



**GOVERNING BOARD OF THE GLOBAL HEALTH EDCTP3 JOINT UNDERTAKING  
DECISION N° GB/10/2023**

**approving the Back Office Arrangement – Administrative procurement management**

THE GOVERNING BOARD OF THE GLOBAL HEALTH EDCTP3 JOINT UNDERTAKING, (hereafter referred as “GH EDCTP3 JU”)

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014<sup>i</sup>, and in particular Article 13 thereof;

Whereas:

- (1) According to Article 13(1) of Council Regulation (EU) No 2021/2085, in order to gain synergies and efficiencies, joint undertakings established by this Regulation should operate back office arrangements (hereafter “BOAs) in several areas listed in this article,
- (2) Those BOAs should be operated by the joint undertakings established under Council Regulation (EU) No 2021/2085, within one year following the date of entry into force of this Regulation,
- (3) The establishment of those BOAs should take the form of service level agreements, subject to the need to guarantee an equivalent level of protection of the Union’s financial interest when entrusting budgetary implementation tasks to joint undertakings,
- (4) Following the formal proposal for BOA for the administrative procurement management sent by the Clean Aviation, EU-RAIL and EuroHPC joint undertakings, represented by their executive directors, to all the executive directors of the Horizon Europe Joint Undertakings, the GH EDCTP3 JU expressed an interest in joining this BOA,

HAS ADOPTED THIS DECISION:

*Article 1*

The Back Office Arrangement for the administrative procurement management proposed by the Clean Aviation, EU-RAIL and EuroHPC joint undertakings as described in the annex to this decision is hereby approved.

*Article 2*

This decision shall enter into force on the day of its adoption.

Done at Brussels, on 10 August 2023

*For the Global Health EDCTP3 Joint Undertaking Governing Board*



Dr. Henning Gädeke

*Chairperson of the Governing Board*

Annex:

1. BOA Procurement Description and Working Arrangements

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<sup>1</sup> OJ L 427, 30.11.2021, p. 17–119

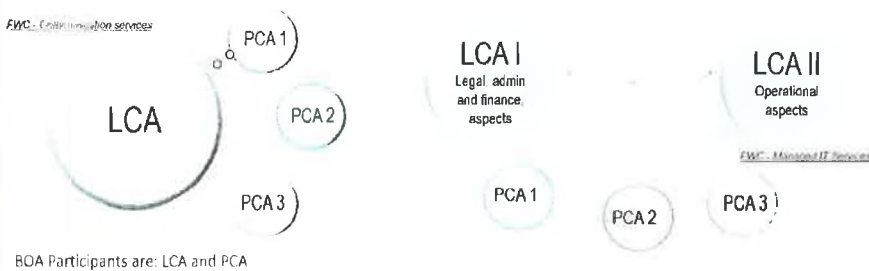
ANNEX 1  
BOA Procurement Description and Working Arrangements

General information

Service area	Legal services (procurement and contract management)
Synergies	Centralised procurement to manage joint administrative procurements for the benefit of all JUs
Legal Basis	Single Basic Act (SBA) – Art. 13 Financial Regulation- Art. 165(1) Inter-institutional calls for tenders
Scope	The following elements are covered in the implementation of the synergy:  centralised administrative procurement capability and process to maximise open tenders for award of inter-JUs FWCs and middle value negotiated procedures with focus on the critical joint admin procurement such as ICT, building management/corporate services, some comm support services, law firms list, data protection to be identified and be agreed via joint Public Procurement Planning (PPP).
Leading and Coordinating JU [Coordinator]	Clean Aviation JU
Back-up Coordinating JUs [Back-up Coordinator]	EU-RAIL, EuroHPC JU
Coordinator's Point of Contact	Katarzyna Bogumil Legal Officer in the CAJU +32(0)2 541 8252 <a href="mailto:katarzyna.bogumil@clean-aviation.eu">katarzyna.bogumil@clean-aviation.eu</a>
Back-up Coordinator's Point of Contact	Isaac González García Chief Legal & Data Protection Officer +32(0)2 541 83 72 <a href="mailto:Isaac.Gonzalez@rail-research.europa.eu">Isaac.Gonzalez@rail-research.europa.eu</a>  María Casado Navarro-Rubio Legal Officer (+352) 2812-4527 <a href="mailto:maria.casado@eurohpc-ju.europa.eu">maria.casado@eurohpc-ju.europa.eu</a>
High-level timeframe	Deployment December 2022 1 <sup>st</sup> Gate Review December 2023
Service recipients	All JUs ideally - signatories of the SLA

BOA configuration

Acronyms	LCA = Leading Contracting Authority
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	<p><b>LCA I</b>= Leading Contracting Authority in charge of the legal, administrative, and financial aspects  <b>LCA II</b>=Leading Contracting Authority in charge of the operational aspects  <b>PCA</b>= Participating Contracting Authority  <b>TS</b>= Technical Specifications  <b>FWC</b>= Framework Contract  <b>DC</b>= Direct Contract  <b>SC</b>= Specific Contract</p>
<p>Configuration alternatives</p>	<p><u>Classic/central mode</u>: LCA (Legal, Admin and Finance, Operational aspects) + PCA  <u>Hybrid mode</u>: Legal, Administrative and Financial aspects under supervision of one LCA + Operational aspects under responsibility of another</p>
<p>Retained configuration</p>	<p>Hybrid mode + Classic /central mode</p>  <p>BOA Participants are: LCA and PCA</p>
<p>Resource allocation</p>	<p>Preliminary estimate  <b>LCA I</b> for administrative and legal aspects:  <ul style="list-style-type: none"> <li>- max 0.5 FTE- Legal Officer from the CAJU</li> <li>- 1 Interim Legal/Administrative Assistant from the CAJU</li> <li>- Estimated max 0.25 FTE – Legal Officer and Assistant from the EU-RAIL to be defined depending on the number of procurement procedures</li> <li>- Estimated max 0.25 FTE – Legal Officer from the EURO-HPC to be defined depending on the number of procurement procedures</li> </ul> <b>LCA II</b> for operational aspects:                      Operational Initiator from any of the JUs being able to provide the necessary technical expertise, to draft the TS, to support the <b>LCA I</b> in management of Q&amp;A during the procurement procedure, to contribute to the evaluation and finally management of the future awarded and signed FWC/ DC.</p>
<p>Services</p>	<ul style="list-style-type: none"> <li>- To coordinate and align JUs PP planning before publication of the Work Programmes.</li> <li>- Launch and manage on behalf of the participating JUs a maximum of 4 joint open procedures per year</li> <li>- To build/reinforce a common JU procurement capability</li> <li>- To establish common templates and library of PP document</li> <li>- To explore and maximise use of available IT supportive digital tools</li> <li>- To organise common workshops and information sessions, maximise information flow on available EC FWCs, and potentially pool external support to the common BOA benefit</li> </ul>

Implementation

<p>Start date for implementation</p>	<p>July 2022 – pilot phase with an inter-institutional open tender for award of the single FWC – Managed IT Services (hybrid mode of the implementation of BOA Procurement)</p> <p>Formal start of ‘‘BOA Procurement’’ December 2022</p>
<p>Target date for completion</p>	<p>End of the Programmes- December 2031</p>
<p>Milestones</p>	<p><u>Phase 1:</u> Sept 2022 – Nov 2022 BOA procurements’ setup: Working arrangements among JUs, PP included in the WP 2023, division of roles and responsibilities, allocation of resources (LCA I, LCA II, PCAs)</p> <p><u>Phase 2:</u> December 2022 BOA into force</p> <p><u>Phase 3:</u> JANUARY 2024 Review and implementation of eventual modifications based on the results of the first year BOA procurement</p>
<p>Benefits</p>	<ul style="list-style-type: none"> <li>- Establishing a higher negotiation power of the tendering authority and benefit from standardised process and services – Better service quality.</li> <li>- Reducing administrative burden when one JU leads the procedure – Optimization of JUs resources and skills in the field of procurement, avoid overlaps of procedures.</li> <li>- Attracting broad types of service providers (bigger economic operators) – Foster competition and increase of volume in the number of offers received.</li> <li>- Sharing knowledge, reinforcing specific competences, quality and effectiveness of services provided among several JUs – Time-savings.</li> </ul>
<p>Challenges &amp; Risks</p>	<p>Challenges:</p> <ul style="list-style-type: none"> <li>- Fair and proportionate FTEs allocation to BOA across the JUs</li> <li>- Annual and bi-annual Work Programmes in different JUs</li> <li>- Identification of the feasible joint procurement needs to be reflected in the procurement planning of the LCAs I</li> <li>- Agreement on common working arrangements in the form of a ‘‘soft’’SLA’’ to agree on key necessary arrangements and able to comply with SBA requirements on BOA)</li> <li>- Assignments of roles (LCAs, PCAs) per individual tender procedure</li> </ul>

- Shared leading responsibilities (Admin + legal/ Operations - optimisation of resources and time)
- Expected large portfolio of contracts for the LCA I
- Limitations of IT tools supporting procurement (lack of shared management mode)
- SUMMA – ABAC integrated financial system transition
- Efficiency of the communication between LCA I and LCA II, PCAs

Risks:

- Given that no direct shift of resources is envisaged, due to lack of sufficient permanent full time FTEs on legal/procurement across the JUs, the risk to mitigate is that the LCA I could suffer from a lack of resources in the legal team to handle all the other legal tasks.

To mitigate the risk, the Coordinating and Back-up JUs should support each other and share the responsibilities of the LCA I based on the established annual joint PPP. The max number of inter-institutional tender procedures managed in parallel by one and the same LCA I shall be two.

- Given that the IT tools used for the management of the procurement joint procedures does not support joint implementation of tenders by actors from different organisations, the LCA I back-up and the LCA II staff assigned to the management of the operational aspects of the procurement will have limited access to the tender procedures.

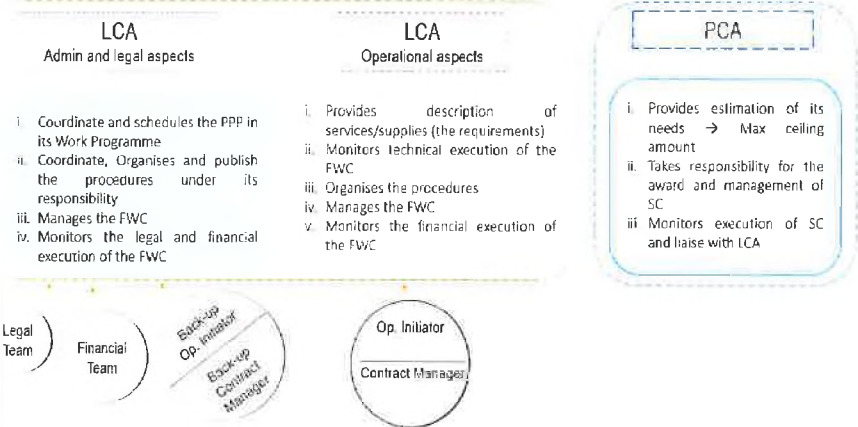
To mitigate the risk, the WG on harmonization of procurement procedures and IT tools will reflect and propose the most efficient communication channel ensuring full access to the procurement documents to all actors involved in the management of the inter-institutional procurement procedures. In addition, the WG will liaise with the business owners of the individual IT platforms of e- Procurement suit to explore the possible ways to optimise the resources in the joint procurement process while at the same time to increase efficiency and to shorten the timing of the procedures.

- Administrative and legal management of some contracts may require a specific legal expertise (for example building contract) and former experience in the field, which may not be always guaranteed by one of the 3 JUs proposed to assume the role of the LCA I.

To mitigate the risk, the JU having the internal legal and operational expertise in the management of non-standard type of contracts will act as the LCA implementing the classic mode of BOA Procurement.

Implementation team description

Governance	<p><u>Steering Committee</u></p> <p><u>Members:</u> HAFs of the JUs</p> <p><u>Tasks:</u></p> <ul style="list-style-type: none"> <li>- to launch strategic joint actions and to use procurement to innovate the Joint Undertakings by the establishment and adoption of the bi-annual Joint Procurement Planning – catalogue of services (Appendix 2),</li> <li>- to assess the effectiveness and impact of the services provided under the BOA Procurement,</li> <li>- to suggest the corrective measures where needed to ensure that the BOA Procurement meets its objectives,</li> <li>- to approve the accession of a new party to the BOA Procurement,</li> <li>- to assess the use of resources and the efforts invested by the service provider vis-à-vis the compensation brought by the other parties of the agreement,</li> <li>- to resolve the disputes among the parties.</li> </ul>
Expertise needed	<p>Legal and administrative Public Procurement &amp; Contract Management</p>
Roles and responsibilities	<p><u>Coordinator:</u></p> <ul style="list-style-type: none"> <li>- to propose a design concept of the BOA Procurement,</li> <li>- to establish a draft bi-annual Joint Procurement Planning – catalogue of services (Appendix 2) on the basis of inputs provided by the Parties for the further elaboration and adoption by the steering committee,</li> <li>- to identify new inter-institutional procurement procedures which could be of interest of the Parties to be launched by other EU Institutions/Agencies (i.e., EC, NAPO etc),</li> <li>- to initiate and to chair a working group on optimisation of joint procurement processes and IT tools,</li> <li>- to share the procurement knowledge with other parties and to provide advice on the procurement and contract management activities following individual requests,</li> <li>- to prepare the reports for the steering committee as indicated in Article 5 of this agreement,</li> <li>- to perform the role of the LCA as indicated in Appendix 2,</li> <li>- to perform back-up LCA function for administrative and legal aspects in inter-institutional procedures launched by the back-up coordinator,</li> <li>- to provide secretariat to the steering committee.</li> </ul> <p><u>Back-up Coordinator:</u></p> <ul style="list-style-type: none"> <li>- to support the coordinator in the establishment of the draft bi-annual Joint Procurement Planning – catalogue of services (Appendix 2),</li> <li>- to support the coordinator in the identification of new inter-institutional procurement procedures launched by other EU Institutions/Agencies (i.e., EC, NAPO etc),</li> </ul>

	<ul style="list-style-type: none"> <li>- to contribute actively to the work of the working group on optimisation of joint procurement processes and IT tools,</li> <li>- to share the procurement knowledge with other parties and to provide advice on the procurement and contract management activities following individual requests,</li> <li>- to support the coordinator in preparation of the reports for the steering committee,</li> <li>- to perform back-up LCA function for administrative and legal aspects in inter- instructional procedures launched by the coordinator,</li> <li>- to perform the role of the LCA as indicated in Appendix 2.</li> </ul> <p><b>Implementation of BOA Procurement:</b></p>  <p>The diagram illustrates the implementation of BOA Procurement, divided into three main roles: LCA (Admin and legal aspects), LCA (Operational aspects), and PCA. Below these roles are icons representing the supporting teams and roles: Legal Team, Financial Team, Back-up Op. Initiator, Back-up Contract Manager, Op. Initiator, and Contract Manager.</p>
<p>Support required including sourcing</p>	<ul style="list-style-type: none"> <li>- Active role of the Steering Committee in the establishment/validation of the joint PP planning</li> <li>- Assignments of roles, resources, and responsibilities per procurement procedure by the HAFs</li> <li>- Active support and involvement of the JUs not performing the role of the <b>LCA I</b> and assuming the role of the <b>LCA II</b></li> <li>- Power of attorney given by the <b>PCAs</b> to the <b>LCAs</b> with a mandate to design and to manage the procurement procedures independently for the benefit of the contracting authority (<b>PCAs</b> and <b>LCAs</b>) to be formalised via a separate MoU per joint procurement procedure.</li> </ul>
<p>Reporting Mechanisms</p>	<p>Reporting that covers Year N shall be provided at the latest in the Q1 of Year N+1.</p> <p>Reporting covers as a minimum:</p> <ul style="list-style-type: none"> <li>- the list of services provided to the client,</li> <li>- the overview on the implementation status of the inter-institutional tender procedures included in the joint procurement planning- catalogue of services (Appendix 2),</li> <li>- the overview on the implementation status of the inter-institutional contracts awarded and signed under the BOA Procurement,</li> <li>- the overview of the human resources and financial resources deployed by the service provider established on the basis of the information provide to the coordinator by the parties,</li> </ul>



	<ul style="list-style-type: none"> <li>- the modifications which had to be implemented by the service provider with regard to the catalogue of the services (Appendix 2) together with the justification,</li> <li>- the modifications and developments envisaged in the Appendix 2 and concerning the consecutive year following the reporting year.</li> </ul> <p>In addition, minutes of the steering committee meetings together with action plan updated are communicated to the users</p>
<p>Meetings</p>	<p>Two meetings/year: Q4 Year N for adoption of the Joint Procurement Planning – catalogue of services (Appendix 2) for Year N+1 and Q1 Year N+1 for review activities implemented during Year N via reporting submitted to the Steering Committee</p> <p>(Optional) Reporting Review –Q1 of Year n+2 to assess the progress of the BOA Procurement and to decide on any possible adjustments and implementing measures based on the assessment of the BOA’s activities performed in Year n and Year n+1 including allocation of the resources and the results achieved.</p>