



Streamlining the use of exceptions and simplifying the threshold system in Costa Rica



Public Procurement Principle: **Access**



Procurement Stage: **Tendering**



Audience: **Procuring entity, Policy makers, CPBs**

Description

Ensuring an adequate level of competition has clear impacts on the value for money achieved through public procurement. The public procurement regulatory framework of Costa Rica foresees the possibility to use three main procedures: open tenders, limited tenders and direct awards. The system includes 26 categories of exceptions to ordinary procedures that could be undertaken through direct award or limited tender.

In 2017, the use of exceptions to ordinary procedures accounted for 47.6% of the total procurement volume and 80.3% of the total number of procedures in Costa Rica. Among the exceptions most used by contracting authorities, “procurement volume below threshold” accounts for 58.3% in terms of values and 75.3% in terms of number of procedures, followed by the exception used in case of “single supplier” (11.2% in terms of values and 6.4% in terms of number of procedures).

Many countries have a threshold system based only on the procurement category and the categories of entities. In Costa Rica, however, thresholds applied by contracting authorities depend on: i) the procurement category; ii) the budget allocated to each entity (ten different categories are foreseen in the legal framework); and iii) the scope of the law. Mexico and Colombia also have similar threshold systems based upon the budget allocation, but their thresholds are lower than the ones of Costa Rica. In addition, special public entities are not subject to the threshold set out in the LCA. The multiplicity of those parameters and criteria undermines the clarity of the country’s procurement regulatory framework.

Recognising the benefits of enhancing the level of competition in public procurement, the government of Costa Rica requested the OECD to review its public procurement system with a particular emphasis on: i) the exceptions to competitive tendering; and ii) the threshold system in place in the country. The OECD provided the following key recommendations based upon the evidence-based analysis through comparing the system of Costa Rica with international best practices.

- Streamlining and reviewing each of 26 exceptions to ordinary procedures
- Exceptions should be clearly defined, justified, and streamlined. Many exceptions could be grouped together, and others could be undertaken through a competitive process. Some exceptions foreseen in the legal framework should be classified as exclusion
- Enhancing the monitoring of exceptions
- Streamline the procurement procedures and processes
- Reviewing the threshold system in place, by providing options for simplification and alignment with international practices

These recommendations are now being used by Costa Rica as a key input to ongoing legal and regulatory reforms, the most comprehensive in 20 years, which will allow Costa Rica to enhance the level of competition and improve value for money by increasing the effectiveness of the country's public procurement system.

Source: OECD (2019), [Public Procurement in Kazakhstan: Reforming for Efficiency](#), OECD Publishing, Paris

