when I'm in a long-term contract



I can't work with innovators who have unproven products – I must work with innovators that have already sold their product to others

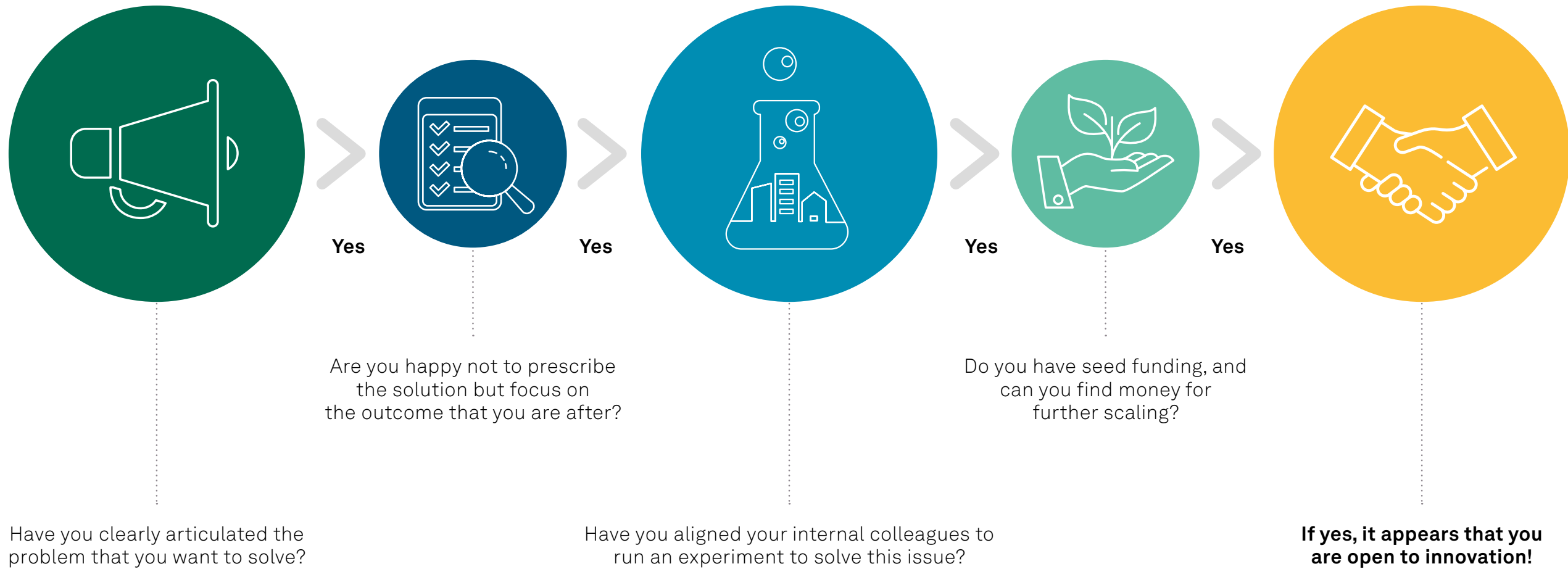


My supplier can't sub-contract

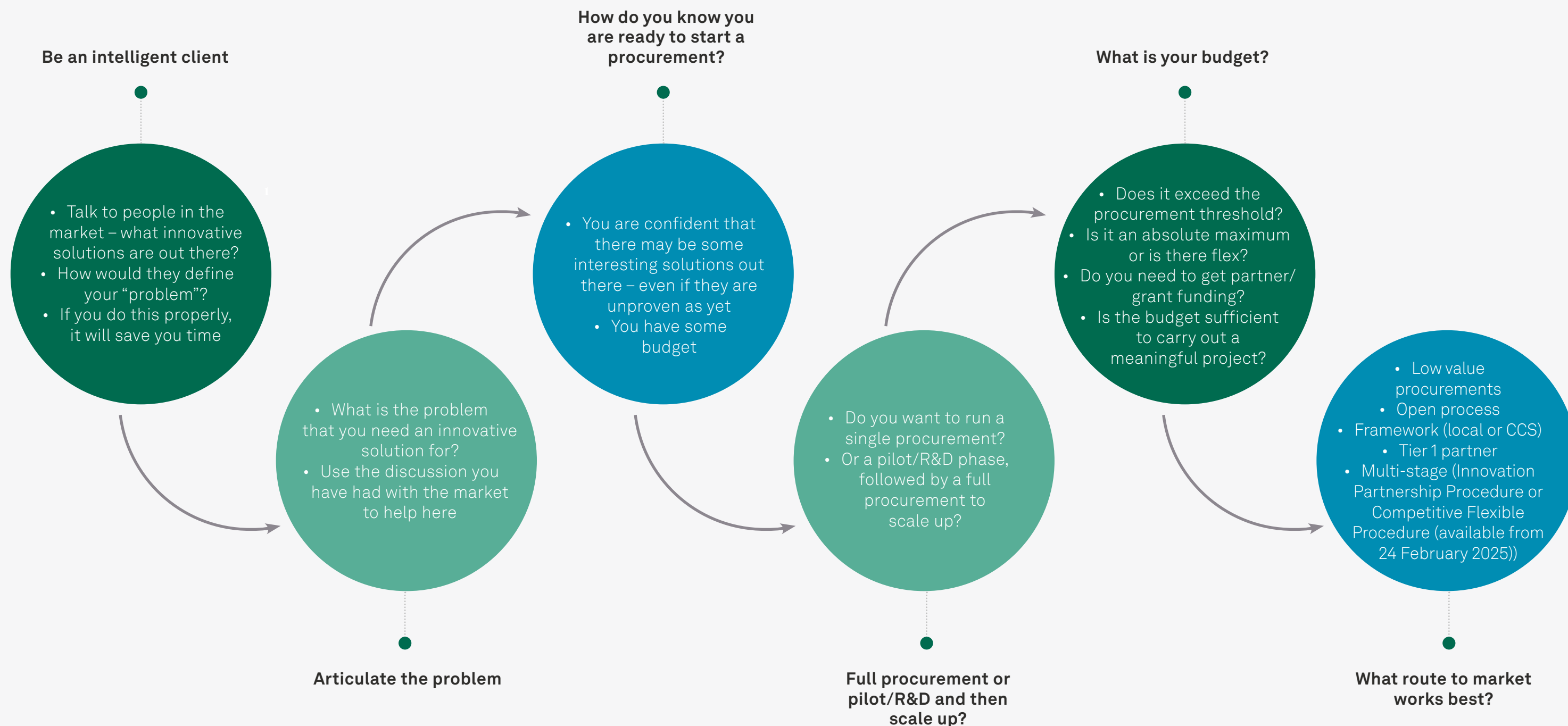


It's up to the commercial team to tell me about new innovative ideas in the market

IS INNOVATION RIGHT FOR YOU?



GREAT – YOU WANT TO INNOVATE, WHAT NEXT?

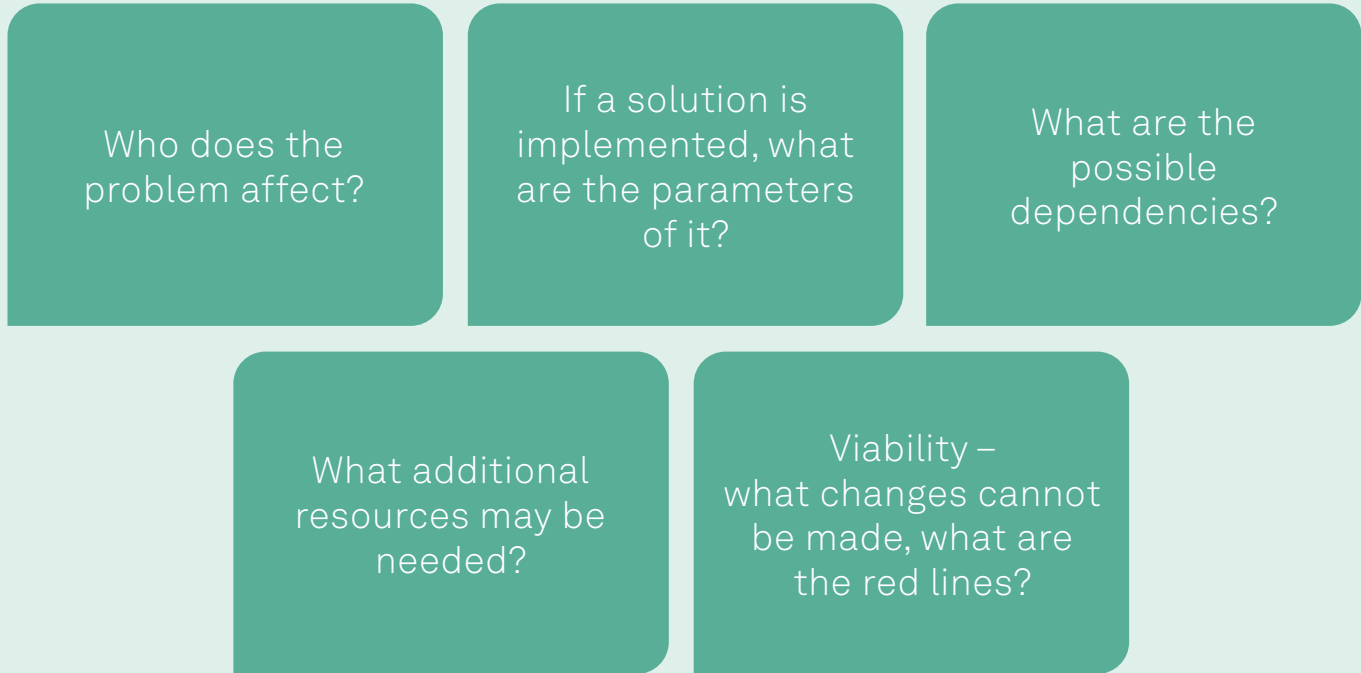


SOLUTIONS AND OPTIONS

Pre-Market Engagement (PME) is both lawful and encouraged by the procurement rules. What are the key benefits of PME?



Internal engagement is key! Consult internally to understand as much as possible about the problem you want to solve.



Pre-Market Engagement (PME) can be particularly beneficial when procuring innovation. Common mechanisms used by buyers for PME include:

Publish a Prior Information Notice to invite suppliers in the market to engage with the buyer

Offer one-to-one meetings with suppliers – with potential to develop wider communities of innovators

Consult suppliers on the buyer’s suggested procurement documents and draft contract terms

Circulate an online PME questionnaire for suppliers to complete

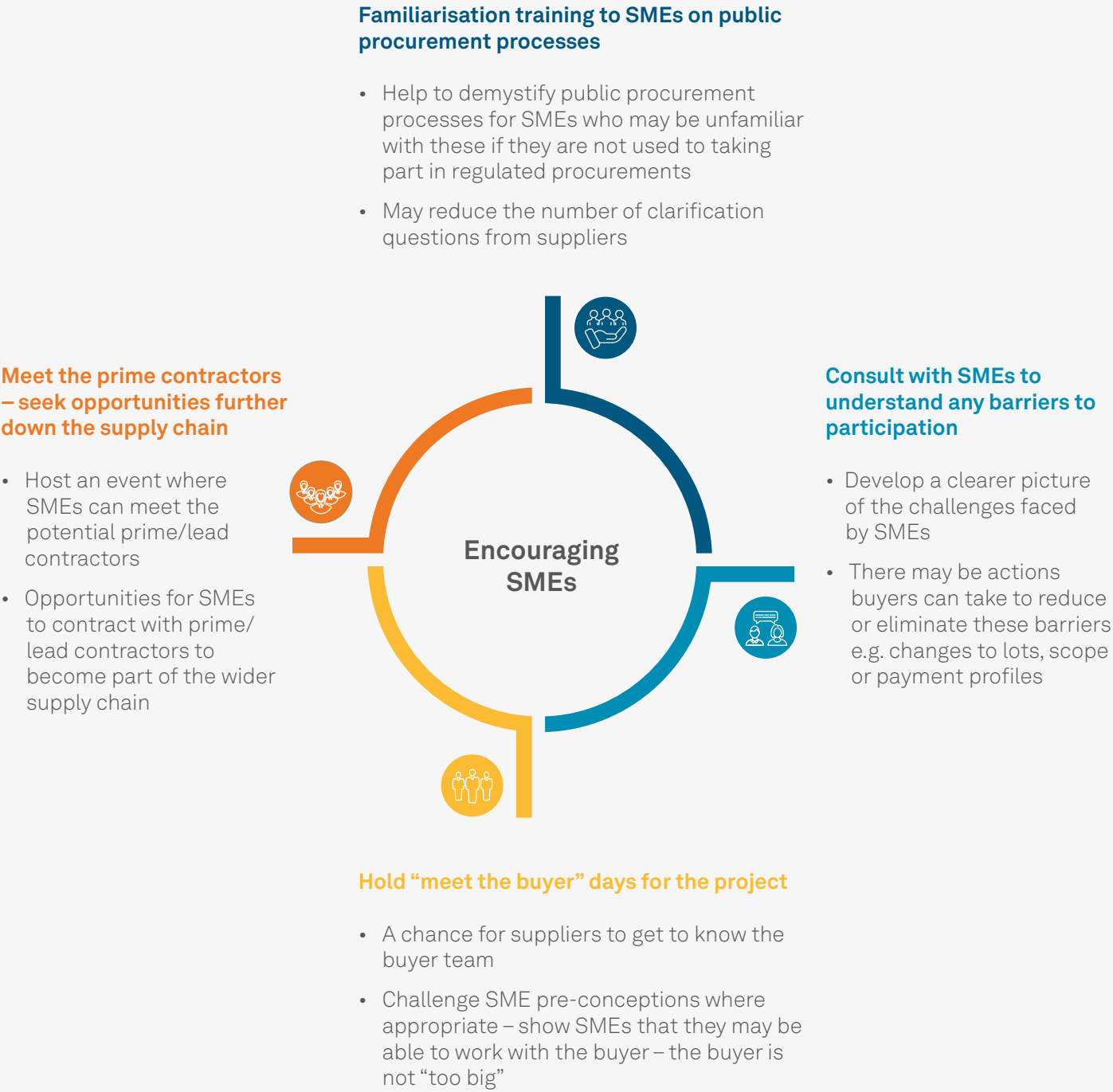
Hold a supplier engagement day where suppliers can come and meet the buyer team to find out more

Remember the core principles of transparency, equal treatment and non-discrimination when engaging with the market

Keep the following in mind when conducting Pre-Market Engagement (PME).

During the PME	At procurement stage
<ul style="list-style-type: none">• Give careful thought to the types of supplier you engage with so that you are talking to the right people• Make it clear that the PME is intended to shape a future opportunity; this encourages engagement• Have a clear agenda and remit for the PME exercise and stick to this• Keep records of all communications with suppliers, to refer to later at procurement stage• Share information with all suppliers after the engagement, to “level the playing field”	<ul style="list-style-type: none">• If you engage with one supplier only, think about whether you need to take any steps to level the playing field• Design the scope and remit of the procurement opportunity so that as wide a field of suppliers as possible can take part (draft your requirement carefully so that you don’t limit competition)• You don’t need to exclude a supplier from the procurement opportunity just because they were involved in the PME phase; less drastic ways of levelling the playing field are available

How to encourage Small and Medium Enterprises (SMEs) to participate in procurements when seeking to acquire innovative solutions.



Innovation pilots - how running a pilot can support innovation.

Why run a pilot?

- Running a pilot (a small-scale trial of a particular innovative solution) is a lawful way to encourage the development of creative and innovative solutions that may not have previously been considered
- It allows the buyer and the supplier to take commercial risks on a scale small enough to be manageable
- A pilot is an opportunity to explore “the art of the possible” on a small scale
- A pilot allows the Authority to create an accurate spec from a live environment
- The proven outcomes and benefits from a trial creates realistic expectations for scaling

Can we pay for pilots?

- SMEs may not be able to afford to take part in a pilot unless there is some payment mechanism
- It may be possible to pay SME to run a pilot, where payments are under the threshold for application of the procurement rules
- Authorities may have internal governance arrangements which require competitive procurement to be run even under the threshold; however, these are not mandated by procurement law and exceptions may be possible; especially where the aim of the pilot tallies with the authority’s procurement policy aims around the encouragement of SMEs, social value and innovation
- Lower value payments to SMEs, say for less than £30,000, are usually likely to be possible on a simple “Request for Quote” basis”

How does this support innovation?

- Where a pilot is lower in value / scale this may encourage SME participation and increase risk appetite from suppliers
- Buyers can employ tailored costs models / incentives to encourage suppliers to take the risk in unknown territory
- A successful pilot is likely to increase supplier (and buyer) confidence in the later procurement being deliverable

Innovation pilots - how to scale up a pilot.

Can the pilot be scaled up?

- Probably – but consider:
 - will the solution be commercially viable for the supplier when scaled up?
 - can the buyer afford to pay for the scaled-up solution?
 - does the pilot scheme supplier have the capacity to provide the solution at a larger scale?

Will additional intellectual property (IP) rights be required to develop the solution at scale?

- Buyers should consider IP issues at pilot stage; will a buyer own / be licensed to re-use IP rights developed in the pilot?
- If the pilot scheme supplier owns the IP rights, consider how will these be licensed to any new provider who is involved in developing the scaled-up solution

Do buyers need to run a full procurement process to develop the solution at scale?

- If the value of the scaled-up solution is over the procurement threshold buyers will need to run a procurement process
- Buyers must take extra care in running any procurement to ensure a pilot supplier does not have an unfair advantage
- Buyers should consider use of value-based evaluation criteria to reward innovative solutions coming out of a pilot which demonstrably improve relevant outcomes



Using the right procurement routes to stimulate innovation.

Low value procurements

- Is the value of the procurement under £214,904 including VAT*?
- If so, the supplier selection processes in the procurement rules do not apply
 - This gives buyers more flexibility to design a simplified process or a shorter process, which is potentially more attractive to SME suppliers
 - Buyers can also contact suppliers individually to make them aware of the opportunity
 - Rather than directly awarding a contract, buyers could consider advertising the requirement on their website to see if this attracts wider interest and/or more innovative solutions

* For certain types of services contracts, for example, social and education services contracts, this threshold is even higher, at £663,540 inc. VAT

Internal standing orders

- Internal standing orders are not required by the procurement legislation but rather are an internal matter for the authority
- Consider whether internal standing orders which e.g. require a competitive process to be run over £50,000, and allow a “three quotes” approach up to e.g. £25,000, are appropriate, or whether these can be disapplied
- A “three quotes” approach is unlikely to be suitable for an innovative project, for example

Direct award of free trials/low-cost trials

- The procurement rules do permit the direct award of free trials/low-cost trials where these are valued below the procurement threshold
- Will only be useful for low value projects
- Does not allow testing of the market (as direct award)

Exemption for R&D contracts in the procurement legislation

- The procurement rules do not apply to R&D services contracts if:
- The benefit of the R&D goes wider than just to the contracting authority commissioning the R&D; or
 - The contract is funded by someone else as well as by the contracting authority



Open process

- If the procurement is over the threshold requiring use of one of the prescribed supplier selection processes, buyers should consider using a one stage open procurement
- In an open process
 - the authority publishes an advertisement
 - all suppliers respond with a tender
 - all tenders are evaluated
- Likely to be more attractive to SMEs – they know that their tender will be evaluated so be keener to invest time in preparing it
- Open processes are also generally the quickest process to run
- Buyers will receive potentially a wide spread of tenders as every interested supplier is invited to submit a tender

Frameworks and dynamic markets

- Use an existing framework or dynamic purchasing systems for innovative products / services, e.g. Crown Commercial Services frameworks
- Set up a new framework or dynamic market for innovative products or services
- Potentially helpful for streamlining individual procurements for innovative requirements, and encouraging / developing a pool of innovative suppliers
- Examples include SPARKS and G-Cloud

Splitting contract into smaller lots

- The default approach – buyers must justify any decision not to split a contract into lots
- A lot-based contract may attract more SME suppliers and enable more innovative solutions, as a problem is split into manageable elements
- Consider how to design the split to encourage greater innovation / SME involvement

Innovation partnership

- Co-create and solve a problem, where a solution is not already available on the open market
- A type of multi-stage procurement process in the procurement legislation, introduced in 2015; a procurement process combined with an R&D contract
- Authorities then purchase the ‘end result’ of the R&D exercise, without having to undergo a new procurement procedure
- Authorities may choose to appoint a number of partners to participate in the R&D phase but may subsequently only purchase one/some of those solutions
- Not used frequently – very new process

Multi-stage procurements

- Buyers can use a proof-of-concept stage and/or funded demonstrations; potentially leading to a design-develop-deploy contract
- This allows more detailed engagement with bidders during the competition and more flex to change the process “as you go”
- It will require more investment from the buyer in shaping the innovative solution throughout the process
- You could use the Innovation Partnership Process
- Also, the new Competitive Flexible Process (available from 24 February 2025) – its use is actively encouraged and provides flex to design this to fit your needs



SOLUTIONS AND OPTIONS

Designing an evaluation that supports innovation – using non-price criteria.

How does using non-price evaluation criteria encourage innovation?

- The most innovative solutions may not be the **cheapest**
 - as it may require more investment or bespoke solutions that take time to develop and deliver
- However, innovative solutions may offer the best **overall value**
 - e.g. where the innovative solution greatly increases operating efficiency once implemented
- Using non-price criteria allows buyers to give credit to solutions like this without being constrained to select the lowest priced solution

Use of non-price evaluation criteria

- For example, consider criteria that evaluate the extent that a solution is innovative / adds value
 - how does the supplier proposal drive innovation / add value to the buyer and stakeholders?
 - suppliers are incentivised to suggest innovative solutions which deliver results
- The more innovative and successful the solution is likely to be, the higher their score
- Keep in mind:
 - evaluation criteria must be demonstrably linked to the subject matter of the contract

Designing an evaluation that supports innovation - accepting variant bids lawfully.

How does accepting variant bids encourage innovation?

- A variant bid (a bid which differs from what the buyer has asked for) allows suppliers to offer alternative solutions that still achieve buyer objectives but delivering in a more innovative way

Accepting variant bids

- Encourages a more creative approach to bidding and allows buyers to get a better sense of what suppliers can offer – suppliers may have a better idea of what solution will work best
 - Keep in mind:
 - transparency and equal treatment duties mean that:
 - it must be clear to bidders in the procurement documents if variants are accepted and how they will be evaluated – this must be sufficiently clear when applied to different types of solution – it can be helpful to use an outcome-based bids
 - all bidders must have the same opportunity to bid – if a buyer accepts variants from one bidder, it must accept them from another (and clearly state that variant bids are accepted)
 - is the variant bid an offer of a different way to meet the core requirement (which is fine) or is it an offer to meet a totally different requirement altogether (which carries more risk)?
 - the contract eventually signed must link back to the contract opportunity as initially set out in the procurement documents



Contract terms - these can be drafted with the aim of facilitating collaboration leading to more innovative solutions.

Using contract terms and conditions that support and encourage greater collaboration

- For example:
 - include mutual objectives
 - focus on partnership working between buyer and supplier
 - both parties to strive for continuous improvement, with agreed deliverables in this area
 - shared risks and reward to deliver incentivisation
 - value / outcome based Key Performance Indicators (KPIs) and performance measures
- How does this support innovation?
 - encourages a creative, non-defensive relationship between buyer and supplier with a common objective
- Keep in mind:
 - collaborative contracts may expose a buyer to increased commercial risk, and therefore need to be proactively managed
 - consider commercial “red lines” and ensure that these are reflected in the final contract

Contract terms - choosing an effective payment model can encourage innovation by a supplier.

Choosing payment models that encourage supplier innovation

- For example, “pay per use” models
 - the more a solution is used, the more the buyer pays
- How does this support innovation?
 - incentivises suppliers to develop a successful solution that appeals to users
 - innovation becomes more affordable the better it “works”
- Keep in mind:
 - suppliers (in particular SMEs) may be averse to taking risks on the extent to which their solution is used where this is out of their control to some extent
 - consider sharing risk by adopting a commercial model which is part pay per use, part fixed payment (e.g. to cover implementation costs)

Contract terms - using Key Performance Indicators (KPIs) to support innovative solutions.

KPIs and monitoring performance of innovation

- Set outcome-based KPIs and monitor supplier and solution performance against these
- How does this encourage innovation?
 - encourages suppliers to successfully deliver, and to achieve continuous improvement
 - provides information to the buyer about progress in innovative areas
 - allows early intervention by the buyer if an innovation is not progressing as planned
- Keep in mind:
 - in innovative areas, allow enough time to set appropriate KPIs for the subject matter; these will usually be developed during the trial
 - consider the maturity of the technology when setting KPIs
 - if KPI regime is too harsh, this may discourage suppliers (especially on larger contracts where KPI performance may be published)
 - consult suppliers prior to setting the KPI regime – via a Pre-Market Engagement (PME) exercise – to ensure KPIs are realistic and appropriate

Seeking supplier feedback at the end of a procurement can improve the procurement approach next time around and encourages supplier confidence.

Ask suppliers for feedback on procurement processes for innovative solutions

- What could we have done differently?
- Do you consider there was anything we overlooked?
- What was your experience of working with us as a buyer?
- Would you take part in a procurement with us again?



How does this drive innovation?

- Ensures continuous improvement in procurement design and management
- Maintains “real life” connection with suppliers and their experience
- Supports perception of being a good buyer to work with

Keep in mind:

- Use feedback in future procurements
- Take appropriate and equal account of feedback from suppliers – consider sharing market feedback in anticipation of a future re-procurement

OTHER CONSIDERATIONS

As a public body buyer, there are various areas you need to take into account when planning a procurement and procuring innovative solutions.

- Buyer internal governance requirements / standing orders:
 - specific mandatory local requirements may apply to your procurements (including for under-threshold purchases such as obligations to seek quotations, or to run an informal competitive process)
- General public sector duties may apply, including:
 - transparency, equal treatment, proportionality
 - obtaining value for money / managing public money rules
- Procurement Policy Notes may apply:
 - www.gov.uk/government/collections/procurement-policy-notes

PUBLIC PROCUREMENT



I **can** engage with bidders, provided I don't give any an unfair advantage; in fact, the procurement rules encourage this!

"Value" can mean many different things, including social value and innovation



Sometimes making a risk-based assessment is worth it



The most valuable solution may not necessarily be the cheapest

If I am not sure what I need to buy, I can run a procurement process where I can dialogue with bidders to work this out



I **can** run a pilot scheme before I launch into a full procurement exercise ...



The supplier might be happy to cover all or some of the costs of pilot

I might be able to change a long-term contract to bring in innovative ways of delivery



If there are parts of the innovation it can't deliver, my supplier can sub-contract to a specialist



I have a contract already but that does not stop me considering innovative approaches



Just because the solution is unproven, does not mean it is no good!



I am an intelligent client – I'm part of a community of innovators





CASE STUDIES

UK ATOMIC ENERGY AUTHORITY – TEST RIG PROJECT

Background

The UK Atomic Energy Authority (UKAEA) initiated a project to design and construct a High Heat Flux, Thermal-Hydraulic, and Electromagnetic Test Rig. This initiative aimed to develop solutions not currently available in the market.

Challenge

UKAEA needed a specialised test rig that met high heat flux, thermal-hydraulic, and electromagnetic requirements, posing a significant challenge due to the unavailability of such advanced technology in the existing market.

Solution

An innovation partnership process was employed to solicit proposals from suppliers. This process facilitated the selection of the most promising design and construction solutions for the test rig.

Implementation

1. **Concept Design Phase:** Initial contracts were awarded for developing concept designs.
2. **Design Iteration Phase:** These contracts were extended to allow for further iterations, resulting in more detailed designs.
3. **Final Design and Build Phase:** A design and build contract was awarded for the detailed design, manufacture, delivery, and commissioning of the test rig.

4. **Participant Reduction:** The number of project participants was gradually reduced as the project progressed through each phase, ensuring focus and efficiency.

5. **Innovation Partner Selection:** Out of two tenderers, one was ultimately chosen as the innovation partner for the project.

Results

The structured, phased approach facilitated the successful development of a highly specialised test rig, aligning with UKAEA's stringent requirements.

Future Outlook

The completion of this project sets a precedent for future high-tech, collaborative projects within the energy sector. The innovative partnership model may be leveraged for other complex engineering challenges.

Conclusion

Through a carefully managed innovation partnership process, the UKAEA successfully addressed a significant technological gap, resulting in the creation of a cutting-edge test rig.

ROADLAB

Background

Transport for London (TfL) sought innovative solutions to mitigate the financial and logistical impacts of roadworks, which cost the city millions annually.

Challenge

The primary challenge was to find effective ways to streamline roadwork operations, reducing costs and enhancing road safety and efficiency in London.

Solution

TfL adopted the Innovative Partnership Procedure to manage the procurement process comprehensively. This approach integrated research and development (R&D) and scaling phases within a single streamlined procurement framework.

Implementation

1. **Competition and Trials:** A competitive process involving multiple trials and solutions was conducted.
2. **Selection of Companies:** Two successful companies emerged from the competition.
3. **Contract Awards:** These companies were awarded multi-year contracts to implement their solutions and secured opportunities to expand their solutions to other cities.

Results

The initiative resulted in the development and implementation of new technologies aimed at making London's roads safer and smarter. The innovative solutions promise significant improvements in roadwork efficiency and safety.

Future Outlook

TfL's success with RoadLab suggests potential for broader adoption of these technologies in other urban areas. The approach may serve as a model for future innovation in urban infrastructure management.

Conclusion

By leveraging the Innovative Partnership Procedure, TfL effectively addressed the challenges posed by roadworks, resulting in the deployment of cutting-edge technologies that enhance road safety and operational efficiency.





**Innovation
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Achieve more. Together.

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