

**OPEN INVITATION TO TENDER****AO/RPA/VKVET-NSOFRO/Real-time LMI/010/14****“Real-time labour market information on skill requirements:  
feasibility study and working prototype”****Request for Clarification (5) – Questions & Answers**

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**Question No 1**

Does Cedefop consider this tender as a form of Pre-Commercial Procurement (the procurement of research and development of new innovative solutions before they are commercially available)?

**Cedefop's answer to question No 1**

No, this tender procedure does not qualify as a form of Pre-Commercial Procurement as defined by the European Commission in the document SEC (2007) 1668. This project is tailored to the needs of Cedefop and is not intended to lead to a commercial product.

**Question No 2**

It can be argued that the type of solution tendered for is already generally commercially available. The development requested by Cedefop from public money in that case competes with existing private sector offers. Does European Tender law allow Pre-Commercial Procurement in this case? If yes, please point us to the relevant articles.

**Cedefop's answer to question No 2**

Following the provisions of the Terms of Reference (ToR), Cedefop cannot agree to your statement that the type of solution tendered for is already generally commercially available. While there may indeed be commercial software which partly covers technology that may be useful for the project which is subject to the ToR, it needs to be pointed out that Cedefop aims with this project at (1) a feasibility study as regards the intended software project and (2) at the development of a prototype that actually covers all the intended functionalities for a small number of EU Member States.

According to the ToR, Cedefop is thus not interested to purchase commercial OTS software but has clearly indicated that it is interested in a feasibility study and an early prototype of a software that is (1) tailor-made for Cedefop's purposes (which is a public-sector purpose for better policy advice data rather than a private-sector purpose for

better and more efficient recruitment), (2) cover the specificities of a range of EU Member States and (3) be the owner of the intellectual property rights so as to either run and further develop it under its own responsibility and/or make it open source software with the accompanying potential advantages of crowd development.

It is therefore not correct to assume that the ToR were to supposedly open an undue competition to commercial solutions that would suit the purpose. Due to the different purpose and the requirement of a tailor-made approach, an undue competition can be ruled out.