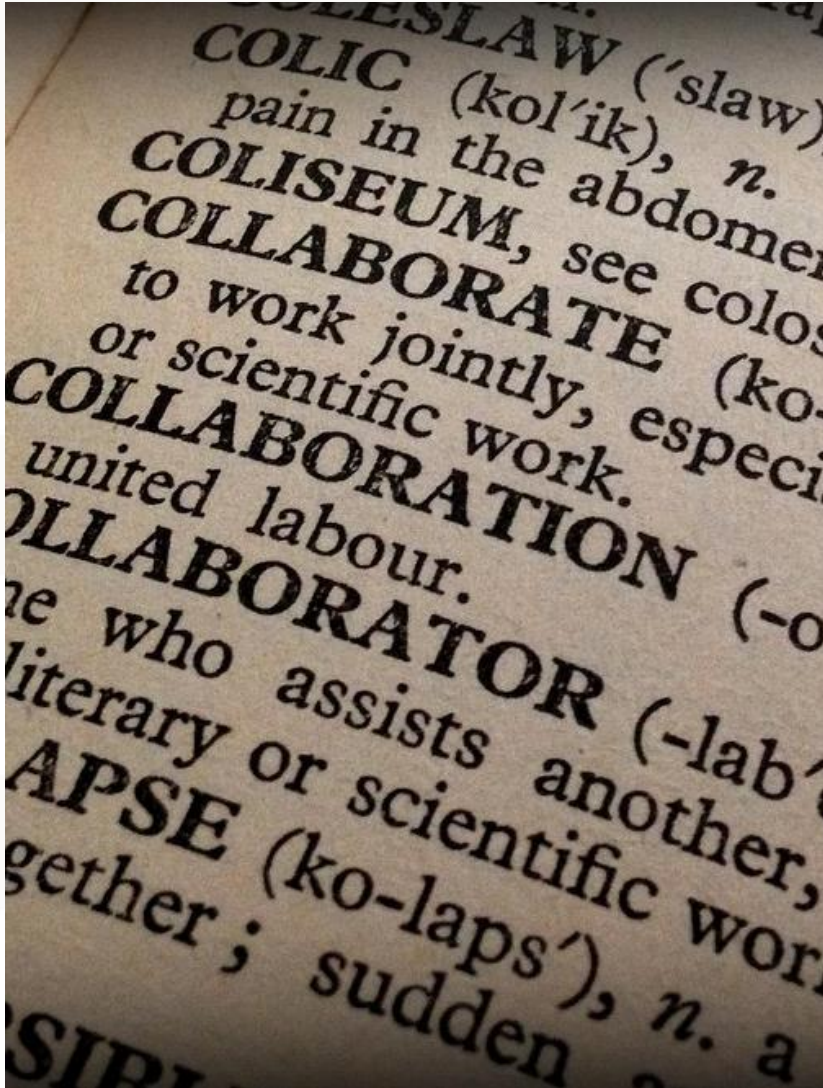


How to carry out collaborative procurement(s) and related benefits

13 June 2024



Agenda

- Collaborative procurements – how are we doing within the EU?
- Legal basis for collaborations within public procurement
- Different alternatives for collaboration

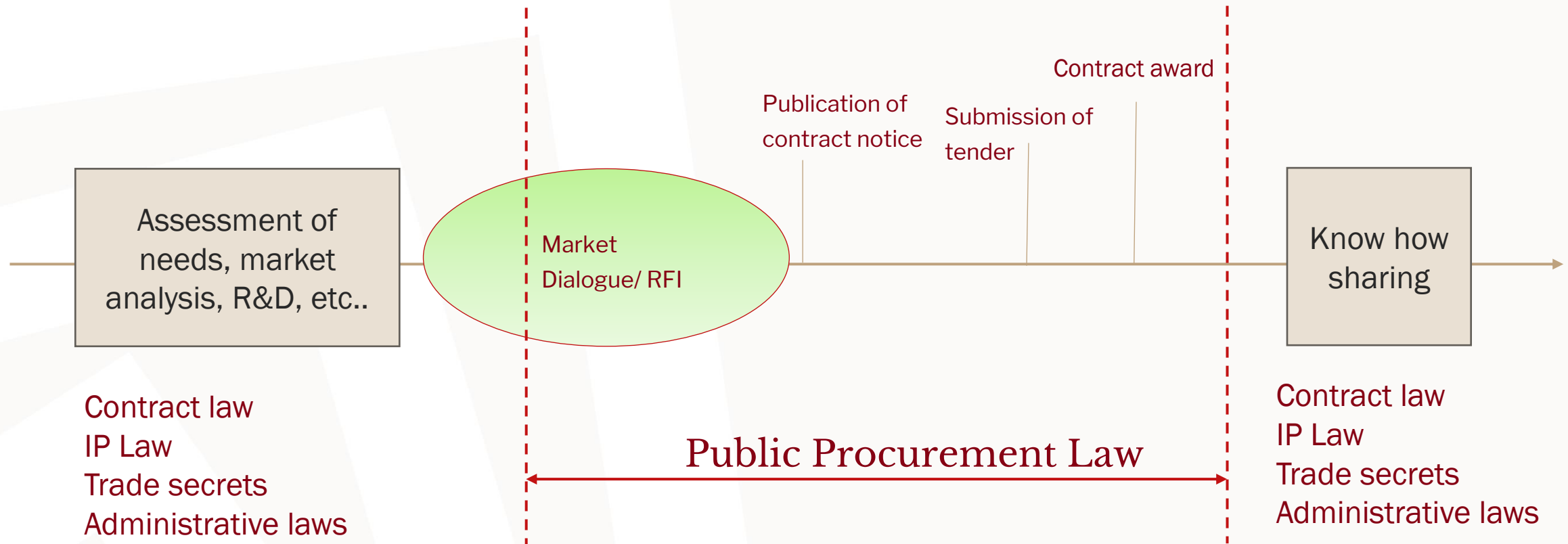
Collaborative procurement - how are we doing within the EU

- 11 % of the procedures in EU
- The European Commission aims to promote joint cross-border public procurement
- Indicated as key tool in driving development of innovations (e.g. Preamble 47 to 2014/24/EU)

Legal basis for collaboration



Legal framework may depend on at what stage you are collaborating



Different alternatives for collaboration



Some examples

- Joint R&D projects (e.g. EU financed projects)
- Joint assessments, market analysis etc.
- Joint market dialogues/RFI
- Joint public procurements
- Joint know how and knowledge sharing

Joint assessments, analyses etc (pre-procurement).

- Collaboration based on agreement
 - Define purpose and content of joint project
 - Agree on management of project
 - Agree on right to use background and results (IPR)
 - Regulate secrecy/ handling of trade secrets
 - Agree on financing, if any
- Local administrative legislation applicable to the participating entities may need to be considered

Joint market dialogues/RFI

- Collaboration based on agreement (see slide re. joint assessment)
- Local administrative legislation and public procurement legislation may provide limitations
- Local law may be relevant for the object of the upcoming procurement
 - Important to define the content and purpose to ensure that involved parties' needs are met
 - Individual analysis may need to be done before the market dialogue/RFI
 - Possible secrecy issues depending on content of the dialogues/RFI

Joint public procurements

- Permitted under the EU procurement directives
- Joint cross-border procurements possible in principle but complex (c.f. slide re. joint market dialogues)
- Typical example:
 - Cross-border infrastructures

Joint know how and knowledge exchange

- Collaboration based on agreement
- Define purpose of the collaboration (e.g. indicate which areas are subject to the collaboration)
- Agree on which knowledge shall be shared and how it shall be shared
- Agree on the right to use information
- Consider:
 - At what point in time the information is shared (sharing of information during ongoing procurements may not be permitted acc. to law)
 - Some information may constitute trade secrets – can it be disclosed at all?
 - Authorities' information or suppliers' information?

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