

## **EARTO Response to the EC Consultation on the Revision of EU Public Procurement Rules**

26 January 2026

EARTO, representing more than 350 Research and Technology Organisations (RTOs) across Europe, welcomes the European Commission (EC)'s initiative to revise the [EU Public Procurement Framework](#)<sup>1</sup>. Being central to Europe's strategic autonomy ambitions, EU Public Procurement represents over €2.5 trillion investments annually<sup>2</sup>. Its revision offers a crucial opportunity to reshape procurement as a driver of Europe's competitiveness by ensuring that Europe's public investment mechanisms effectively support EU research and innovation (R&I) capabilities, particularly in strategic technologies and sectors.

EARTO members deliver a wide range of research, development, and innovation (RD&I) activities in close collaboration with public and industrial partners of all sizes. Their ability to procure cutting-edge research equipment, specialised services, and technology infrastructures with the necessary speed and flexibility is fundamental to support Europe's scientific excellence and technological competitiveness. Yet the current EU procurement framework often limits them, introducing delays and administrative hurdles that impede their ability to deliver their public mission.

Building on earlier EARTO contributions on [R&I Public Procurement](#) and [Pre-Commercial Procurement \(PCP\)](#), this EARTO paper outlines the specific challenges faced by RD&I actors, such as RTOs. It recommends targeted reforms to ensure that the revision of the EU Public Procurement Framework reflects the realities and needs of RD&I-driven procurement.

### **RTOs' Dual Role in the RD&I Procurement Ecosystem as Suppliers & Purchasers**

EARTO emphasises that its members, Research and Technology Organisations (RTOs), play a dual role in Europe's RD&I procurement ecosystem. Indeed, RTOs are not only buyers of highly specialised goods and services needed to conduct research and develop technologies, but they are also key providers of RD&I expertise and solutions supporting industry and public authorities in addressing societal and industrial challenges.

On the one hand, RTOs act as suppliers of research, development and innovation services, enabling the development, testing and deployment of new technologies. On the other hand, RTOs are publicly funded and/or publicly owned entities: therefore, they also act as public procurers, purchasing highly specialised services, research equipment and innovation-related supplies that are essential for research and technology development. In this context, RTOs' procurement is not only an administrative function, but a strategic driver of innovation through demand-side instruments and innovation-friendly purchasing. RTOs as public procurers then act as technologically demanding customers, reducing market uncertainty for innovative solutions, helping shape emerging markets, and supporting European innovators — especially SMEs and deep-tech start-ups<sup>3</sup> — in scaling up and deploying breakthrough solutions.

Such duality of role in public procurement of innovation by RD&I actors like RTOs requires adapting the EU procurement framework to support such actors throughout the entire innovation procurement lifecycle as procurers or as much as suppliers. Ensuring that the EU procurement rules are fit-for-purpose for RD&I actors is therefore critical to strengthening Europe's RD&I capabilities and accelerating the uptake of innovation across Europe.

### **The Need for a Fit-for-Purpose Framework for RD&I Procurement**

Public procurement of RD&I is one of the most effective levers to create early markets for innovative products and help deep-tech start-ups and SMEs secure their first customer as well as to attract private investments, crucial for scaling up European technologies. The existing EU Public Procurement framework does not sufficiently recognise the specific nature of RD&I-related procurement. RTOs often operate under the same procedural obligations as traditional public authorities, despite facing fundamentally different needs in terms of speed, flexibility, and technical specificity. This misalignment results in reduced efficiency, lost opportunities, and competitive disadvantages for European RTOs and innovators.

EARTO notes that the EC's [own assessment](#) highlights persistent issues across the current legislation, including complexity, incoherence, limited flexibility, fragmentation, and uneven strategic impact. The revision is therefore an opportunity to address long-standing structural issues and establish an EU public procurement environment that supports Europe's RD&I ambitions.

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<sup>1</sup> [EC Staff Working Document Executive Summary of the Evaluation of the Public Procurement Directives - 2014.](#)

<sup>2</sup> [Public Procurement Data Space.](#)

<sup>3</sup> [RTOs' Pivotal Role in Advancing EU Tech Development & Fostering Industry, Start-ups and Scale-ups Ecosystems | EARTO.](#)

This is echoed by the findings of the 2025 EC Expert Group report on “[Overcoming legal barriers for the uptake of Innovation Procurement in the EU](#)”, which concluded that the current framework does not sufficiently incentivise or enable the uptake of innovation-friendly procurement practices.

### Key Observations on Current Challenges Faced by RTOs

The following table summarises our members’ key observations on the current challenges they faced using the current framework:

Challenges Faced by RTOs in Using the Current EU Procurement Framework	
Topic	Description
<b>Complexity and Limited Flexibility</b>	<u>For RTOs as purchasers:</u> RD&I procurement frequently involves highly specialised equipment and rapidly evolving needs tied to scientific progress. Lengthy, rigid procedures slow down research activities and weaken Europe’s position in global competition. RTOs report significant delays—often several months—in procuring essential materials or technologies <sup>4</sup> .
<b>Fragmented and Overlapping Rules</b>	<u>For RTOs as purchasers:</u> RD&I performers must navigate a series of EU, national, and regional rules, sometimes encountering conflicting or duplicative obligations. The cumulative effect increases administrative burden without contributing to greater transparency or value for money.
	<u>For RTOs as suppliers:</u> Public procurers are faced with multiple regulatory constraints, which are often expensive to comply with (e.g. building renovation and sustainability compliance obligations). Their budget can compel them to go for the cheapest solution.
	<u>For RTOs as suppliers:</u> Public procurement of RD&I is necessarily risky and therefore more expensive than off-the-shelf procurement. Public procurers tend to be risk-averse, notably because they operate on a tight budget and can’t afford to buy potentially defective products. Therefore, the EU needs to incentivise the uptake of RD&I procurements. Those incentives should be both financial (e.g. guarantees or preferential loans for PCPs or PPIs) and legal (e.g. simplifying RD&I procurement procedures, having Member States set measurable targets, etc.).
<b>Structural Barriers in the PCP–PPI Model</b>	<u>For RTOs as suppliers:</u> The current structure separating Pre-Commercial Procurement (PCP) from the procurement of innovative solutions (PPI) continues to limit the effectiveness of innovation procurement. A structural gap of EU investments in R&I procurement compared to other countries is largely driven by an underperforming PCP/PPI model that discourages participation and limits uptake. The EC’s Expert Group report on <a href="#">innovation procurements</a> estimates that roughly 10% of European public procurements go to RD&I procurements. The report sets an indicative target of 20% (Korea is currently at 25%, 5% to R&D and 20% to PPIs) <sup>5</sup> .
	<u>For RTOs as suppliers:</u> PCPs and PPIs are not appealing enough for the suppliers, especially SMEs and start-ups: PCPs can take months to launch. Moreover, the required re-tendering between phases in between PCPs and PPIs reduces incentives for suppliers to invest in the early stages and deters participation (especially from SMEs), as suppliers know they might lose the PPI bid even if they made the best R&D during the PCP. Ultimately, this weakens Europe’s ability to translate research into market-ready technologies.
	<u>For RTOs as suppliers:</u> Innovation partnerships have so far not delivered a sufficient solution in practice. While the innovation partnership procedure was introduced to enable the development and subsequent purchase of innovative solutions without mandatory re-tendering, its uptake remains limited. In practice, innovation partnerships can be hindered by complex IP-sharing arrangements and by the risk of long-term lock-in for contracting authorities, as they may need to commit substantial budgets over multi-year timelines without certainty on RD&I outcomes. This combination of high financial commitment and uncertainty can discourage both procurers and suppliers from using the procedure, limiting its effectiveness as an alternative pathway from RD&I to deployment.
<b>Intellectual Property (IP) Constraints</b>	<u>For RTOs as suppliers:</u> Existing PCP rules requiring the granting of non-exclusive licences to third parties can reduce the attractiveness of participating in innovation procurement. When acting in their role as RD&I suppliers, RTOs and SMEs would strongly benefit from clear and predictable IP arrangements, including, where appropriate, sectoral exclusivity, to support commercialisation and reinforce Europe’s competitiveness. Concerns with the existing rules were already raised by EARTO in 2016 and remained unresolved to date <sup>6</sup> . Moreover, even where the research performer owns the IP, especially with respect to digital products, the procurer often requires very extensive licenses or, on the other hand, requires the research performer to publish the underlying code in open source. For start-up companies, such conditions would be a non-starter. IP sharing is also a big issue when it comes to innovation partnerships.
<b>Lack of Incentives to Procure New Technology</b>	<u>For RTOs as suppliers:</u> The current structure allows the procurer a free choice between the selection criteria “lowest price” and “best economic offer”. Public procurement procedures based on the lowest price, in fact disincentive or block the adoption of new original technology. Due to economies of scale, old technology solutions can be offered at lower prices. Companies offering new and better technology are often outcompeted on price alone. In contrast to this, the US Federal Acquisition Rules clearly favour the “best economic offer” approach and, in fact, contain more and other incentives for procurers to adopt newer and better technological solutions.

<sup>4</sup> The EC Expert Group report identifies similar concerns, noting that overly restrictive procedures, detailed prescriptive specifications, and insufficient use of functional criteria limit buyers’ ability to purchase innovative solutions and limit suppliers’ ability to propose them.

<sup>5</sup> [Overcoming legal barriers for the uptake of Innovation Procurement in the EU](#), November 2025 (p.13).

<sup>6</sup> Ownership remains at the RTO performer. However, the public authorities involved often require that extensive licences be granted to a commercial third party, or that any source code be published in open source. This often means that RTOs and start-ups refrain from participating.

## Recommendations for the Revision of the EU Public Procurement Framework

Based on their current efforts, EARTO members would like to bring forward the following recommendations for the revision of the current EU Public Procurement framework:

### **Recommendation 1: Negotiate a [World Trade Organisation's Government Procurement Agreement \(WTO GPA\)](#) derogation to exclude RD&I procurement from GPA obligations, enabling alignment with global best practices**

The current WTO Government Procurement Agreement (GPA) does not allow the European Commission to exclude the procurement of goods resulting from successful RD&I (i.e. the commercialisation phase following a PCP) from the scope of the EU Public Procurement Directive, unlike what some global competitors have been able to secure through negotiated exceptions. For instance, the United States has introduced specific flexibilities under Section 25.401 of the US Federal Acquisition Regulation ([FAR](#)).

As a result, the US procurement framework provides greater discretion in relation to sensitive RD&I-related procurement and the protection of strategic innovation capabilities. This includes the possibility to channel RD&I activities through specific public or controlled entities, apply differentiated approaches for sensitive research areas, and maintain stronger safeguards from full exposure to GPA non-discrimination obligations beyond traditional national security exceptions.

While the European approach ensures a high level of openness and competition in public procurement, it also limits the EU's ability to develop long-term innovation procurement programmes strengthening European resilience and reducing strategic dependencies in critical technology areas. EARTO therefore encourages the EU to explore the negotiation of a targeted derogation under the WTO GPA to provide appropriate flexibility for RD&I procurement, in line with global best practices and Europe's strategic autonomy objectives.

### **Recommendation 2: Revise Article 14 on RD&I Services and Supplies from the EU Public Procurement Directive**

EARTO strongly supports revising Article 14 (Directive 2014/24/EU<sup>7</sup>) to exempt all RD&I-related contracts - both services and supplies - from the scope of the Directive for RTOs in their role as purchaser. This is essential to ensure timely access to specialised technologies, equipment, and services.

In line with the recommendations from the [Draghi report](#), unnecessary delays in the development and uptake of European technology should be avoided. Where the current procurement rules necessitate a European tender for the purchasing of research equipment, this causes a delay of at least five months before an R&D project can even start. Such services and supplies that are required for research purposes are usually so specific to the project (or are even bespoke) that, in the great majority of cases, just one supplier is responding. In addition, a lot of potential suppliers are not even interested in going through the required efforts for an isolated and relatively small deal with an RTO. Furthermore, experience shows that where R&D equipment is acquired using a public tender, the technical requirements are so specific that in the great majority of cases just one company can effectively place an offer. Therefore, the risk that a direct purchase by RTOs of such services and supplies required for research purposes could distort markets is slim or even non-existent. In reality, it is the other way around. European research efforts suffer unneeded and lengthy delays, where any non-publicly funded company could purchase such equipment without any delays. So, the present public procurement framework in fact distorts our current European innovation ecosystem's functioning. It impedes the scaling up of European-originated technology to European industry and the creation of European markets for those technologies.

Accordingly, EARTO recommends the following amendment: *"This Directive shall not apply to public service contracts for research and development services. Moreover, this Directive shall not apply to publicly owned Research and Technology Organisations as suppliers of services and products."* **Such an exemption should also apply to the subsequent purchase of products resulting from successful RD&I, enabling a continuous pathway from research to deployment and fostering Europe's technological sovereignty.**

**In parallel, a clear definition of research and development should be adopted**, aligning it with the understanding of the terms in the State Aid Rules and by the OECD<sup>8</sup>.

If the full exemption cannot be implemented, the Directive should at least target exemptions of public procurement rules, which would allow for easier PPIs, for instance:

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<sup>7</sup> [Directive - 2014/24 - EN - EUR-Lex](#).

<sup>8</sup> E.g. currently Directive 2009/81/EG (recital 13) states that research and development does not include the making and qualification of pre-production prototypes, while from other Commission documents it is clear that prototyping is often part of R&D. Likewise the development of prototypes may be included in R&D processes under the Commission state aid rules and according to OECD (the Frascati Manual, 2015). The definition of R&D, and by consequence the exclusion of e.g. prototypes, is not included in the public procurement Directive 2014/24/EU.

- **Making the negotiated procedure the default procedure for PPIs:** Under EU public procurement law, once the value of a public contract exceeds a certain threshold, the contracting authority is required to use a so-called formalised procedure. There are three types of formalised procedures: the open procedure, the negotiated procedure, and the competitive dialogue. The open procedure is the default procedure, meaning that the contracting authority must justify an order to resort to either of the other two procedures. However, RD&I activities are structurally ill-suited to the open procedure as it prohibits any negotiation between the contracting authority and the tenderers. In this context, allowing contracting authorities to use the negotiated procedure rather than the open procedure for a PPI would constitute an incremental improvement. Besides, under the innovation partnership procedure, the default procedural framework is already the negotiated procedure, which demonstrates that the EU legislator is already fully aware that negotiated procedures are better suited to innovative procurement.
- **Better linking PPIs with PCPs by allowing over-the-counter PPIs in some cases:** In specific situations, the contracting authority should be allowed to procure innovative solutions. For instance, buyers should be able to procure innovative solutions over the counter to their PCP suppliers (without re-tendering) if the value of the PPI is not disproportionately higher than the value of the PCP.
- **Defence and security RD&I procurement should remain governed by the dedicated framework under Directive 2009/81/EC and the exemptions available under Article 346 TFEU.** The revision of Directive 2014/24/EU should ensure a clear and consistent interaction between the regimes, so that security-sensitive RD&I contracts are not subject to unnecessary administrative burden or legal uncertainty. In this context, EARTO supports **higher thresholds and simplified procedures**, in line with the EC's proposal to raise the defence and security thresholds (from €432,000 to €900,000 for goods and services, and to €7,000,000 for works), as part of the [Defence Readiness Omnibus](#) and the revision of Directive 2009/81/EG, to provide greater flexibility, reduce delays and facilitate the effective procurement of innovative solutions.
- **For some critical sectors, the contracting authority should be exempt from publishing a tender offer:** Specifications inevitably require publishing some internal data, which exposes the procurer to data theft. **Accordingly, open-access tender offers are de facto a huge security risk.** Special exemptions should be made for critical sectors, for instance, technologies which have already been identified as dual-use by the EC in its [White Paper for Defence in 2025](#).

### Recommendation 3: Adapt the rules of the game to boost Public Procurement of Innovation

Adapting the rules governing public procurement of innovation requires clarification of the appropriate legal and policy instruments at EU level. Such adaptations cannot rely exclusively on procurement directives, but must be pursued through a coordinated mix of targeted legislative adjustments, soft-law guidance and governance mechanisms.

The EC's role lies in ensuring legal coherence through selective legislative intervention where necessary, complemented by interpretative guidance, standard-setting and the strategic use of EU funding and coordination tools. This integrated approach is essential to provide legal certainty, promote consistent application across Member States and enable public procurement to function effectively as a driver of innovation.

The current procurement rules still fall short of enabling Public Procurement of Innovation at scale in Europe. Many public buyers encounter burdens and limitations, while others remain hesitant to engage in innovation procurement due to complexity, uncertainty and the associated risks. At the same time, challenges faced by providers, in particular SMEs, start-ups and also RTOs, can limit the ability of public buyers to access and acquire the best possible solutions and ultimately reduce the return on public investment for organisations, society and the environment.

The following proposals aim to support a pragmatic modernisation of the EU procurement framework and create an innovation-friendly environment in which public buyers can confidently act as early adopters of new technologies.

Adaptation Needed to Boost Public Procurement of Innovation	
Adaptation Needed	Description
<b>Establish IP Rules that Support Innovation and Commercialisation</b>	<p>Innovation procurement must reward, not penalise, RD&amp;I performers. Therefore:</p> <ul style="list-style-type: none"> <li>• RD&amp;I suppliers, including RTOs, should retain ownership of IP generated under PCP, while contracting authorities should be granted appropriate and proportionate rights of access/use (and, where justified, rights to disseminate results) to ensure public benefit and follow-on uptake;</li> <li>• Non-exclusive licensing to third parties should not be imposed as a blanket obligation; where appropriate, licensing conditions should remain flexible and proportionate, and may include non-exclusive licences only when duly justified by public interest objectives (e.g. wider diffusion, interoperability, or follow-on innovation);</li> <li>• Exclusive sectoral licences should remain possible.</li> </ul>

<b>Establish selection criteria that support Innovation and Commercialisation</b>	<p>Innovation procurement must reward novel solutions above low-cost but near-obsolete solutions. To do so, the new EU Framework need to encourage the use of “best economic offer” over “lowest price” as a selection criterion in line with the US <a href="#">FAR</a> methodology.</p> <p>In particular:</p> <ul style="list-style-type: none"> <li>• The use of price as a dominant award criterion should be abolished or at least strongly discouraged in pre-commercial procurement, as price pressure at early RD&amp;I stages is detrimental to quality, innovation and meaningful risk-taking;</li> <li>• Award criteria that implicitly require bidders to provide additional features or extra work beyond the objective needs of the contract may, in practice, favour larger corporates able to absorb such costs, to the detriment of SMEs and start-ups;</li> <li>• Award criteria should, at the same time, support a balanced and future-oriented approach by integrating sustainability and social considerations, ensuring that innovation procurement contributes to environmentally and socially responsible outcomes.</li> </ul>
<b>Rethink the requirements of technical and professional capacity for innovation</b>	<p>Currently, recommendations aimed at lowering entry barriers for innovative start-ups and SMEs are still only marginally reflected in procurement practices. This applies both to standard procurement procedures for products and services with an innovative component, and even to dedicated Innovation Procurement instruments. Procurement requirements often continue to favour approaches “similar to previous work done”, which is intrinsically inconsistent with procuring innovative solutions not yet available on the market.</p> <p>To better support innovation, the use of professional and technical capacity criteria linked to the core personnel assigned to deliver the contract should be encouraged. This would allow contracting authorities to value the team’s relevant professional track record in the targeted markets and technologies, as well as their formal and professional qualifications.</p>
<b>Simplify and Harmonise</b>	<p>The new EU Framework should aim at reducing complexity and administrative burden by:</p> <ul style="list-style-type: none"> <li>• Streamlining the types of procedures available and allowing greater flexibility in their use;</li> <li>• Simplifying two-stage procedures by limiting upfront documentation requirements;</li> <li>• Introducing more flexible, SME-friendly prequalification mechanisms, allowing staged checks of financial and operational capacity to avoid excluding innovative start-ups;</li> <li>• Raising EU thresholds to reflect the specificities of RD&amp;I procurement, and to exclude lower-value contracts; it would give greater flexibility for Member States to use simplified national procedures.</li> </ul> <p>These measures should be reinforced with EU guidance and capacity-building to encourage RD&amp;I-friendly procurement practices.</p>
<b>Establish a general European preference for public procurements, especially for RD&amp;I procurements</b>	<p>As explained by the Draghi report, Europe needs to close its innovation gap with the US and China to catch up in competitiveness. Europe struggles to transform its world-class research into market-viable solutions and faces unfair trade practices from its main competitors. Public procurements could be the best way to address this weakness. Public procurers should be enabled to act as first buyers to create lead markets for European innovators. This would help innovators demonstrate the viability of their solutions, stimulate deployment, and generate spillover effects in the private sector. Over time, this will strengthen Europe’s technological sovereignty and reduces dependencies on foreign technologies in strategic domains.</p> <p>A strategic European preference should therefore be pursued through mechanisms that allow contracting authorities to consider security of supply, supply-chain resilience, and dependencies on third countries, in particular for critical and emerging technologies. This can be implemented via award criteria, technical requirements, performance conditions, and security/reliability safeguards, rather than through an absolute “Buy European” approach. The most urgent sectors to implement a European preference will be those already identified by the EU as crucial in previous publications<sup>9</sup>.</p>
<b>Insert a new Criterion on First exploitation in Europe: “Invent it here, make it here”</b>	<p>If European public procurers act as first buyers for innovative solutions, then industrialisation should take place within the EU. Inserting a new Criterion on First exploitation in Europe: “Invent it here, make it here” would support EU industrialization.</p>

<sup>9</sup> E.g. [EC White Paper for Defence, 2025](#).



**Recommendation 4: Create a financial tool within the European Competitiveness Fund (ECF) for PCPs and PPIs, which are directly based on technologies that have been financed by Horizon Europe**

EARTO recommends establishing a dedicated financial tool within the European Competitiveness Fund (ECF) to support PCPs and PPIs, in particular where they build directly on technologies financed under Horizon Europe. This tool should reduce financial risk and accelerate the transition from RD&I to deployment. In particular, the ECF could provide risk-sharing mechanisms, such as guarantees for public buyers in case a PCP does not deliver the expected results or if a PPI solution does not perform as intended in operational conditions.

Beyond risk coverage, the tool should also enable public buyers to finance the adaptation, certification and implementation of solutions validated through PCP/PPI, addressing practical barriers such as budget constraints, financing delays, deployment timelines, and requirements linked to certifications or compliance. This would facilitate real uptake and impact in the daily operations of public entities.

Member States should be allowed to match the EU contribution, to maximise leverage and scale up innovation procurement across Europe.

**Recommendation 5: Request Member States to write national plans to foster RD&I procurements**

Member States should develop national plans to foster RD&I procurement, including quantified targets for public procurers supporting innovation and dedicated budget allocations for PCPs and PPIs, following the examples of the United States and South Korea.

Such plans could be accompanied by appropriate EU monitoring and reporting, using indicators to track annual progress and results, including quantitative data on RD&I procurements published, awarded, implemented and finalised, as well as participation and awardee profiles. Where possible, Member States should also be encouraged to assess qualitative outcomes, such as uptake of results by public buyers, commercialisation by contractors, and the IP arrangements supporting market deployment.

Given Member States' competences in public procurement, these commitments could be most effectively promoted through existing EU coordination frameworks, notably the European Semester, including through the integration of RD&I procurement objectives in future National & Regional Plans (proposed under next EU MFF Heading I) and progress monitored under the EU Semester.

**Recommendation 6: Adapt the State Aid Rules to the new EU Framework for Public Procurement**

It should be noted that to improve the current EU RD&I procurement rules, a revision of the [EU RD&I State Aid Framework](#) will be needed to ensure a framework that truly fosters innovation and strengthens Europe's technological leadership. While State aid rules follow a distinct logic from procurement legislation, better alignment is required to reduce legal uncertainty and enable innovation procurement to function effectively as a demand-side tool.

Current State Aid Rules remain insufficiently aligned with innovation-oriented public procurement instruments, creating legal uncertainty when PCP and PPI are used as demand-side tools and when procurement procedures are combined with complementary public support measures.

In particular, the revised framework should provide explicit clarification on the conditions under which PCP and PPI do not constitute State aid, notably concerning risk-benefit sharing, pricing conditions and competitive processes. It should also explicitly recognise RD&I procurement as a strategic policy instrument and enable Member States to flexibly deploy a range of support measures — including grants, loans, guarantees, risk-sharing mechanisms and accelerated procedures — alongside procurement, without triggering complex or duplicative State aid assessments.

Further clarification is required on the treatment of intellectual property rights, exclusive or sectoral licences and the transition from PCP to PPI and first-of-a-kind deployment, in order to avoid reclassification as incompatible aid and to facilitate market uptake. Such revisions would reduce legal uncertainty, improve policy coherence and allow Member States to more effectively use public procurement to stimulate innovation, while safeguarding competition and compliance with State aid principles.

### **Recommendation 7: Adapt the understanding and classification of contract categories to reflect RD&I as well as the purchase of “software”**

RD&I procurement — including intellectual work, prototypes and first-of-a-kind innovative solutions — does not fit neatly into the traditional “services” versus “supplies” categories (often classified under CPV 731). Due to its specificities (high complexity, IP content and inherent risk), RD&I requires procurement approaches that allow more flexibility and interaction between procurers and providers, while safeguarding transparency and equal treatment.

Accordingly, EARTO recommend the creation of a dedicated and simplified procurement instrument for RD&I, including a common threshold for simplified procedures of around €100,000, with the possibility of an annual cap proportional to each public buyer’s procurement volume.

Similarly, procurement of digital solutions is increasingly complex and goes beyond the traditional notion of “software”, covering development, adaptation, implementation, maintenance and upgrading. The revised framework should better recognise these contracts and provide access to accelerated and simplified procedures where appropriate.

To conclude, EARTO welcomes the EC’s efforts to update the EU Public Procurement framework and hereby underlines that this revision is an opportunity to strengthen innovation procurement practices as well as to create conditions to increase the impact of public procurement on the EU RD&I capabilities. EARTO remains ready to contribute further expertise and analysis during the legislative process, including through an open dialogue with EU institutions.

#### **Latest EARTO papers:**

- [EARTO Recommendations for European RD&I Policy Post-2020](#)
- [EARTO Answer to the EC Consultation on Public Procurement of R&I](#)
- [EARTO Paper on How to Boost Pre-Commercial Procurement in Horizon 2020](#)

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#### **EARTO - European Association of Research and Technology Organisations**

Founded in 1999, EARTO promotes RTOs and represents their interest in Europe. EARTO network counts over 350 RTOs in more than 32 countries. EARTO members represent 228,000 highly-skilled researchers and engineers managing a wide range of innovation and technology infrastructures.

#### **RTOs - Research and Technology Organisations**

From the lab to your everyday life. RTOs innovate to improve your health and well-being, your safety and security, your mobility and connectivity. RTOs’ technologies cover all scientific fields. Their work ranges from basic research to new products and services’ development. RTOs are non-profit organisations whose core mission is to produce, combine and bridge various types of knowledge, skills and infrastructures to deliver a range of research and development activities in collaboration with public and industrial partners of all sizes. These activities aim to result in technological and social innovations and system solutions that contribute to and mutually reinforce their economic, societal and policy impacts.

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