



# **THE *EAFIP* TOOLKIT**

## **DISCLAIMERS**

The Toolkit is subject to the following exclusions, assumptions and qualifications:

- (i) The Toolkit has been produced as part of the contract signed by STELLA Consulting and Corvers Procurement Services B.V. (the “Contractor”) with the European Commission (“Commission”), having as object “Promoting the impacts of PCP and PPI procurement in Europe to procurers of ICT solutions – SMART 2014/0018” also called the European Assistance for Innovation Procurement (*eafip*) initiative with the number 30-CE-0676541/00-27. The information and views set out in this Toolkit are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.
- (ii) The Toolkit is drafted exclusively based on European legislation, EU policy enactments, relevant case law emanating from the European Court of Justice, documents used in other EU projects and other articles and materials addressing the issues pertaining to the implementation of innovation procurement methodologies. In drafting the Toolkit, the author(s) has relied on the accuracy and completeness of the referring documents/information thereunder. All sources of information are duly referenced in the Toolkit.
- (iii) The Toolkit provides theoretical background (based on, e.g., legal provisions under relevant pieces of legislation, legal analysis and interpretation thereof), as well as practical guidance based on case examples, which the policy makers could revert to when drafting an innovation procurement policy or that public procurers could consider when implementing an innovation procurement project. It also includes examples of formulation of text which could be used for tender preparation and become part of tender regulation documents. However, the information provided should be deemed as mere recommendation, subject to further amendment and tailoring on a case-by-case basis, taking into account:
  - a. the specific needs of the policy makers and/or public procurers;
  - b. the need to ensure compliance with the legal provisions governing the procurement procedure and the activity of public procurers concerned, in force in the Member State in which the procurement is being prepared, conducted and implemented;
  - c. the need to ensure compliance with internal policies and/or regulations that bound the public procurer(s) preparing and conducting the innovation procurement project(s).

It also includes templates for procurement documents that could be used by public procurers implementing innovation procurements. The templates included in the Toolkit are drafted based on tender documents used in various EU-funded PCP and/or PPI projects and have been adapted to serve as a basis for public procurers around Europe for the drafting of their tender documents. The templates are based on the provisions of the European legislation governing public procurement.

- (iv) The Toolkit and templates may be used by public procurers as general guidance for the drafting their own procurement policy and documents, and further tailored to their specific case and applicable legislation. As there are always certain legal concepts which exist in one jurisdiction and not in another, proper legal assistance should be sought to adjust them according to specific case-by-case requirements.
- (v) The content of the reports, policy documents, communications, guidelines, opinions or memoranda from any other person or entity referred to in the Toolkit, is and remains the exclusive responsibility of that person or entity.