Setting up Framework Agreements
The case of Portugal
Agenda

1. General overview
2. Framework Agreements development
3. Major results from the FA practice
1 General overview
electronic Public Procurement:
set in the context of a broader legal and economic reform of public procurement
2007/2012
Pressure from the market. Lack of openness and transparency
Opportunity to improve efficiency in public administration.
Three main pillars:
Law + CPB + ePP
The Portuguese Public Procurement System – Institutional framework

- Government
- Ministry of Finance
- Central Purchasing Body + eProcurement platform
- Monitoring Committee
- Ministerial Purchasing Units
- Contracting entities (mandatory and voluntary)
- Contractors and Suppliers
- Community And End Users

Contracting entities
(mandatory and voluntary)
The mandatory eProcurement approach

<table>
<thead>
<tr>
<th><strong>Type of Entity</strong></th>
<th><strong>eProcurement Usage (E-tendering and E-awarding)</strong></th>
<th><strong>National Public Procurement System (SNCP)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Administration and Public Institutes</td>
<td>Yes Mandatory</td>
<td>Yes Mandatory</td>
</tr>
<tr>
<td>Municipalities, Regional and local entities</td>
<td>Yes Mandatory</td>
<td>Voluntary</td>
</tr>
<tr>
<td>State owned companies</td>
<td>Yes Mandatory</td>
<td>Voluntary</td>
</tr>
</tbody>
</table>
Framework Agreements development
## Setting up Framework Agreements

### Goals 1

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Measures</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public expenditure</strong></td>
<td>• FAs for the major spending categories</td>
<td>• Reduction and rationalization of public expenditure and consumption.</td>
</tr>
<tr>
<td></td>
<td>• Goods and services standardization</td>
<td>• Controlling Public Debt</td>
</tr>
<tr>
<td><strong>Savings</strong></td>
<td>• Awarding based on the MEAT or lowest price criteria</td>
<td>• Better value for money</td>
</tr>
<tr>
<td></td>
<td>• Definition of maximum price and minimum technical specifications, assuring quality and SLA patterns</td>
<td>• Better management of products and services</td>
</tr>
<tr>
<td><strong>Efficiency</strong></td>
<td>• Purchasing process simplification</td>
<td>• Dematerialization of the business process</td>
</tr>
<tr>
<td></td>
<td>• IT innovation through eProcurement</td>
<td>• Allowing Public Administration modernization and increasing e-Government</td>
</tr>
<tr>
<td></td>
<td>• Suppliers selection</td>
<td></td>
</tr>
</tbody>
</table>

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9
## Setting up Framework Agreements Goals 2

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Measures</th>
<th>Benefits</th>
</tr>
</thead>
</table>
| Competitiveness and quality | • Supplier selection based on economic, financial, technical, environmental, quality and SLA related criteria  
• Possibility of grouping and subcontracting  
• Subdivision in lots – regional and by goods or services | • Markets competiveness development  
• Suppliers diversity and SME basis assured  
• Best market conditions for Public Administration  
• Green Public Procurement goals |
| Management Information System | • Management information to every key stakeholder, from suppliers to the managing entity, UMC and contracting authorities | • FAs performance monitoring  
• Ongoing improvement of purchasing process |
Centralised purchasing model in Portugal

Framework Agreement Centralization

**eSPap**

**Selecting suppliers and awarding the best proposals for each Framework Agreement (FA)**

Public Tender → Supplier Selection → Request for Proposals → Awarded Suppliers

- Public Tender announced via OJEU notice. Tender documentation available online
- Supplier technical and financial selection criteria
- Technical and functional requisites, contract requirements and economic proposal evaluation
- Contract awarded to the most economically advantageous tenders OR to the lowest price tenders

**Ministry Purchasing Units (MPU)**

- Acquisitions of goods and services categories available in the framework agreements (Call Off Stage / mini-competition)
- Purchase of goods and services categories under the FAs are mandatory for the central public administration
- Centralization of acquisitions of goods and services under the FAs

- Invitation for tendering to all the awarded suppliers (FA contractors)
- E-auction or traditional negotiation
- Best proposal (the most economically advantageous proposal OR the lowest price), as defined on the FA

**eSPap can opt to centralize the acquisitions of goods and services covered by the FA**

(example: Vehicles and Vehicle Insurance)
In the contract notice eSPap identifies that all mandatory entities (State Direct Administration Services and Public Institutes) and voluntary entities (Local Authorities (Municipalities), Local Authorities’ Owned Companies, Regional Authorities and State Owned Companies) are party to the framework agreement.

Mandatory entities: + 1800 entities

Voluntary entities: around 500

.....framework agreements can only be used between the contracting authorities and the economic operators originally party to the framework agreement. When a framework agreement is to be used by several contracting authorities, therefore, these contracting authorities must be identified explicitly in the contract notice, either by naming them directly in the notice itself or through reference to other documents (e.g. the specifications or a list available from one of the contracting authorities [ ], etc.).
With a single economic operator - Framework agreements not used by eSPap

Where a framework agreement is concluded with a single economic operator, contracts based on that agreement shall be awarded within the limits of the terms laid down in the framework agreement. For the award of those contracts, contracting authorities may consult the operator party to the framework agreement in writing, requesting it to support its tender as necessary.

With several economic operators

Contracts based on framework agreements concluded with several economic operators may be awarded either:
a) by application of the terms laid down in the framework agreement without reopening competition, or

b) where not all the terms are laid down in the framework agreement, when the parties are again in competition on the basis of the same and, if necessary, more precisely formulated terms, and, where appropriate, other terms referred to in the specifications of the framework agreement, in accordance with the following procedure:
   (a) for every contract to be awarded, contracting authorities shall consult the economic operators capable of performing the contract;
   ......
   (d) contracting authorities shall award each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the framework agreement.

eSPap Framework Agreements
Duration of framework: up to 4 years (usually 2 + 1 + 1)

FA concluded with several economic operators

For every contract to be awarded, contracting authorities shall consult the economic operators capable of performing the contract

Public Tender or Public Tender (restricted procedure)

Use of electronic platform (mandatory)
Centralised Purchasing System
Assessing needs and planning demand

1. Purchasing entities identify needs and estimate budget
2. UMC collects and validates information
3. Aggregation of demand according to the types of goods and services needed
4. Integration of information from different ministries
5. Preparation of draft version of the National Public Procurement Plan

Ministry level

eSPap

Version sent for validation and approval

Reception and evaluation of changes

Negotiation and final settings

Meeting of the CIC commission and preparation of the Final National PP Plan

Formal approval of the Ministry of Finance

Publication of the National PP Plan

eSPap, UMC and CIC
No value contract at FA level

Public Tender / Public Tender (restricted procedure/qualification phase) are advertised on OJEU

There are no limit to the value of the contracts to be awarded under a framework agreement
# Centralised Purchasing System

## FA selection criteria

<table>
<thead>
<tr>
<th>Spending categories</th>
<th>Valid as of</th>
<th>FA Contractors</th>
<th>Waves</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car and Motorcycle Insurance</td>
<td>Feb 2011</td>
<td>2</td>
<td>2nd</td>
</tr>
<tr>
<td>Cleaning Services and Products</td>
<td>Aug 2010</td>
<td>15</td>
<td>2nd</td>
</tr>
<tr>
<td>Electric Vehicles</td>
<td>Sep 2011</td>
<td>10</td>
<td>2nd</td>
</tr>
<tr>
<td>Energy (incl. Electricity)</td>
<td>Nov 2011</td>
<td>3</td>
<td>2nd</td>
</tr>
<tr>
<td>E-procurement Tools</td>
<td>Jun 2009</td>
<td>5</td>
<td>2nd</td>
</tr>
<tr>
<td>Fuel and LGP</td>
<td>Sep 2012</td>
<td>3</td>
<td>1st</td>
</tr>
<tr>
<td>Hardware and IT equipment</td>
<td>Aug 2011</td>
<td>18</td>
<td>1st</td>
</tr>
<tr>
<td>Landline Communications (voice and data)</td>
<td>Jun 2010</td>
<td>5</td>
<td>3rd</td>
</tr>
<tr>
<td>Meals</td>
<td>Jul 2010</td>
<td>4</td>
<td>3rd</td>
</tr>
<tr>
<td>Mobile Communications</td>
<td>Oct 2012</td>
<td>3</td>
<td>1st</td>
</tr>
<tr>
<td>Office Furniture</td>
<td>Mar 2010</td>
<td>6</td>
<td>3rd</td>
</tr>
<tr>
<td>Paper and Stationery</td>
<td>Apr 2011</td>
<td>30</td>
<td>1st</td>
</tr>
<tr>
<td>Printing and Copying</td>
<td>Apr 2011</td>
<td>21</td>
<td>1st</td>
</tr>
<tr>
<td>Security and Surveillance Services</td>
<td>Apr 2010</td>
<td>8</td>
<td>2nd</td>
</tr>
<tr>
<td>Software Licensing</td>
<td>Sep 2009</td>
<td>77</td>
<td>1st</td>
</tr>
<tr>
<td>Travel and Accommodation</td>
<td>Sep 2011</td>
<td>13</td>
<td>3rd</td>
</tr>
<tr>
<td>Vehicles and Motorcycles</td>
<td>June 2012</td>
<td>14</td>
<td>2nd</td>
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**FA in “waves”**

- **Criteria:**
  - Public Expenditures
  - Common Use
  - Quick wins
  - Strategic Sourcing

The renewal rate of framework agreements in 2011 was 33%, stimulating competition and larger presence of SMES
FAs developed by eSPap allow both situations:

a) MEAT

b) The lowest price

Individual contracting authorities, within the FAs, will fit MEAT criteria / weights to their individual situation or chose the lowest price.
Product update/upgrade

Can occur:

• By eSPap’s initiative or

• By contractors request (typically due to a product discontinuation)

However, the new proposals must:

• Maintain or decrease price offer

• Maintain brand/maker

• Maintain or improve technical specifications
Framework Agreements for Vehicles and Motorcycles and Insurance

<table>
<thead>
<tr>
<th>AQ – VAM</th>
<th>AQ - SA</th>
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<tr>
<td>Defines technical requirements:</td>
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<tr>
<td>- Displacement, capacity ranges, weight, number of wheels, doors, places, wheelbase, height, length, minimum equipment, permitted load and other specs.</td>
<td>- Insurance coverage</td>
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- 103 lots grouped in 6 typologies of vehicles:
  - 5 groups for acquisition: motorcycles, Heavy Goods Vehicles (HGV’s), Heavy Passenger Vehicles, ambulances, passenger cars and light commercial vehicles
  - 1 group for operational leasing of passenger cars and light commercial vehicles
- Effective for two years, automatically renewed for one year up to a maximum of 4 years
- Defines obligations of suppliers and service levels to comply with towards the purchasing entities and eSPap
- Sets penalties applicable to suppliers for failure to comply with the obligations
- Sets deadlines and terms for payments
- Foresees management reports, which are the key to a detailed analysis and to support future decision-making process
- Sets the maximum prices in place during the validity period, with the possibility to improve by negotiating during the tender
- Defines products and suppliers
Framework Agreements
Bidding documents – to consider

Tender program / Invitation to tender

- Definition of lots: 8
- Definition of price: min. discount (cents per litre) over reference price (eg. Fuel)
- Awarding criteria for the FA – best discount offered per lot (weighted %)

Tender specifications / Terms of reference

- Definitions, duration of the FA
- Obligations of the parties
- Auditing
- Acquisitions under the framework agreement
- Awarding criteria
- Duration of contracts under the FA
- Conditions and payment terms
- SLA’s, technical and functional requirements (minimum)
- Reporting and monitoring
- Fee to the managing entity
- Penalties
FA and call-offs
Invitation to tender

- Type of procedure, and object of the tender
- Contracting authority
- Decision to contract
- Registration in the e-platform
- Clarifications and rectifications
- Errors and omissions
- Tender documents
- Price proposal
- Variants of the proposal
- Minimum period validity (Duration) of the proposal
- E-signature
- Term to present proposals
- List of competitors and consultation of proposals
- Awarding criteria
- Electronic auction
- Qualification documents
- Possibility to group
- Costs of the proposal
- Technical support regarding the e-platform
Major results from the FA practice
Centralised Purchasing System
Framework agreements results

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• + 250 qualified and selected Suppliers (70%+ are SME)

• Annual Public Expenditure addressed through framework agreements:
  800 MEUR (about 80% of total transversal expenditure of SNCP entities)

• Savings 2009-2012:
  Achieved: 155 MEUR (+13%)

• + 18 Framework Agreements
Centralised Purchasing System
Key figures

Voluntary Entities
(@ Nov 27th, 2013)

- Local Authorities
- State Owned Companies
- Regional Authorities
- Municipalities
- Others

1800+ Mandatory entities + 524 Voluntary Entities
Centralised Purchasing System

**Invoicing reports (M Euros)**
- 2009: 122.8
- 2010: 184.8
- 2011: 314.6
- 2012: 314.6

**Savings, transational and processual (M Euros)**
- 2009: 10.6 (12.6)
- 2010: 23.9 (7.2)
- 2011: 11.8 (5.7)
- 2012: 22.2 (3.6)

Total savings: 25.8
Centralised Purchasing System
A case study

Centralized purchasing, June 2013:

- Laptops (+9.000), LCD monitors (+12.000), Operating Systems (+4.800)
- + 60 contracting authorities;
- Estimated value of the public contract: 4.353.051,50 €;
- Price before the auction: 4.220.216,80 €;
- Awarded price (after e-auction): 4,074,634,10 €.
  (savings of 6%)

Transparency

Efficiency

Competitiveness
Centralised Purchasing System
An award

http://epsa2013.eu/
THANK YOU
Paulo.Magina@oecd.org

For more information on OECD work on public procurement

http://www.oecd.org/gov/ethics/integrityinpublicprocurement.htm