OECD Public Governance Reviews

Implementing the OECD Principles for Integrity in Public Procurement

PROGRESS SINCE 2008



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Foreword

Procurement is an important tool for ensuring sound, effective and transparent management of public resources. Accounting on average for 13% of GDP, procurement represents a third of government expenditures in OECD countries, with local governments carrying out more than half (55%) of these expenditures. Procurement is also increasingly used as a strategic instrument to pursue government objectives, such as job creation, innovation, environmental protection, and the development of small and medium enterprises (SMEs). At the same time, however, it is the activity with the highest perception of bribery risk.

This Report surveys the progress made by countries in implementing the OECD Recommendation on Enhancing Integrity in Public Procurement (2008). The Report also highlights the overarching challenge faced by countries to achieve further efficiency, given that governments are increasingly called to do more with less, while making public procurement a strategic tool to achieve governments' policy goals.

Governments can do more to improve value for money in procurement. The Report shows that, while almost all countries took steps to reform their procurement systems between 2008 and 2012, these efforts have mostly focused on legislative changes. Only half of the countries surveyed undertook reforms going beyond the tendering process, whereas the OECD Recommendation urges countries to address the whole cycle, from needs assessment to the award stage, contract management and final payment.

Savings arising from improved procurement practices can be considerable. For example, by implementing the recommendations from an OECD Procurement Review, the Mexican Institute for Social Security has cut its procurement spending by 3.3% (about EUR 20 million). In the UK, the Government Procurement Service estimates savings in 2011-12 of GBP 426 million (approximately USD 641 million) from reductions in prices as a result of centralised procurement.

The Report identifies key areas through which procurement can promote value for money with integrity. These include consolidation and professionalization of the procurement function, and its identification as an strategic activity; introduction of systematic performance monitoring; integration of existing e-procurement systems; and development of monitoring mechanism to supervise innovative forms of public service delivery, including public-private partnerships (PPPs), concessions and sponsorships.

The OECD has launched a new agenda on procurement reform to help governments use procurement in pursuit of their strategic goals, while avoiding the problems of "objective overload". The agenda includes policy dialogues, identification of good practices (particularly in the area of green procurement), peer reviews and development of procurement performance indicators. At a time when citizens need to recover trust in their governments, public procurement must remain fair, open and transparent, to ensure it delivers value for money in the use of public funds.



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Secretary-General
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The preparation of the report on *Principles for Integrity in Public Procurement: Progress in OECD Countries* was led by Elodie Beth. Data collection and analysis were carried out in cooperation with Maria Emma Cantera, Natalia Nolan Flecha, Ulrika Kilnes and Alessandro Lupi. Case studies were prepared by Sana Al-Attar based on the contributions submitted by countries. Editorial guidance was provided by Jennifer Allain, Sue Kendall, Damian Garnys and Kate Lancaster. Administrative support in preparing the report was provided by Bonifacio Agapin, Lia Beyeler, Karena Garnier, and Sarah Michelson. Comments were provided by Gregory Bounds, Mario Cervantes, Julio Bacio Terracino and James Sheppard.

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Last but not least this assessment of progress in member countries would not have been possible without the strategic guidance from the OECD Council and the Public Governance Committee and the technical contribution of Leading Practitioners on Procurement.

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Executive summary

Efficiency and value for money are key principles which guide government action, especially in times of fiscal consolidation. With procurement accounting for 13% of GDP and a third of government expenditures on average in OECD countries, mitigating the risks of waste and corruption is essential for ensuring a sound management of public funds.

Procurement has been an intensive area for reform, with all OECD and observer countries except Finland and the Slovak Republic taking steps to reform procurement between 2008 and 2012. More than half of the reforms focused on reforming the procurement laws, in particular to ensure compliance with international legal instruments concerning procurement.

The investment in building procurement capacity has not been commensurate. As an important part of public budgets and gross domestic products, public procurement is an area in which governments are expected to meet the challenge of doing more with less. At the same time, governments have increasingly used procurement in the last years to pursue various strategic objectives such as small and medium enterprises (SMEs) development, green growth and innovation.

The review of progress made in OECD and observer countries in implementing the *Recommendation on Enhancing Integrity in Public Procurement* shows that governments are lagging behind in a number of areas to ensure that procurement promotes value for money with integrity:

1. Promoting transparency, integrity and value for money throughout the whole procurement cycle.

The lack of attention dedicated to the risks of waste in the needs assessment as well as in the contract management was recognised as a key concern in the 2008 *Recommendation on Enhancing Integrity in Public Procurement*. In 2012, only half of OECD countries indicated that their procurement reforms addressed the whole public procurement cycle, from needs assessment throughout tendering until contract management. In particular, few countries have taken active steps to supervise contractors' performance and integrity, which is left at the discretion of the contracting authority.

2. Tapping into the potential of consolidation to achieve significant savings.

Governments are increasingly pursuing efficiency gains in procurement to achieve significant savings to the budget, particularly welcome at times of hard budget constraints. For example, the OECD *Public Procurement Review of the Mexican Institute for Social Security* indicates that reverse auctions in procuring medical supplies could achieve savings up to 27%.

3. Using procurement effectively as a policy lever for wider economic, social and environmental policy objectives.

Public procurement accounts for 13% of GDP on average in OECD countries. Procurement is not only used for purchasing goods and services but also increasingly as a policy lever to promote objectives such as SMEs development, environmental protection and innovation. However, governments are facing a number of challenges:

- Avoiding the risk of "objective overload": governments are using procurement to support sometimes competing objectives, such as reducing deficits, fostering green growth and innovation or supporting disadvantaged communities.
- Assessing the costs and benefits of their decisions: 43% of countries still do not require a cost-benefit analysis to verify whether procurement is the most effective tool to achieve these objectives, compared to other tools such as regulations or taxation.
- Incentives are lacking for procurement officials in a risk-adverse culture to integrate these considerations in procurement.

4. Professionalising procurement.

Despite its economic significance, public procurement is still not organised as a strategic function in government. Procurement is still not recognised as a specific profession in a third of OECD countries. The lack of capability remains the largest weakness in many countries. Considering that 55% of government expenditures take place at the sub-central level, the lack of capability at the sub-central level is particularly problematic. The procurement function is not well-equipped to handle the increasing complexity of procurement, in a context where officials are requested not only to purchase smarter in order to maximise value for money, but also to take into

account socio-economic and environmental considerations in their purchasing decisions.

5. **Introducing systematic performance monitoring of procurement systems.**

   When reporting on progress made, very few countries indicated that they monitor the performance of procurement systems and processes based on data and benchmarks. For example, the OECD Review of Federal Public Procurement in the United States helped the government of the United States ensure better integration among its e-procurement systems to generate better quality data and promote performance analysis.

6. **Innovative forms of public service delivery require attention: public-private partnerships (PPPs), concessions and sponsorships.**

   Risks of waste of public resources are particularly high in innovative forms of public service delivery such as PPPs, concessions and sponsorships. For instance, in some countries, the off-budget nature of PPPs can make them more attractive than traditional procurement of assets regardless of value for money considerations. Policy makers need to take pro-active steps in this regard, taking into account the 2012 *OECD Principles on Public Governance of Public-Private Partnerships*.

To help governments transform procurement into a strategic function the OECD has launched a new agenda on procurement reforms. It is articulated around four lines of action – policy dialogue, good practice compendium in the area of green procurement, peer reviews, and performance indicators. This will provide the ground for providing guidance to governments on how to use procurement to support strategic objectives, with the update of the *Recommendation on Enhancing Integrity in Public Procurement.*

Chapter 1

Why clean public procurement matters

Procurement is a key economic instrument for achieving government objectives in a clean way. This chapter looks at how to prevent waste and corruption in procurement as well as promote sound stewardship of public funds. It also shows its importance for ensuring effective public service delivery, in particular in the health sector.

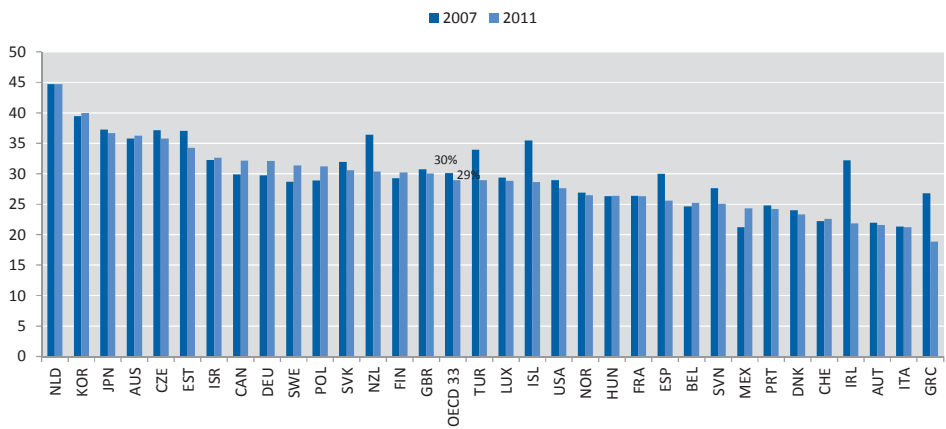
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The government activity with the highest perception of bribery risk

Procurement is not only big business, but it is also the government activity with the highest perception of bribery risk. General government procurement represents on average one-third of government expenditures in OECD countries (Figure 1.1).

Figure 1.1. **Share of general government procurement of total government expenditures in OECD countries**

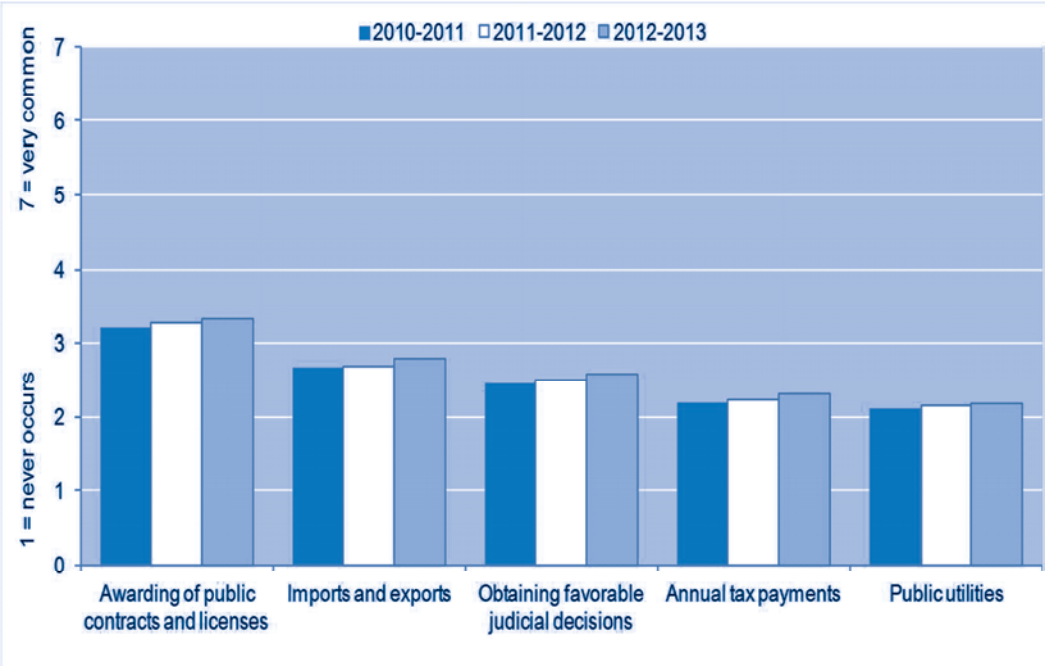
In % (2007, 2011)



Notes: Data for Chile is not available. Data for Canada and New Zealand refers to 2010 instead of 2011.

Source: OECD (2012), OECD National Accounts Statistics (database). StatLink *http://dx.doi.org/10.1787/data-00369-en*

Figure 1.2. **Bribes are perceived as more frequent in government contracts than in other government activities, and as increasing between 2010 and 2013**



Note: The scale has been reversed in this figure. The original scale presented by the World Economic Forum runs between 1 = very common and 7= never occurs.

Source: World Economic Forum (2010, 2011, 2012), 2010-2011, 2011-2012 and 2012-2013 surveys from the World Economic Forum for the Global Competitiveness Report WEF, Geneva.

The main objective of public procurement systems is to deliver value for money in the use of public funds whilst adhering to the fundamental principles that guide government actions, in particular transparency and non-discrimination. In particular, a challenge faced by governments is to define an adequate level of transparency that fosters a competitive procurement process while avoiding potential economic trade-offs (e.g. burdensome and costly procedures). The OECD Principles on Enhancing Integrity in Public Procurement guide policy makers on how to promote good governance in public procurement in a way that contributes to the efficient and effective management of public resources and therefore of taxpayers' money.

Public procurement accounts for a significant share of GDP

Public procurement, which accounts for 13% of GDP on average across OECD countries, has a direct impact on the economy. Governments increasingly turn to the private sector for a variety of goods, services and public works, by investing in major infrastructure projects (e.g. building roads and dams) or buying basic computer equipment. This share of GDP is even higher if state-owned companies, which represent large financial flows, are taken into account. When these purchases are also accounted for, the size of procurement markets increases by an additional 2 to 13 percentage points of GDP depending on the country. For example, in 2008, state-owned utilities in Austria, the Czech Republic and the Slovak Republic spent between 8% and 13% of GDP through public procurement.

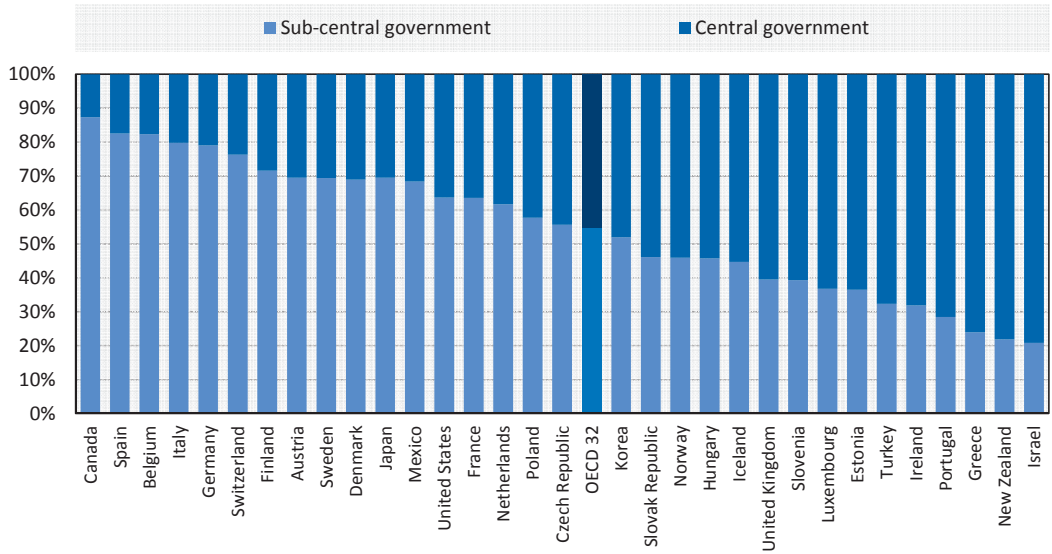
Also, not all of this money is being spent in central government. A large share of procurement is carried out at the sub-central level, with local governments responsible for more than half of procurement expenditure (55%), as shown in figure 1.3.

A key economic instrument supporting successive, and sometimes competing, policy objectives

Responses to the crisis have increased the role of government in the economy. In particular, public procurement, which is a key economic instrument for governments, has been used to support successive priorities and sometimes contradicting objectives in the last four years:

- As an immediate response to the financial and economic crisis, many countries launched fiscal stimulus programmes in 2008. Additional funds were allocated for major investment projects in infrastructure (e.g. housing, transport) as part of these stimulus packages, which generated additional public procurement activity.[1]

Figure 1.3. **Share of public procurement in sub-central government (excluding social security funds)**



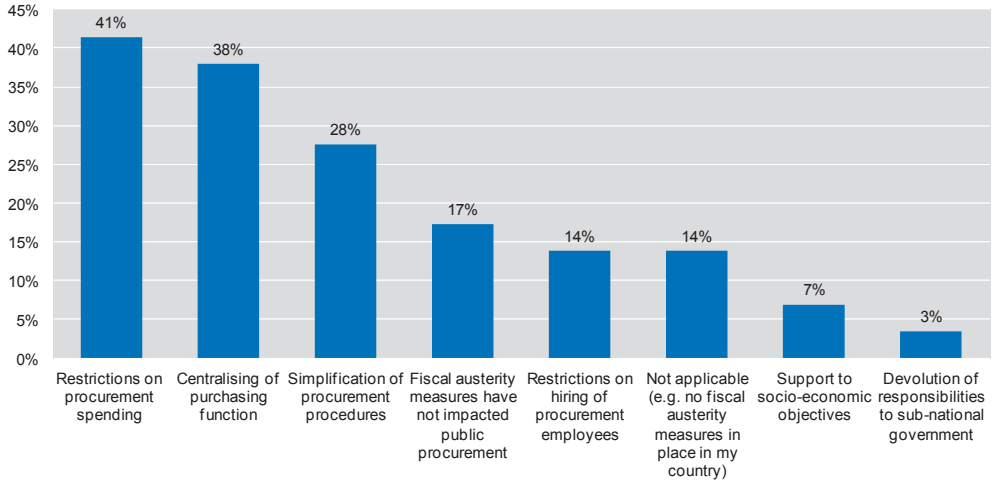
Notes: New Zealand, Norway, the United Kingdom and the United States include social security funds in central government aggregates. Two countries were excluded from the analysis: Australia (due to a difference in Australian calculation methodology) and Chile (since breakdowns by level of government are not available). Data for Canada and New Zealand refers to 2010. Data for Japan at the sub-central level of government refers to fiscal years.

Source: OECD (2011), National Accounts Statistics *http://stats.oecd.org/Index.aspx?QueryId=32296.*

- More recently, many countries have started using public procurement as an instrument to control spending as part of austerity measures. As a consequence, countries restricted their procurement spending, centralised their procurement function in order to achieve efficiency gains and simplified their procurement procedures (Figure 1.4).
- Public procurement is also a versatile mechanism that has been increasingly used to support socio-economic policy objectives such as the promotion of small and medium enterprises (SMEs), employment, innovation and environmental protection.

Figure 1.4. **Impact of austerity measures on procurement**

% of responding OECD countries



Source: OECD (2011), Survey on Reporting Back on Procurement Recommendation (unpublished internal document).

High financial stakes to cut waste and corruption in procurement

Considering that procurement accounts for 13% of GDP on average across OECD countries, the financial stakes are high to cut waste and corruption in public procurement. As governments are cutting operational expenses, efficiency gains in procurement could help to accommodate more severe budget constraints. For example, when using reversed auctions in procuring medical supplies, experience in Mexico has shown that the savings achieved can be up to 27% provided that conditions are in place to avoid possible risks of collusion. Table 1.1 shows the estimated savings from reversed auctions in procuring medical supplies in Mexico according to the Mexican Institute for Social Security. Similarly, in Brazil, the Ministry of Planning, Budget and Management estimates that savings of 19% of the total contract value done through e-procurement (approximately € 2.4 billion) were achieved by the Federal Government in 2012 as a result of electronic bidding.

Table 1.1. Estimated savings from reversed auctions in procuring medical supplies in Mexico

Year	Category	Contract value (millions USD)	Estimated savings (millions USD)	% estimated savings
2009	Medicines	605.6	64.9	10.7
2010	Medicines Health material	185.3	4.7	2.5
	Mammography	3.6	0.9	27.4
	Vehicles	4.4	0.2	3.2
2011	Medicines	41.9	2.4	5.8
Total		840.7	73.0	8.8

Note: The methodology used to calculate the estimated savings is to compare the prices per unit before and after the use of reversed auctions minus inflation.

Source: OECD (2013), Public Procurement Review of the State's Employees' Social Security and Social Services Institute in Mexico, OECD Public Governance Reviews, OECD Publishing. doi: 10.1787/9789264197305-en

However, it is important to understand the conditions under which these mechanisms lead to efficiencies. For example, in the case of reverse auctions, they are meant to be used primarily for purchasing commodities based on price, and the risks of potential collusion need to be mitigated.

The financial interests at stake, the volume of transactions at the international level and the close interactions between the public and private sectors make public procurement particularly vulnerable to waste. Public procurement is more subject to bribery by international firms than other government activities such as taxation or the judicial system according to a survey of the World Economic Forum. The European Commission estimates that EUR 120 billion are lost each year to corruption in the 27 EU member countries, which is the equivalent of the whole EU budget. In public procurement, studies suggest that up to 20-25% of the public contracts' value may be lost to corruption.

In 2008, OECD countries recognised the importance to identify and mitigate risks of waste, fraud and corruption:

- Throughout the entire procurement cycle, from needs assessment to award up until contract management and payment. In particular, the needs assessment and the contract management, which are not usually covered by public procurement regulations, require specific attention to mitigate risks to integrity.
- In non-competitive procedures that are often used for emergency and defence procurement. For instance, countries pointed to the

need to develop risk mitigation measures to avoid that, under the cover of national security interests, transparent tendering rules are bypassed to buy clothes, boots, food and other commodities for the military.

New risks have emerged as a result of the financial crisis and the transformation of procurement into a policy lever. Assessment findings also point out the emergence of new risks in public procurement in the period 2008-12:

- With the use of stimulus packages as a response to the financial and economic crisis, risks to integrity have increased when using accelerated procedures to enable quicker disbursement of public funds. These risks were mitigated in those countries that had adequate counter-mechanisms in place, such as transparency measures or strong review and remedy systems.
- As public procurement is increasingly used to support socio-economic and environmental objectives, there is an increased risk of distortion of the competition process (e.g. in the form of non-transparent evaluation criteria or hidden trade barriers). Some countries also pointed out the risk of disrupting the efficiency of the procurement where procurement is used as a policy lever to support socio-economic criteria without a sound initial cost-benefit analysis that assesses both short- and long-term costs and benefits.
- Also news forms of service delivery such as public-private partnerships and concessions have proven to be more vulnerable than traditional procurement, notably because of the larger involvement of the private sector.

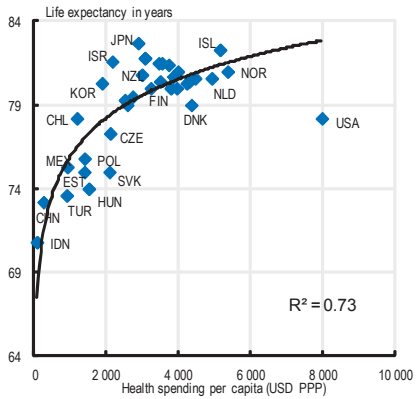
Procurement has an impact on health and people's lives

OECD research shows that health spending is the variable which contributes most to health status (Figure 1.5). Yet opportunities for governments to increase public spending may be limited. Therefore, efficient spending through good public procurement practices is a key lever to improve the quantity and quality of health products and services delivered in a timely manner, contributing to improving health indicators.

Furthermore, comparative evidence from EU countries suggests that more competitive tender procedures contribute to lower prices of generic medicine (Box 1.1). Therefore, procurement has the potential to contribute not only to efficiency gains but also make basic services such as generic drugs more accessible to the public.

Figure 1.5. **Contributions of healthcare spending to changes in health status**

	Gains in life expectancy				Decline in infant mortality rate
	At birth		At age 65		
	Women	Men	Women	Men	
Explained by:	Years				Deaths per 1000 live births
Health care spen	1.14	1.34	0.38	0.37	-2.53
Smoking	0.00	0.12	0.09	0.21	-0.21
Alcohol	0.06	0.07	0.02	0.00	-0.24
Diet	0.02	0.02	0.02	0.03	0.03
Pollution	0.15	0.29	0.15	0.22	-0.75
Education	0.50	0.49	0.26	0.14	-0.89
GDP	0.11	0.63	0.20	0.39	-1.01
Observed changes	2.49	3.45	1.40	1.63	-4.67



Note: Contributions of health status determinants are calculated using panel data regressions on a sample of countries for which data were available.

Source: OECD (2011), *How's Life? Measuring Well-being*, OECD Publishing, *http://dx.doi.org/10.1787/9789264121164-en.*

Box 1.1. **Achieving better prices for generic drugs through competitive procurement in Europe**

A 2011 study of the French Social Security highlights the correlation between the price of generic drugs and the type of procurement procedure used in European countries.

A study on generic drugs and their financial impact on health expenditure by the French Social Security concluded that the use of competitive or negotiated procurement significantly decreases the price of generic drugs, which ultimately contributes to achieving significant savings in its overall medicine expenditures. From this perspective, the French Social Security is moving towards using competitive procedures to achieve further savings.

The study showed that generic medicines in France are amongst the most expensive in Europe. On the 74 main generic molecules, the average price by standards unit in France is 15 cents, compared to 12 in Germany, 7 in the United Kingdom and 5 in the Netherlands.

Box 1.1. **Achieving better prices for generic drugs through competitive procurement in Europe** (*cont.*)

These differences result from the method used to regulate the price of these drugs. Indeed, countries like France, Austria or Belgium decided to simply adopt a discount system where generic drugs are 55% cheaper than the price of the reference drugs.

In countries such as Germany, the health insurance companies are using negotiated procurement procedures with generic drugs manufacturers to negotiate low prices.

In the Netherlands and the United Kingdom the price of generic drugs is determined through a competitive procurement process open to all suppliers and conducted by the pharmacies. Savings are then shared between the pharmacies and social security. This method allowed the social security to achieve substantive cost savings by increasing the collective buying power of pharmacies and bolstering the competition between suppliers.

Source: French Social Security (*Caisse Nationale d'Assurance Maladie*) Information Point, September 2011, *http://www.cnam.nat.tn/pages/index_fr.html.*

Clean and effective procurement is key for sound stewardship of public funds

Citizens and businesses expect clean and effective procurement. Considering the economic size of procurement, there is a heavy responsibility on governments to show that they are competent stewards of the public resources when handling procurements. In 2008, OECD countries recognised that efforts to improve value for money in public procurement shall go hand in hand with policy measures to enhance transparency, accountability and integrity with the adoption of the *Recommendation on Enhancing Integrity in Public Procurement*. The principles set out in the Recommendation are anchored in four pillars: transparency, good management, prevention of misconduct, accountability and control.

Weak governance in public procurement hinders market competition and raises the price paid by the administration for goods and services, directly impacting public expenditures and therefore taxpayers' resources. Sound procurement rules are not sufficient to ensure good stewardship of public funds and avoid waste and corruption. Implementing rules requires a wider governance framework that encompasses: an adequate institutional and administrative infrastructure; an effective review and accountability regime; mechanisms to identify and close off opportunities for corruption; as well as adequate human, financial and technological resources to support all

of the elements of the system. They also require a sustained political commitment to apply these rules and regularly update them.

The use of stimulus packages increases risks when using accelerated procedures

The use of stimulus packages after the financial crisis led in 2009 to an increase in the use of accelerated procedures. Accelerated procedures have provided governments with enhanced flexibility and responsiveness as well as the ability to disburse public funds quickly. For instance, France eased rules for public procurement and urban land use which were considered too constraining in the context of recovery. In Korea, public procurement procedures were simplified and the procurement period was shortened from 79-90 days to 20-38 days. Evaluation of the traffic and environmental impact of projects was also sped up. The European Commission agreed on the use of accelerated procurement procedures for all major public projects throughout 2009 and 2010.[2]

The emphasis on speed in committing funds has, in some cases, overshadowed planning for maximum economic impact. Furthermore, countries indicate that stimulus packages resulted in the following procurement practices that hold specific risks of waste, fraud and corruption:

- an increase in the use of accelerated procedures with shortened deadlines to tender in order to enable fast-track delivery of goods, services and works;
- simplification of procedures, increased flexibility of procurement rules as well a reduction of *ex ante* controls.

On the other hand, over-regulation and rigidity of procurement procedures may be counterproductive when they result in limited competition and high procedural costs. Therefore, reducing *ex ante* controls can be done without increasing waste, fraud and corruption to the extent that there are other risk mitigation measures in place. These may include, for instance: quick and efficient review and remedies mechanisms, procurement risk assessments, integrity training as well as more stringent transparency requirements (e.g. systematic recording). A few countries such as Canada and the United States, introduced additional safeguards to mitigate the risks of waste and corruption in accelerated procedures. For example, the United States developed a contract risk assessment tool and provided integrity training in order to mitigate risks linked to the increase of procurement spending associated with the 2009 Reinvestment and Recovery Act (Box 1.2).

Box 1.2. **Mitigating risks in accelerated procedures in the United States**

The Council of Inspectors General on Integrity and Efficiency provides an independent authority to foster improvements and collaboration among the Offices of Inspectors Generals in the United States. In 2009, it led the development of tools for audit to identify fraud and abuse in procurement. In particular, a contract risk assessment tool was developed by the Contracting Committee of the Federal Audit Executive Council to mitigate risks linked to the increase of procurement spending resulting from the USD 787 billion American Recovery and Reinvestment Act of 2009.

The Excel-based tool is intended to serve as a tool to assist auditors in identifying high-risk contracts meriting audit attention. Its use may be particularly appropriate when contract volumes exceed available audit resources, and the audit organisation must decide which contracts to review. The worksheet instructs individuals to assign a risk value to 12 risk factors, using information that is readily available in department/agency and government-wide contract databases. The risk factors were chosen as those that were most critical based upon the collective experience of committee members, but can be easily modified based on each organisation's views on risk. The first five risk factors relate to size, nature and type of contract. The remaining factors range from contractor performance to personally identifiable information considerations. Each risk is assigned a weight by internal audit staff based on their judgment of the relative importance of each factor – these can be substantiated by qualitative considerations. The product of the risk weight and risk factor generates a composite score to aid risk management (Federal Audit Executive Council, 2009a; 2009b).

Another measure introduced by the Department of Justice in the United States to mitigate risks to integrity was to launch its Recovery Act initiative to help detect fraud in the award of stimulus projects. As part of the initiative, procurement and grant officials, government contractors, and agency auditors and investigators were trained regarding signs of collusion and fraud. Also, agencies were assisted in investigating and prosecuting collusion and fraud that occurs. The division has trained thousands of federal and state procurement and grant officials nationwide. Consumers, contractors and agencies can report suspicious activity and review information about antitrust laws through a website at *www.justice.gov/atr/public/criminal/economic_recovery.htm*.

Source: OECD (2012), *OECD Review of the United States Federal Public Procurement* (internal unpublished document).

Notes

1. In the United States, in 2008 this included over EUR 68 billion (more than 3% of GDP) for infrastructure projects that support energy efficiency and long-term environmental sustainability alone. Infrastructure spending in stimulus packages equalled EUR 23.6 billion in Australia and EUR 18 billion in Germany. The targeted infrastructure investments were largely concerned with roads, railroads, public transport, airports, childcare facilities, schools and universities, hospitals, energy networks and security, and a modern information and communication technology infrastructure (Guellex and Wunsch-Vincent, 2009).

2. For more details, see OECD (2011b).

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Chapter 2

What have been the main drivers of reforms in countries since 2008?

In an era of fiscal austerity, governments are recognising the potential of procurement to improve public sector productivity through savings and economies of scale. This chapter outlines the main drivers for procurement reforms since 2008 and how the Recommendation on Enhancing Integrity in Public Procurement supported these efforts. It also draws on the lessons learnt from the OECD procurement peer reviews.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West bank under the terms of international law.

Productivity gains

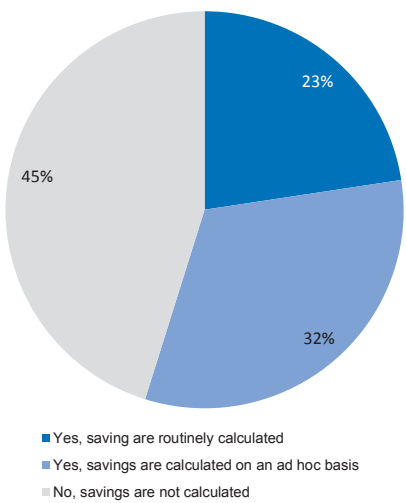
Productivity gains have been a key driver in procurement reforms, but savings are often not measured.

GBP 426 million … in estimated savings through the use of centralised procurement. In the United Kingdom, the Government Procurement Service estimates savings of GBP 426 million (approximately USD 641 million) from reductions in price due to centralised procurement in 2011-12 (National Audit Office, 2013).

9% ... in accumulated savings through reversed auctioning procedures. Since 2009, the Mexican *Comisión Federal de Electricidad* (CFE, Federal Electricity Commission) has been acquiring coal for the Petacalco Thermoelectric Plant through reversed auctioning procedures. CFE has accumulated savings of more than USD 252 million, or 9%, compared to the lowest original prices.

27% ... in cost savings in Italy through the use of framework agreements. In order to combine cost savings and incentives for innovation in public procurement, the Italian procurement body Consip launched a framework contract on "Integrated Energy Management Services" (heating services including improvement of energy efficiency, consumption reduction and CO_2 emissions avoidance). Involving approximately 6 000 buildings, contracts executed had a total estimated value of EUR 800 million. Cost savings of 27% were achieved for public administrations.

Figure 2.1. **Less than one quarter of OECD countries calculate savings from the use of framework agreements in central government routinely**



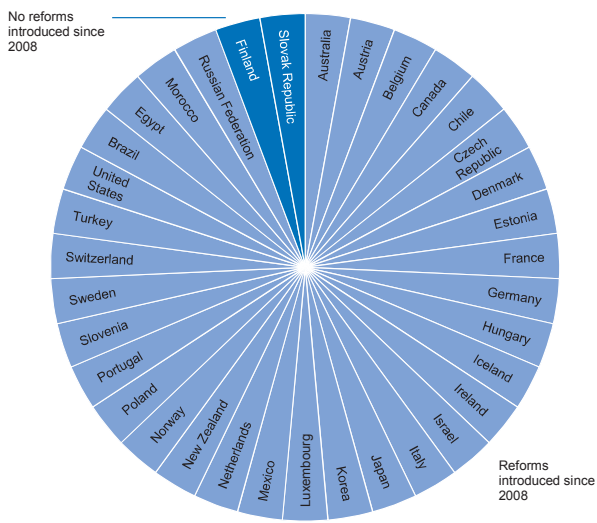
Source: OECD (2012,) Survey on Public Procurement (unpublished internal document).

Compliance with international instruments and budgetary savings

Almost all respondent countries reformed their procurement systems between 2008 and 2012, with the exception of Finland and the Slovak Republic (Figure 2.2). Reforms were, in many cases, driven by the following drivers:

- ensuring compliance of the legal and policy framework with international instruments such as the EU Directives on Public Procurement, the OECD *Recommendation on Enhancing Integrity in Public Procurement*, the WTO Agreement on Government Procurement, as well as the UNCITRAL Model Law on Public Procurement;
- rationalising public expenditure in public procurement and looking for efficiency gains as a result of the economic crisis to reduce inflating debts and create fiscal space for economic and social policies. For instance, the United Kingdom carried out an efficiency review of government spending in October 2010, focusing on commodity procurement, property and major contracts because of the large potential for savings.[1]

Figure 2.2. **Almost all countries reformed their procurement systems between 2008 and 2012**

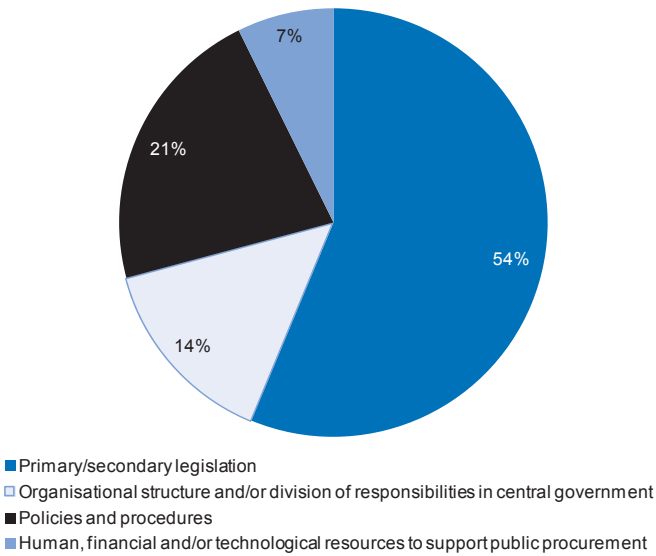


Source: OECD (2011) Survey on Reporting Back on Procurement Recommendation (unpublished internal document).

Ensuring an adequate degree of transparency that does not impede effectiveness

The majority of countries reformed their procurement legislation while only 7% reported investing in human, financial and technological resources (Figure 2.3). Reform efforts focused in particular on ensuring an adequate degree of transparency that does not impede the effectiveness of public procurement, in line with Principle 1 of the OECD Recommendation.

Figure 2.3. **Efforts focused on reforming procurement laws**



Source: OECD (2011) Survey on Reporting Back on Procurement Recommendation.

In particular, the following measures were taken to:

- Simplify procedures: in Switzerland, the *Ordonnance sur les marchés publics* (internal regulation on public procurement) was modified to simplify and accelerate procurement procedures as well as regulate the use of e-procurement to modernise procurement and enhance transparency. In the Netherlands, the Federal Law on Public Procurement was amended to simplify the legal framework for small contracts that are below the EU thresholds.
- Enhance the consistency of procurement practice across government agencies: in Australia, efforts were invested in enhancing the consistency in format, content and application of procurement contracts across agencies.

- Enhance transparency in the bidding process: in Chile, amendments to the law were introduced by Decree No. 1763, 2008 in order to regulate queries that public entities may address to suppliers prior to the disclosure of bidding documents, enhance transparency for the award of framework agreements and publish information on the evaluation process and related justifications. In Italy the National Database on Public Contracts was set up to help prevent corruption (Box 2.1.);
- Use new technologies to enhance competition and efficiency: in Korea, the Public Procurement Service launched a smartphone bidding service in 2011, which allows bidders to search bidding information at KONEPS and participate in biddings via smartphone through newly developed security token and applications. In the European Union, successful e-procurement platforms have been established in many countries and e-procurement has become increasingly used for common or off-the-shelf goods to achieve efficiency gains. At the same time, the *ex post* evaluation of the 2004 EU Action Plan for Electronic Public Procurement shows that less than 5% of total procurement budgets in the first-mover member countries are awarded through electronic systems.[2]

Box 2.1. **Transparency and traceability in public procurement in Italy**

Recognising the necessity of enhancing transparency in public procurement in order to prevent corruption, Italy has adopted a set of new laws and measures since 2008 (Law n. 136 "Extraordinary plan against organised crime", Law n. 217 on "Urgent measures on national security"). These laws aim at reinforcing the traceability of financial services in public procurement and require that any payment made in the framework of a public contract or any transfer of EU funds to beneficiaries (e.g. contractors, subcontractors) must be executed using a verified postal or bank account, through bank or postal transfer, or any other legal means as long as the traceability of the operation is guaranteed.

The Authority for the Supervision of Public Contracts was established by Law n. 109/1994 with the aim of supervising public contracts in order to promote principles of transparency, rightfulness and competition among operators in the public procurement market. It ensures the effective implementation of the laws by providing the Competition Identification Code for payments. Guidelines are also available to support the application of the law.

Box 2.1. **Transparency and traceability in public procurement in Italy** (*cont.*)

The Authority for the Supervision of Public Contracts has implemented a *National Database on Public Contracts* (NDPC) in line with Law n. 136/2010. It aims at collecting and processing data on public procurement in order to provide indications to the supervising departments and to inform regulators on measures that need to be taken to promote transparency, simplification and competition. It collects data on information technology and conducts market analyses. In particular, it collects and assesses data on:

- The structural characteristics of the public procurement market and its evolution. Statistics about the number and value of procurement awards are grouped by localisation, procurement entities, awarding procedures; the different typologies of procurement are periodically published.
- The criteria of efficiency and value for money during the procurement process. Modifications to contractual conditions are recorded in the authority's database which, in turn, detects dysfunctions and anomalies of the market.
- Dysfunctions and anomalies of the market through fixed measures. These dysfunctions and anomalies are detected through: *i)* the assessment indexes of excessive tendering rebates, with respect to the average rebates; *ii)* the number of bids to be presented in each awarding procedure; *iii)* the localisation of awarded companies with respect to the localisation of the contracting authority.

The "*Construction Company Database*" (*Casellario Informatico*), and the data on the declarations filed by the economic operators on the reliance on the capacities of other entities are, *inter alia*, parts of the *National Database of Public Contracts*.

Challenges and risks

The Authority for the Supervision of Public Contracts collects and analyses data provided by other subjects. The accuracy and the timeliness of the data provided are key elements in order to make an exhaustive analysis of the market.

Key lessons learnt

Through the quality of the data made available by the NDPC, the authority improved its activities, notably supervision and regulation activity, in order to provide guidelines on measures that need to be taken into account to promote transparency, simplification and competition in the entire procurement process and, particularly, in the pre-bidding and post-bidding phases.

Source: Case study provided by Italy.

Another key area of legislative reform has been the review and remedy systems. To enable the timely resolution of complaints, countries have taken steps to reform their review and remedy systems by using measures such as

providing remedies to challenge the decision early in the process (Principle 9 of the OECD Recommendation). Reform measures included, for instance:

- The introduction of a standstill period between the award decision and the conclusion of the contract: for example, in Turkey, the Public Procurement Law was amended to introduce tighter review procedures and a standstill period between the award decision and the conclusion of a contract.
- The possibility to lodge a claim before and after the contract signature: in France, the Ordonnance no 2009-515, 2009 enables the judge to intervene not only before but also after the contract signature while making the recourse suspensive.
- The introduction of an alternative dispute resolution mechanism: Canada introduced a Procurement Ombudsman to promote fairness, openness and transparency in federal government procurement by reviewing complaints and providing the possibility of an alternative dispute resolution process (Box 2.2).

Box 2.2. **Procurement Ombudsman in Canada**

A Procurement Ombudsman was set up in 2008 to increase the effectiveness and transparency of business practices in relation to procurement. This was part of a series of reforms to implement the Federal Accountability Action Plan in order to help strengthen accountability and increase transparency and oversight in federal government operations. Another measure identified in the Federal Accountability Act Action Plan was to enshrine in law a commitment to fairness, transparency and openness in the procurement process.

Objectives

The overall objective of the Office of the Procurement Ombudsman is to promote fairness, openness and transparency in federal government procurement. Its mandate and role are as follows:

1. Review departments' practices for acquiring materials and services to assess their fairness, openness and transparency and make any appropriate recommendations to the relevant department.
2. Review any complaint respecting the award of a contract for the acquisition of goods below the value of CAN 25 000 and services below the value of CAN 100 000, where the criteria of Canada's domestic Agreement on Internal Trade would apply but for the dollar thresholds.

Box 2.2. **Procurement Ombudsman in Canada** (*cont.*)

3. Review any complaint respecting the administration of a contract for the acquisition of materials or services by a department or agency, regardless of dollar value. And,
4. Ensure an alternative dispute resolution process is provided, if all parties to the contract agree to participate.

Implementation process

The Procurement Ombudsman was created through an amendment to the Department of Public Works and Government Services Act which established the Procurement Ombudsman's authority and activities. The associated Procurement Ombudsman Regulations, which provide specifics on how the Procurement Ombudsman's authority is to be exercised, were developed through a consultative process and pre-published in the *Canada Gazette*, Part I in December 2007. Comments from industry associations, government departments and the Procurement Ombudsman Designate were received and taken into consideration before being passed and the office became fully operational in May 2008. The Ombudsman reports directly to the Minister of Public Works and Government Services Canada (PWSGC), who is required to submit an annual report to Parliament. While the Office of the Procurement Ombudsman is a federally constituted independent organisation under the portfolio of the Minister of PWGSC, it has a government-wide mandate and operates horizontally in departments and agencies, including PWGSC.

Impact and monitoring

Between May 2008 and March 2011, the Office of the Procurement Ombudsman: handled more than 1 200 inquiries and complaints and conducted 6 investigations into contract award issues; dealt with 21 requests for an alternative dispute resolution process for contractual disputes; and conducted 12 procurement practice reviews which involved 26 different federal government departments and agencies.

A formal evaluation was carried out which highlighted the following results:

1. The Office of the Procurement Ombudsman is looked upon as a neutral and independent body that stakeholders are willing to work with in a spirit of mutual co-operation to make improvements.
2. The collegial approach to procurement disputes has been very well received.
3. Parties involved in contractual disputes have indicated they appreciate the respectful environment the Office of the Procurement Ombudsman creates and the effect this had on their ability to deal with an unfavourable situation and move forward.

Box 2.2. **Procurement Ombudsman in Canada** (*cont.*)

4. Small and medium-sized enterprises have expressed their gratitude for assistance in resolving issues without a lengthy or costly investigation or the need to go to court when they have contractual disputes with government departments.
5. Suppliers appreciate its prompt response; and government departments and agencies are implementing recommendations to improve the fairness, openness and transparency of federal government procurement.

Challenges and risks

There were a number of challenges and risks identified during the design and implementation phase of the Office of the Procurement Ombudsman, including overlap/duplication with other functions in government; creating expectations that could not be realised; creating a position that would attract high calibre executives to achieve the required profile and credibility; and a limited pool of qualified employees. These risks were mitigated by consulting and co-ordinating activities with other oversight organisations; developing and implementing a communications strategy; classifying the Procurement Ombudsman position at a senior level; and hiring a mix of levels and occupational groups.

Key lessons learnt

As the formative evaluation of the Office has yet to be completed, it is difficult to state whether the creation of a Procurement Ombudsman has proven to be successful in enhancing transparency, accountability or integrity in the management of public funds. The Office does, however, have the power to influence these objectives as it makes public the results of its procurement practice reviews (which identify deficiencies with regard to fairness, openness and transparency) and provides recommendations for improvement. The Office follows up on these recommendations and the results are also made public.

Sources: Case study provided by Canada; and website Office of the Procurement Ombudsman (n.d.), *http://opo-boa.gc.ca*.

Reforms of public procurement laws in Finland, France, Poland and Sweden were carried out as part of the transposition of the 2007/66/EC EU Directive on Remedies into national law in order to protect potential bidders from unfair competition.

Rationalising, restructuring and consolidating procurement to achieve short-term efficiency gains

Rationalisation, restructuring and consolidating procurement are a strong trend across countries to achieve savings through economies of scale.

Savings in public procurement have been used as a way to create "fiscal space" for governments to cut inflating debts, provide transfers for certain disadvantaged groups (e.g. unemployed) or invest in economic policies that foster economic recovery.

Several countries including Australia, Belgium, Estonia, Finland, Ireland, Norway, Portugal, Slovenia, Turkey and the United States indicated that their reforms primarily focused on the management of their public procurement function. One of the challenges faced by decision makers is to optimise the procurement function[3] in order to achieve short-term savings on the one hand while avoiding structuring effects that these reforms might entail on the others (e.g. by making it harder for small and medium enterprises (SMEs) to participate in procurement and therefore potentially generating losses in public benefits). Governments have taken some of the following steps, often simultaneously:

- Increasing the use of framework agreements, including with the support of e-procurement systems, to purchase centrally common goods (e.g. pencils). By centralising the purchase of common goods, these contracts support governments in achieving cost savings and increasing productivity gains. In the EU, between 2006 and 2009, the number of framework agreements increased by almost four times (European Commission, 2011). In other regions of the word, this is also becoming common practice, as illustrated by the use of all-of-government contracts in New Zealand to create a single supply agreement between the Crown and the approved suppliers (Box 2.3).

- Restructuring the public procurement organisation with a view to downsizing the number of procurement professionals and standardising procurement. For instance, in the Netherlands, with a view to forming a compact government, 12 procurement executive centres are planned to replace hundreds of procurement offices functioning within the central government with the view to achieving savings of EUR 180 million. Similarly, in the United Kingdom, one single team, Government Procurement, was created in 2011 in order to contract for widely used goods and services for the whole-of-government at one single price. The Collaborative Procurement Programme is managing over GBP 18 billion of spend under nine categories of goods and services. In France, the Service of Purchases for the State was set up in 2009 to co-ordinate the purchases of off-the-shelf goods and services for state administrations.

- Using shared services as well as purchasing alliances to achieve economies of scale. For example, in the United States, the "Marketplace@Novation" purchasing alliance brings together 2 500 healthcare organisations across the United States with the combined purchasing power of USD 25 billion annually.[4]

Box 2.3. **All-of-government contracts in New Zealand**

In 2009, the Cabinet launched a four-year Government Procurement Reform Programme aiming at making procurement a strategic activity which supports better, smarter public service while ensuring value for money for taxpayer funds. This reform would initiate a change in the way procurement is perceived, thus promoting a shift from the traditional focus on process compliance to focusing further on its strategic outcomes.

The reform's main goals are achieving cost savings, building procurement capability and capacity, enhancing New Zealand business participation and improving the governance, oversight and accountability of the public sector's procurement policy and practice. It is led by the Government Procurement Solutions group, part of the Commercial Solutions Branch of the Ministry of Economic Development, with the support of Treasury and the State Services Commission. The Cabinet's Expenditure Control Committee (EEC) oversees the implementation of the programme.

Objectives

One of the key achievements of the Government Procurement Reform Programme is the establishment since 2010 of all-of-government (AoG) contracts in order to create a single supply agreement between the Crown and the approved suppliers for the supply of selected common goods and services purchased across government. By aggregating the purchasing function, these contracts support the government in achieving cost savings and increasing productivity gains, ultimately leading to a more competitive economy.

1. Cost savings: the AoG allowed the government to increase the collective buying power of over 200 state sector agencies, thus making it an important costumer and achieving substantial cost savings. These savings are used by agencies to implement other priorities with a small portion (1.5%) utilised to fund the Government Procurement Reform Programme, including the establishment of additional AoGs.
2. Productivity gains: the AoG allowed the state organisations to streamline the purchasing process for suppliers. In fact, organisations no longer develop their own tenders but buy directly from selected panel suppliers and maintain day-to-day operating relationships with them.

Box 2.3. **All-of-government contracts in New Zealand** (*cont.*)

3. Building competitiveness: the AoG consolidates the government procurement, thus increasing the size and volume of procurement and building a real market for industry to invest further in labour, equipment, research and development which may lead suppliers to develop more innovative products.

The contracts are developed and managed by procurement centres of expertise with oversight by the Reform Programme Management Team in the Government Procurement Solutions Unit of the Ministry of Economic Development. The Cabinet has specified that the term all-of-government contract can only be used when the contract is co-ordinated through the Government Procurement Reform Programme, has been approved by Cabinet and the award of the contract is approved by the Cabinet prior to signing. So far, four AoG contracts have been established covering the following items: *i)* office consumables; *ii)* passenger vehicles; *iii)* laptop/desktop computers; *iv)* single and multi-function print devices. The contracts are closely monitored with regular updates provided to the Cabinet. New AoGs are currently being designed for the following areas: *i)* external legal services; *ii)* air travel; *iii)* travel management services; *iv)* energy management services.

Impact

The first four AoG contracts have been successfully implemented and the government estimates to have saved NZE 115-165 million (EUR 67-96 million at 24 October 2011) over their five-year term.

Challenges and risks

One of the challenges faced in designing and implementing the AoG contracts by the government was the level of take up of agencies. Many had existing multi-year contracts for the products targeted and were reluctant to change their arrangements (especially that, unlike core departments, agencies in the wider state sector could not be mandated to adhere to the AoG contracts). In the case of the AoG desktop computer/laptop contract, some agencies were unwilling to change to a different brand of computers. These challenges were largely overcome by proactive work by officials from the Ministry of Economic Development to brief agencies on the benefits of AoG contracts (the Ministry of Economic Development estimates that more than 2 400 officials have been briefed since the programme's inception). Eventually high participation was achieved, providing the critical mass required to achieve significant savings.

Box 2.3. **All-of-government contracts in New Zealand** (*cont.*)

Key lessons learnt

Success in negotiating contracts on this scale requires high standards of professionalism and capability, as well as specialist market expertise on the part of the procurement staff leading the negotiation. Effective engagement with agencies and the relevant industry sectors in setting up the contracts is crucial. Systematic monitoring/collection of costs savings data encourages wider enrolment in the AoG contracts by non-mandated agencies.

Source: Case study provided by New Zealand.

- Investing in strengthening the capabilities of their procurement officials. For example, in the United States efforts are undertaken to develop the necessary capacities of the acquisition workforce to limit over-reliance on contractors. In Belgium, a Public Procurement Workstation was established under the Purchasing Policy and Advice Cell to support officials in managing public contracts in an efficient manner and in line with legal requirements. In Sweden, the Legal, Financial and Administrative Services Agency has been responsible for procurement assistance and development since 2009, which includes providing practical guidance to both public sector contracting authorities and businesses.

In European countries, the main trend is to establish centralised purchasing bodies to achieve economies of scale whereas other respondent countries tend to rely on the alternative arrangements mentioned above.

Increasing reliance on centralised purchasing bodies allows economies of scale in public procurement administration, and economies of scale on the supply side also has positive effects for procuring entities in terms of lower unit prices. For instance, Buying Solutions' ultimate goal in the United Kingdom is clearly formulated in its vision, "Savings for the Nation". More specifically, its objective is to achieve the best possible value for the taxpayer through effective, sustainable procurement, thereby releasing savings that are to be recycled into frontline public services, as further formulated in the target to deliver at least EUR 1 billion of savings to its customers each year as from 2010/11.

However, the quest for economies of scale may have a structuring effect on the market, by favouring large suppliers providing standard goods using established technologies and indirectly affect integrity negatively, e.g. through tacit or explicit market sharing and pricing collusion between a

few, dominant suppliers.[5] Also, some countries have reported that centralised purchasing bodies may have a negative impact on end-users, local suppliers and SMEs because of a limited understanding of local needs. Examples of central purchasing bodies that were created in recent years in Europe include:

- In Ireland, the National Procurement Service was created in 2009 to aggregate purchases across government departments, agencies and the non-commercial state sector to reduce prices paid for goods and services in addition to standardising the procurement process and managing the e-procurement website (Box 2.4).
- In Poland, a Common Services Centre, established within the Chancellery of the Prime Minister, was identified as the central purchasing body by Order of the Prime Minister in March 2011 for 61 government administration units.

Annex B illustrates the different models of existing centralised purchasing bodies in the European Union.

Box 2.4. **The National Procurement Service in Ireland**

Recognising the need to enhance efficiency and value for money in the Irish public procurement system, the government has adopted a strategic decision to increase momentum in the area of demand aggregation and professionalisation of procurement staff by establishing the National Procurement Service (NPS) in 2009. Prior to this reform, the government policy for promoting e-government in 2001-02 aimed at addressing these challenges by promoting electronic procurement as a way to increase transparency and efficiency. However, a government assessment showed that a national system of e-procurement could not be implemented without major reform and restructuring of the function. The National Procurement Service (NPS) is located in the Office of Public Works and has been tasked with centralising public sector procurement arrangements for common goods and services.

The National Procurement Service

The NPS was established in 2009 in order to reform the public procurement function with regard to supplies and services. The NPS' principal objective is to achieve best value for money in the procurement of supplies and services. It takes a strategic approach to public procurement through:

1. The aggregation of purchases across government departments, agencies and the non-commercial state sector to reduce prices paid for goods and services.
2. Providing procurement training and advice to the public sector, organising networks of procurement professionals and assisting, where possible, with specialist procurement needs.

Box 2.4. **The National Procurement Service in Ireland** (*cont.*)

3. Promoting simplification and standardisation of the tendering process.
4. Reducing the fragmentation of the Irish public sector procurement.
5. Managing the national public procurement website (www.etenders.gov.ie) and developing appropriate and cost effective e-pocurement measures.
6. Incorporating whole-of-government policies, as appropriate, into public procurement (e.g. SMEs participation, green procurement, innovation, etc.).

On the basis of market analysis, the NPS has identified the top 50 categories of procurement expenditure that can be targeted for intervention. This can involve demand aggregation to leverage public sector buying power, nominating/ supporting lead procurement organisations for particular categories (such as pharmaceuticals, catering security) and facilitating collaboration by public purchasers.

Implementation process

The NPS currently has 40 national frameworks in place for high spend requirements with a total value in excess of EUR 400 million. The NPS is also active in the area of education of both procurement officials and suppliers to the Irish public service. Recognising the importance of a well-informed supplier base, the NPS has participated in seminars/workshops and conferences throughout the country aimed at educating SMEs. To date, in excess of 1 000 SMEs have attended such sessions. The NPS is governed by a board of senior procurement stakeholders chaired by a Minister of State with responsibility for public sector reform. An advisory panel of three procurement experts (two from the private sector) has been established to ensure access to leading-edge procurement practices and market developments.

Impact and monitoring

Savings across all focus areas of the NPS have been achieved with a combination of price reductions, administrative efficiencies and demand management. The NPS input and output statements indicate levels of savings for 2010 and 2011 and further methodologies for quantifying savings are being developed.

Challenges and risks

One of the main challenges faced when implementing the National Procurement Service was determining the appropriate structures and ensuring public sector-wide acceptance of proposed new arrangements. However, through consultation and discussion with the relevant stakeholders and selling the benefits of the proposed new arrangements, public sector organisations adhered to the reform. In the event of reluctance on the part of contracting authorities to avail of new national arrangements (i.e. such as national frameworks for certain requirements described above), consideration will be given to making their use mandatory.

Source: Case study provided by Ireland.

The Recommendation: An international benchmark for procurement reviews and dialogue

The principles set out in the Recommendation have played an influential role in shaping policy debate in OECD and observer countries as well as encouraging inter-ministerial dialogue. They were also used as a basis for dialogue between procurement officials and other policy communities, for instance on:

- identifying and mitigating risks to integrity: for example, in Belgium to inform regular discussions on integrity risks in public procurement as part of the Co-ordination Network for Purchasing Officers that brings together representatives from the public and private sectors as well as unions;
- supporting economic policies : in the Netherlands to discuss the implementation of the principles in economic policies following the review of the Public Procurement Law;
- developing more specific guidance for the interface between procurement and competition authorities: with bid-rigging being identified as one of the risks to integrity in the 2008 Recommendation, the OECD Competition Committee developed Guidelines for Fighting Bid Rigging in Public Procurement to help governments improve public procurement by fighting bid rigging.[6]

The Principles were primarily used as an international benchmark in the formulation and review of public procurement regulations and policies to provide options for reforms based on other countries' experiences. Leading OECD and G20 economies, including Brazil, Mexico and the United States have requested the OECD to provide a peer review of their procurement system (Box 2.5). Respondent countries such as Chile, Egypt, Estonia, Ireland and Mexico used the Principles in the drafting of new regulations or policies. For instance, in Chile the Principles played a guiding role in the development of the 2009 Decree that enhanced transparency in public procurement. They also supported the evaluation of existing public procurement laws or policies in Hungary, Ireland, Italy, Norway and Turkey. The OECD Principles and related publications have been translated by different countries to facilitate use in policy review, for example in Hungary, the Netherlands, the Russian Federation and Spain.

To help procurement officials put the Principles set out in the Recommendation into practice at each stage of the public procurement cycle, a Checklist and an online Toolbox were developed.[7] These tools supported public officials in developing guidance and procedures at various

points in the procurement cycle based on identified good practices. OECD countries also used them for training procurement officials, for instance in Belgium, Finland, Hungary, Ireland, Mexico, Norway, Portugal, Sweden, and Turkey as well as Morocco. For instance, in Finland, the state-owned company HAUS Ltd., which organises the training for officials, introduced the Principles set out in the Recommendation during procurement courses and training. Also, the OECD has signed Memorandum of Understandings with the Italian and Korean schools of government to co-operate in the delivery of training courses for procurement officials attending these schools.

Box 2.5. **Seven lessons learnt from the OECD Public Procurement Reviews**

Major OECD and G20 economies, such as Brazil, Mexico and the United States paved the way by requesting an independent assessment of their public procurement systems to benchmark with international good practice. The reviews have helped governments in moving away from a strictly compliance-based approach with procurement rules to a managerial approach that pursues value for money across the whole project cycle. To transform procurement into a strategic function of government, a number of lessons can be drawn from these reviews.

1. Moving away from strict compliance to a more managerial approach pursuing value for money across the whole project cycle.

Poor project planning and lack of monitoring of performance in contract management are common challenges among countries. Reviews identified ways to mitigate risks of waste and integrity throughout the procurement cycle, from the needs assessment through the tendering process and until the final payment.

2. Ensuring a strategic position for the government function to ensure sound stewardship of public funds.

In Mexico, the procurement function is still handled as an administrative service in support of technical areas in many organisations. As part of the review process, the Commission for Electricity (CFE) has taken the initiative to draw up an action plan, together with the OECD, to provide a roadmap for reform, transforming procurement into a strategic function which will contribute to CFE's objectives and priorities.

Box 2.5. **Seven lessons learnt from the OECD Public Procurement Reviews** (*cont.*)

3. Developing evidence to monitor the performance of the procurement system.

The e-procurement system for federal public procurement in the United States brings together nine distinct systems to provide an integrated interface for users. The OECD peer review helped the United States federal government generate better quality data on procurement and promote performance analysis.

4. Tapping into the potential of consolidation with a view to achieving efficiency gains.

The Mexican Institute of Social Security (IMSS) procures a wide range of products and services through a highly decentralised procurement function. The OECD Review has helped it centralise the purchase of therapeutic goods, establish a maximum reference pricing and enhance the use of reverse auctions in order to achieve efficiency gains.

5. Investing in professionalisation.

The government of Morocco has set up a specific procurement unit in the Treasury in order to equip the government with a team of procurement specialists, following the OECD Review.

6. Keeping strict control in the use of exceptions to competitive tendering (e.g. for reasons of extreme urgency).

In Brazil, the extensive use of exemptions and below-threshold procurements suggests that the government is not leveraging its bulk purchasing power. The OECD Review recommended controlling more strictly the use of these exceptions and reforming the complaint system to avoid undue pressure from the private sector.

7. Providing sufficient flexibility in the procurement policy to adapt to different situations while ensuring transparency.

The review of the energy sector in Mexico shows that although economic operators require a level of flexibility in the use of competitive procedures, publicising information on public contracts is key to maintaining public trust, regardless of the level of competition.

Box 2.5. **Seven lessons learnt from the OECD Public Procurement Reviews** (*cont.*)

Country peer reviews help policy makers improve policies, adopt good practices and implement established principles and standards. They provide an assessment of a country's procurement system by peers working in administrations in OECD countries as well as concrete proposals to improve policies and practices in line with international good practice. With a major focus on stakeholders' consultations, reviews also provide a platform for developing a consensus on a reform agenda to facilitate their implementation.

Source: OECD (2012), "Public procurement for sustainable and inclusive growth: Enabling reforms through evidence and peer reviews", OECD, Paris, *www.oecd.org/gov/ethics/PublicProcurementRev9.pdf.*

The Principles also provided the reference framework for collecting comparative data across OECD countries on procurement policy and practice in *Government at a Glance* reports. To support evidence-based policy making, comparative data is collected on procurement systems across countries, in particular in relation to the size of procurement markets and transparency measures including the use of e-procurement. Data collected also helps shape the policy debate on emerging issues such as the use of green procurement, including implementation measures and obstacles faced in using procurement to support environmental protection.[8]

The Recommendation have also played a key role in the accession process to the OECD and in the development agenda. The Principles set out in the Recommendation were developed building on identified good practices from OECD and non-member countries such as Brazil, Dubai, India and South Africa. Furthermore, they were used as an international benchmark in the accession process to the OECD of new members including Chile, Estonia, Israel and Slovenia to validate the quality of candidate countries' policies and institutions for public governance in different areas, including integrity in public procurement. Also, the assessment of the Russian Federation against the Recommendation was discussed at the Public Governance Committee meeting in April 2011 as part of its accession process.

The Principles set out in the Recommendation as well as the Checklist and Toolbox contributed to the development agenda by providing a basis for policy dialogue on how to prevent waste and corruption in procurement systems in several regions of the world. In particular they were:

- used for training procurement officials from South East Europe, in co-operation with the World Trade Organisation and the Regional Anti-Corruption Initiative in November 2008. For example, the Recommendation was used in Macedonia to develop an Action Plan on integrity in public procurement in co-operation with the OECD-SIGMA programme;
- tested with African-Sub-Saharan countries in co-operation with the OECD-DAC Joint Venture to help combat fraud and co-operation in public procurement systems.[9] The application of the Principles set out in the Recommendation in the education sector for African Sub-Saharan countries was also discussed in co-operation with UNESCO;
- used for raising awareness about integrity risks in the entire public procurement cycle, from the needs assessment until the contract management. This was done as part of the policy dialogue between OECD and Middle East and North African (MENA) countries in the framework of the MENA-OECD Initiative on Governance and Investment for Development as well as in Asia-Pacific as part of the ADB/OECD Anti-corruption Action Plan.

Non-member countries also requested country reviews to help guide their procurement reforms based on the Recommendation. Accordingly, the peer review methodology was adapted by involving experts from both OECD and MENA countries to ensure an in-depth policy discussion among peers and promote a two-way learning process (e.g. Joint Learning Studies). Morocco, as an observer in the Public Governance Committee, was the first country to request such a review, which was then followed in the MENA region by Egypt, Iraq, Tunisia and Yemen (Box 2.6).

Box 2.6. **Reviewing the public procurement system in Morocco**

After the adoption of a decree for public procurement in 2007, the government of Morocco requested a country review of its public procurement system based on the *Recommendation on Enhancing Integrity in Public Procurement*. The Review supported the government of Morocco in identifying the loopholes of the decree as well as supporting its implementation.

The 2007 Decree provides a detailed framework for public procurement, which applies to central government and local authorities. However, state-owned enterprises and establishments can adopt their own specific regulations provided they comply with the requirements of competition and transparency set by the decree. One of the weaknesses identified was the lack of harmonisation of existing regulations for all public enterprises and establishments with the provisions of the 2007 Decree.

Box 2.6. **Reviewing the public procurement system in Morocco** *(cont.)*

Five main priority lines were identified by the OECD review to support an effective implementation of the decree:

- professionalise public procurement so that authorising officials have sufficient management capacity in a context where *ex ante* control is being lightened;
- strengthen the independence of the Public Procurement Review Board;
- pursue the initiative to reinforce accountability and control;
- ensure harmonised interpretation and implementation of the 2007 ddecree;
- introduce specific measures to fight corruption in procurement.

These recommendations were discussed during a national workshop in 2009 following which the Moroccan government decided to review the decree accordingly. The government recognised the role of the review in supporting stakeholders in reaching a consensus on the way forward based on evidence, data and international good practices.

Source: OECD (2008), "Enhancing integrity in public procurement: OECD Joint Learning Study on Morocco", OECD, Paris, available at *www.oecd.org/countries/morocco/44172038.pdf*.

Notes

1. For more details on the Spending Review, see: *http://cdn.hm-treasury.gov.uk/sr2010_completereport.pdf.*
2. For more information, see European Commission (2010).
3. The procurement function in this context refers not only to the organisational level but also to procedures and technologies used to achieve economies of scale.
4. Through e-sourcing agreements with over 500 suppliers of medical, laboratory and safety equipment, capital equipment and services, a study in 2000 of 31 hospitals suggested that each hospital saved USD 12 million annually by joining the alliance.
5. For more information, please refer to OECD (2011a).
6. Additional information on the bid-rigging guidelines can be found at: *www.oecd.org/document/29/0,3746,en_2649_40381615_42230813_1_1_1_1,00.html*.
7. The Checklist can be accessed at: *www.oecd.org/document/46/0,3746,en_2649_34135_41072238_1_1_1_1,00.html*. The online Toolbox can be accessed at: *www.oecd.org/.../0,3407,en_21571361_44258691_1_1_1_1_1,00.html.*
8. The 2009 and 2011 editions of *Government at a Glance* reports include data on procurement which can be accessed at: *www.oecd.org/gov/indicators/govataglance.*
9. See the Arusha Statement of the OECD-DAC Joint Venture on Public Procurement.

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Chapter 3

Is procurement used for too many objectives?

Governments increasingly use procurement as a policy lever to support various objectives such as green growth, the development of small and medium-sized enterprises or innovation. This chapter explains how the financial crisis has given a new impetus for governments to use procurement to achieve socio-economic objectives. It explores the conditions under which procurement has proved effective to achieve these objectives.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West bank under the terms of international law.

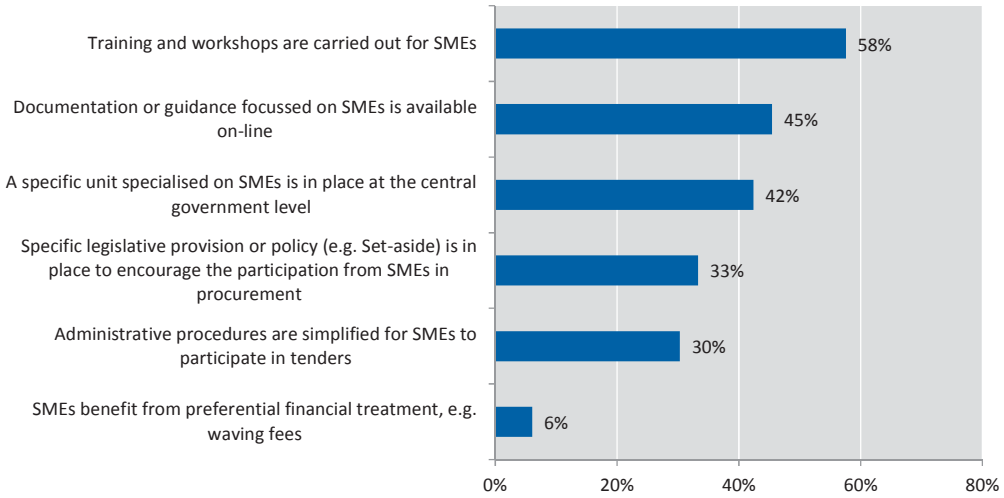
Procurement as a strategic instrument to pursue government objectives

Procurement is increasingly used as a strategic instrument to pursue government objectives, such as small and medium-sized enterprises development (SMEs) and green growth.

SMEs development and employment

Most governments focus their efforts on facilitating the access of SMEs to contracts in central government through training and on-line documentation rather than on providing financial incentives (Figure 3.1).

Figure 3.1. **Approaches to support the participation of small and medium-sized enterprises in public procurement in central government**

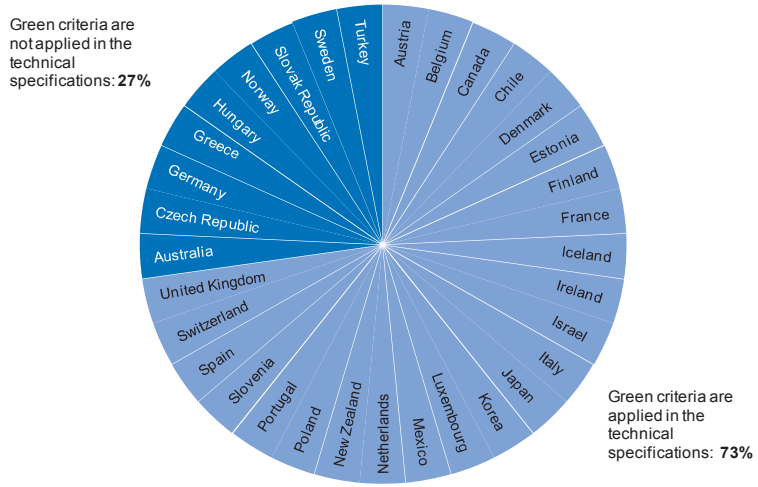


Source: OECD 2012 Survey on Public Procurement (internal unpublished document), OECD (2012), OECD National Accounts Statistics (database). *http://dx.doi.org/data-00369-en*

Sustainability

Governments are integrating green criteria in their purchasing decisions (Figure 3.2).

Figure 3.2. **Stages of procurement where green criteria are applied**



Source: OECD (2011b), *Government at a Glance 2011*, OECD Publishing, *http://dx.doi.org/10.1787/gov_glance-2011-en.*

The crisis has given a new impetus for governments to use procurement to support socio-economic objectives

In the last decade, governments have increasingly used procurement as a policy lever to support socio-economic objectives, such as promoting innovation. The economic crisis has given a new impetus to use procurement to drive innovation in order to help recover from the global downturn, for instance by encouraging innovative companies to bid for government contracts. Procurement has also been used to ease the socio-economic impact of the crisis on societies by providing a substitute for direct social policies to support employment for disadvantaged groups and communities. However, when using procurement to support socio-economic objectives, the opportunity costs have not necessarily been measured.

Because of its economic significance, public procurement has the potential to influence the market in terms of production and consumption trends in favour of environmentally friendly and socially responsible products and services. In the European Union, public procurement accounts for about 17% of GDP on average – for spending on construction this percentage reaches about 40% and for defence, civil security and emergency operations almost 100%. Therefore, governments are increasingly including environmental considerations in procurement as a way to promote environmental protection. A key challenge in the coming years will be to effectively integrate environmental goals into public procurement[1] while mitigating potential risks to integrity. There is a shift to consider that the main objective pursued by public procurement is not only to achieve value for money – that is the value of the items and services procured – but to promote broader government objectives.

As for socio-economic objectives, governments need to carefully weigh the opportunity costs and benefits before deciding whether to integrate them in procurement. In particular, is procurement the most effective way to achieve innovation in this specific case? Will there be side-effects? For example, when award criteria include other considerations than economic value such as innovation, this introduces a level of subjectivity in the decision of procurement officials. For instance, if the innovative character of the goods is to be considered in the award decision, the procurement official will need to be well-equipped to assess objectively the extent to which each tender is innovative. Otherwise, there is a risk that these socio-economic considerations are used to favour specific firms, which opens the door to corruption. Also, the incorporation of socio-economic considerations in procurement tends to make the procurement process more complex, which leads to a focus on the process rather than optimal procurement outcomes.

Procurement has the potential to foster innovation in markets where the public sector is a significant purchaser

The potential of public procurement to support innovation was highlighted in the OECD Strategy on Innovation in order to build a stronger, fairer and cleaner economy after the crisis. Procuring is one instrument that many governments use to unleash innovation in complement to getting prices right, opening markets for competition and devising innovation-inducing standards and smart regulations, in particular:

- procurement practices can foster innovation in markets where the public sector is a significant purchaser – by investing in sectors where government is a significant purchaser, such as health or defence;
- governments can influence private purchasing and production, which have potentially a much larger impact – for instance, by being early or lead users of innovations, investing in pre-commercial innovations and creating new markets (OECD, 2011).

For instance, a survey conducted by the Austrian Federal Ministry for Economic Affairs and Labour indicates that public procurement accounts for approximately 14% of GDP (EUR 40 billion) and that more spending on innovation would generate from EUR 800 million up to EUR 2 billion of value added. Almost all respondent countries, with the exception of Egypt and the Slovak Republic, use public procurement as an instrument to support innovation. Their primary objectives are, in order of importance:

- ensuring a level playing field for innovative companies, in particular for SMEs or disadvantaged communities (see the example of the Canadian Innovation Commercialisation Programme targeted at innovative SMEs in Box 3.1);
- driving green product innovation, notably through the development of energy-efficient clothes dryers, office copiers, computers and lighting;
- providing innovative goods and services for the government;
- developing lead markets, although this requires reaching a critical mass to be effective; as well as more generally
- promoting competitiveness in the economy.

Box 3.1. **The Canadian Innovation Commercialization Programme**

In the framework of the Canadian government's federal budget of 2010, a two-year pilot programme was launched to support Canadian businesses to commercialise their innovative products and services. The Canadian Innovation Commercialization Programme (CICP) promotes the purchase of Canadian pre-commercial products and services in the late stages of research and development with the intent of testing and evaluating these goods and services. This programme responds to the demands of Canadian businesses to develop marketplaces for innovative goods and services through the purchasing power of the government.

Objectives

Created to bolster innovation in Canada, the Canadian Innovation Commercialisation Programme will help companies bridge the pre-commercialisation gap for their innovative products and services by:

- awarding contracts to entrepreneurs with pre-commercial innovations through an open, transparent, competitive and fair procurement process;
- testing and providing feedback to these entrepreneurs on the performance of their goods or services;
- providing innovators with the opportunity to enter the marketplace with a successful application of their new goods and services;
- providing information on how to do business with the government

The CICP will target innovations in four priority areas: *i)* environment; *ii)* safety and security; *iii)* health; and *iv)* enabling technologies.

Implementation process

The CICP is managed by the Department of Public Works and Government Services Canada (PWGSC) and implemented by the Office of Small and Medium Enterprises (OSME). OSME was created in 2005 as an organisation that would support the accessibility of SMEs in federal government procurement activities. Since its creation, OSME has worked extensively with Canadian companies to identify their challenges in doing business with the Canadian federal government. This knowledge and ongoing dialogue with industry have been incorporated into the design and implementation of the programme to provide a unique procurement opportunity that is open and accessible to businesses of all sizes. Throughout the development of the programme, and to support the implementation and operation of the programme, the Canadian federal government departments and agencies, Canadian businesses (with a focus on SMEs) and industry associations, have been consulted and are participating on an ongoing basis.

Box 3.1. **The Canadian Innovation Commercialization Programme** (*cont.*)

Impact and monitoring

The experience of the Office of Small and Medium Enterprises, in conjunction with support from contracting experts within the Department of Public Works and Government Services, and external support from the Canadian federal government organisations, the National Research Council – Industrial Research Assistance Programme, has allowed the CICP to successfully address the challenges faced by businesses who wish to sell their innovative products and services to the Canadian federal government. The mix of contracting and technical expertise, in addition to the industry knowledge of the Office of Small and Medium Enterprises, allowed for the mix of different experts to design an innovative approach to public procurement. The tools employed by the programme allow for straightforward data collection and active monitoring at no additional cost. To support efficient programme operation, an internal evaluation has been conducted, but it is too early in the programme to determine the tools' impact on value for money.

Challenges and risks

The programme in itself is considered to be innovative, requiring legal and policy support in its design, implementation and operation to ensure it is compliant with Canada's trade agreements, both domestic and international, and does not conflict with Canadian federal policies and regulations. It was also launched in a period where governments, both in Canada and globally, are seeking to reduce spending, making the approach to the programme reflective of these challenges and ensuring that it provides good value for money.

The Office of Small and Medium Enterprises have been actively working with barriers that exist in federal procurement, both in Canada and internationally. This experience has supported the programme to be responsive to these challenges. Additionally, the programme has worked with central organisations within the government to ensure its approach is synchronised with the government's objectives.

From a value for money perspective, the programme has been designed to be cost effective. Examples include the use of an electronic proposal submission system that allows businesses to submit proposals and evaluators to review electronically resulting in reduced paper and travel requirements; the integration of the programme's website to include elements normally included in a call for proposals document to increase the accessibility of its information while reducing the size of its solicitation documents; and the outreach strategy of the programme hosts national bidders conferences online to answer specific questions on the programme as well as partnering with organisations with similar mandates to co-host promotional events.

Box 3.1. **The Canadian Innovation Commercialization Programme** (*cont.*)

Key lessons learnt

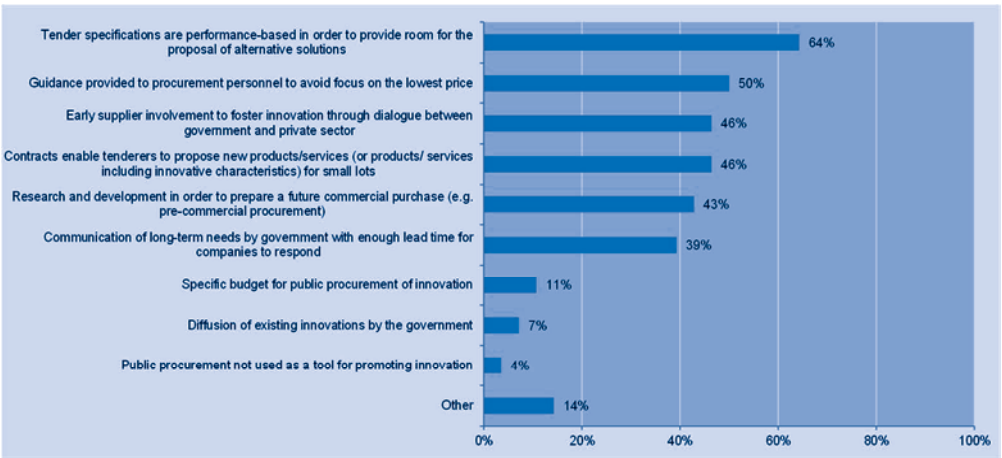
Entrepreneurs and innovative businesses experience significant barriers to their success and, in many cases, they just need someone to take a chance on them. Following the first round of call for proposals, it became apparent there is a significant interest from industry with 375 proposals submitted. The response from industry has shown that there is a strong desire for a programme like the Canadian Innovation Commercialization Programme.

Source: Case study provided by Canada.

However, governments are still learning how to effectively use procurement to promote innovation. A common practice in two-thirds of OECD countries is the use of performance-based tender specifications in order to provide room for potential suppliers/contractors to propose alternative solutions. Performance-based tender specifications, together with the criterion of the most economically advantageous tender, including life-cycle cost, help foster innovative solutions while enhancing better value for money in public procurement. For these measures to be effective, this requires officials who are adequately trained to develop performance-based specifications that are clear and comprehensive while not being discriminatory. Also, half of respondent countries have developed guidance to avoid focusing on the lowest price and transforming government into an early adopter of new ideas. On the other hand, few countries indicated that they have specific budgets for the procurement of innovation (e.g. Canada, Chile, Finland, the United States) or that the government diffuses existing innovations (only the United States).

Figure 3.3. **Procurement practices used to promote innovation**

% of responding OECD countries



Source: OECD 2011 Survey on Reporting Back on Procurement Recommendation (unpublished internal document).

Some governments are leading the way by taking steps to:

- Communicate needs early to potential suppliers with enough lead time for companies to respond. In the United Kingdom, government agencies are required to establish and develop an Innovation Procurement Plan as part of their commercial strategies. The procurement agency and the innovation ministry also provide practical advice on how to ensure that innovation is incorporated into procurement practices.

- Prepare future commercial purchase. In Canada, the Innovation Commercialization Programme focuses on helping companies bridge the pre-commercialisation gap for their innovative goods and services in the late stages of research and development for the purposes of testing and evaluation (Box 3.1). In Austria, the Innovation and Technology Policy has two main components: the purchasing of pre-commercial innovations to support research and development by providing a market to newly developed products, and the purchasing of innovative products for commonly used goods and services.

- Provide guidance to procurement personnel. In Ireland, the Department of Enterprise, Trade and Employment developed a *10-Step Guide for Buying Innovation* that aims to promote SMART procurement and SMEs access to public contracts.

- Fund public procurement of innovation. In Finland, the national innovation funding agency, Tekes, finances public procurement of innovation to lower the risks associated with the development of innovative goods and services. Also, the Europe 2020 Flagship Initiative "Innovation Union" launched in October 2011 stipulates that "from 2011, member states and regions should set aside dedicated budgets for pre-commercial procurements and public procurements of innovative products and services".
- Diffuse innovation. In the United States, in addition to the aforementioned practices, government agencies also help demonstrate and diffuse existing innovative technologies, for instance by using fuel-efficient vehicles.

The survey findings reveal that a number of barriers remain to using public procurement to implement innovation procurement, the first one being the lack of specialised knowledge by procurement officials of available technologies, innovations or market developments. This is linked to the fact that many agencies or local governments with responsibilities for public procurement operate separately from line ministries or government agencies with a remit to foster innovation.

Also, several countries point out that public procurement is not explicitly used as a tool for innovation, with the absence of a specific strategy to foster innovation through public procurement. Although almost all countries are using procurement to support innovation, 65% of respondent countries have not developed a formal, written policy explicitly aimed at using public procurement to foster innovation. For those few countries which have developed a specific policy to promote innovation through public procurement, they focus primarily on the following sectors, by order of priority: defence, public order and safety, fuel and energy, environmental protection, as well as health.

Procurement is increasingly adapted to promote a level playing field for SMEs

Although SMEs represent a substantial share of the global economy and labour market – for example 67% of total employment and 58% of gross value added in the EU in 2012 (ECORYS, 2012) – they do not have a representative share of government contracts. Public procurement is a primary instrument to help offset biases against SMEs.

More than three-quarters of OECD countries have introduced measures aimed at SMEs which have a comparative disadvantage to participate in tenders. The most common measures are meant to enable SMEs to

participate in tenders rather than providing specific preference – by carrying out trainings and workshops for SMEs, making documentation focused on SMEs available online as well as setting up a specialized unit for SMEs in central government (Table 3.1). A quarter of OECD countries have simplified administrative procedures to facilitate the participation of SMEs in tenders.

About a third of OECD countries have put in place specific legislative provisions or policies (e.g. set-asides) to encourage SMEs' participation in public procurement. Accordingly, preference is given to SMEs in countries such as Australia, Brazil, France, Korea and the United States. In the United States, there is a target of 23% of direct contracts and 40% of subcontracts to SMEs that is monitored by the Administrator of the Small Business Administration and the President of the United States. In France, Article 26 of the French Economic Modernisation Act reserves 15% of small technology contracts for innovative SMEs, that is high technology or research and development contracts below the EU thresholds (OECD, 2011a). While not excluding the possibility of direct or reserved contracts, the UNCITRAL Model Law on Procurement invites governments to consider alternatives, such as application of margin of preferences, that would stimulate innovation in, and competitiveness of, the targeted groups. Another mechanism used to favour SMEs is to subcontract parts of the government contract to SMEs. In Brazil, the winning supplier can be required to subcontract up to 30% of the total value of the original contract.

Table 3.1. **Approaches to promote fair access of SMEs to public procurement in central government**

	Specific legislative provision or policy (e.g. set-aside) is in place to encourage the participation from SMEs in procurement	A specific unit specialised on SMEs is in place at the central government level	Training and workshops are carried out for SMEs	Documentation or guidance focused on SMEs is available on-line	Administrative procedures are simplified for SMEs to participate in tenders	SMEs benefit from preferential financial treatment, e.g. waiving fees	Not applicable, there are no specific measures to support the participation of SMEs in public procurement in central government	Other
Australia	○	●	○	○	○	○	○	○
Austria	○	●	●	●	○	○	○	○
Belgium	○	●	●	○	●	○	○	○
Canada	○	●	●	●	○	○	○	○
Chile	○	○	●	●	○	○	○	○
Czech Republic	○	○	○	○	○	○	●	○
Denmark	○	●	●	●	○	○	○	●
Estonia	○	○	○	○	○	○	○	●
Finland	○	○	○	○	○	○	○	●
France	●	○	●	●	○	○	○	●
Germany	●	○	○	○	○	○	○	○
Hungary	●	○	●	●	●	○	○	○
Iceland	○	○	○	○	○	○	●	○
Ireland	○	○	●	●	●	○	○	○
Israel	○	●	○	●	○	○	○	○
Italy	○	○	●	●	○	○	○	○
Japan	●	●	○	○	○	○	○	○
Korea	●	●	●	●	○	●	○	○
Luxembourg	○	○	○	○	●	○	○	○
Mexico	●	●	●	●	○	●	○	○
Netherlands	●	○	●	○	●	○	○	○
New Zealand	○	○	●	○	●	○	○	○
Norway	○	●	○	○	○	○	○	○
Poland	●	●	●	●	○	○	○	○
Portugal	○	○	●	○	○	○	○	○
Slovak Republic	○	○	○	○	○	○	●	○
Slovenia	●	○	○	○	●	○	○	○

Table 3.1. **Approaches to promote fair access of SMEs to public procurement in central government** (*cont.*)

	Specific legislative provision or policy (e.g. set-aside) is in place to encourage the participation from SMEs in procurement	A specific unit specialised on SMEs is in place at the central government level	Training and workshops are carried out for SMEs	Documentation or guidance focused on SMEs is available on-line	Administrative procedures are simplified for SMEs to participate in tenders	SMEs benefit from preferential financial treatment, e.g. waiving fees	Not applicable, there are no specific measures to support the participation of SMEs in public procurement in central government	Other
Spain	○	○	○	○	○	○	○	●
Sweden	○	○	○	○	○	○	●	○
Switzerland	●	○	●	●	●	○	○	○
Turkey	○	●	●	○	○	○	○	○
United Kingdom	○	●	●	●	●	○	○	●
United States	●	●	●	●	●	○	○	○
Total OECD 33								
● Yes	11	14	19	15	10	2	4	6
○ No	21	19	14	18	23	31	29	27

Note: In the Czech Republic, contracting entities are required to set down non-discriminatory tender conditions. In Denmark, the Competition and Consumer Authority has published a step-by-step guide including information on rules, procedures and key issues related to how to establish SMEs consortia. In Estonia, there are no specific approaches in place to support SMEs since the majority of Estonian enterprises are classified as SMEs. In Finland, the central procurement unit plans the tenders in a way that encourages SMEs to participate the tendering process. In Spain, the central body responsible for the assessment on public procurement (the Public Procurement Consultative Board) is in contact with SMEs and general associations of SMEs to listen to their demands on this issue. In New Zealand, the majority of enterprises are classified as SMEs and despite there is not a specific policy of preference for SMEs, support is given by way of measures to reduce compliance costs for suppliers (e.g. through procedural simplification, development of online guides and templates, and training and workshops for both suppliers and procurement practitioners). In the United Kingdom, there is a programme of work with departments to drive up spending with SMEs where they can provide best value to the taxpayer. An example of a supportive documentation focused on SMEs is 'Winning the Contract' available on the LearnDirect website. The procurement process has also been simplified, for example, Government Departments have eliminated the use of Pre-Qualification Questionnaires (PQQ) in most procurement below the EU threshold of approximately £100k.

Source: OECD (2013), *Government at a Glance 2013*, OECD Publishing, Paris, doi: http://dx.doi.org/10.1787/gov_glance-2013-en.

The protection of the environment is becoming a selection criteria

A growing societal imperative for countries is to promote economic growth while reducing pollution as highlighted by the OECD Green Growth Strategy. Green procurement, which is commonly defined as the purchase of environmentally friendly goods and services by governments, helps promote the shift towards more sustainable patterns of consumption and production. This was recognised by OECD countries in 2002 with the adoption of the *OECD Council Recommendation on the Environmental Performance in Public Procurement.* In several OECD and G20 countries, the protection of the environment has given rise to an important environmental market of goods and services which is contributing significantly to economic growth and environmental-related jobs creation. By 2020, it is estimated that the sales of eco-industries will reach EUR 2.2 trillion. Governments can "kickstart" markets for more environmentally friendly goods and services and thus encourage businesses to follow the government's lead. For instance, China invested USD 34 600 million in clean energies. In the United States, USD 18 600 million were invested. Also, buying "green" at the government level can help to improve overall environmental conditions. For instance, in 2011 the government of Estonia purchased 110 new environmentally efficient buses, which shall be put into use for the provision of public passenger services. In Italy innovation is promoted in the procurement of the energy sector (Box 3.2).

Box 3.2. **Driving green product innovation in Italy**

Consip, the Italian central purchasing body, conducted research that showed that that there is need to reduce the costs of heating services as it absorbs 38% (about EUR 2.4 billion per year) of the national energy expenditure and accounts for about 5% of the Italian energy market. Combining the necessity to achieve cost savings and incentives for innovation in the energy sector's procurement, Consip launched a framework contract on "Integrated Energy Management Services" (heating services including improvement of energy efficiency, consumption reduction and CO_2 emissions avoidance).

Objectives

The Integrated Energy Management Services aimed at promoting innovation in the procurement of the energy sector in order to decrease the energy consumption of the public administration.

Box 3.2. **Driving green product innovation in Italy** *(cont.)*

Implementation process

Pre-procurement market consultations were carried out using online questionnaires addressed to the public administration, businesses and the main trade associations by Consip, in collaboration with the Ministry of Economy and Finance. Consip then undertook a market analysis based on historical data, questionnaire responses published on Consip's portal. Suppliers were engaged and involved in the design of this initiative. Consip moved from an initial tender, designed in 2002 for heating services only, to a more sophisticated tender, in 2006, named "Integrated Energy Management Services", offering integration between heating services and energy management tools, designed and implemented in around one year.

Impact and monitoring

The tendering process was an open procedure, split into 12 geographical lots, awarded to 5 different suppliers on the basis of the most economically advantageous tender (MEAT), whereby 70% was allocated to price and 30% to quality.

The main feature of this performance contract was to reach and maintain a set temperature (i.e. 20°C) inside buildings (public offices, schools, prisons, universities, etc.) for five years.

This initiative allowed the public administration to improve the energy efficiency consumption and consequently reduce pollution. Therefore, the supplier was required to ensure a minimum level of reduction for primary energy consumption of the whole "building/heating plant" system, measured in tonnes of oil equivalent (TOE). The supplier was also required to provide evidence of the results obtained; credibility was certified by the AEEG (Italian Regulatory Authority for Electricity and Gas) who operates and maintains heating facilities, including remote control.

The Integrated Energy Management Services achieved:

- 27% cost saving for public administrations involving approximately 5 000 buildings;
- contracts executed had a total (estimated) financial value of EUR 800 million;
- enhanced competition on technical features included in the tender;
- contract duration of five years.

The principle environmental impacts are related to CO2 emissions caused by energy consumption. In order to reduce these impacts, the contract included a performance clause requiring a minimum amount of energy saved (375 TOE). Actual energy saved reached 6 000 TOE, which is much higher than the minimum required, resulting in saving 4 800 tonnes of CO2 emissions.

Box 3.2. **Driving green product innovation in Italy *(cont.)***

Challenges and risks

In order to save energy consumption, at a national level, Consip adopted a strategy based on energy performance contracts. The basic idea is that the supplier of the energy service is motivated and encouraged to optimise energy consumption and resource management to improve his profitability. The biggest challenge was to continuously monitor this performance of the suppliers in the framework of the contract. Thus a set of green measurements were introduced in the technical specifications and the award criteria.

Source: Case study provided by Italy

Considerable progress was made in providing guidance to procurement officials on how to take into account environmental sustainability in public procurement. In 2007, an OECD survey indicated that the most common barrier to successfully implementing green procurement was a lack of know-how among procurement officials on how to achieve it. As a response, by 2010 more than three-quarters of OECD countries had introduced practical guides on green procurement (Table 3.2).[2]

Table 3.2. **Tools available to provide guidance on green procurement**

Country	Guidance to promote green procurement in practice			
	Practical guide	Training materials	*Ad hoc* advice	Code of practice
Australia	●	○	○	○
Austria	●	○	○	●
Belgium	●	○	●	○
Canada	●	●	●	○
Chile	●	●	○	○
Czech Republic	○	○	○	○
Denmark	●	○	●	●
Estonia	●	●	●	○
Finland	●	●	●	○
France	●	●	●	●
Germany	●	●	○	○
Greece	○	○	○	○
Hungary	●	●	○	○
Iceland	●	●	●	○
Ireland	●	○	○	○

Table 3.2. **Tools available to provide guidance on green procurement**

(*cont.*)

Israel	○	●	●	○
Italy	●	●	●	○
Japan	●	○	●	○
Korea	●	●	●	●
Luxembourg	●	○	○	○
Mexico	○	○	○	○
Netherlands	●	●	●	●
New Zealand	●	○	○	●
Norway	●	●	●	○
Poland	●	●	○	●
Portugal	○	○	○	○
Slovak Republic	○	○	○	○
Slovenia	●	●	●	●
Spain	○	○	●	●
Sweden	●	●	●	●
Switzerland	●	●	●	○
Turkey	○	○	○	○
United Kingdom	●	●	○	○
United States	●	●	●	○
Total OECD 34				
● Yes	26	19	18	10
○ No	8	15	16	24

Source: OECD (2011), *Government at a Glance 2011*, OECD Publishing, *http://dx.doi.org/10.1787/gov_glance-2011-en*.

Examples of guidance include:

- practical guides: in New Zealand, the Ministry of Economic Development, as part of the Sustainable Government Procurement Project, produced a guide in 2008 on what public service departments must consider when purchasing goods and services in the following categories: paper, timber and wood products, travel and light fittings.
- action plans: in Austria, the government adopted a National Action Plan for Sustainable Public Procurement in 2010 by a Council of Ministers Decree;

- educational courses: in Korea, the Public Procurement Service launched a Green Purchasing Educational Course in the Public Procurement Human Resources Development Center's curriculum in 2010, and has provided related education to public servants in charge of purchasing by inviting professional lecturers and having field trips.

In addition to providing guidance, setting targets and monitoring through reporting tools is essential to ensuring implementation. Some countries such as Canada, Japan, Norway and the United States have taken a pro-active approach:

- In Japan, guidelines help define how to select eco-friendly goods across the state institutions and local governments. In addition, each agency publicises on a yearly basis a procurement policy defining the eco-friendly goods which will be procured and then reports back to the Ministry of Environment on the percentage of eco-friendly goods purchased during the fiscal year (Box 3.3).
- Another prime example is the General Services Administration (GSA) in the United States, which developed a range of initiatives including: *i)* the creation of an "Environmental Aisle" in the GSA Advantage electronic-purchasing website that allows federal buyers to find green products available under a GSA contract; *ii)* the development of a "carbon footprint tool" for agencies to calculate their carbon footprints and locate GSA products and services to help reduce greenhouse-gas emissions and save water and energy; *iii)* partnering with the Environmental Protection Agency (EPA) in order to receive regular updates on EPA-approved "environmentally preferable" products.
- In Norway, to ensure that the sustainable procurement policy is in line with wider environmental policies, the Agency for Public Management and e-Government and the Ministry of Environment organise regular monitoring meetings and are currently evaluating the implementation of the Action Plan for Environmental and Social Responsibility in Public Procurement. The government also monitors the use of green public procurement criteria on an *ad hoc* basis.
- In Canada, to verify the implementation of the Policy on Green Procurement, individual government agencies are required to publish in their year-end performance reports a section on progress made in implementing these objectives.

Box 3.3. **The legal and policy framework for green procurement in Japan**

In line with the Kyoto Protocol Target Achievement Plan approved by the Cabinet in 2005 and with other related policies and laws such as the Basic Environmental Law of 1992 and the Basic Law for Establishing the Recycling-based Society of 2000, Japan adopted in 2000 a Law to Promote the Procurement of Eco-friendly Goods and Services by the State and Other Entities. This law aims at establishing the adequate legal framework to promote green purchasing.

Eco-friendly goods refer to: *i)* goods which contribute to reducing greenhouse gases; *ii)* goods which can be reused, recycled or generate a limited amount of waste thus contributing to the reduction of "environmental impacts". Similarly, eco-friendly services refer to the use of eco-friendly products when providing services.

Objectives

By promoting the purchase of eco-friendly goods in all state institutions, the government aims at becoming a driver for suppliers to develop more eco-friendly products by triggering a ripple effect on markets. In this perspective, the law's focus is to:

- provide a legal framework for the state, independent administrative institutions and local governments to procure eco-friendly goods and services;
- promote the dissemination of information on eco-friendly goods and services;
- promote a shift in demand towards eco-friendly goods and services;
- move toward a sustainable economic development with a lower environmental impact.

Implementation process

In order to comprehensively and systematically promote green purchasing, the law was complemented with a basic policy which defines guidelines on how to select eco-friendly goods across the state institutions and local governments (e.g. recycled paper, low-emission vehicles). In fact, each institution publicises on a yearly basis a procurement policy defining the eco-friendly goods which will be procured. Institutions then report back to the Ministry of Environment on the percentage of eco-friendly goods purchased during the fiscal year.

Box 3.3. **The legal and policy framework for green procurement in Japan** (*cont.*)

This law and policy are applicable to ministries, courts and state agencies as well as independent administrative institutions defined in the Law on General Rules on Independent Administrative Institutions, the Law on the Establishment of the Ministry of Public Management Home Affairs, Post and Telecommunication and State-Owned Enterprises.

The law and policy also encourage companies and citizens to purchase eco-friendly goods. In this perspective, manufacturers and importers are required to provide information on the environmental impact of their products and eco-labeling bodies are requested to promote eco-labeling programmes on a scientific basis and in compliance with international standards.

Additionally, the Ministry of Environment has established the guidelines of reliability for eco-friendly goods and services. These guidelines are expected to make those who produce and sell goods and services make more efforts to assure the reliability regarding their environmental specs.

Source: Case study provided by Japan.

To effectively implement green considerations in public procurement, experience in respondent countries shows the importance of:

- linking green procurement with value for money savings in the context of whole-of-life costs and benefits to provide a powerful incentive for government officials to implement it. A 2010 OECD survey showed that procurement officials still fear higher prices when using green procurement;
- setting green priorities and priority expenditure sectors for action to optimise the return on investment as well as monitoring their implementation;
- engaging with the private sector and other stakeholders in order to achieve "buy-in". For instance, targeted capacity-building for suppliers, especially SMEs, helps ensure that the local supply can be brought up to new green standards;[3]
- building multi-disciplinary teams, including procurers, lawyers and environmentalists in order to mainstream environmental policies with green procurement policies (see Box 3.4);
- making green procurement part of a wider environmental strategy.

Box 3.4. Mainstreaming environmental policies in procurement: The experience of Norway

In line with its commitments to international agreements to reduce carbon emissions and promote environmentally friendly policies, the Norwegian government has adopted several environmental policies since 1990 to set long-term strategic objectives and measurable time-bound targets.

In its 2006-07 Environmental Policy, the government of Norway identified public procurement as a key area to reduce its environmental impact. Consequently, a three-year (2007-10) Environmental and Social Responsibility in Public Procurement Action Plan was drawn up to ensure that the environmental impact of public purchases is minimised and that the government leads by example in this area. Recognising the impact of mainstreaming the different environmental public sector polices to increase their effective implementation, the Norwegian government has reinforced the policy and institutional coherence in the area of sustainable public procurement.

Action plan for Environmental and Social Responsibility in Public Procurement

Objectives

The Norwegian government has launched an initiative to further mainstream the sustainable public procurement policy with general environmental policies.

This reform aimed at avoiding parallel indications and strategic orientations given to procurement officials which lead to confusion amongst the procurement personnel on which measures to implement.

This reform increases the effectiveness of sustainable procurement measures and provides further guidance to procurement officials on the policy objective to pursue.

Implementation process

This initiative required institutional rearrangements in order to increase the coherence of the institutional structure and ensure the effective implementation of sustainable public procurement measures. In particular, the responsibility of implementing the Action Plan for Environmental and Social Responsibility in Public Procurement was transferred by the Ministry of Environment to the Agency for Public Management and e-Government (Difi), which is the central public procurement department under the Ministry of Public Administration.

Additionally, several guidance materials were developed to support procurement officials in implementing sustainable public procurement (handbooks, Internet sites for public procurement officers).

Box 3.4. **Mainstreaming environmental policies in procurement: The experience of Norway** (*cont.*)

Impact and monitoring

This institutional readjustment was achieved successfully, partly due to the fact that Difi was recently established and so was able to build up staff that matched the required qualifications. On the other hand, the Ministry of Environment made significant savings and could dedicate further resources to other policy areas.

However, in order to ensure that the sustainable procurement policy is in line with wider environmental policies, Difi and the Ministry of Environment organise regular monitoring meetings and are currently evaluating the implementation of the Action Plan for Environmental and Social Responsibility in Public Procurement.

Challenges and risks

In the implementation process of this reform, two challenges were observed: *i)* building multi-disciplinary teams that work well together – mainstreaming implies getting procurers, lawyers and environmentalists to see each other as useful resources at both practical and policy level (goals); and *ii)* organisational effects of budgetary changes.

Key lessons learnt

A general consensus has been reached on the importance of mainstreaming environmental policies with sustainable public procurement policies.

Source: Case study provided by Norway.

Notes

1. At the European level, there are a number of ongoing initiatives: the European Commission's publication "Public procurement for a better environment" sets targets for the uptake of GPP in EU member countries and started the process of development of common voluntary European GPP criteria. See also European Commission (2004; 2010); following the "Innovation Union" communication commitment n° 17, the European Commission monitored a study (from November 2010 through November 2011) to develop a new support mechanism for procurement of innovation. This scheme will provide guidance and set up a (financial) support mechanism to help contracting authorities to implement these procurements in a non-discriminatory and open manner, to pool demand, to draw up common specifications and to promote SMEs access. On pre-commercial procurement, see European Commission (2007).
2. See also OECD (2011b).
3. For more details see OECD (2011c).

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Chapter 4

Are governments capable of mitigating risks of waste and corruption?

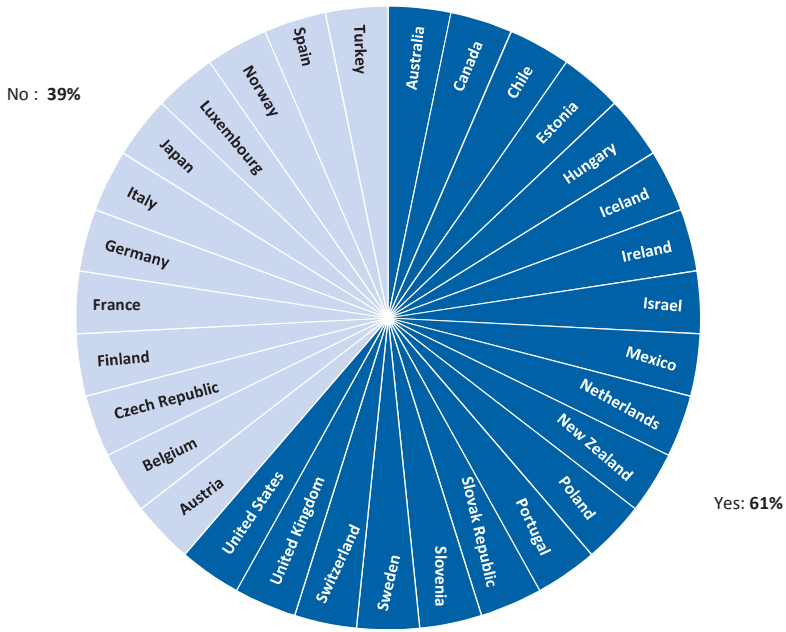
Considering the economic importance of procurement, having professionals with adequate knowledge and skills is essential to mitigate risks of waste and corruption. This chapter reviews the gap between the lack of capability in the procurement function and the vulnerability of procurement to corruption. Specific attention is paid to risks of corruption in the contract management and in the defense sector.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West bank under the terms of international law.

Procurement professionals are at the frontline to mitigate risks

The European Commission estimates that EUR 120 billion are lost each year to corruption in the EU member countries. Studies suggest that up to 20-25% of the public contracts' value may be lost to corruption. However capacity and skills are insufficient to mitigate risks of waste and corruption.

Figure 4.1. **Procurement officials are not recognised as a specific profession in more than a third or OECD countries**



Note: Data is unavailable for Greece. Procurement officials are recognised as a specific profession if this profession was recognised through a certification or licensing programme in place, through well-defined curricula (e.g. formal job description/role) and/or through integrity guidelines (e.g. codes of conduct specifically for procurement officials).

Source: OECD (2011), Survey on Reporting Back on progress made since the 2008 Procurement Recommendation (unpublished internal document).

A systematic assessment against the Principles set out in the Recommendation and their application at each stage of the public procurement process show that respondent countries are not sufficiently prepared to mitigate risks of waste and corruption, in particular:

- Despite the reforms carried out, capability remains a crucial deficiency of public procurement: officials are not well-equipped to meet high professional standards of knowledge, skills and integrity (Principle 4 of the Recommendation).
- Risks to integrity are not necessarily mitigated, especially in the contract management stage. Survey findings also highlight the risks in specific sectors such as health, energy or defence when there are not specific efforts to promote transparency and integrity in the process.

Capability is lagging behind

The prominent weakness of procurement systems identified across respondent countries is the lack of adequate capability and management of the procurement function (Figure 4.2).

Public procurement is still handled as an administrative function in many countries, with over a third of countries reporting that it is not even recognised as a specific profession. Countries that recognise procurement as a specific profession usually have a formal job description for procurement officials (61% of respondent countries). Fewer countries have specific certification or licensing programmes for procurement officials (e.g. Australia, Canada, Chile, Ireland, New Zealand, Slovak Republic, Switzerland and the United States); integrity guidelines are even scarcer.

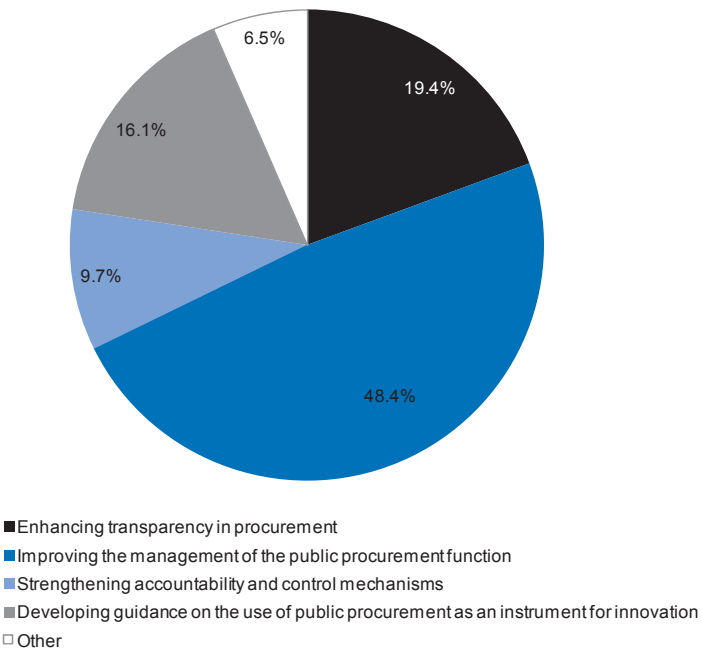
At the same time, the public procurement arena has in the last decade undergone substantial changes in terms of priorities and needs. As a result, procurement officials are expected to comply with increasingly complex rules and pursue value for money, while taking into account economic, social and environmental considerations. Countries report that procurement officials are facing the following challenges:

- understanding the increasing complexity of public procurement rules that provide an incentive for procurement officials to have a compliance-based approach;
- facing conflicting objectives when using procurement to support broader policy objectives such as socio-economic and environmental ones;

- lacking guidance on how to take into account environmental criteria in public procurement;
- keeping abreast of developments of e-procurement systems and ensuring their effective implementation.

Improving the management and capability of the procurement function is considered as the main area for improvement.

Figure 4.2. **The management of the procurement function: An area for improvement**



Source: OECD 2011 survey on Reporting Back on Procurement Recommendation (unpublished internal document).

In light of new regulatory developments, technological changes and increased interaction with the private sector, it is essential that a systematic approach to learning and development for procurement officials be used to build and update their knowledge and skills. Several countries highlighted the importance of a holistic approach to workforce training and development. Placing too much emphasis on one area of training could be counterproductive to the government's efforts to promote high standards of integrity across all areas of public procurement. For instance, in Canada, job

requirements, skills and competencies are systematically reviewed on an ongoing basis to ensure that training and development programmes meet evolving needs.

Country reviews of procurement systems also pointed out a lack of adequate capability to respond to this changing environment. They also highlighted that this problem is even more salient at the sub-national level because municipalities and regions often lack procurement-specific knowledge or personnel. The financial implications are significant considering that sub-national governments represent 32% of public spending in the OECD and that they are responsible for two-thirds of public investment on average. While fostering innovation or green growth are mostly competencies at sub-national level, sub-national governments are rarely equipped with the knowledge of how to integrate green or innovation considerations in procurement.

Lack of investment in monitoring contract management

Once the contract has been awarded, waste and corruption can take place if there is no sound system to monitor the progress of work and ensure that the contractor performs its tasks. Common risks identified in OECD countries include: failure to monitor a contractor's performance, in particular lack of supervision over the quality and timing of the process, subcontractors chosen in a non-transparent way or not being kept accountable, deficient separation of duties with the risk of false accounting or late payment. For example, the OECD review of the public procurement system in the United States highlighted that in the 1990s the commercial pressure to buy at best value led to a resource shift away from the contract management and over-reliance on private sector contractors. Also, one of the risks in the contract management is the use of extensions of public contracts, which may restrict the possibility for firms to compete for new contracts. Box 4.1 illustrates Spain's experience with concessions that have been extended by certain regions, which severely restricted competition in the markets.

Box 4.1. **Extensions of concessions of public transport contracts in Spain**

Intercity transport is a specific sector which requires the assurance of a minimum level of quality and safety while ensuring that this requirement does not impede the market to operate freely. Although the law allows the use of other systems, for historic and economic reasons, the concession system is highly implemented for the provision of passenger transport services by road. This system provides exclusivity and establishes barriers to entry due to: long-term concessions, the possibility of allowing extensions on the concession period, the right of preference enjoyed by the previous holder (adding additional points to the rating) and the high value to quality in tenders at the expense of other key variables such as price and frequency.

Besides, there is a protocol (agreed guidelines for concessions and other administrative issues) signed in 2007 between the Ministry of Public Works, unions and some transport companies. Based on this data, the *Comision Nacional de la Competencia* (CNC) started to conduct a study and, in order to do so, held meetings with the Ministry of Public Works, companies from the sector and the regional governments that had conducted their own public tenders. In addition, the CNC studied both national and European legislation in order to verify its observance by the protocol.

As a result of the study, the CNC published a report in 2008 explaining the problems reflected in the protocol. Following the publication, the CNC evaluated its impact both at the national and regional levels:

- At the national level, changes were introduced into the protocol as a result of the report and the CNC therefore evaluated positively the concession system.
- At the regional level, since the regional legislation kept allowing longer concessions to be granted (up to 25-year concession periods, generally as a result of extensions to the original term of the concession), the CNC concluded that the outcome of the report was negative.

In order to reflect these conclusions, the CNC elaborated two monitoring reports in 2010: a national one, which showed that some problems had been solved; and a regional one which showed that the main problem of the extensions in the concession system had not been solved at all: firstly, because the concession extensions granted by some regions severely restricted competition in the markets and secondly, because these extensions were not covered by the European regulation on public transport services by rail and road (Regulation CE/1370/2007).

Box 4.1. **Extensions of concessions of public transport contracts in Spain** (*cont.*)

Since the major problems identified in the CNC reports have not been resolved at the regional level, the CNC has taken action. In particular, it filed several requests to some regions to adjust their public tenders in the transport sector to competition criteria and, as no response was received, the CNC, by virtue of the power conferred in Article 12.3 of the Spanish Competition Act, has initiated two processes to challenge individual regulations in regions.

The results of the CNC's challenge are still pending but it has had a deterrence effect as no more similar concession periods have been approved and the Ministry of Development has decided to change the conditions on two new concessions.

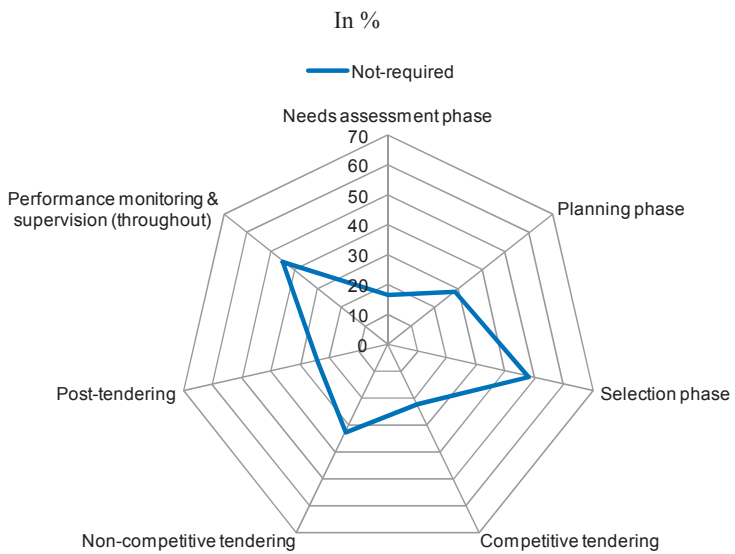
Source: Case study provided by *Comision Nacional de la Competencia*, Spain.

Despite the risks involved in the contract management phase (e.g. change in the price of the contract, the use of subcontractors and intermediaries to hide corrupt transactions, etc.), few countries have taken active steps to supervise contractors' performance and integrity, which is left at the discretion of the contracting authority on a case-to-case basis. Countries such as the Netherlands, New Zealand, Norway and the United States report that the following measures are not necessarily required:

- monitoring a contractor's performance against pre-specified targets;
- regularly organising inspection of work in progress;
- conducting random sample checks;
- monitoring progress of contract and payment through electronic systems;
- third-party scrutiny of high-value or high-risk contracts;
- testing, where possible, the product, system or results in the real world before the delivery of the work.

Figure 4.3 highlights the lack of performance and monitoring in the contract management phase.

Figure 4.3. **Integrity measures at each stage of the public procurement cycle**



Note: OECD-28 average of countries reporting "not required" for specific integrity mechanisms at each phase of the procurement cycle.

Source: OECD 2011 Survey on Reporting Back on Procurement Recommendation (unpublished internal document).

In addition, the level of transparency is still limited in the contract management phase. Few countries publish information about events that occur post-award (Table 4.1). Information on the justification for awarding contracts is available in 13 OECD countries, contract modifications are publicised in 11 countries and only 6 countries provide information that allows the tracking of procurement spending (OECD, 2011). Switzerland planned to introduce in 2012 a system to track procurement, which includes software to manage public contracts and produce statistical data on procurement. Furthermore, experience has shown that stakeholders can be used to provide third-party scrutiny of high-value or high-risk contracts, including during the contract management. For instance, social witnesses in Mexico play a vital role in scrutinising the integrity and efficiency of the procurement cycle by providing proposals for improving the processes in place.[1]

Another major risk area that was identified by the Recommendation is the lack of adequate needs assessment, planning and budgeting of public

procurement in the pre-tender phase. Common risks identified in countries include:

- failure to budget realistically;
- misalignment of procurement with the overall investment decision making;
- interference of high-level officials in the decision to procure or informal agreements on contracts.[2] For instance, when assessing whether a new road or airport is needed, political considerations may prevail.

Evidence from the survey shows that most respondent countries have requirements in place to verify that there are no alternatives to procurement and that the planned capacity or size of the procurement reflects the level of government's need and is consistent with budget planning. There is still room for improvement in Chile, for example, which does not require verifying that the planned capacity or size of the procurement reflects the level of the government's need and is consistent with budget planning. Other countries, including Hungary and Ireland, report that this is only required for some ministries (see comparative data in Annex D).

Table 4.1. **Public availability of procurement information at the central level of government (2010)**

	Laws and policies	General information for potential bidders	Selection and evaluation criteria	Contract award	Specific guidance on application procedures	Tender documents	Procurement plan of anticipated tenders	Justification for awarding contract to selected contractor	Contract modifications	Tracking procurement spending
Australia	●	□	□	●	□	□	●	■	□	●
Austria	●	□	□	□	□	□	□	○	□	○
Belgium	●	●	●	●	●	●	●	●	●	○
Canada	●	●	■	●	●	■	○	■	●	○
Chile	●	●	□	●	●	●	●	●	□	●
Czech Republic	●	●	●	●	●	●	□	□	□	□
Denmark	●	●	□	□	□	□	●	□	□	○
Estonia	●	●	●	●	●	■	●	●	■	●
Finland	●	●	●	●	□	■	□	●	○	○
France	●	●	●	□	●	□	□	■	●	■
Germany	●	●	□	□	○	□	○	○	○	○
Greece	●	●	●	●	□	●	□	●	○	○
Hungary	●	●	●	●	●	●	●	●	●	●
Iceland	●	●	●	●	●	●	●	●	●	■
Ireland	●	●	●	□	□	●	●	□	□	○
Israel	●	□	●	□	□	●	□	■	●	○
Italy	●	●	●	●	●	●	●	■	●	■
Japan	●	●	●	●	●	●	●	●	●	■
Korea	●	●	●	●	●	●	●	●	●	●
Luxembourg	●	●	●	□	□	●	□	■	■	□
Mexico	●	●	●	●	●	●	●	●	□	●
Netherlands	●	□	□	□	□	□	□	□	□	○
New Zealand	●	■	●	●	■	●	●	■	■	○
Norway	●	□	□	□	□	■	●	■	■	■
Poland	●	●	●	●	●	●	●	●	■	○
Portugal	●	□	□	□	□	□	□	□	□	□
Slovak Republic	●	●	●	●	●	■	□	○	●	○
Slovenia	●	□	□	□	□	□	□	■	□	■
Spain	●	●	●	●	●	●	●	●	●	○
Sweden	●	●	□	□	●	□	□	□	○	○
Switzerland	●	●	●	●	●	●	○	●	○	□
Turkey	●	●	●	●	●	●	□	■	■	●
United Kingdom	●	●	○	●	●	○	●	□	○	○
United States	●	●	□	□	□	□	□	○	■	□
Brazil	●	●	●	●	■	●	○	■	●	●
Egypt	●	●	●	□	●	●	○	○	□	○
Ukraine	●	●	●	●	●	●	●	■	○	○
Total OECD34										
● Always	34	26	21	21	19	18	17	13	11	7
■ Upon request	0	1	1	0	1	5	0	10	7	6
□ Sometimes	0	7	11	13	13	10	14	7	10	5
○ Not available	0	0	1	0	1	1	3	4	6	16

Source: OECD (2011), *Government at a Glance 2011*, OECD Publishing, *http://dx.doi.org/10.1787/gov_glance-2011-en*; the information on Australia has been updated.

Risks of corruption are still not mitigated

In 2008, OECD countries recognised the importance of introducing specific measures directed at the public and private sectors to mitigate risks to integrity in public procurement. In 2012, countries reported that measures are in place to:

- Set integrity standards for the private sector, in particular for the contract management (Principle 6 of the Recommendation): 63% of the countries require that declarations of integrity be consistently collected from potential suppliers to testify that they have not been involved in corrupt activities in the past. However, these declarations are primarily based on good faith. Only a quarter of countries require potential suppliers and sub-contractors to provide evidence of their anti-corruption policies. At the minimum, governments should verify bidders' identity, as illustrated by the innovative experience of fingerprint recognition in Korea (Box 4.2).

Box 4.2. Using new technologies to verify bidders' identity: Fingerprint recognition system in Korea

The E-Procurement System in Korea has contributed to increasing efficiency in the public administration as well as preventing illegal practices and collusive acts through increased transparency. A key concern was the potential for illegal practices and collusive acts caused by borrowed e-certificates. In order to mitigate this risk, the Public Procurement Service introduced "Fingerprint Recognition e-Bidding" in 2010. In the Fingerprint Recognition e-Bidding System, each user can represent only one company by using a biometric security token. Fingerprint information is stored only in the concerned supplier's token, thus avoiding any controversy over the government's storage of personal biometric information. By July 2010, it was applied in all tenders carried out via the E-Procurement System by local governments and other public organisations for procuring goods, services and construction projects.

Source: Case study provided by Korea.

- Provide specific mechanisms for the monitoring of public procurement and the detection and sanctioning of misconduct (Principle 7 of the Recommendation): Whistleblower protection is increasingly embedded in law to encourage the reporting of misconduct: between 2000 and 2009 legal protection for whistleblowers grew from 44% to 66% in OECD countries. An emerging practice in countries such as Brazil, Korea and the United States, is the use of red flags to detect potential fraud and corruption in public procurement (see Box 4.3 with the example of

Brazil). As for black lists,[3] only a third of countries require using them because of the risk of manipulation or lack of sufficient evidence of companies' involvement in corrupt activities. One example is Portugal, which has defined the conditions for excluding tenderers from procurement procedures in Article 55 of the Code of Public Contracts.[4]

Box 4.3. **Using data mining to detect misconduct and corruption in Brazil**

The Office of the Comptroller General of the Union launched the Public Spending Observatory (*Observatório da Despesa Pública*) in 2008 as the basis for continuous detection and sanctioning of misconduct and corruption. Through the Public Spending Observatory, procurement expenditure data are crossed with other government databases as a means of identifying atypical situations that, while not *a priori* evidence of irregularities, warrant further examination. Based on the experience over the past several years, a number of daily actions are taken to cross procurement and other government data. This exercise generates "orange" or "red" flags that can be followed up and investigated by officials within the Office of the Comptroller General of the Union. In many cases, follow-up activities are conducted together with Special Advisors on Internal Control and internal audit units within public organisations. Examples of these tracks related to procurement and administrative contracts include possible conflict of interest, inappropriate use of exemptions and waivers and substantial contract amendments. A number of tracks also relate to suspicious patterns of bid-rotation and market division among competitors by sector, geographic area or time, which might indicate that bidders are acting in a collusive scheme. Finally, tracks also exist regarding the use of federal government payment cards and administrative agreements (*convenios*).

Source: OECD (2012), *OECD Integrity Review of Brazil: Managing Risks for a Cleaner Public Service*, OECD Public Governance Reviews, OECD Publishing, *http://dx.doi.org/10.1787/9789264119321-en*.

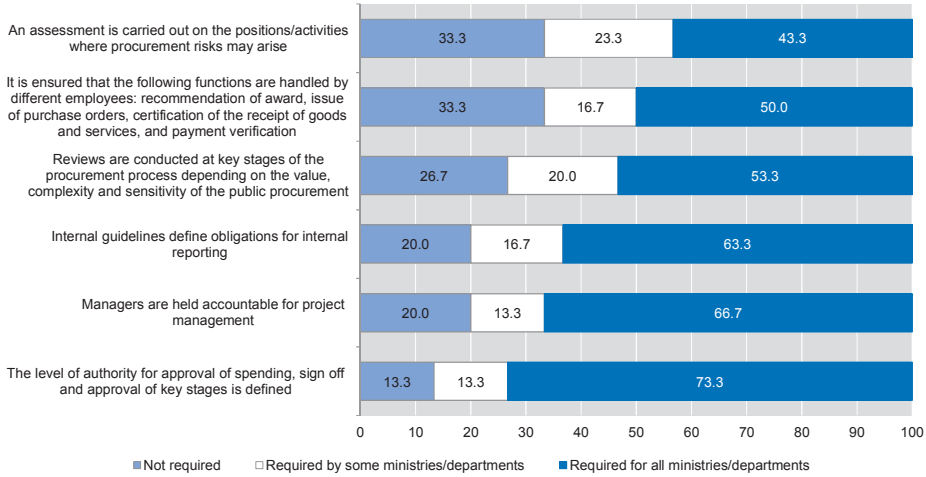
- Prevent risks to integrity in public procurement (Principle 5 of the Recommendation): less than half of respondent countries require an assessment of the positions/activities where procurement risks may arise, including Australia, Belgium, Canada, Estonia, France, Morocco, Mexico, Turkey and the United States. Also, reviews are not necessarily conducted at key stages of the procurement cycle according to the value, complexity and sensitivity of public procurement in half of the respondent countries.

Some countries have taken steps in the last years to align their legal framework with international anti-corruption standards, in line with the OECD Convention on Combating Bribery of Foreign Public Officials in

International Business Transactions, as well as other international conventions, such as the United Nations Convention against Corruption. For example, Mexico's federal Anti-Corruption in Public Contracts Law, which became effective on 12 June 2012, makes it unlawful for a Mexican or foreign individual or corporation to give, offer or promise money or other valuable consideration, whether directly or indirectly, to a public official or third party for the purpose of obtaining or retaining a benefit or advantage in connection with a public contract with the Mexican federal government. Although most countries have integrity and anti-corruption legislation in place, governments still need to develop a comprehensive set of measures to identify and mitigate the risks of waste, fraud and corruption in public procurement, as illustrated in Figure 4.4.

Figure 4.4. **Requirements in place to minimise the risk of fraud or corruption in the planning of tenders**

% of responding OECD countries



Source: OECD 2011 Survey on Reporting Back on Procurement Recommendation (unpublished internal document).

Defence sector and state-owned enterprises are no exceptions for promoting transparency and safeguarding integrity

A different set of public procurement rules often apply to the defence sector as well as to state-owned enterprises (SOEs). In the defence sector, confidentiality and security of supply requirements justify the use of specific procedures to protect the state's interests. The evolution of international standards on procurement such as the revised UNCITRAL Model Law

shows that it is not necessary to have a separate set of procurement rules for the defence sector on the understanding that the contracting authorities can take specific measures for the protection of classified information.[5] More importantly, exceptions to competitive tendering shall not be abused to procure daily military equipment when national interests are not at stake.

Similarly, SOEs, which are often key economic operators, may use more flexible procurement procedures when they compete with private companies for the production of goods and services (e.g. in the extractive industry). However, this does not necessarily entail less transparency in the process. One risk is that the lack of openness and transparency in procurement procedures is used to hide preferential treatment by the government to SOEs, which hinders competitive neutrality.[6] The business community is also increasingly concerned with the procurement practices of SOEs themselves. To the extent that SOEs are engaged in commercial activities in competition with the private sector, the concern is that their purchasing practices – which may not be subject to the procedures and transparency requirement of purchasing for governmental activities – may be used to provide unfair preferential treatment for some competitors.

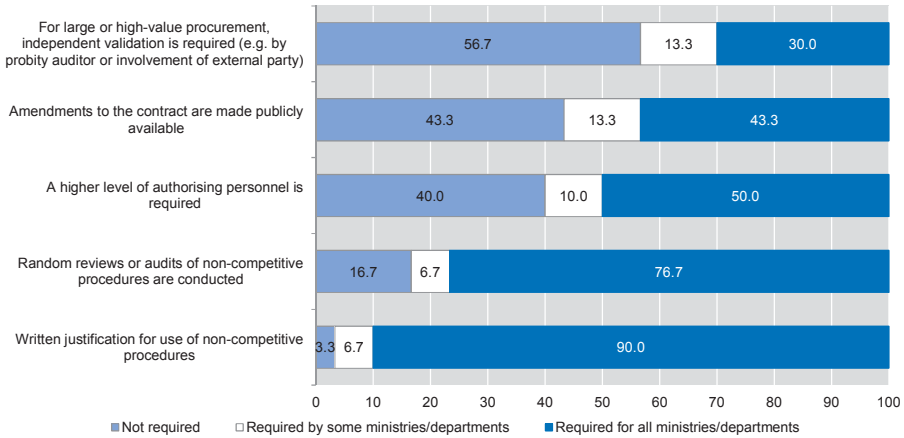
To ensure a level playing field, exceptions to competitive bidding shall be strictly defined in order to avoid abuse. Also, governments should consider setting up procedures to introduce transparency and integrity measures for exceptions to competitive tendering (Principle 2 of the Recommendation). The assessment against the Principles set out in the Recommendation in Figure 4.5 shows in particular that:

- written justification for the use of non-competitive tendering procedures is required in almost all respondent countries;
- random reviews or audits of non-competitive procedures are required in three-quarters of respondent countries;
- a higher level of authorising personnel is required for non-competitive tenders in half of respondent countries;
- fewer countries require that the amendments to contracts be made publicly available or to provide independent validation for large or high-value procurement (30% of respondent countries).

The volume and type of procurement for an SOE varies significantly than that from central government, with regular massive input purchases in commercial enterprises as compared to a diversity of goods and services in public services. Therefore, SOEs may have specific rules for their commercial operations, but there should not be any exceptions to promoting transparency and safeguarding integrity in their procurement.

Figure 4.5. **Measures in place to promote integrity and transparency in non-competitive tenders**

% of responding OECD countries



Source: OECD 2011 Survey on Reporting Back on Procurement Recommendation, (unpublished internal document).

In order to help mitigate risks, energy suppliers in Mexico, the Federal Electricity Commission and the state-owned oil company PEMEX (*Petroleos Mexicanos*, Mexican Petroleum) have requested the OECD to review their public procurement rules and procedures. The review of the Mexican state-owned company PEMEX illustrates the challenge for an economic operator to have sufficient flexibility in its procurement rules, while ensuring minimum transparency and integrity to abide by international rules (Box 4.4).

Box 4.4. **Regulating public procurement in the energy sector in Mexico**

In Mexico, specific legislation was enacted to regulate the procurement of the national oil company, PEMEX. The objective of the legislation was to provide PEMEX with more flexibility as a major economic operator while attracting foreign investments to the oil sector.

PEMEX is the most important decentralised organism of the Mexican federal government and, since 1938, is the unique national oil company in the country. It is entitled by the federal government to carry out exploration, exploitation, distribution and refining of oil and natural gas. It contributes to almost 10% of the country's GDP, as well as to approximately a third of the federal fiscal revenues and employs on average 141 000 people. It is a major contractor of the private sector's goods and

services and is considered to be amongst the 11 biggest buyers in Mexico.

A specific regulatory framework on procurement activities applies to PEMEX. Because of the nature of PEMEX which, despite being a state-owned company, concentrates directly on industrial and economically productive activities, a distinct legal framework for its procurement system and processes was developed. In contrast to other government bodies, PEMEX's procurement needs are wider in range and focus on specific commercial and productive activities.

The procurement law enacted in October 2008 by the Congress reiterated PEMEX's monopoly over all hydrocarbon reserves and the exploration and production of these reserves, while introducing a new service contract which promoted foreign investment. Some of the flexibility introduced by this law includes:

- taking into account the variations of the international oil market;
- fixing or tying the contractor's compensation to a previously agreed formula. However, contractors may contemplate a bonus scheme whenever PEMEX receives greater profits, benefits from new technology or saves costs;
- arbitration in jurisdictions other than the Mexican courts: PEMEX can agree on the applicability of this clause whenever it executes international contracts.

A key challenge for state-owned companies, especially in the oil industry, is to find the right balance between rules that provide sufficient flexibility for carrying out their productive activities, while ensuring minimum transparency to maintain public trust in the management of public funds.

Source: OECD (2012), *Public Procurement Review of the Mexican Petroleum Company: Optimising the Supply Process to Maximise Value Creation* (PEMEX), (unpublished internal document).

Notes

1. For additional information, see OECD (2007).
2. For more details, see OECD (2007).
3. Blacklists are also increasingly used by international organisations such as multi-lateral development banks to debar those companies that committed prohibited practices. For example, the Asian Development Bank has a debarment list that contained, as of 31 December 2011, a total of 406 firms and 397 individuals ineligible to participate in ADB-projects. More than 45 country agencies and 13 development institutions have been given access to the database. Access increases these agencies' abilities to conduct due diligence before contracts on ADB projects are awarded to prevent contract from inadvertently being awarded to debarred entities.
4. Article 55 of Portugal's Code of Public Contracts, approved by Decree-Law No 278/2009, specifies that tenderers shall be excluded from the procedures if, without limitation, they: are declared bankrupt by a court, or are in dissolution or liquidation; have been convicted by a judgment which has the force of *res judicata* in accordance with the legal provisions of the country of any offence concerning his professional conduct; have been guilty of gross professional misconduct proven by any means which the contracting authorities can demonstrate; or have any outstanding tax obligations and social security obligations.
5. In this regard, the new Model Law on Procurement adopted by the UNCITRAL in July 2011 does not include, like the 1994 Model Law, any general exemption of procurement contracts relating to national defence or national security: such contracts are covered by the law (see Article 1), on the understanding that the contracting authorities can take specific measures for the protection of classified information (see Article 7 paragraph 3 (b), 24 and 35).
6. Notwithstanding the relatively stringent public procurement rules of most OECD countries, some SOEs may, in practice, continue to benefit from preference in public procurement, which could be problematic when SOEs represent a large part of the economy. For more details, see Capobianco and Christiansen (2011).

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Chapter 5

A strategic role for public procurement

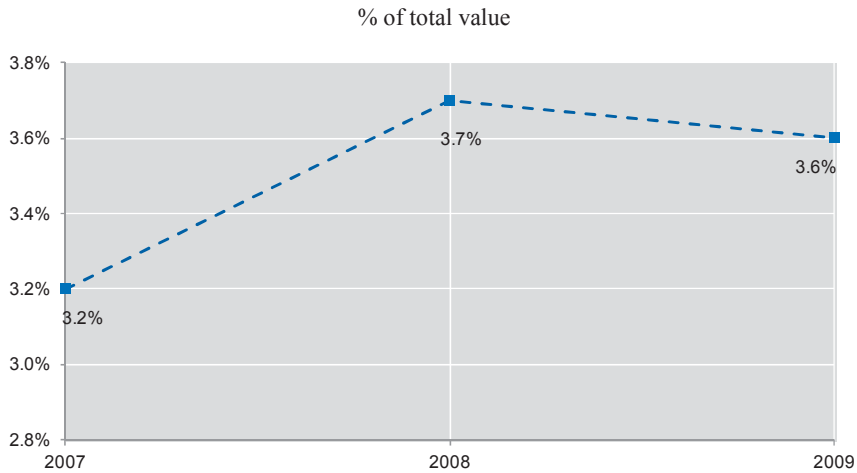
Public procurement is organised as an administrative rather than a strategic function in many OECD countries. Ultimately it is essential that governments verify that the objectives of procurement are achieved, whether these are value for money, or other objectives such as sustainable development and international trade. This chapter highlights crucial areas for reform in member countries and makes proposals on how the OECD could support this agenda.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Limited cross-border procurement

Foreign suppliers have little access to other governments' contracts, even in an integrated market like the European Union.

Figure 5.1. **Less than 4% of public procurement in the European Union is cross-border procurement**



Source: European Commission, Internal Market and Services (2010), "EU public procurement legislation: Delivering results: Summary of evaluation report", Single Market Act: Together for New Growth, European Commission, Brussels, *http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/executive-summary_en.pdf*.

Governments have gradually recognised that public procurement is a strategic instrument to support government objectives. The report findings indicate that the concept of best value for money in procurement has evolved in some countries to include other considerations than price and quality, such as environmental benefits.

This chapter articulates a set of proposals in order to support governments in pursuing the best value for money through public procurement while promoting a coherent policy agenda. It also points out potential risks and opportunity costs, for example when the inclusion of socio-economic considerations disrupts the efficiency of the procurement process. Last but not least, it calls on governments to actively monitor the performance of their procurement systems through peer reviews, benchmarks and indicators.

Promises to be delivered: Reforming the whole procurement cycle

Although it is widely agreed that public procurement reforms should adhere to good governance principles, reform efforts have focused largely on the tendering phase, when tenders from suppliers are solicited and evaluated. The lack of attention dedicated to risks of waste in the needs assessment as well as the contract management phases was recognised as a key concern in 2008 with the OECD *Recommendation on Enhancing Integrity in Public Procurement*. By 2012, about half of the respondent countries had introduced reforms that address the whole public procurement cycle, from the needs assessment throughout the award until the contract management.

Despite the progress made since 2008, more countries need to take measures to reform the pre-tendering phase as well as the contract management one. Examples of such measures that were introduced include:

- Using new technologies to enhance transparency in the whole procurement cycle: for example, in Mexico, Compranet, the e-procurement system used by the public administration at the federal level, supports back-office integration among procurement, budget and accounting information management systems as well as enhances transparency in government operations.[1]

- Strengthening the management of contracts, especially for non-competitive tendering procedures: in the United States, for example, the President issued a memorandum at the beginning of his mandate in March 2009 instructing agencies to review high-risk contracting methods and to strengthen the management and oversight of these contracts in order to reduce wasteful spending.
- Improving access to information on sub-contractors: in Australia, the Commonwealth Procurement Guidelines were revised to ensure that agencies make available on request the names of any sub-contractor engaged by a contractor in respect of a procurement contract.
- Recourse before and after the contract signature against decisions relating to the award of a contract: Ordonnance n. 2009-515 in France enables a judge to intervene not only before but also after the contract signature while making the recourse suspensive.
- Limiting the modifications of public contracts after award: the Spanish Law on Public Sector Procurement was amended in 2011 to limit the capacity to modify contracts after they have been awarded.
- Managing risks to integrity in the whole procurement cycle: in Italy, reform L. 136/2010 provides measures to trace out all the financial flows in public administrations in order to help prevent corruption in public procurement.

To maximise value for money in complex procurements, it is essential to understand whole life-cycle costs of owning and operating equipment being purchased. Too often, bid criteria do not take into account total ownership costs, which can skew results away from the most effective solution. Moreover, incorporating total life-cycle cost in the bid criteria is an effective way to address many concerns about environmental considerations in procurement, as energy usage often is a major determinant. It is essential that these criteria are designed in a transparent and objective way for complex procurement.

To further develop such measures in the whole public procurement cycle, countries could refer to:

- the OECD Checklist,[2] which provides practical guidance for implementing the policy framework for enhancing integrity at each stage of the public procurement cycle, from needs assessment to contract management and payment;

- the OECD Toolbox, which compiles tools and good practices used to support public officials in developing guidance at various points in the procurement cycle;[3]
- OECD/SIGMA studies and policy briefs to help ensure that these measures are adequately supported by wider legal, institutional and political conditions in the country.[4]

Proposals for follow-up

Assist OECD countries in setting appropriate benchmarks for measuring performance in procurement systems and operations at different stage of the procurement cycle, from needs assessment throughout tendering until the contract management and payment.

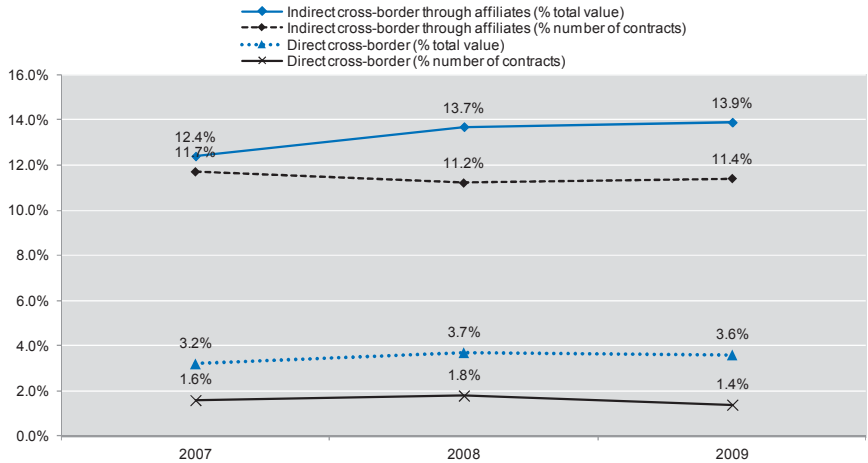
Potentials to be exploited: Facilitating access to international procurement markets

Discriminatory government procurement practices are a significant non-tariff barrier, which can hamper the growth of world trade. The World Trade Organization's Agreement on Government Procurement (GPA) is designed to make government procurement more transparent and to ensure non-discriminatory treatment with regard to the products, services or suppliers of any party to the agreement. Recent evidence indicates that the WTO General Agreement on Government Procurement has had a positive influence on inter-OECD trade in goods and services.[5] However, the accessibility of international markets is still a major challenge.

Cross-border procurement remains limited at the international level, even in a single market such as the European Union which is ruled by a common set of directives. For example, in markets for public contracts which are the specific focus of EU public procurement legislation, only a small proportion of contracts are awarded for firms from another member country, with direct cross-border procurement accounting for only 1.6% of awards[6] (Figure 5.2).

One of the challenges is how to accommodate a national procurement preference framework, such as long-term national industrial policy goals, within progressive trade policy. Furthermore, interest in the inclusion of social, environmental or community benefit clauses in public procurement has grown considerably over recent years, especially at the local level. However, there is a risk that these clauses (e.g. a requirement to build a school in a certain area or to employ a disadvantaged group) become hidden barriers for entry for firms and distort the fairness of the competition process.

Figure 5.2. **Cross-border procurement in the European Union (2007-09)**



Source: European Commission, Internal Market and Services (2010), "EU public procurement legislation: Delivering results: Summary of evaluation report", Single Market Act: Together for New Growth, European Commission, Brussels, *http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/executive-summary_en.pdf*.

This challenge was highlighted by the private sector in the G20/OECD Conference on Joining Forces against Corruption: G20 Business and Government in April 2011.[7] The event launched a platform to examine forms of business and government engagement in combating corruption, notably in procurement markets. The private sector has invested considerable resources and efforts in the development of compliance programmes designed to prevent, detect and remediate corrupt behaviour on the part of employees. Sharing lessons learnt from this experience with governments that are working to reduce the demand side of corruption is ongoing between representatives from government and business from G20 countries.

The G20 provides a framework for OECD countries to work with their major trading partners such Brazil, China, India and Indonesia, in fostering international competition in procurement markets. At the Cannes Summit in November 2011, G20 leaders recognised the importance of fair and transparent government procurement systems as part of their commitment to promote integrity, transparency and accountability and requested its members to take into account the OECD *Recommendation on Enhancing in Public Procurement* in their reforms.[8] This therefore provides an impetus for

accelerating efforts to promote fair government procurement systems both in OECD countries and G20 trade partners.

Proposals for follow-up

Organise a dialogue to bring together representatives from government, business from G20 countries and international organisations such as the World Trade Organisation. This dialogue could explore:

1. How the Recommendation can be used by the key trade partners of OECD countries in order to promote a level playing field for firms in procurement markets.
2. Gather the perspective of the private sector on the main barriers to entry in procurement markets and other risks to integrity in the pre-tender and contract management process.
3. Discuss how to accommodate national procurement preferences, such as long-term national industrial policy goals, within progressive trade policies that are transparent and ensure a level playing field.

Assessing risks and opportunity costs when using procurement to support socio-economic and environmental objectives

With the growing use of public procurement to support other socio-economic objectives such as innovation, there are opportunity costs that need to be assessed. The expense of achieving these goals should be considered and the trade-offs, if they exist, need to be made explicit – e.g. finding out whether procurement is a more cost-effective way to achieve these socio-economic objectives than direct innovation or social policies.

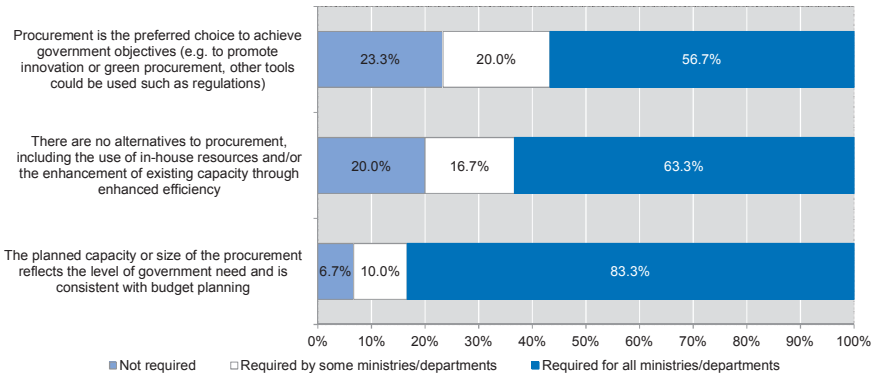
About half of respondent countries (57%) systematically require verifying in writing that public procurement is the best tool to achieve government objectives (Figure 5.3). This means that there is not necessarily a "reality check" on the opportunity cost of realising government objectives, and that governments do not have the tools to prioritise competing objectives. Consequently, governments may not optimise the use of their public resources in procurement.

In fact, procurement policies co-ordinated at the central level only affect 5-7% of purchases in a targeted market, which shows the limitation of procurement as an instrument of innovation or environmental policy (OECD, 2003). For instance, although governments usually buy cars, innovation may only concern a component of the good to be purchased, such as the clutch. Therefore, enhancing innovation performance may require both supply-side policies (such as investment in research and development)

as well as demand-side policies such as tax policy, regulation, standards or public procurement.

Figure 5.3. **Requirements to verify in writing the needs assessment**

% of responding OECD countries



Source: OECD (2011), Survey on Reporting Back on Procurement Recommendation, (unpublished internal document).

Also, there are a number of risks that need to be mitigated when using procurement to support socio-economic objectives, in particular:

- Disrupting the efficiency of public procurement. Taking into account policy-related considerations in public procurement should be done in a way so as to avoid disrupting procurement processes or distorting competition in procurement markets.
- Distorting fair competition. For instance, when special measures for SMEs or disadvantaged communities are considered, they must fall within the framework of national competition policies as well as international standards and obligations. Also, specific mechanisms may be established to monitor public procurement of innovation, given the different risks associated with pre-commercial goods and services.[9]

Because environmental protection has become a growing societal imperative for countries, procurement officials are also increasingly requested to integrate environmental considerations in their purchasing decisions. However, there is no impact assessment of government's achievement of these complementary objectives such as environmental protection. Even in countries that have a long experience of using procurement to pursue socio-economic and environmental goals

(e.g. United States), evidence on the extent to which procurement has been successful at achieving these objectives remains limited.

Therefore, when governments use public procurement to support broader policy objectives such as environmental protection, there should be a formal policy evaluation to ensure that such policies were efficient and learn from experience to draw lessons for future policy development. For example, the survey findings highlight that there is a lack of guidance for procurement officials on how to effectively integrate environmental considerations in public procurement, which was also shown by the data collected in the 2009 *Government at a Glance* report (see Chapter 2).

Proposals for follow-up

- Revise and update the OECD Principles as set out in the *Recommendation of the Council on Enhancing Integrity in Public Procurement* to reflect on the transformation of procurement as an instrument to support strategic government objectives. This would be an opportunity to help governments to:
  - promote a coherent agenda that optimises value for money while taking into account both short-term and long-term costs and benefits (e.g. savings achieved through consolidation vs. mid-term risk of reducing the supplier base which may lead to higher prices and therefore reduced benefits);
  - weigh the costs and benefits when using procurement to support socio-economic objectives, notably through more systematic *ex post* evaluation of policy effectiveness;
  - provide adequate guidance to procurement officials for those governments that integrate environmental considerations in public procurement.
  - the revision of the Recommendation should be carried out in close co-ordination with other policy communities (e.g. competition, anti-bribery, innovation) to ensure complementarity with other OECD instruments.
- Develop a compendium of good practices on how to integrate environmental considerations in public procurement in a transparent and cost-effective manner. In this context, specific attention could given to the issue of life-cycle costing.

Shaping reforms through learning from peers

Good management practice advocates that any new policy or programme be evaluated and that there are measures or indicators for determining whether the procurement system and operations ultimately delivered are in accordance with the main objectives set. At the national level, different methodologies can be used to measure procurement performance:

- Peer reviews: procurement reviews requested by Brazil, Mexico and the United States launched the first cycle of procurement reviews order to benchmark with OECD peers as well as identify priority areas to promote effective and efficient governance in the whole public procurement cycle.
- External audits: external audit institutions play an important role, on an *ex post* basis, in the identification of strengths and weaknesses in the execution of public procurement operations at the level of contracting authorities.
- Stakeholder surveys: regular surveys can be carried out addressing important areas and issues connected to the performance of the public procurement system.
- Regulatory impact assessment can also provide a detailed and systematic appraisal of the potential impacts of a new procurement law or regulation in order to assess whether the regulation is likely to achieve the desired objectives. Also, performance measurement may be carried out at the level of the contracting authority. Examples of performance targets and indicators are included in Annex E.[10]

Procurement reviews provide unique insights into the experience and lessons learnt from other OECD countries. The United States, which has the largest procurement market in the world, requested the OECD to peer review its Federal Acquisition System in order to benchmark it against international good practice (Box 5.1). For instance, the review showed that the e-procurement system in the United States, which brings together nine distinct systems to provide an integrated interface for users, has potential for further efficiency gains for business and government as well as for generating quality data for analysis. The peer review process also provided insights into e-procurement systems in other OECD countries, with Chile and Italy sharing their experience in running a single entry procurement portal and streamlined procedures in order to improve the interoperability between the front and back offices and maximise the benefits of ICTs.

Box 5.1. **Review of Federal Public Procurement in the United States, the single largest buyer in the world**

The United States federal government is the single largest buyer in the world. It spends over USD 500 billion per year.

The US government invited the OECD to assess its procurement policies and practices and to benchmark these against international good practices. The review looked at the entire procurement cycle, from needs assessment to contract management and payment, to enhance transparency, good management and accountability. The review was closely linked to the US government's policy objectives, including open government, cutting waste and eliminating inefficiencies.

US procurement policy and practice were reviewed in four major spending agencies: the Department of Defence, the National Aeronautics and Space Administration, the Department of Homeland Security, and the Department of Health and Human Services. These four agencies account for approximately 75% of federal procurement. In addition, the review examined the roles and responsibilities of the General Services Administration, the Small Business Administration and the Environmental Protection Agency.

Source: OECD (2012), *OECD Review of the United States Federal Public Procurement* (internal unpublished document).

Reviews also provide to be an instrument to identify priority areas to promote effective and efficient governance in the whole public procurement as well as to mobilise key stakeholders for implementation. For instance, in Mexico, as a follow-up to the procurement review of the Institute for Social Security, an action plan for implementation was developed to help transform procurement from an administrative process to a strategic function (Box 5.2).

Box 5.2. **Assessing procurement practice and developing an action plan for implementation: The review of the Mexican Institute of Social Security**

The Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social*, IMSS) asked the OECD to review the integrity and effectiveness of its procurement system – the largest health and social security provider in Latin America. IMSS covers around half of Mexico's population and is a major spending entity within Mexico's government.

Box 5.2. **Assessing procurement practice and developing an action plan for implementation: The review of the Mexican Institute of Social Security** *(cont.)*

The review identifies the strengths of the IMSS' procurement process. IMSS recently embarked on several initiatives, including streamlining procurement to achieve operational savings and to provide better services. Furthermore, in an effort to prevent and fight supplier collusion, IMSS is co-operating with the Mexican Competition Authority. The OECD has also conducted a review of bid-rigging in public procurement in IMSS which complements the review.

Although recent achievements have considerably strengthened IMSS' procurement functions, several challenges remain. These include developing and communicating an explicit, clear and comprehensive organisational procurement strategy and ensuring appropriate collection of procurement data. The review also identified knowledge and capability deficiencies that hinder the development of an efficient and effective procurement function. IMSS could create a specific procurement profession and certify procurement officials in order to reduce turnover and provide career opportunities. IMSS could also make its relationship with the market more efficient and dynamic, for example through debriefings, to improve the performance of suppliers.

Based on the findings of the review and its recommendations, the OECD and IMSS are drawing up a roadmap for the reform of IMSS' procurement function that would transform procurement from an administrative task to a core strategic instrument. Major stakeholders are now on board to strengthen IMSS' public procurement, enhance spending efficiency and deliver improved public services to meet citizens' expectation.

This review is part of the series of OECD peer reviews that help countries assess their procurement systems in line with their commitment to implement the Recommendation in major spending areas.

Source: OECD (2013), *Public Procurement Review of the Mexican Institute of Social Security: Enhancing Efficiency and Integrity for Better Health Care (IMSS)*, OECD Publishing, Paris. Highlights of the review can be consulted at: *www.oecd.org/dataoecd/2/49/49408672.pdf*.

To monitor progress against the Recommendation, it will be essential that all OECD countries undertake procurement reviews in order to assess policy and practice in the whole public procurement cycle, from the needs assessment until the contract management. OECD reviews cover critical elements of sound procurement systems, including: *i)* the use of procurement as a strategic instrument to support government objectives and performance management; *ii)* the accessibility and fairness of procurement; *iii)* human resource and capability development, including the use of e-procurement; as well as *iv)* integrity and accountability in public

procurement. Also, considering that the main challenge often lies with the implementation of reforms, governments may consider how to better monitor progress.

Proposal for follow-up

Sustained political commitment is required from OECD countries to drive reforms to facilitate the implementation of the OECD *Recommendation on Enhancing Integrity in Public Procurement*. In particular, countries are strongly encouraged to:

- undertake procurement reviews to assess practice and benchmark with other countries to learn from state-of-the-art solutions;
- put in place mechanisms to monitor the implementation of reforms in order to track progress, for those countries that have already undertaken procurement reviews.

Investments to be made: Collecting evidence-based data for systemic improvement

Developing an evidence-based approach when using public procurement is essential to monitor the performance of the system and ultimately make sure that the objectives are achieved – whether they are value for money or broader policy objectives.

Survey findings show that few countries analyse public procurement to support systemic improvement. Although most countries collect basic data on a regular basis on the number of bids, contract awards and the use of open vs. non-competitive procedures, few countries actually make a systematic analysis of this information. In contrast, the Research and Development Unit of Consip, the Italian central purchasing body, provides economic and statistical consulting to the agency's divisions for implementing public procurement processes as well as conducts theoretical and applied research on the law and economics of public contracts.

Reviews of procurement systems carried out in Brazil and Mexico show that data is often collected through e-procurement systems, although the reliability of the data may not always be consistent across government agencies. For instance, in Chile, Compra analyses the data extracted from the electronic platform, such as the number of bids, purchases through framework agreements and non-competitive procedures, which are then compared to figures from the previous years in order to estimate amounts

spent, savings and the correct application of standards related to the types of procedures.

Another important source of procurement data analyses are state audit offices, internal control mechanisms and procurement oversight. For instance, the General Accountability Office in the United States examines on a regular basis contracts that are awarded non-competitively. In Norway, the Office of the Auditor General recently performed an investigation into the reasons why state entities fail to comply with public procurement regulations. However, in most countries, these audits and controls do not routinely analyse data in relation to the public procurement system as a whole.

Data analysis is often carried out on an *ad hoc* basis to justify changes that were introduced rather than as a systematic way for optimising the procurement system. For those countries that provide such analyses, they tend to focus on measuring savings achieved, for instance, as a result of the introduction of e-procurement technologies or new procedures such as framework agreements. In Mexico, a specific methodology was developed to measure savings achieved generated by implemented procurement strategies. There are also analyses of the costs of different procurement procedures to compare the costs of open, restricted and limited tenders. For instance, in the Netherlands, a study was made in 2009 of the cost of performing public procurement procedures. The results show that for European open tender procedures, the average costs for procurers and service providers are on average EUR 65 225 per contract, which is overly burdensome for small-scale contracts.[11]

The OECD was a pioneer in estimating the size of procurement markets in 2002 (Audet, 2003). To encourage countries to develop an evidence-based approach, the OECD has collected updated information on the size of procurement markets, as well as on procurement processes (e.g. use of e-procurement), and those actors who work in public procurement (e.g. conflict-of-interest declarations by procurement officials) as part of *Government at a Glance* reports in 2009 and 2011. Furthermore, the survey responses for the reporting back provide a valuable source of information on existing integrity measures for each stage of the public procurement cycle across OECD and observer countries.

Because most countries do not invest in analysing procurement data in a systemic manner, they do not have a full appreciation of complex policy challenges: the likely benefits, costs and effects of their decisions. However, focusing on one source of data may overlook other considerations – e.g. considering only the cost of open vs. competitive procedures may be misleading if there is not a consideration on the impact of the price of the end good or service that is delivered to the public. Because the key to evidence-based policy making is using knowledge produced through multiple sets of data and analysis, the OECD could help identify a set of relevant data, benchmarks and indicators to track systemic improvement over time. The mid-term objective could be to develop a brief annual publication of the OECD on leading indicators for procurement, so that governments can measure the impact of procurement at a macro level, in particular how procurement supports broader government objectives.

Proposal for follow-up

Identifying a set of relevant data, benchmarks and indicators to enable governments to measure the impact of procurement at a macro level, in particular how procurement supports broader government objectives. Data could include measures in relation to transparency, competition, economy and efficiency, as well as fairness of procurement systems.

Notes

1. For more details about Compranet, see OECD (2011b).
2. The OECD Checklist can be accessed at: *www.oecd.org/dataoecd/54/41/41760991.pdf* (from page 28).
3. The OECD Procurement Toolbox can be accessed at: *www.oecd.org/document/34/0,3746,en_21571361_44258691_44888098_1_1_1_1,00.html.*
4. Additional information on OECD/SIGMA work on public procurement can be found at: *www.oecd.org/site/sigma.*
5. See in particular Chen and Whalley (2011).
6. This represents about 3.5% of the total value of contract awards published in European public procurement journal Tenders Electronic Daily TED during 2006-09. In addition to direct cross-border procurement, however, there is a considerable volume of indirect cross-border procurement. For example, firms can bid for contracts through their foreign affiliates or subsidiaries.
7. Further information on the conference can be found at: *www.oecd.org/document/63/0,3746,en_2649_34859_47281343_1_1_1_1,00.html.*
8. The Principles were recognised together with UNCAC Article 9 as the main reference to adapt fair, transparent and non-discriminatory government procurement systems by the G20 Anti-corruption Working Group.
9. Adapted from the OECD (2010).
10. For additional information, see OECD (2011a).
11. This is an estimation provided by a survey that was ordered by Ministry of Economic Affairs in the Netherlands to Sira Consulting B.V. in 2009.

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Annex A

OECD Recommendation on Enhancing Integrity in Public Procurement

16 October 2008-C(2008)105

THE COUNCIL,

HAVING REGARD to articles 1, 2 a), 3 and 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on 21 November 1997, the Revised Recommendation of the Council on Combating Bribery in International Business Transactions adopted on 23 May 1997 and the related Recommendation on Anti-corruption Proposals for Bilateral Aid Procurement endorsed by the Development Assistance Committee on 7 May 1996;

NOTING that legislation in a number of member countries also reflects other international legal instruments on public procurement and anti-corruption developed within the framework of the United Nations, the World Trade Organisation or the European Union;

RECOGNISING that public procurement is a key economic activity of governments that is particularly vulnerable to mismanagement, fraud and corruption;

RECOGNISING that efforts to enhance good governance and integrity in public procurement contribute to an efficient and effective management of public resources and therefore of taxpayer's money;

NOTING that international efforts to support public procurement reforms have in the past mainly focused on the promotion of competitive tendering with a view to ensuring a level playing field in the selection of suppliers;

RECOGNISING that member countries share a common interest in preventing risks to integrity throughout the entire public procurement cycle, starting from needs assessment until contract management and payment;

On the proposal of the Public Governance Committee:

I. RECOMMENDS:

1. That member countries take appropriate steps to develop and implement an adequate policy framework for enhancing integrity throughout the entire public procurement cycle, from needs assessment to contract management and payment;

2. That, in developing policies for enhancing integrity in public procurement, member countries take into account the Principles which are contained in the Annex to this Recommendation of which it forms an integral part;

3. That member countries also disseminate the Principles to the private sector, which plays a key role in the delivery of goods and services for the public service.

II. INVITES the Secretary General to disseminate the Principles to non-member economies and to encourage them to take the Principles into account in the promotion of public governance, aid effectiveness, the fight against international bribery and competition.

III. INSTRUCTS the Public Governance Committee to report to the Council on progress made in implementing this Recommendation within three years of its adoption and regularly thereafter, in consultation with other relevant committees.

PRINCIPLES FOR ENHANCING INTEGRITY IN PUBLIC PROCUREMENT

I. Objective and scope

The Recommendation provides policy makers with Principles for enhancing integrity throughout the entire public procurement cycle, taking into account international laws, as well as national laws and organisational structures of member countries.

The Recommendation is primarily directed at policy makers in governments at the national level but also offers general guidance for sub-national government and state-owned enterprises.

II. Definitions

Public procurement cycle

In the context of the present Recommendation, the public procurement cycle is defined as a sequence of related activities, from needs assessment, to the award stage, up until the contract management and final payment.

Integrity

The Recommendation aims to address a variety of risks to integrity in the public procurement cycle. Integrity can be defined as the use of funds, resources, assets and authority, according to the intended official purposes and in line with public interest. A "negative" approach to define integrity is also useful to determine an effective strategy for preventing "integrity violations" in the field of public procurement. Integrity violations include:

- corruption including bribery, "kickbacks", nepotism, cronyism and clientelism;
- fraud and theft of resources, for example through product substitution in the delivery which results in lower quality materials;
- conflict of interest in the public service and in post-public employment;
- collusion;
- abuse and manipulation of information;
- discriminatory treatment in the public procurement process; and
- the waste and abuse of organisational resources.

III. Principles

The following ten Principles are based on applying good governance elements to enhance integrity in public procurement. These include elements of transparency, good management, prevention of misconduct, as well as accountability and control. An important aspect of integrity in public procurement is an overarching obligation to treat potential suppliers and contractors on an equitable basis.

A. Transparency

Principle 1. Member countries should provide an adequate degree of transparency in the entire public procurement cycle in order to promote fair and equitable treatment for potential suppliers.

Governments should provide potential suppliers and contractors with clear and consistent information so that the public procurement process is well understood and applied as equitably as possible. Governments should promote transparency for potential suppliers and other relevant stakeholders, such as oversight institutions, not only regarding the formation of contracts but in the entire public procurement cycle. Governments should adapt the degree of transparency according to the recipient of information and the stage of the cycle. In particular, governments should protect confidential information to ensure a level playing field for potential suppliers and avoid collusion. They should also ensure that public procurement rules require a degree of transparency that enhances corruption control while not creating "red tape" to ensure the effectiveness of the system.

Principle 2. Member countries should maximise transparency in competitive tendering and take precautionary measures to enhance integrity, in particular for exceptions to competitive tendering.

To ensure sound competitive processes, governments should provide clear rules, and possibly guidance, on the choice of the procurement method and on exceptions to competitive tendering. Although the procurement method could be adapted to the type of procurement concerned, governments should, in all cases, maximise transparency in competitive tendering. Governments should consider setting up procedures to mitigate possible risks to integrity through enhanced transparency, guidance and control, in particular for exceptions to competitive tendering such as extreme urgency or national security.

B. Good management

Principle 3. Member countries should ensure that public funds are used in public procurement according to the purposes intended.

Procurement planning and related expenditures are key to reflecting a long-term and strategic view of government needs. Governments should link public procurement with public financial management systems to foster transparency and accountability as well as to improve value for money. Oversight institutions such as internal control and internal audit bodies, supreme audit institutions or parliamentary committees should monitor the

management of public funds to verify that needs are adequately estimated and public funds are used according to the purposes intended.

Principle 4. Member countries should ensure that procurement officials meet high professional standards of knowledge, skills and integrity.

Recognising officials who work in the area of public procurement as a profession is critical to enhancing resistance to mismanagement, waste and corruption. Governments should invest in public procurement accordingly and provide adequate incentives to attract highly qualified officials. They should also update officials' knowledge and skills on a regular basis to reflect regulatory, management and technological evolutions. Public officials should be aware of integrity standards and be able to identify potential conflict between their private interests and public duties that could influence public decision making.

C. Prevention of misconduct, compliance and monitoring

Principle 5. Member countries should put mechanisms in place to prevent risks to integrity in public procurement.

Governments should provide institutional or procedural frameworks that help protect officials in public procurement against undue influence from politicians or higher level officials. Governments should ensure that the selection and appointment of officials involved in public procurement are based on values and principles, in particular integrity and merit. In addition, they should identify risks to integrity for job positions, activities or projects that are potentially vulnerable. Governments should prevent these risks through preventative mechanisms that foster a culture of integrity in the public service such as integrity training, asset declarations, as well as the disclosure and management of conflict of interest.

Principle 6. Member countries should encourage close co-operation between government and the private sector to maintain high standards of integrity, particularly in contract management.

Governments should set clear integrity standards and ensure compliance in the entire procurement cycle, particularly in contract management. Governments should record feedback on experience with individual suppliers to help public officials in making decisions in the future. Potential suppliers should also be encouraged to take voluntary steps to reinforce integrity in their relationship with the government. Governments should maintain a dialogue with suppliers' organisations to keep up-to-date with

market evolutions, reduce information asymmetry and improve value for money, in particular for high-value procurements.

Principle 7. Member countries should provide specific mechanisms to monitor public procurement as well as to detect misconduct and apply sanctions accordingly.

Governments should set up mechanisms to track decisions and enable the identification of irregularities and potential corruption in public procurement. Officials in charge of control should be aware of the techniques and actors involved in corruption to facilitate the detection of misconduct in public procurement. In order to facilitate this, governments should also consider establishing procedures for reporting misconduct and for protecting officials from reprisal. Governments should not only define sanctions by law but also provide the means for them to be applied in case of breach in an effective, proportional and timely manner.

D. Accountability and control

Principle 8. Member countries should establish a clear chain of responsibility together with effective control mechanisms.

Governments should establish a clear chain of responsibility by defining the authority for approval, based on an appropriate segregation of duties, as well as the obligations for internal reporting. In addition, the regularity and thoroughness of controls should be proportionate to the risks involved. Internal and external controls should complement each other and be carefully co-ordinated to avoid gaps or loopholes and ensure that the information produced by controls is as complete and useful as possible.

Principle 9. Member countries should handle complaints from potential suppliers in a fair and timely manner.

Governments should ensure that potential suppliers have effective and timely access to review systems of procurement decisions and that these complaints are promptly resolved. To ensure an impartial review, a body with enforcement capacity that is independent of the respective procuring entities should rule on procurement decisions and provide adequate remedies. Governments should also consider establishing alternative dispute settlement mechanisms to reduce the time for solving complaints. Governments should analyse the use of review systems to identify patterns where individual firms could be using reviews to unduly interrupt or influence tenders. This analysis of review systems should also help identify

opportunities for management improvement in key areas of public procurement.

Principle 10. Member countries should empower civil society organisations, media and the wider public to scrutinise public procurement.

Governments should disclose public information on the key terms of major contracts to civil society organisations, media and the wider public. The reports of oversight institutions should also be made widely available to enhance public scrutiny. To complement these traditional accountability mechanisms, governments should consider involving representatives from civil society organisations and the wider public in monitoring high-value or complex procurements that entail significant risks of mismanagement and corruption.

Annex B

International legal instruments concerning procurement

The *Recommendation on Enhancing Integrity in Public Procurement* provides guidance at the policy level that is in line with existing international legal instruments and usefully complement them by addressing the whole public procurement cycle. These include, notably the:

- OECD Convention on Bribery of Foreign Public Officials in International Business Transactions;
- United Nations Convention against Corruption (Chapter II on preventative measures, in particular Article 9 on public procurement and management of public finances);
- United Nations Commission on International Trade Law (UNCITRAL) Model Law;
- World Trade Organisation Agreement on Government Procurement (GPA);
- legislative package of the Directives of the European Parliament and of the Council on Procurement; and
- International Labour Organisation Labour Clauses (Public Contracts) Convention.

The Recommendation was developed in close consultation with other OECD policy communities to complement the following OECD legal instruments, policy instruments and tools in relation to public procurement and anti-corruption:

- The 1997 OECD Convention on Bribery of Foreign Public Officials in International Business Transactions and the revised *Recommendations on Combating Bribery in International Business Transactions*. The Anti-Bribery Convention calls on parties to automatically disqualify from public procurement contracting

entities that have been convicted of foreign bribery. For parties that have not put in place automatic debarment as a sanction for foreign bribery, the 2009 *Recommendation for Further Combating Bribery of Foreign Public Officials* calls on parties to permit their public procurement contracting authorities to suspend a company or individual that has been "determined" to have bribed foreign public officials from public procurement contracting.

- The 1996 Development Assistance Committee (DAC) *Recommendation on Anti-Corruption Proposals for Bilateral Aid Procurement*. The DAC recommends that members introduce or require anti-corruption provisions governing bilateral aid-funded procurement. The anti-corruption provision of the Recommendation was integrated in the 1997 revised *Recommendation on Combating Bribery in International Business Transactions*. The Working Group on Bribery has interpreted these provisions as applying also to public procurement contracting funded by official development assistance.

- However, the Recommendation did not apply to procurement carried out by developing countries themselves. Therefore, developing countries, bilateral and multilateral donors have in the past years worked together through a roundtable process. As a result, the Working Party on Aid Effectiveness has developed a benchmarking methodology that developing countries and donors can use to assess the quality and effectiveness of national procurement systems through the DAC Joint Venture on Procurement. In addition, the DAC Network on Governance has identified an agenda for collective donor action and *Principles for Donor Action in Anti-Corruption* to ensure coherent support to country-led anti-corruption efforts.

- Other instruments and tools in relation to corporate governance and competition have also been considered, in particular the 1998 *Recommendation of the Council on Effective Action against Hard Core Cartels*, the 2000 *Guidelines for Multinational Enterprises* and the Risk Awareness Tool for Multinational Enterprises in Weak Governance, as well as the Checklists on Preventing and Detecting Bid Rigging in Procurement.

Annex C

Models of centralised purchasing bodies in the European Union

Centralised purchasing body	Legal status	Funding	Coverage	Mandatory or voluntary	Framework model	Call-off method
Hansel (Finland)	Limited company	User fees (paid by suppliers)	The state (at all levels) and entities owned or controlled by the state	Mainly (80% voluntary)	Both single supplier and multi-supplier	Both ranking and multi-tender
Consip (Italy)	Limited company	State budget	Whole public sector	Mandatory (central government)	Single supplier	
SKI (Denmark)	Limited company	User fees (paid by suppliers)	Whole public sector	Voluntary	Multi-supplier	Ranking and mini-tender
UGAP (France)	Public body with legal personality	Sales revenue	Whole public sector	Voluntary		
KSzF (Hungary)	Non-profit making body with economic independence	User fees (paid by suppliers)	Whole public sector	Mandatory (central government)	Multi-supplier	Mini-tender and e-auction
Buying solutions (UK)	Non-profit making body run on commercial lines	User fees (paid by suppliers)	Whole public sector	Voluntary		
Sweden (11 specialised agencies)	Government agencies	User fees	Mainly central government	Semi-mandatory	Single supplier and multi-supplier	Ranking and mini-tender
ANCP (Portugal)	State-owned company (government agency)	User fees (paid by suppliers) since 2010	Whole public sector	Mandatory for central government (voluntary for local authorities and state-owned companies)	Multi-supplier	Mini-tender

Note: Portugal provided updated data in the reporting back that is also included in the table.

Source: OECD (2011), "Centralised purchasing systems in the European Union", *Sigma Papers*, No. 47, OECD Publishing, *http://dx.doi.org/10.1787/5kgkgqv703xw-en*.

Annex D

The United States Federal Audit Executive Council Contract

Risk factor	Weight	(Score = 1, lowest)	(Score = 3, moderate)	(Score = 5, highest)
Contract size		Small	Medium	Large
Performance period		Less than 5 years	5-10 years	More than 10 years
Contract type		Fixed price	N/A	Cost reimbursable
Complexity of contract requirements		Low complexity	Moderate complexity	High complexity
Contract award		Full and open competition with a large number of bidders or simplified procurement	Competitive procurement with limited number of bidders	Sole source
Contractor		Organisation has significant experience with contractor and no significant issues	Organisation has experience with contractor, only minor issues, or new contractor	Known issues with contractor, such as defaults; suspensions; past performance issues; significant audit findings on previous contracts; or past or ongoing investigations or lawsuits
Contract subject		Neither mission critical nor not highly visible, sensitive or potentially controversial	Contract is moderately visible, sensitive or controversial	Contract is mission critical or is highly visible, sensitive or potentially controversial
Sub-contractors		Percent of work sub-contracted is less than 25%	Percent of work sub-contracted is between 25% and 50%	Percent of work sub-contracted is more than 50%
Contracting officers and/or contracting organisation		Previous audits or programme reviews noted no significant deficiencies with the contracting officer and/or organisation	Previous audits or programme reviews noted moderate deficiencies with the contracting officer and/or organisation	Previous audits or programme reviews noted significant deficiencies with the contracting officer and/or organisation

Risk factor	Weight	(Score = 1, lowest)	(Score = 3, moderate)	(Score = 5, highest)
Contract modifications		No moderate or modifications had little impact on cost and/or period of performance	Modifications moderately increased cost and/or period of performance	Modifications significantly increased cost and/or period of performance
Age of programme/ service		Existing with no changes within past year	Existing with minimal changes within past year	New or existing with significant changes
Access to personally identifiable, proprietary and/or classified information		No requirements to access	Limited requirement to access	Requirement to access

Source: Federal Audit Executive Council (2009a), "Contract risk assessment workshop coversheet", Federal Audit Executive Council, Washington, DC, *www.ignet.gov/pande/faec/cawcover.pdf*; Federal Audit Executive Council (2009b), "Contract risk assessment worksheet", Federal Audit Executive Council, Washington, DC, *www.ignet.gov/pande/faec/caw0909.xls*.

Annex E

Examples of performance targets, indicators and measurement at contracting authority level

Measuring economic efficiency

- Annual cashable savings: for goods and services for which the price does not fluctuate with the market. Based on a representative basket of contracts with an identical composition (product or service-wise and in number) that ensures consistent calculation over time and is not subject to rapid specification changes, the price and cost development are determined with reference to year 1 and are applied to the whole procurement volume.
- Individual price analyses: for goods and services that are subject to rapid price fluctuations and specification changes, such as information technology and utilities, individual price analyses should be carried out, with reference to the baseline year, in order to determine the extent of savings or losses.
- Annual cashable efficiencies in the procurement function (other than price): measurement of verifiable, cashable savings by carrying out comparative cost/benefit analyses from year X to year Y of the procurement function. Efficiencies include the same or improved results with fewer resources, transforming efficiency gains, through improvements either in output (e.g. technology improvements) or input (e.g. collaboration, logistics and processes).
- Project/contract implementation efficiency: for one-off projects, such as capital investment and infrastructure projects, the feasibility study (business case), together with a detailed set of performance targets including costs and implementation deadlines, constitutes the baseline against which the performance of the project is measured.

Measuring the quality of the procurement function and procedures

Examples of possible indicators:

- average period for planning and preparation;
- average cost for the planning and preparation of tenders;
- percentage of non-competitive procedures compared to total procedures;
- average participation rate in connection with open invitations during a calendar year;
- number of contracts awarded to SMEs as a share of the total number of contracts awarded;
- number of complaints during a calendar year as a share of the total number of tender procedures conducted;
- e-procurement as a share of the total number of tenders.

Measuring the standard of external and internal relations and collaboration

Methods of measurement:

- an annual Supplier Satisfaction Survey aims to ensure that the majority of suppliers are satisfied with the collaboration with the contracting authority;
- an annual Internal Customer Survey aims to ensure that the majority of internal clients are satisfied with the services of the procurement organisation.

Possible indicators:

- the composite index on Supplier Satisfaction shall be more than X on an agreed scale and should increase by Y% per year;
- the composite index on Internal Customer Satisfaction shall be more than X on an agreed scale and should increase by Y% per year.

Procurement spending that is channelled through a collaborative framework contract/agreement issued by the contracting authority should not be less than X% of the total procurement volume.

Annex F

Preparation of the progress report on the 2008 Recommendation

The Recommendation of the Council on Enhancing Integrity in Public Procurement was adopted by Council in October 2008 to help governments prevent waste of resources, fraud and corruption in public procurement (Annex A). In adopting the Recommendation, Council requested that the Public Governance Committee report back on progress made in the implementation of the Recommendation three years following its adoption and regularly thereafter, in consultation with other relevant committees.

Review of progress made since 2008

The 2011 survey carried out across member and observer countries to the Public Governance Committee demonstrates that the OECD Recommendation was instrumental in:

- enabling in-country reforms through OECD Procurement Reviews:

  Thirty percent of countries have used the OECD Principles in the development of public procurement reforms. Procurement peer reviews particularly shaped reform agendas through close involvement of stakeholders. The health procurement peer review in Mexico, for example, was instrumental to develop an action plan to design and monitor reform measures according to agreed timeframe.

- Fostering dialogue within countries and with trade partners:

  G20 leaders recognised the Recommendation as a key reference for assessing transparency and integrity in procurement systems in the Cannes Declaration of November 2011. This will help promote a level playing field for firms in OECD countries and G20 trade partners, in particular in Brazil, China, India and Indonesia. This is particularly important considering the challenges faced by companies in accessing to international procurement markets.

- Contributing to the development agenda:

  Several countries from the Middle East and North Africa requested a review of their procurement systems against the Recommendation. Most recently G8 and Arab countries in transition expressed interest in forming a network of procurement officials to assess system compliance with the Recommendation as part of the G8 Deauville Partnership Action Plan.

  The Public Governance Committee also carried out an extensive consultation on the findings of the survey. To foster dialogue with policy communities, comments were invited from relevant OECD committees (regulatory policy, territorial development, competition, development, environment and innovation), the Working Group on Bribery in International Business Transactions, Business and Industry Advisory Committee, Trade Union Advisory Committee as well as international organisations (including the World Trade Organization, UNCITRAL, UNODC, the World Bank and regional development banks). In addition, the Economics Department of the OECD was consulted.

The OECD Council defined a forward-looking agenda on procurement

After reviewing progress made in implementing the 2008 Recommendation in June 2012, the OECD Council called for member countries to:

1. Foster dialogue between government, business and international organisations on how to promote a level playing field for firms at the international level.
2. Undertake procurement reviews to assess policy and practice as well as to learn from state-of-the-art solutions in other countries. The review of the federal acquisition system in the United States, which is the largest buyer in the world with USD 500 billion annually, shows that procurement reviews also provide a way to share state-of-the-art procurement solutions between leading OECD countries.
3. Develop a compendium of good practices on how to integrate environmental considerations in public procurement in a transparent and cost-effective manner.

4. Identify a set of relevant data, benchmarks and indicators to measure the performance of procurement operations as well as the impact of procurement at macro level, in particular on national competitiveness.

5. Update the OECD Principles as set out in the *Recommendation of the Council on Enhancing Integrity in Public Procurement* to reflect on the transformation of procurement as an instrument to support strategic government objectives.

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